

Brussels, 9 July 2021  
(OR. en)

10696/21

LIMITE

ASILE 47  
MIGR 142  
CODEC 1070  
CADREFIN 373

**NOTE**

---

From:	Presidency
To:	Delegations
No. prev. doc.:	10450/1/21 REV1
No. Cion doc.:	11213/20
Subject:	Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on asylum and migration management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund]

---

1. Delegations will find in Annex the Presidency compromise suggestions on the Asylum and Migration Management Regulation, covering Articles 28 to 44.
2. The suggestions for modifications of Part III of AMMR are based on detailed examination of proposals and concerns expressed by Member States. As the Presidency noted when the first group of Articles were presented<sup>1</sup>, the compromise suggestions aim at making progress at the technical level, which could contribute to progress on the political issues at a later stage.
3. Modifications as compared to the Commission proposal are indicated as follows:
  - new Presidency text is in **bold underline**;
  - deleted Presidency text is in **~~bold strikethrough~~**.

---

<sup>1</sup> document 10450/1/21 REV 1

2020/0279 (COD)

Draft

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on asylum and migration management and amending Council Directive (EC) 2003/109 and  
the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund]**

(...)

**CHAPTER V**

***PROCEDURES***

***SECTION I***

***START OF THE PROCEDURE***

*Article 28*

*Start of the procedure*

1. The Member State where an application for international protection is first registered pursuant to Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*] or, where applicable, the Member State of relocation shall start the process of determining the Member State responsible without delay.
2. The Member State where an application is first registered or, where applicable, the Member State of relocation shall continue the process of determining the Member State responsible if the applicant **absconds** ~~leaves the territory of that Member State without authorisation or is otherwise not available to the competent authorities of that Member State.~~

3. The Member State which has conducted the process of determining the Member State responsible or which has become responsible pursuant to Article 8(4) of this Regulation shall indicate in Eurodac without delay pursuant to Article 11(1) of Regulation (EU) XXX/XXX [*Eurodac Regulation*]:
- (a) its responsibility pursuant to Article 8(2);
  - (aa) its responsibility pursuant to Article 8(3);**
  - (b) its responsibility pursuant to Article 8(4);
  - (c) its responsibility due to its failure to comply with the time limits laid down in Article 29;
  - (d) the responsibility of the Member State which has accepted a request to take charge of the applicant pursuant to Article 30.

Until this indication has been added, the procedures in paragraph 4 shall apply.

4. An applicant who is present in another Member State without a residence document or who there makes an application for international protection during the process of determining the Member State responsible, shall be taken back, under the conditions laid down in Articles 31 and 35, by the **determining** Member State ~~with which that application was first registered~~.

That obligation shall cease where the Member State determining the Member State responsible can establish that the applicant has obtained a residence document from another Member State.

5. An applicant who is present in a Member State without a residence document or who there makes an application for international protection after another Member State has confirmed to relocate the person concerned pursuant to Article 57(7), and before the transfer has been carried out to that Member State pursuant to Article 57(9), shall be taken back, under the conditions laid down in Articles 31 and 35, by the Member State of relocation. **That obligation shall cease where the Member State of relocation can establish that the applicant has obtained a residence document from another Member State.**

## **SECTION II**

### **PROCEDURES FOR TAKE CHARGE REQUESTS**

#### *Article 29*

##### *Submitting a take charge request*

1. If a Member State where an application for international protection has been registered considers that another Member State is responsible for examining the application, it shall, without delay and **at the latest in any event** within two months of the date on which the application was registered, request that other Member State to take charge of the applicant.

Notwithstanding the first subparagraph, in the case of a Eurodac hit with data recorded pursuant to Articles 13 and 14a of Regulation (EU) XXX/XXX [*Eurodac Regulation*] or of a VIS hit with data recorded pursuant to Article 21 of Regulation (EC) No 767/2008, the request to take charge shall be sent within one month of receiving that hit.

Where the request to take charge of an applicant is not made within the periods laid down in the first and second subparagraphs, responsibility for examining the application for international protection shall lie with the Member State where the application was registered.

Where the applicant is an unaccompanied minor, the determining Member State may, **at any time before a first decision regarding the substance is taken**, where it considers that it is in the best interest of the minor, continue the procedure for determining the Member State responsible and request another Member State to take charge of the applicant despite the expiry of the time limits laid down in the first and second subparagraphs.

2. The requesting Member State may request an urgent reply in cases where the application for international protection was registered after a decision to refuse entry or a return decision was issued.

The request shall state the reasons warranting an urgent reply and the period within which a reply is requested. That period shall be at least one week.

3. In the cases referred to in paragraphs 1 and 2, the take charge request by another Member State shall be made using a standard form and including proof or circumstantial evidence as described in the two lists referred to in Article 30(4) and/or relevant elements from the applicant's statement, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, adopt uniform conditions on the preparation and submission of take charge requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

### *Article 30*

#### *Replying to a take charge request*

The requested Member State shall make the necessary checks, and shall give a decision on the request to take charge of an applicant within one month of receipt of the request.

2. Notwithstanding the first paragraph, in the case of a Eurodac hit with data recorded pursuant to Article 13 and 14a of Regulation (EU) XXX/XXX [*Eurodac Regulation*] or of a VIS hit with data recorded pursuant to Article 21(2) of Regulation (EC) No 767/2008, the requested Member State shall give a decision on the request within two weeks of receipt of the request.
3. In the procedure for determining the Member State responsible elements of proof and circumstantial evidence shall be used.
4. The Commission shall, by means of implementing acts, establish, and review periodically, two lists, indicating the relevant elements of proof and circumstantial evidence in accordance with the criteria set out in points (a) and (b) of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

- (a) Proof:
- (i) this refers to formal proof which determines responsibility pursuant to this Regulation, as long as it is not refuted by proof to the contrary;
  - (ii) the Member States shall provide the Committee provided for in Article 67 with models of the different types of administrative documents, in accordance with the typology established in the list of formal proofs;
- (b) Circumstantial evidence:
- (i) this refers to indicative elements which while being refutable may be sufficient according to the evidentiary value attributed to them;
  - (ii) their evidentiary value, in relation to the responsibility for examining the application for international protection shall be assessed on a case-by-case basis.
5. The requirement of proof shall not exceed what is necessary for the proper application of this Regulation.
6. The requested Member State shall acknowledge its responsibility if the circumstantial evidence is coherent, verifiable and sufficiently detailed to establish responsibility.
7. Where the requesting Member State has asked for an urgent reply pursuant to Article 29(2), the requested Member State shall reply within the period requested or, failing that, within two weeks of receipt of the request.
8. Where the requested Member State does not object to the request within the one-month period set out in paragraph 1 ~~by a reply which gives full and detailed reasons~~, or where applicable within the two-week period set out in paragraphs 2 and 7, **by a reply which gives substantiated reasons based on all the circumstances of the case why the criteria set out in Chapter II do not apply**, this shall be tantamount to accepting the request, and entail the obligation to take charge of the person, including the obligation to provide for proper arrangements for arrival.

## *SECTION III*

### *PROCEDURES FOR TAKE BACK NOTIFICATIONS*

#### *Article 31*

##### *Submitting a take back notification*

1. In a situation referred to in Article 26(1), point (b), (c) or (d) the Member State where the person is present shall make a take back notification without delay and in any event within two weeks after receiving the Eurodac hit. **Failure to make the take back notification within the time limit shall be without prejudice to the obligation of the Member State responsible to take back the person concerned.**
2. A take back notification shall be made using a standard form and shall include proof or circumstantial evidence as described in the two lists referred to in Article 30(4) and/or relevant elements from the statements of the person concerned.
3. The notified Member State shall confirm receipt of the notification to the Member State which made the notification within one week, unless the notified Member State can demonstrate within that time limit that its responsibility has ceased pursuant to Article 27, **or that the take back notification is based on an incorrect indication of the Member State responsible pursuant to Regulation (EU) XXX/XXX [Eurodac Regulation].**
4. Failure to act within the one-week period set out in paragraph 3 shall be tantamount to confirming the receipt of the notification.
5. The Commission shall, by means of implementing acts, adopt uniform conditions for the preparation and submission of take back notifications. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

## *SECTION IV*

### *PROCEDURAL SAFEGUARDS*

#### *Article 32*

##### *Notification of a transfer decision*

1. The determining Member State whose take charge request as regards the applicant referred to in Article 26(1), point (a) was accepted or who made a take back notification as regards persons referred to in Article 26(1), point (b), (c) and (d) shall take a transfer decision at the latest within **two weeks** ~~one week~~ of the acceptance or **confirmation notification**.
2. Where the requested Member State accepts to take charge of an applicant or to take back a person referred to in Article 26(1), point (b), (c) or (d), the **transferring** ~~requesting or the notifying~~ Member State shall notify the person concerned in writing without delay of the decision to transfer him or her to the Member State responsible and, where applicable, of the fact that it will not examine his or her application for international protection.
3. If a legal advisor or other counsellor is representing the person concerned, Member States may choose to notify the decision to such legal advisor or counsellor instead of to the person concerned and, where applicable, communicate the decision to the person concerned.
4. The decision referred to in paragraph 1 shall contain information on the legal remedies available, including on the right to apply for suspensive effect, and on the time limits applicable for seeking such remedies and for carrying out the transfer, and shall, if necessary, contain information on the place where, and the date on which, the person concerned is required to appear, if that person is travelling to the Member State responsible by his or her own means.

Member States shall ensure that information on persons or entities that may provide legal assistance to the person concerned is communicated to the person concerned together with the decision referred to in paragraph 1, when that information has not been already communicated.



5. Where the person concerned is not assisted or represented by a legal advisor or other counsellor, Member States shall inform him or her of the main elements of the decision, which shall always include information on the legal remedies available and the time limits applicable for seeking such remedies, in a language that the person concerned understands or is reasonably supposed to understand.

### *Article 33*

#### *Remedies*

1. The applicant or another person as referred to in Article 26(1), point (b), (c) and (d) shall have the right to an effective remedy, in the form of an appeal or a review, in fact and in law, against a transfer decision, before a court or tribunal.

The scope of the remedy shall be limited to an assessment of:

- (a) whether the transfer would result in a real risk of inhuman or degrading treatment for the person concerned within the meaning of Article 4 of the Charter of Fundamental Rights;
- (b) whether Articles 15 to 18 and Article 24 have been infringed, in the case of the persons taken charge of pursuant to Article 26(1), point (a).
2. Member States shall provide for a period of **at least one week but no more than three ~~two~~** weeks after the notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.
3. The person concerned shall have the right to request, within a reasonable period of time from the notification of the transfer decision **but in any event no longer than the period provided for by Member States pursuant to paragraph 2**, a court or tribunal to suspend the implementation of the transfer decision pending the outcome of his or her appeal or review. Member States shall ensure that an effective remedy is in place by suspending the transfer until the decision on the first suspension request is taken. Any decision on whether to suspend the implementation of the transfer decision shall be taken within one month of the date when that request reached the competent court or tribunal.

Where the person concerned has not exercised his or her right to request suspensive effect, the appeal against, or review of, the transfer decision shall not suspend the implementation of a transfer decision.

A decision not to suspend the implementation of the transfer decision shall state the reasons on which it is based.

If suspensive effect is granted, the court or tribunal shall endeavour to decide on the substance of the appeal or review within one month of the decision to grant suspensive effect.

4. Member States shall ensure that the person concerned has access to legal assistance and, where necessary, to linguistic assistance.
5. Member States shall ensure that legal assistance is granted on request free of charge where the person concerned cannot afford the costs involved. Member States may provide that, as regards fees and other costs, the treatment of persons subject to this Regulation shall not be more favourable than the treatment generally accorded to their nationals in matters pertaining to legal assistance.

Without arbitrarily restricting access to legal assistance, Member States may provide that free legal assistance and representation is not to be granted where the appeal or review is considered by the competent authority or a court or tribunal to have no tangible prospect of success.

Where a decision not to grant free legal assistance and representation pursuant to the second subparagraph is taken by an authority other than a court or tribunal, Member States shall provide the right to an effective remedy before a court or tribunal to challenge that decision. Where the decision is challenged, that remedy shall be an integral part of the remedy referred to in paragraph 1.

In complying with the requirements set out in this paragraph, Member States shall ensure that legal assistance and representation is not arbitrarily restricted and that effective access to justice for the person concerned is not hindered.

Legal assistance shall include at least the preparation of the required procedural documents and representation before a court or tribunal and may be restricted to legal advisors or counsellors specifically designated by national law to provide assistance and representation.

Procedures for access to legal assistance shall be laid down in national law.

## *SECTION V*

### **DETENTION FOR THE PURPOSES OF TRANSFER**

#### *Article 34*

##### *Detention*

1. Member States shall not hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation.
2. Where there is a risk of absconding **or when protection of national security or public order so requires**, Member States may detain the person concerned in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment **of the person's circumstances**, and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively, ~~based on an individual assessment of the person's circumstances.~~

3. Detention shall be for as short a period as possible and shall be for no longer than the time reasonably necessary to fulfil the required administrative procedures with due diligence until the transfer under this Regulation is carried out.

Where an applicant or another person referred to in Article 26(1), point (b), (c) or (d) is detained pursuant to this Article, the period for submitting a take charge request or a take back notification shall not exceed two weeks from the registration of the application, **or two weeks after receiving the Eurodac hit when no new application has been registered in the notifying Member State.** Where a person is detained at a later stage than the registration of the application, the period for submitting a take charge request or a take back notification shall not exceed one week from the date on which the person was placed in detention. The **determining** Member State ~~carrying out the procedure in accordance with this Regulation~~ shall ask for an urgent reply on a take charge request. Such reply shall be given within one week of receipt of the take charge request. Failure to reply within the one-week period shall be tantamount to accepting the take charge request and shall entail the obligation to take charge of the person, including the obligation to provide for proper arrangements for arrival.

Where a person is detained pursuant to this Article, the transfer of that person from the **transferring requesting or notifying** Member State to the Member State responsible shall be carried out as soon as practically possible, and at the latest within **five four** weeks of:

- (a) the date on which the request was accepted or the take back notification was confirmed, or
- (b) the date when the appeal or review no longer has suspensive effect in accordance with Article 33(3).

Where the **transferring requesting or notifying** Member State fails to comply with the time limits for submitting a take charge request or take back notification or to take a transfer decision within the time limit laid down in Article 32(1) or where the transfer does not take place within the period of **five four** weeks referred to in the third subparagraph of this paragraph, the person shall no longer be detained. Articles 29, 31 and 35 shall continue to apply accordingly.

4. Where a person is detained pursuant to this Article, the detention shall be ordered in writing by **administrative or** judicial authorities. The detention order shall state the reasons in fact and in law on which it is based. **Where detention is ordered by an administrative authority, Member States shall provide for a speedy judicial review of the lawfulness of detention to be conducted ex-officio or at the request of the applicant, or both.**
5. As regards the detention conditions and the guarantees applicable to applicants detained, in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive XXX/XXX/EU [*Reception Conditions Directive*] shall apply.

## *SECTION VI*

### **TRANSFERS**

#### *Article 35*

##### *Detailed rules and time limits*

1. The transfer of an applicant or of another person as referred to in Article 26(1), point (b), (c) and (d) from the **transferring requesting or notifying** Member State to the Member State responsible shall be carried out in accordance with the national law of the **transferring requesting or notifying** Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within six months of the acceptance of the take charge request or of the confirmation of the take back notification by another Member State or of the final decision on an appeal or review of a transfer decision where there is a suspensive effect in accordance with Article 33(3). That time limit may be extended up to a maximum of one year if the transfer cannot be carried out due to imprisonment of the person concerned.

Where the transfer is carried out for the purpose of relocation, the transfer shall take place within the time limit set out in Article 57(9).

If transfers to the Member State responsible are carried out by supervised departure or under escort, Member States shall ensure that they are carried out in a humane manner and with full respect for fundamental rights and human dignity.

If necessary, the **person concerned applicant** shall be supplied by the **transferring requesting or notifying** Member State with a *laissez passer*. The Commission shall, by means of implementing acts, establish the design of the *laissez passer*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

The Member State responsible shall inform the **transferring requesting or notifying** Member State, as appropriate, of the safe arrival of the person concerned or of the fact that he or she did not appear within the set time limit.

2. Where the transfer does not take place within the time limits set out in paragraph 1, first subparagraph, the Member State responsible shall be relieved of its obligations to take charge of or to take back the person concerned and responsibility shall be transferred to the **transferring requesting or notifying** Member State.

Notwithstanding the first subparagraph, where the person concerned absconds **or refuses to comply with the transfer decision and the Member State responsible is informed of this fact by the transferring Member State and the requesting or notifying Member State informs the Member State responsible** before the expiry of the time limits set out in paragraph 1, first subparagraph, **that the person concerned has absconded**, the transferring Member State shall retain the right to carry out the transfer within the remaining time at a later stage, **if the person concerned becomes available to the authorities again or no longer refuses to comply with the transfer decision. Where the time remaining from the period referred to in paragraph 1 is less than three months, the transferring Member State shall have a period of three months in order to carry out the transfer. This subparagraph shall not apply where**  ~~, should the person become available to the authorities again, unless~~ another Member State has carried out the procedures in accordance with this Regulation and transferred the person **concerned** to the responsible Member State **or where the responsibility has transferred to another Member State pursuant to Article 27** after the person **concerned** absconded.

3. If a person has been transferred erroneously or a decision to transfer is overturned on appeal or review after the transfer has been carried out, the Member State which carried out the transfer shall promptly accept that person back.
4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States, in particular in the event of postponed or delayed transfers, transfers following acceptance by default, transfers of minors or dependent persons, and supervised transfers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

### *Article 36*

#### *Costs of transfer*

1. [In accordance with Article 17 of Regulation (EU) XXX/XXX [*Asylum and Migration Fund*]]<sup>2</sup>, a contribution shall be paid to the Member State carrying out the transfer for the transfer of an applicant or another person as referred to in Article 26(1), point (b), (c) or (d) pursuant to Article 35.
2. Where the person concerned has to be transferred back to a Member State as a result of an erroneous transfer or of a transfer decision that has been overturned on appeal or review after the transfer has been carried out, the Member State which initially carried out the transfer shall be responsible for the costs of transferring the person concerned back to its territory.
3. Persons to be transferred pursuant to this Regulation shall not be required to meet the costs of such transfers.

---

<sup>2</sup> **to be checked in light of eventual amendments in Article 72**

Article 37

*Exchange of relevant information before a transfer is carried out*

1. The Member State carrying out the transfer of an applicant or of another person as referred to in Article 26(1), point (b), (c) or (d), shall communicate to the Member State responsible such personal data concerning the person to be transferred as is adequate, relevant and limited to what is necessary for the sole purposes of ensuring that the competent authorities, in accordance with national law in the Member State responsible, are in a position to provide that person with adequate assistance, including the provision of immediate health care required in order to protect his or her vital interests, to ensure continuity in the protection and rights afforded by this Regulation and by other applicable asylum legal instruments. Those data shall be communicated to the Member State responsible within a reasonable period of time before a transfer is carried out, in order to ensure that its competent authorities in under national law have sufficient time to take the necessary measures.
2. The transferring Member State shall transmit to the Member State responsible any information that is essential in order to safeguard the rights and immediate special needs of the person to be transferred, and in particular:
  - (a) any immediate measures which the Member State responsible is required to take in order to ensure that the special needs of the person to be transferred are adequately addressed, including any immediate health care that may be required;
  - (b) contact details of family members, relatives or any other family relations in the receiving Member State, where applicable;
  - (c) in the case of minors, information on their education;
  - (d) **where applicable**, an assessment of the age of an applicant;
  - (e) **the screening form pursuant to** ~~information collected during the screening in accordance with~~ Article 13 of Regulation (EU) XXX/XXX [*Screening Regulation*].



3. The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with Article 41 of this Regulation using the electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003. The information exchanged shall only be used for the purposes set out in paragraph 1 of this Article and shall not be further processed.
4. With a view to facilitating the exchange of information between Member States, the Commission shall, by means of implementing acts, draw up a standard form for the transfer of the data required pursuant to this Article. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 67(2).
5. The rules laid down in Article 40(8) and (9) shall apply to the exchange of information pursuant to this Article.

#### *Article 38*

##### *Exchange of security-relevant information before a transfer is carried out*

**For the purpose of application of Article 31, w**Where the Member State carrying out a transfer is in possession of information that indicates that there are reasonable grounds to consider the applicant or another person as referred to in Article 26(1), point (b), (c) or (d), a danger to national security or public order in a Member State, **the competent authorities of** that Member State shall **indicate the existence of** ~~also communicate~~ such information to the Member State responsible. **The information shall be shared between the law enforcement authorities or other competent authorities of the Member States through the appropriate channels for such information exchange.**

*Article 39*

*Exchange of health data before a transfer is carried out*

1. For the sole purpose of the provision of medical care or treatment, in particular concerning disabled persons, elderly people, pregnant women, minors and persons who have been subject to torture, rape or other serious forms of psychological, physical and sexual violence, the transferring Member State shall, in so far as it is available to the competent authority in accordance with national law, transmit to the Member State responsible information on any special needs of the person to be transferred, which in specific cases may include information on that person's physical or mental health. That information shall be transferred in a common health certificate with the necessary documents attached. The Member State responsible shall ensure that those special needs are adequately addressed, including in particular any essential medical care that may be required.

The Commission shall, by means of implementing acts, draw up the common health certificate. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 67(2).

2. The transferring Member State shall only transmit the information referred to in paragraph 1 to the Member State responsible after having obtained the explicit consent of the applicant and/or of his or her representative or when such transmission is necessary to protect public health and public security, or, where the person concerned is physically or legally incapable of giving his or her consent, to protect the vital interests of the person concerned or of another person. The lack of consent, including a refusal to consent, shall not constitute an obstacle to the transfer.
3. The processing of personal health data referred to in paragraph 1 shall only be carried out by a health professional who is subject, under national law or rules established by national competent bodies, to the obligation of professional secrecy or by another person subject to an equivalent obligation of professional secrecy.
4. The exchange of information under this Article shall only take place between the health professionals or other persons referred to in paragraph 3. The information exchanged shall only be used for the purposes set out in paragraph 1 and shall not be further processed.

5. The Commission shall, by means of implementing acts, adopt uniform conditions and practical arrangements for exchanging the information referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 67(2).
6. The rules laid down in Article 40(8) and (9) shall apply to the exchange of information pursuant to this Article.

## **CHAPTER VI**

### ***ADMINISTRATIVE COOPERATION***

#### *Article 40*

##### *Information sharing*

1. Each Member State shall communicate to any Member State that so requests such personal data concerning the person covered by the scope of this Regulation as is adequate, relevant and limited to what is necessary for:
  - (a) determining the Member State responsible;
  - (b) examining the application for international protection;
  - (c) implementing any obligation arising under this Regulation.
2. The information referred to in paragraph 1 shall only cover:
  - (a) personal details of the person concerned, and, where appropriate, his or her family members, relatives or any other family relations (full name and where appropriate, former name; nicknames or pseudonyms; nationality, present and former; date and place of birth);
  - (b) identity and travel papers (references, validity, date of issue, issuing authority, place of issue, etc.);

- (c) other information necessary for establishing the identity of the person concerned, including biometric data taken of the applicant by the Member State, in particular for the purposes of Article 57(6) of this Regulation, in accordance with Regulation (EU) XXX/XXX [*Eurodac Regulation*];
- (d) places of residence and routes travelled;
- (e) residence documents or visas issued by a Member State;
- (f) the place where the application was lodged;
- (g) the date on which any previous application for international protection was lodged, the date on which the current application was registered, the stage reached in the proceedings and the decision taken, if any.

3. Provided it is necessary for the examination of the application for international protection, the Member State responsible may request another Member State to let it know on what grounds the applicant bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. The other Member State may refuse to respond to the request submitted to it, if the communication of such information is likely to harm its essential interests or the protection of the liberties and fundamental rights of the person concerned or of others. ~~In any event, communication of the information requested shall be subject to the written approval of the applicant for international protection, obtained by the requesting Member State. In that case, the applicant must know for what specific information he or she is giving his or her approval.~~

4. Any request for information shall only be sent in the context of an individual application for international protection or transfer for the purpose of relocation. It shall set out the grounds on which it is based and, where its purpose is to check whether there is a criterion that is likely to entail the responsibility of the requested Member State, shall state on what evidence, including relevant information from reliable sources on the ways and means by which applicants enter the territories of the Member States, or on what specific and verifiable part of the applicant's statements it is based. Such relevant information from reliable sources is not in itself sufficient to determine the responsibility and the competence of a Member State under this Regulation, but it may contribute to the evaluation of other indications relating to an individual applicant.

5. The requested Member State shall be obliged to reply within three weeks. Any delays in the reply shall be duly justified. Non-compliance with the three week time limit shall not relieve the requested Member State of the obligation to reply. If the research carried out by the requested Member State which did not respect the maximum time limit withholds information which shows that it is responsible, that Member State may not invoke the expiry of the time limits provided for in Article 29 as a reason for refusing to comply with a request to take charge. In that case, the time limits provided for in Article 29 for submitting a request to take charge shall be extended by a period of time equivalent to the delay in the reply by the requested Member State.
6. The exchange of information shall be effected at the request of a Member State and may only take place between authorities whose designation by each Member State has been communicated to the Commission in accordance with Article 41(1).
7. The information exchanged may only be used for the purposes set out in paragraph 1. In each Member State such information may, depending on its type and the powers of the recipient authority, only be communicated to the authorities and courts and tribunals entrusted with:
  - (a) determining the Member State responsible;
  - (b) examining the application for international protection;
  - (c) implementing any obligation arising under this Regulation.
8. The Member State which forwards the information shall ensure that it is accurate and up-to-date. If it transpires that it has forwarded information which is inaccurate or which should not have been forwarded, the recipient Member States shall be informed thereof immediately. They shall be obliged to correct such information or to have it erased.
9. In each Member State concerned, a record shall be kept, in the individual file for the person concerned or in a register, of the transmission and receipt of information exchanged.

## Article 41

### *Competent authorities and resources*

1. Each Member State shall notify the Commission without delay of the specific authorities responsible for fulfilling the obligations arising under this Regulation, and any amendments thereto. The Member States shall ensure that those authorities have the necessary resources for carrying out their tasks and in particular for replying within the prescribed time limits to requests for information, requests to take charge, take back notifications and, if applicable, complying with their obligations under Chapters I-III of Part IV.
2. The Commission shall publish a consolidated list of the authorities referred to in paragraph 1 in the *Official Journal of the European Union*. Where there are changes to that list, the Commission shall publish an updated consolidated list once a year.
3. Member States shall ensure that the authorities referred to in paragraph 1 shall receive the necessary training with respect to the application of this Regulation.
4. The Commission shall, by means of implementing acts, establish secure electronic transmission channels between the authorities referred to in paragraph 1 and between those authorities and the Asylum Agency for transmitting information, biometric data taken in accordance with Regulation (EU) XXX/XXX [*Eurodac Regulation*], requests, notifications, replies and all written correspondence and for ensuring that senders automatically receive an electronic proof of delivery. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

## Article 42

### *Administrative arrangements*

1. Member States may, on a bilateral basis, establish administrative arrangements between themselves concerning the practical details for the implementation of this Regulation, in order to facilitate its application and increase its effectiveness. Such arrangements may relate to:
  - (a) exchanges of liaison officers;
  - (b) simplification of the procedures and shortening of the time limits relating to transmission and the examination of requests to take charge of or take back applicants;
  - (c) solidarity contributions made pursuant to Chapters I-III of Part IV.
2. Member States may also maintain the administrative arrangements concluded under Regulation (EC) No 343/2003 and Regulation (EU) No 604/2013. To the extent that such arrangements are not compatible with this Regulation, the Member States concerned shall amend the arrangements in such a way as to eliminate any incompatibilities.
3. Before concluding or amending any arrangement as referred to in paragraph 1, point (b), the Member States concerned shall consult the Commission as to the compatibility of the arrangement with this Regulation.
4. If the Commission considers the arrangements referred to in paragraph 1, point (b), to be incompatible with this Regulation, it shall, within a reasonable period, notify the Member States concerned. The Member States shall take all appropriate steps to amend the arrangement concerned within a reasonable time in such a way as to eliminate any incompatibilities observed.
5. Member States shall notify the Commission of all arrangements referred to in paragraph 1, and of any denunciation thereof, or amendment thereto.

## *Article 43*

### *Network of responsible units*

The Asylum Agency shall set up and facilitate the activities of a network of the competent authorities referred to in Article 41(1), with a view to enhancing practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance.

## **CHAPTER VII**

### ***CONCILIATION***

## *Article 44*

### *Conciliation*

1. In order to facilitate the proper functioning of the mechanisms set up under this Regulation and resolve difficulties in the application thereof, where two or more Member States encounter difficulties in their cooperation under this Regulation or in its application between them, the Member States concerned shall, upon request by one or more of them, hold consultations without delay with a view to finding appropriate solutions within a reasonable time, in accordance with the principle of sincere cooperation.

As appropriate, information about the difficulties encountered and the solution found may be shared with the Commission and with the other Member States within the Committee referred to in Article 67.



2. Where no solution is found under paragraph 1 or the difficulties persist, one or more of the Member States concerned may request the Commission to hold consultations with the Member States concerned with a view to finding appropriate solutions. The Commission shall hold such consultations without delay. The Member States concerned shall actively participate in the consultations and, as well as the Commission, take all appropriate measures to promptly resolve the matter. The Commission may adopt recommendations addressed to the Member States concerned indicating the measures to be taken and the appropriate deadlines.

As appropriate, information about the difficulties encountered, the recommendations made and the solution found may be shared with the other Member States within the Committee referred to in Article 67.

3. This Article shall be without prejudice to the powers of the Commission to oversee the application of Union law under Articles 258 and 260 of the Treaty. It shall be without prejudice to the possibility for the Member States concerned to submit their dispute to the Court of Justice in accordance with Article 273 of the Treaty or to bring the matter to it in accordance with Article 259 of the Treaty.