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THE EUROPEAN UNION**

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2008/0244 (COD)**

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OUTCOME OF PROCEEDINGS

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| of: | Asylum Working Party |
| on: | 6 July 2011 |
| No Cion proposal: | 11214/11 ASILE 46 CODEC 981 |
| Subject: | Amended proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of asylum seekers (Recast) |

At its meetings on 29 June and 6 July 2011, the Asylum Working Party examined above mentioned amended proposal for a Directive laying down standards for the reception of asylum seekers. The result of this examination is set out below with delegations' comments in the footnotes.

New text to the Commission proposal is indicated by underlining the insertion and including it within Council tags: ☞_☞; deleted text is indicated within underlined square brackets as follows: ☞[...].

ANNEX

↓ 2003/9/EC

2008/0244 (COD)

Amended proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down standards for the reception of asylum seekers

(Recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point 2(f) of Article 78 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C , , p. .

² OJ C , , p. .

↓ new

- (1) A number of substantive changes are to be made to Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers³. In the interests of clarity, that Directive should be recast.

↓ 2003/9/EC recital 1 (adapted)

⇒ new

- (2) A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the ☒ European Union ☒ Community. ⇒ It should be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. ⇐

↓ 2003/9/EC recital 2

⇒ new

- (3) At its special meeting in Tampere on 15 and 16 October 1999, the European Council agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967, thus maintaining the principle of non-refoulement. ⇒ The first phase of a Common European Asylum System was achieved through the adoption of relevant legal instruments foreseen in the Treaties, including Directive 2003/9/EC. ⇐

³ OJ L 31, 6.2.2003, p. 18.

↓ 2003/9/EC recital 3

~~The Tampere Conclusions provide that a Common European Asylum System should include, in the short term, common minimum conditions of reception of asylum seekers.~~

↓ 2003/9/EC recital 4

~~The establishment of minimum standards for the reception of asylum seekers is a further step towards a European asylum policy.~~

↓ new

- (4) The European Council, at its meeting of 4 November 2004, adopted The Hague Programme which set the objectives to be implemented in the area of freedom, security and justice in the period 2005-2010. In this respect, The Hague Programme invited the European Commission to conclude the evaluation of the first-phase instruments and to submit the second-phase instruments and measures to the Council and the European Parliament.
- (5) The European Council at its meeting of 10-11 December 2009 adopted the Stockholm programme which reconfirmed the commitment to establishing a common area of protection and solidarity based on a common asylum procedure and a uniform status for those granted international protection based on high protection standards and fair and effective procedures by 2012. The Stockholm Programme further provides that it is crucial that individuals, regardless of the Member State in which their application for asylum is made, are offered an equivalent level of treatment as regards reception conditions.

- (6) The resources of the European Refugee Fund and of the European Asylum Support Office, established by Regulation (EU) No 439/2010 of the European Parliament and of the Council⁴, should be mobilised to provide adequate support to the Member States' efforts relating to the implementation of the standards set in the second phase of the Common European Asylum System, in particular to those Member States which are faced with specific and disproportionate pressures on their asylum systems, due in particular to their geographical or demographic situation.
- (7) In the light of the results of the evaluations undertaken on the implementation of the first phase instruments, it is appropriate, at this stage, to confirm the principles underlying Directive 2003/9/EC with a view to ensuring improved reception conditions for asylum seekers.
- (8) In order to ensure equal treatment of asylum seekers throughout the Union, this Directive should apply during all stages and types of procedures concerning applications for international protection and in all locations and facilities hosting asylum seekers.
- (9) Member States should seek to ensure full compliance with the principles of the best interests of the child and the importance of family unity, in the application of this Directive, in line with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively.

↓ 2003/9/EC recital 6

- (10) With respect to the treatment of persons falling within the scope of this Directive, Member States are bound by obligations under instruments of international law to which they are party ~~and which prohibit discrimination~~.

⁴ OJ L 132, 29.5.2010, p.11.

↓ 2003/9/EC recital 7

- (11) ~~Minimum~~ Standards for the reception of asylum seekers that will ~~normally~~ suffice to ensure them a dignified standard of living and comparable living conditions in all Member States should be laid down.

↓ 2003/9/EC recital 8

- (12) The harmonisation of conditions for the reception of asylum seekers should help to limit the secondary movements of asylum seekers influenced by the variety of conditions for their reception.

↓ new

- (13) In view of ensuring equal treatment amongst all applicants for international protection as well as in order to guarantee consistency with current EU asylum acquis, in particular with Directive [.../.../EU] [the Qualification Directive], it is appropriate to extend the scope of this Directive in order to include applicants for subsidiary protection.

↓ 2003/9/EC recital 9 (adapted)

⇒ new

- (14) ⇒ The immediate identification and monitoring of persons ⇐ ~~Reception of groups~~ with special ⇒ reception ⇐ needs should be ⇒ a primary concern of national authorities in order to ensure that their reception is ⇐ specifically designed to meet ⊗ their special reception ⊗ ~~those~~ needs.

↓ new

- (15) Detention of asylum seekers should be applied in line with the underlying principle that a person should not be held in detention for the sole reason that are seeking international protection, notably in accordance with Article 31 of the Geneva Convention relating to the Status of Refugees of 28 July 1951. In particular, Member States should not impose penalties on asylum seekers on account of illegal entry or presence and any restrictions to movement should be necessary. In this respect, detention of asylum seekers should only be possible under very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard both to the manner and to the purpose of such detention. Where an asylum seeker is held in detention he/she should be able to have effective access to the necessary procedural guarantees such as judicial remedy before a national court.

↓ 2003/9/EC recital 10 (adapted)

⇒ new

- (16) ~~Reception of a~~ Applicants who are in detention ⇒ should be treated with full respect of human dignity and their reception ⇐ should be specifically designed to meet their needs in that situation. ⇒ In particular, Member States should ensure that Article 37 of the 1989 UN Convention on the Rights of the Child is applied. ⇐

↓ new

- (17) There may be cases where it is not possible in practice to immediately ensure certain reception guarantees in detention, for example due to the geographic location or the specific structure of the detention facility. However any derogation to these guarantees should be of a temporary nature and applied only under the circumstances set out in this Directive. Derogations should only be applied in exceptional circumstances; they should be duly justified, taking into consideration the circumstances of each case including the level of severity of the derogation applied, its duration and its impact on the concerned individual.

↓ 2003/9/EC recital 11

- (18) In order to ensure compliance with the ~~minimum~~ procedural guarantees consisting in the opportunity to contact organisations or groups of persons that provide legal assistance, information should be provided on such organisations and groups of persons.

↓ new

- (19) In order to promote asylum-seekers' self-sufficiency and to limit wide discrepancies between Member States, it is essential to provide clear rules on the access of asylum seekers to the labour market. These rules should be consistent with the rules on the duration of the examination procedure as stipulated in Directive [.../.../EU/] [Asylum Procedures Directive].

(20) To ensure that the material support provided to asylum seekers is in line with the principles set out in this Directive, it is necessary that Member States determine the level of such support on the basis of relevant and measurable points of reference.

↓ 2003/9/EC recital 12 (adapted)

⇒ new

(21) The possibility of abuse of the reception system should be restricted by specifying the circumstances in which ~~laying down cases for the reduction or withdrawal of~~ reception conditions for asylum seekers may be reduced or such reception withdrawn
⇒ while at the same time ensuring a dignified standard of living for all asylum seekers ⇐.

↓ 2003/9/EC recital 13

(22) The efficiency of national reception systems and cooperation among Member States in the field of reception of asylum seekers should be secured.

↓ 2003/9/EC recital 14

(23) Appropriate coordination should be encouraged between the competent authorities as regards the reception of asylum seekers, and harmonious relationships between local communities and accommodation centres should therefore be promoted.

↓ 2003/9/EC recital 15 (adapted)

- (24) ~~It is in the very nature of minimum standards that~~ Member States ~~↗~~ should ~~↖~~ have the power to introduce or maintain more favourable provisions for third-country nationals and stateless persons who ask for international protection from a Member State.

↓ 2003/9/EC recital 16

⇒ new

- (25) In this spirit, Member States are also invited to apply the provisions of this Directive in connection with procedures for deciding on applications for forms of protection other than that emanating from ⇒ Directive [...]/EU [The Qualification Directive] ⇐ ~~the Geneva Convention for third-country nationals and stateless persons.~~

↓ 2003/9/EC recital 17

- (26) The implementation of this Directive should be evaluated at regular intervals.

↓ 2003/9/EC recital 18 (adapted)

(27) Since the objectives of the proposed action, namely to establish ~~minimum~~ standards on the reception of asylum seekers in Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the proposed action, be better achieved by the ~~⊗~~ Union ~~⊗~~ Community, the ~~⊗~~ Union ~~⊗~~ Community may adopt measures in accordance with the principles of subsidiarity as set out in Article 5 of the Treaty on European Union . In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

↓ 2003/9/EC recital 19

~~In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom gave notice, by letter of 18 August 2001, of its wish to take part in the adoption and application of this Directive.~~

↓ 2003/9/EC recital 20

~~In accordance with Article 1 of the said Protocol Ireland, is not participating in the adoption of this Directive. Consequently, and without prejudice to Article 4 of the aforementioned Protocol, the provisions of this Directive do not apply to Ireland.~~

↓ new

- (28) In accordance with Article 4a(1) of Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union, and to the Treaty on the Functioning of the European Union and without prejudice to paragraph 2 of that Article, so long as the United Kingdom has not notified its wish to accept this measure, in accordance with Article 4 of that Protocol, it is not bound by it and continues to be bound by Directive 2003/9/EC.
- (29) In accordance with Article 1 of the said Protocol, Ireland is not taking part in the adoption of this Directive. Without prejudice to Article 4 of that Protocol, Ireland is therefore not bound by this Directive.

↓ 2003/9/EC recital 21

- (30) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union ~~establishing the European Community~~, Denmark does not take part in the adoption of this Directive and is not bound by it or subject to its application.

↓ 2003/9/EC recital 5

⇒ new

- (31) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for human dignity and to promote the application of Articles 1 ⇒, 6, 7, ⇐ ~~and~~ 18 ⇒, 21, 24 and 47 ⇐ of the said Charter ⇒ and has to be implemented accordingly ⇐.

↓ new

- (32) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.
- (33) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit for transposition into national law of the Directive set out in Annex II, Part B.

HAVE ADOPTED THIS DIRECTIVE⁵:

CHAPTER I

PURPOSE, DEFINITIONS AND SCOPE

Article 1

Purpose

The purpose of this Directive is to lay down ~~minimum~~ standards for the reception of asylum seekers in Member States.

Article 2

Definitions

For the purposes of this Directive:

~~(a) "Geneva Convention" shall mean the Convention of 28 July 1951 relating to the status of refugees, as amended by the New York Protocol of 31 January 1967;~~

~~(b) "application for asylum" shall mean the application made by a third-country national or a stateless person which can be understood as a request for international protection from a Member State, under the Geneva Convention. Any application for international protection is presumed to be an application for asylum unless a third-country national or a stateless person explicitly requests another kind of protection that can be applied for separately;~~

⁵ General scrutiny reservation: **CY, CZ, EE, EL, FI, HU, IT, LT, MT, PT, RO, SE, SK, UK**
Parliamentary scrutiny reservation: **CZ, LT, MT, UK**
Linguistic reservation: **CZ, LT**

↓ new

(a) "application for international protection" means an application for international protection as defined in point (h) of Article 2 of Directive [...]/.../EU [the Qualification Directive];

↓ 2003/9/EC (adapted)

⇒ new

~~(b)(e)~~ "applicant" ☒, "applicant for international protection" ☒ or "asylum seeker" ~~shall mean~~ ☒ means ☒ a third country national or a stateless person who has made an application for ~~asylum~~ ⇒ international protection ⇐ in respect of which a final decision has not yet been taken;

~~(c)(d)~~⁶ "family members" ~~shall mean~~ ☒ means ☒, in so far as the family already existed in the country of origin, the following members of the applicant's family who are present in the same Member State in relation to the application for ~~asylum~~ ⇒ international protection ⇐:

☒ (i) when the applicant is an adult; ☒

⁶ Reservation: **CY, ES, FR, MT, PL, SI, UK**
Scrutiny reservation: **AT, BE, BG, CZ, DE, FI, IT, LT, LU, LV, NL, PT, RO.**
ES advocated in relation to the definition of family members the importance of further scrutinising the implications of dependency relations with an asylum seeker other than those of a biological or legal nature.
BG, DE, FR, LU, UK proposed to maintain the scope of the definition of family members of the Directive currently in force.
CZ, LV, MT opposed inclusion of married minor in the definition of family members.
CZ, LT, LV, SI expressed support for the definition included in the compromise text for the Qualification Directive.

- (i) = the spouse of the asylum seeker or his or her unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to ~~aliens~~ third country nationals ;
- (ii) = the minor children of ~~the couple~~ couples referred to in the first indent point (i) or of the applicant, on condition that they are unmarried ~~and dependent~~ and regardless of whether they were born in or out of wedlock or adopted as defined under the national law;

↓ new

- the married minor children of couples referred to in the first indent of point (i) or of the applicant, regardless of whether they were born in or out of wedlock or adopted as defined under the national law, provided they are not accompanied by their spouses and it is in their best interests to consider them as family members;
- (ii) when the applicant is an unmarried minor:
- the father, mother, regardless of whether the applicant was born in or out of wedlock or adopted as defined under the national law, or the adult responsible for the applicant whether by law or by the national practice of the Member State concerned ;
 - the minor siblings of the applicant, regardless of whether they were born in or out of wedlock or adopted as defined under the national law, provided they are unmarried or married but not accompanied by their spouses and it is in their best interests to be considered family members;

- (iii) when the applicant is a married minor, the persons referred to in point (ii) provided the applicant is not accompanied by his/her spouse and it is in the best interests of the applicant or his/her siblings to consider the persons referred to in point (ii) as family members.

↓ 2003/9/EC

~~(e) "refugee" shall mean a person who fulfils the requirements of Article 1(A) of the Geneva Convention;~~

~~(f) "refugee status" shall mean the status granted by a Member State to a person who is a refugee and is admitted as such to the territory of that Member State;~~

~~(g) "procedures" and "appeals", shall means the procedures and appeals established by Member States in their national law;~~

↓ new

(d) "minor" means a third-country national or stateless person below the age of 18 years;

↓ 2003/9/EC (adapted)

⇒ new

(e)(h) "unaccompanied minors" ~~shall mean~~ means ⇒ a minor ~~persons below the age of eighteen~~ who arrive arrives in the territory of the Member States unaccompanied by an adult responsible for ~~them~~ him/her whether by law or by ⇒ the national practice of the Member State concerned ~~custom~~, and for as long as they are he/she is not effectively taken into the care of such a person; it ~~shall include minors~~ includes a minor who is ~~are~~ left unaccompanied after ~~they have~~ he/she has entered the territory of Member States;

(f)(i) "reception conditions" ~~shall mean~~ means the full set of measures that Member States grant to asylum seeker in accordance with this Directive;

(g)(i)⁷ "material reception conditions" ~~shall mean~~ means the reception conditions that include housing, food and clothing provided in kind, or as financial allowances or in vouchers, ⇒ or a combination of the three , and a daily expenses allowance;

⁷ Reservation: **ES**
Scrutiny reservation: **SI** proposing to make it possible to grant a daily expenses allowance in kind instead of a financial allowance. **Cion** indicated in response that already the current Directive contains the obligation to grant a daily expenses allowance.

~~(h)(e)~~ "detention" ~~shall mean~~ ☒ means ☒ confinement of an asylum seeker by a Member State within a particular place, where the applicant is deprived of his or her freedom of movement;

~~(i)(f)~~ "accommodation centre" ~~shall mean~~ ☒ means ☒ any place used for collective housing of asylum seekers;u

↓ new

(j)⁸ "representative" means a person or an organisation appointed by the competent bodies to act as a legal guardian⁹ in order to assist and represent an unaccompanied minor in procedures provided for in this Directive with a view to ensuring the child's best interests and exercising legal capacity for the minor where necessary. Where an organisation acts as a representative, it shall appoint a person responsible for carrying out the duties of the legal guardian in respect of the minor, in accordance with this Directive;

(k)¹⁰ "applicant with special reception needs" means a vulnerable¹¹ applicant, in line with Article 21, who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive.

⁸ Scrutiny reservation: **BG, FR, SK**

⁹ Reservation: **NL** wishing to distinguish between a legal representative and a guardian.

¹⁰ Reservation: **AT, BG, ES, IT, PL, PT, SK** connected with Article 11

Scrutiny reservation: **CZ, FR, SI**

¹¹ **SI** requested clarification as regards the use of the term "vulnerable".

↓ 2003/9/EC (adapted)

⇒ new

Article 3

Scope

1. This Directive shall apply to all third country nationals and stateless persons who make an application for ~~asylum~~ ⇒ international protection ~~at the border, or~~ in the territory, ~~including at the border~~¹², ~~in~~ ⇒ in the territorial waters or in the transit zones¹³, ~~of a~~ of a Member State, as long as they are allowed to remain on the territory as asylum seekers, as well as to family members, if they are covered by such application for ⇒ international protection ~~at the border~~ according to the national law.

↓ 2003/9/EC

⇒ new

2. This Directive shall not apply in cases of requests for diplomatic or territorial asylum submitted to representations of Member States.
3. This Directive shall not apply when the provisions of Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof¹⁴ are applied.

¹² Reservation **DE, ES** considering that airport procedures should not be part of the scope of the Directive.

¹³ Reservation **MT** on the inclusion of phrase "in the territorial waters or in the transit zones" considering this specification confusing as territorial waters and transit zones are already included in a Member State's territory.

¹⁴ OJ L 212, 7.8.2001, p. 12.

4. Member States may decide to apply this Directive in connection with procedures for deciding on applications for kinds of protection other than that emanating from ~~⇒ Directive [...]/.../EU [the Qualification Directive] ⇐ the Geneva Convention for third-country nationals or stateless persons who are found not to be refugees.~~

Article 4

More favourable provisions

Member States may introduce or retain more favourable provisions in the field of reception conditions for asylum seekers and other close relatives of the applicant who are present in the same Member State when they are dependent on him or for humanitarian reasons insofar as these provisions are compatible with this Directive.

CHAPTER II

GENERAL PROVISIONS ON RECEPTION CONDITIONS

Article 5

Information

1. Member States shall inform asylum seekers, within a reasonable time not exceeding fifteen days after they have lodged their application for ~~⇒ international protection ⇐ asylum with the competent authority~~, of at least any established benefits and of the obligations with which they must comply relating to reception conditions.

Member States shall ensure that applicants are provided with information on organisations or groups of persons that provide specific legal assistance and organisations that might be able to help or inform them concerning the available reception conditions, including health care.

↓ 2003/9/EC (adapted)

⇒ new

2. Member States shall ensure that the information referred to in paragraph 1 is in writing and, ~~as far as possible,~~ in a language that the applicants ⇒ understand or ⇐ ~~may~~ ⊗ are ⇐ reasonably ~~be~~ supposed to understand. Where appropriate, this information may also be supplied orally.

Article 6

Documentation

1. Member States shall ensure that, within three days after an application ⇒ for international protection ⇐ is lodged ~~with the competent authority,~~ the applicant is provided with a document issued in his or her own name certifying his or her status as an asylum seeker or testifying that he or she is allowed to stay in the territory of the Member State while his or her application is pending or being examined.

If the holder is not free to move within all or a part of the territory of the Member State, the document shall also certify this fact.

- 2.¹⁵ Member States may exclude application of this Article when the asylum seeker is in detention and during the examination of an application for ~~international protection~~ ~~asylum~~ made at the border or within the context of a procedure to decide on the right of the applicant ~~legally~~ to enter the territory of a Member State. In specific cases, during the examination of an application for ~~international protection~~ ~~asylum~~, Member States may provide applicants with other evidence equivalent to the document referred to in paragraph 1.
3. The document referred to in paragraph 1 need not certify the identity of the asylum seeker.
4. Member States shall adopt the necessary measures to provide asylum seekers with the document referred to in paragraph 1, which must be valid for as long as they are authorised to remain in the territory of the Member State concerned ~~or at the border thereof~~.
5. Member States may provide asylum seekers with a travel document when serious humanitarian reasons arise that require their presence in another State.

¹⁵ In response to a request for clarification of **CZ**, **Cion** indicated that paragraph 4 needs to be read in combination with Article 2 point (h) and that, consequently, detention in paragraph 4 refers to administrative detention in the framework of an asylum application and not to detention resulting from a conviction for a crime.

↓ new

- 6.¹⁶ Member States shall not impose any documentation or other administrative requirements on asylum seekers before granting the rights to which they are entitled under this Directive for the sole reason that they are applicants for international protection.
-

↓ 2003/9/EC

⇒ new

Article 7

Residence and freedom of movement

1. Asylum seekers may move freely within the territory of the host Member State or within an area assigned to them by that Member State. The assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under this Directive.
2. Member States may decide on the residence of the asylum seeker for reasons of public interest, public order or, when necessary, for the swift processing and effective monitoring of his or her application ⇒ for international protection ⇐.

¹⁶ Reservation: **CY, PL**

CY wanted Member States to be able to request the asylum seeker to proceed with the procedure as applied by law - for instance fingerprinting, medical examination - before all rights are granted.

Scrutiny reservation: **FR** wanting to clarify the administrative implications given that in France other formalities exist than only the certificate referred to in paragraph 1

~~3. When it proves necessary, for example for legal reasons or reasons of public order, Member States may confine an applicant to a particular place in accordance with their national law.¹⁷~~

3.4. Member States may make provision of the material reception conditions subject to actual residence by the applicants in a specific place, to be determined by the Member States. Such a decision, which may be of a general nature, shall be taken individually and established by national legislation.

4.5. Member States shall provide for the possibility of granting applicants temporary permission to leave the place of residence mentioned in paragraphs 2 and ~~4~~3 and/or the assigned area mentioned in paragraph 1. Decisions shall be taken individually, objectively and impartially and reasons shall be given if they are negative.

The applicant shall not require permission to keep appointments with authorities and courts if his or her appearance is necessary.

5.6. Member States shall require applicants to inform the competent authorities of their current address and notify any change of address to such authorities as soon as possible.

¹⁷ Scrutiny reservation: **AT, DE** on the proposed deletion of this paragraph.

Article 8¹⁸

Detention¹⁹

1. Member States shall not hold a person in detention for the sole reason that he/she is an applicant for international protection in accordance with Directive [...]/.../EU [the Asylum Procedures Directive].
2. When it proves necessary and on the basis of an individual assessment of each case, Member States may detain an applicant, if other less coercive alternative measures cannot be applied effectively.

¹⁸ Reservation: **ES**
Scrutiny reservation: **AT, BG, CY, DE, ES, FI, FR, IT, LU, LV, MT, RO, SI, SK**
FR proposed to align the provisions in the Reception Conditions Directive with those in the Return Directive.

DE, ES, PT questioned if provisions on detention are best placed in the Reception Conditions Directive. In this context, **DE, PT** expressed a preference for the Asylum Procedures Directive, considering however the content of the provisions more important than the Directive in which they are included; **CY** preferred to have all detention provisions in one instrument.

¹⁹ **SE** proposed to have as title of Article 8: "Detention and alternatives to detention".

3. Without prejudice to Article 11 and to detention in the framework of criminal proceedings²⁰, an applicant may only be detained²¹:
- (a) in order to determine or verify his/her identity or nationality;
 - (b) in order to determine, within the context of a preliminary interview²², the elements on which the application for international protection is based which could not be obtained in the absence of detention;
 - (c) in the context of a procedure, to decide on the right to enter the territory;
 - (d) when protection of national security or public order so requires.

²³

These grounds shall be laid down in national law.²⁴

²⁰ In response to a question posed by **DE, Cion** confirmed that the detention grounds listed in the Reception Conditions Directive are without prejudice to detention decisions taken in the framework of criminal proceedings.

²¹ Reservation: **IT**

AT, BE, CY, DE, ES, NL, RO, SE, SI, SK considered that other grounds should be added to the list of grounds for detention proposed by the Commission. In this context, **DE, SE** referred in general to the risk of absconding. More specifically, **AT, BE, SK** referred to grounds for detention related to Dublin which need to be included either in the Reception Conditions Directive or in the Dublin Regulation. **ES, SI** referred to a situation where an applicant disappears in the period needed to notify him that his application is manifestly unfounded.

²² In response to the request of **FI, Cion** indicated that a preliminary interview means an interview aimed at making a pre-screening.

²³ **NL**, supported by **BE, CY, ES, IT, PT, RO, SI, SK**, proposed to add a new point (e): "when he-she is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his-her removal". In response, **Cion** indicated that such "catch-all" provision could lead to systematic detention which would be against the general rule of paragraph 1 that an asylum seeker will not be held in detention for the sole reason of his asylum application. It was further remarked that the recommendation of the Council of Europe on grounds for detention of asylum seekers does not include a ground similar to the one proposed by the delegations.

²⁴ Scrutiny reservation: **DE, RO**. In reaction, **Cion** indicated that national rules are needed so that asylum seekers know the grounds for their detention.

4.²⁵ Member States shall ensure that rules concerning alternatives to detention, such as regular reporting to the authorities, the deposit of a financial guarantee, or an obligation to stay at an assigned place, are laid down in national law.

Article 9²⁶

Guarantees for detained asylum seekers

1.²⁷ Detention shall be for as short a period as possible and shall only be maintained for as long as the grounds set out in Article 8(3) are applicable.

Administrative procedures relevant to the grounds set out in Article 8(3) shall be executed with due diligence. Delays in the administrative procedures that cannot be attributed to the asylum seeker shall not justify a continuation of detention.

²⁵ Scrutiny reservation: **PL** considering that there is a need to clarify that the measures mentioned in paragraph 4 may only apply in cases specified in paragraph 3.
CY, DE, SI considered that paragraph has no added value given the conditions for detention included in paragraph 2.

ES requested clarification how this provision would work in practice.

²⁶ Reservation: **ES**

Scrutiny reservation: **AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, LU, LV, MT, RO, SK**

²⁷ Scrutiny reservation: **SE**

RO proposed to delete "as soon as possible" considering that, given the reference to the grounds for detention set out in Article 8(3), otherwise a double standard would be created for assessing the legality of the duration of detention.

2.²⁸ Detention shall be ordered by judicial or administrative authorities. Where detention is ordered by administrative authorities, it shall be confirmed by judicial authorities within 72 hours from the beginning of the detention. Where the judicial authority finds detention to be unlawful, or there is no decision within 72 hours, the asylum seeker concerned shall be released immediately.²⁹

²⁸ Reservation: **AT, BE, CY, ES, MT, NL, RO, SE, SI, SK, UK** suggesting to align this paragraph with the text of Article 9.3 as laid down in document 13935/10 and opposing in particular the 72 hour deadline for confirmation by judicial authorities of the detention order of administrative authorities considering it a disproportionate burden on the judicial authorities.

Scrutiny reservation **FR** on 72 hour deadline.

BE, CZ expressed concerns about 72 hours deadline.

FI proposed a deadline of "96 hours".

CY wanted a similar deadline as for its own nationals.

In case a deadline would remain in the provision, **RO** proposed to replace "72 hours" with "three working days". Furthermore, **RO** esteemed that, in the case of border procedures, confirmation of judicial authorities would not be needed because in these cases judicial authorities always grant such confirmation.

DE explained that in Germany only a judge can decide on a detention order and that this order should be submitted at the latest one day after the detention has started. For that reason, **DE** wants to continue to be able to apply this procedure, which is more beneficial to the asylum seeker than the provisions in the modified recast of the Reception Conditions Directive.

²⁹ **UK** considered it obvious that a detention is stopped in case a judicial authority finds it to be unlawful. In response, **Cion** indicated a similar phrase is included in the Return Directive.

3.³⁰ Detention shall be ordered in writing³¹. The detention order shall state the reasons in fact and in law on which it is based and the procedures laid down in national law for challenging it, in a language the asylum seeker understands or is reasonably supposed to understand³². It shall immediately be provided to the detained asylum seeker.

4.³³ Detention shall be reviewed by a judicial authority at reasonable intervals of time, either ex officio or on request by the asylum seeker concerned, in particular whenever it is of a prolonged duration³⁴ or relevant circumstances arise or new information becomes available which may affect the lawfulness of detention.

³⁰ Reservation: **CY** considering that the executive cannot impose rules as included in paragraph 3 on independent judicial authorities.

³¹ **UK** remarked that there can be cases in which authorities cannot give a written detention order. In response, **Cion** indicated that Article 15(2) of the Return Directive also demands a detention order in writing. Furthermore, **UK** requested clarification when to give the detention order in case a person who is arrested for illegal border crossing, applies for asylum some time after the arrest.

³² **CZ, EE, SK** considered an interpreter reading out the detention order sufficient given the possibility for appeal. In response, **Cion** indicated that a translation by an interpreter of the detention order is sufficient.

BE expressed concerns about the apparent obligation to state reasons and the procedures in the detention order explaining that in Belgium this information is provided separately from the detention order.

³³ Reservation: **CY** considering that the executive cannot impose rules as included in paragraph 3 on independent judicial authorities.

Scrutiny reservation: **SE**

In this context, **Cion** noted that paragraph 4 is not completely aligned with the Return Directive as no standards are established for a maximum duration of detention.

³⁴ **CZ** requested clarification of the term "prolonged duration".

5.³⁵ In cases of an appeal or review of the detention order, Member States shall ensure that asylum seekers have access to free legal assistance and representation, where they cannot afford the costs involved and in so far as it is necessary to ensure their effective access to justice.

Legal assistance and representation shall include, at least, the preparation of the required procedural documents and representation before the judicial authorities.

Legal assistance and representation may be restricted to legal advisers or counsellors specifically designated by national law to assist and represent asylum seekers.

Procedures for access to legal assistance and representation in such cases shall be laid down in national law.

³⁵ Reservation: **DE, EL, MT, SE, UK** considering that changes are needed in line with the provisions on legal assistance in the modified recast on the Asylum Procedures Directive including a merits test on tangible chances of success of an appeal or a review and free legal assistance and representation on the request of the applicant. In response, **Cion** indicated that in the case of an appeal or a review of a detention order in the framework of the Reception Conditions Directive, a judge has to look at all aspects (for instance is the detained person a minor or are there alternatives to detention possible) and cannot do a *prima facie* test as is possible in the case of an appeal in the framework of the Asylum Procedures Directive. **DE** also wanted to be able to recuperate costs made for legal assistance in case it would become clear later on that the asylum seeker would have been able to pay for the assistance himself.

Conditions of detention

1.³⁷ Detention shall only take place in specialised detention facilities³⁸.

Asylum seekers in detention shall be kept separately from other third country nationals who have not lodged an application for international protection unless it is necessary to ensure family unity and the applicant consents thereto.³⁹

2.⁴⁰ Detained asylum seekers shall have access to open-air spaces.

³⁶ Reservation: **ES**

Scrutiny reservation: **AT, BE, BG, CZ, DE, EE, EL, FI, FR, LU, LV, MT, RO, SK**

³⁷ Reservation: **CY, DE, EE, IT, MT, SE** expressing concerns on the financial implications of this provision.

CY proposed to add at the end of the first sentence: "where such facilities are available in Member States or in any other appropriate detention centres".

DE, IT suggested wording that would leave greater flexibility to Member States whilst respecting the principle of detaining asylum applicants in specialised detention facilities. In this context, **DE** referred to Article 16 of the Return Directive.

EE, MT indicated that, given the limited number of asylum seekers, an obligation to have specialised facilities would be disproportionate.

SE indicated that it should also be possible to detain an asylum in a non specialised detention facility for transport reasons.

³⁸ **CY** proposed to add after "separately": "where such facilities are available".

CZ requested clarification on the characteristics of specialised detention facilities.

³⁹ **BE, FR, RO, UK** expressed concerns about implications of the obligation contained in this second subparagraph given the mixed population of asylum seekers, illegals and rejected asylum seekers in detention.

RO, supported by **FI**, proposed to add at the beginning of the second subparagraph "wherever possible".

ES, SE, UK expressed concerns about the situation in which a person who is in detention applies for asylum.

⁴⁰ **CZ** expressed concerns about implications of this obligation.

3. Member States shall ensure that persons representing the United Nations High Commissioner for Refugees have the possibility to communicate with applicants and to have access to detention facilities. This also applies to an organisation which is working in the territory of the Member State concerned on behalf of the United Nations High Commissioner for Refugees pursuant to an agreement with that Member State.
4. Member States shall ensure that family members, legal advisers or counsellors and persons representing relevant non-governmental organisations recognised by the Member State concerned, have the possibility to communicate with applicants and have access to detention facilities. Limits to access may be imposed only where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of the detention facility, provided that access is not thereby severely limited or rendered impossible.
- 5.⁴¹ Member States shall ensure that asylum seekers in detention are systematically⁴² provided with information which explains the rules applied in the facility and sets out their rights and obligations in a language they understand or are reasonably supposed to understand.
- 6.⁴³ In duly justified cases and for a reasonable period which shall be as short as possible Member States may derogate:
- (a) from the first subparagraph of paragraph 1 where accommodation in specialised detention facilities is temporarily not available and, as a consequence, Member States are obliged to resort to prison accommodation, provided that asylum seekers in detention are kept separately from ordinary prisoners; unaccompanied minors shall not, however, be kept in prison accommodation;

⁴¹ Reservation: **CY**

⁴² **CY, EL, ES** proposed to delete "systematically". In response, **Cion** indicated that "systematically" also appears in Article 16.5 of the Return Directive.

⁴³ Scrutiny reservation: **CY** wanting to examine whether this provision is enforceable in particular in relation to the dimension of Cyprus.

(b) from paragraph 5 when the asylum seeker is detained at a border post or in a transit zone with the exception of cases referred to in Article 43 of Directive [.../.../EU] [the Asylum Procedures Directive].

Article 11⁴⁴

Detention of vulnerable persons and persons with special reception needs

1.⁴⁵ In all cases, vulnerable persons shall not be detained unless it is established that their health, including their mental health, and well-being, will not significantly deteriorate as a result of the detention.

Where vulnerable persons are detained, Member States shall ensure regular monitoring and adequate support taking into account their particular situation including their health.

⁴⁴ Reservation: **ES**

Scrutiny reservation: **AT, BE, BG, DE, FI, FR, LU, LV, MT, RO, SK**

⁴⁵ Scrutiny reservation: **CZ, PL, SE, SI**

BE, DE, ES, FR, IT, LU, NL, RO, SI expressed concerns about the implications of this provision, which needs to be read in combination with Article 22 on the identification of special needs of vulnerable persons, and considered its potential scope too broad and its obligations too strict.

In response, **Cion** indicated that it would be difficult to defend that human rights are respected in case the health or well-being of a vulnerable person would significantly deteriorate.

DE specified that it needs to be clarified that there is no general obligations for Member States to examine if detention could lead to deterioration of the health and the well-being of the vulnerable person, but that such examination should be based on concrete indications.

NL proposed to delete the first subparagraph.

2.⁴⁶ Minors shall not be detained unless it is established in an individual case that it is in the minor's best interests, as prescribed in Article 23(2).

Detention of minors shall be a measure of last resort, after having established that other less coercive alternative measures cannot be applied effectively. It shall be for as short a period as possible and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors.

Detention of unaccompanied minors shall be resorted to only in particularly exceptional cases.

Where minors are detained, they shall have the possibility to engage in leisure-activities, including play and recreational activities appropriate to their age.

Minors shall have access to open-air spaces.

Where unaccompanied minors are detained, Member States shall ensure that they are accommodated separately from adults.

3.⁴⁷ Detained families shall be provided with separate accommodation guaranteeing adequate privacy.

⁴⁶ Scrutiny reservation: **CZ, SI**
DE, FR, NL expressed concerns about the implications of this provision. In this context, **DE**, being in particular concerned about possible implications for the airport procedure, supported by **NL, RO, SI**, suggested to align this paragraph with paragraph 17.1 of the Return Directive.

CY does not allow the detention of minors under any circumstances and, for that reason, wanted to look into the transposition of this provision in national law.

⁴⁷ Scrutiny reservation: **CY**
DE, supported by **SI**, suggested to align this paragraph with paragraph 17(2) of the Return Directive.

4.⁴⁸ Where female asylum seekers are detained, Member States shall ensure that they are accommodated separately from male asylum seekers, unless these are family members and all concerned individuals consent thereto.

Exceptions may also apply for the use of common spaces designed for recreational or social activities including the provision of meals.

5. In duly justified cases and for a reasonable period that shall be as short as possible Member States may derogate from the fourth subparagraph of paragraph 2, paragraph 3 and the first subparagraph of paragraph 4, when the asylum seeker is detained at a border post or in a transit zone, with the exception of cases referred to in Article 43 of Directive [...]/.../EU [the Asylum Procedures Directive].

↓ 2003/9/EC

⇒ new

Article 12 ^g

Families

Member States shall take appropriate measures to maintain as far as possible family unity as present within their territory, if applicants are provided with housing ⁴⁹by the Member State concerned. Such measures shall be implemented with the asylum seeker's agreement.

⁴⁸ Scrutiny reservation: **CY**

⁴⁹ **CY** proposed to refer also to reception facilities.

Article ~~13~~ ⁹

Medical screening

Member States may require medical screening for applicants on public health grounds.

Article ~~14~~ ⁵⁰

Schooling and education of minors

1. Member States shall grant to minor children of asylum seekers and to asylum seekers who are minors access to the education system under similar conditions as nationals of the host Member State for so long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centres.

The Member State concerned may stipulate that such access must be confined to the State education system.

~~Minors shall be younger than the age of legal majority in the Member State in which the application for asylum was lodged or is being examined.~~ Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority.

2. Access to the education system shall not be postponed for more than three months from the date the application for ~~asylum~~ ⇒ international protection ⇐ was lodged by ⇒ or on behalf of ⇐ the minor ~~or the minor's parents.~~ This period may be extended to one year where ~~specific education is provided in order to facilitate access to the education system.~~⁵¹

⁵⁰ Scrutiny reservation: **CZ, ES**

⁵¹ Reservation: **RO** proposing to re-insert the phrase "This period...education system" considering the possibility to extend the period for access to the education system in some cases beneficial for the asylum seeker.

↓ new

Preparatory classes, including language classes, shall⁵² be provided to minors where it is necessary to facilitate their access and integration to the national education system.⁵³

↓ 2003/9/EC

⇒ new

3. Where access to the education system as set out in paragraph 1 is not possible due to the specific situation of the minor, the Member State ⇒ shall ⇐ ~~may~~ offer other education arrangements ⇒ in accordance with national law and practices ⇐.

⁵² CY, ES, NL proposed "may" instead of "shall".

⁵³ Scrutiny reservation: AT, DE considering this subparagraph more related to integration and therefore out of place in the Reception Conditions Directive. In response, Cion indicated that this subparagraph does not concern integration in the host society but integration into the national education system.

Employment

~~1. Member States shall determine a period of time, starting from the date on which an application for asylum was lodged during which an applicant shall not have access to the labour market.~~

54

Reservation: **AT, DE, ES, FR, LT, MT, RO, SI, SK, UK** expressing concerns that access to the labour market would be a pull factor and lead to abuse. In response, **Cion** indicated that the pull factor argument would not be valid in case of rapid decisions on asylum applications. Furthermore, **Cion** indicated that 9 Member States already allow access after 6-month and that there is no evidence that shorter periods would result in an increased number of applications.

Scrutiny reservation: **CZ**

LT rejected european rules on access for asylum seekers to the national labour market.

FR, SI proposed to maintain the provision on employment included in the Directive currently in force.

DE, MT, NL proposed a 1-year period.

CZ, EL, LV, SK considered that a 6-month period would not be long enough.

SK proposed include the condition that a first instance decision has not been taken.

BG would prefer a 1 year period but might agree with 6 months in case the condition that a first instance decision has not been taken would be included.

BE, LT, whilst supporting the 6-month period and the cases in which this period can be extended, proposed to include the condition that a first instance decision has not been taken so as to avoid access to the labour market becoming a pull factor.

SE could accept a 6-month period but proposed to clarify that if the asylum seeker does not cooperate in the asylum procedure, access to the labour market could be withhold.

LU could accept a 6-month period.

UK suggested to add derogations for cases that are complicated in fact and in law such as applications by war criminals.

↓ new

1.⁵⁵ Member States shall ensure that applicants have access to the labour market no later than 6 months following the date when the application for international protection was lodged.

Member States may extend that time limit for a period not exceeding a further six months, in the cases provided for in points (b) and (c) of Article 31(3) of Directive [...]/.../EU [the Asylum Procedures Directive].

↓ 2003/9/EC

⇒ new

2.⁵⁶ ~~If a decision at first instance has not been taken within one year of the presentation of an application for asylum and this delay cannot be attributed to the applicant,~~ Member States shall decide the conditions for granting access to the labour market for the applicant ⇒, in accordance with their national law⁵⁷, while ensuring asylum seekers have effective access to the labour market. ⇐.

3.⁵⁸ Access to the labour market shall not be withdrawn during appeals procedures, where an appeal against a negative decision in a regular procedure has suspensive effect, until such time as a negative decision on the appeal is notified.

⁵⁵ Reservation: **BG**

⁵⁶ Scrutiny reservation: **PL** having doubts about the meaning of "effective" access to the labour market.

⁵⁷ **CY**, supported by **NL**, proposed to replace the phrase ", while ensuring asylum seekers have effective access to the labour market" with "or/and practice".

⁵⁸ **NL**, whilst acknowledging that paragraph 3 concerns text which the Commission does not propose to amend, expressed a preference for deletion of this paragraph.

~~4. For reasons of labour market policies, Member States may give priority to EU citizens and nationals of States parties to the Agreement on the European Economic Area and also to legally resident third-country nationals.⁵⁹~~

Article ~~16~~ 12

Vocational training

Member States may allow asylum seekers access to vocational training irrespective of whether they have access to the labour market.

Access to vocational training relating to an employment contract shall depend on the extent to which the applicant has access to the labour market in accordance with Article ~~15~~ 11.

⁵⁹ Reservation: **AT, CY, CZ, EL, LT, LV, NL, RO, SK** on the proposed deletion. In response, **Cion** indicated that this provision should be deleted from the Reception Conditions Directive in order to avoid confusion with the principle of EU preference and other relevant EU law. In that light a reference to labour market policies in the Reception Conditions Directive is no longer considered appropriate.

General rules on material reception conditions and health care

1. Member States shall ensure that material reception conditions are available to applicants when they make their application for ~~asylum~~ ⇒ international protection ⇐.

↓ 2003/9/EC (adapted)

2. Member States shall ☒ ensure that ☒ ~~make provisions on~~ material reception conditions ☒ provide an adequate ☒ ~~to ensure a~~ standard of living ☒ for applicants for international protection, which guarantees their subsistence and protects their physical and mental health ☒ ~~adequate for the health of applicants and capable of ensuring their subsistence.~~

⁶⁰

Scrutiny reservation: **CZ, PT**

DE, NL considered that the Commission proposal would inject the differences between Member States in social welfare into the material reception conditions for asylum seekers expressing concerns this would result in making Member States that offer a higher level of material reception conditions more attractive for asylum applicants. For that reason, **DE, NL** preferred the Council text contained in document 13935/10, whereby, in addition, **DE** indicated that the specification contained in the Commission proposal that material reception conditions can be given in the form of financial allowances or vouchers should be added to the Council text.

In response, **Cion** indicated that the new provision does not oblige Member States to provide equal treatment to nationals and asylum seekers but that it is possible to grant asylum seekers for instance a percentage of the social welfare nationals receive as long as this ensures an adequate standard of living and it is duly justified.

Member States shall ensure that that standard of living is met in the specific situation of ⇒ vulnerable ⇐ persons ~~who have special needs~~, in accordance with Article ⇒ 21 ⇐ ~~17~~, as well as in relation to the situation of persons who are in detention.

3. Member States may make the provision of all or some of the material reception conditions and health care subject to the condition that applicants do not have sufficient means to have a standard of living adequate for their health and to enable their subsistence.
4. Member States may require applicants to cover or contribute to the cost of the material reception conditions and of the health care provided for in this Directive, pursuant to the provision of paragraph 3, if the applicants have sufficient resources, for example if they have been working for a reasonable period of time.

If it transpires that an applicant had sufficient means to cover material reception conditions and health care at the time when these basic needs were being covered, Member States may ask the asylum seeker for a refund.

~~5. Material reception conditions may be provided in kind, or in the form of financial allowances or vouchers or in a combination of these provisions~~

~~Where Member States provide material reception conditions in the form of financial allowances or vouchers, the amount thereof shall be determined in accordance with the principles set out in this Article.~~

↓ new

5.⁶¹ Where Member States provide material reception conditions in the form of financial allowances and vouchers, the amount thereof shall be determined on the basis of the point(s) of reference established by the Member State concerned either by law or practice to ensure adequate standards of living for nationals, such as the minimum level of social welfare assistance. Member States may grant less favourable treatment to asylum applicants compared to nationals in this respect, where it is duly justified.

↓ 2003/9/EC (adapted)

⇒ new

Article ~~18~~ 14

Modalities for material reception conditions

1. Where housing is provided in kind, it should take one or a combination of the following forms:
 - (a) premises used for the purpose of housing applicants during the examination of an application for ⇒ international protection ⇐ ~~asylum lodged~~ ⇒ made ⇐ at the border ⇒ or in transit zones ⇐;
 - (b) accommodation centres which guarantee an adequate standard of living;
 - (c) private houses, flats, hotels or other premises adapted for housing applicants.

⁶¹ Scrutiny reservation: **AT, EL, FR, LT, SE, SK**
FR indicated that in France no national point of reference on social welfare exists.
UK expressed concerns about paragraph 5.

2. ⇒ Without prejudice to any specific conditions of detention as stipulated in Articles 10 and 11, ⇐ ☒ in relation to housing referred to in paragraph 1(a), (b) and (c), ☒ Member States shall ensure that ~~applicants provided with the housing referred to in paragraph 1(a), (b) and (c) are assured:~~

- (a) ☒ applicants are guaranteed ☒ protection of their family life;
- (b)⁶² ☒ applicants have ☒ the possibility of communicating with relatives, legal advisers ⇒ or counsellors ⇐, ☒ persons representing ☒ ~~and representatives of~~ the United Nations High Commissioner for Refugees (UNHCR) and ⇒ other relevant national, international and non-governmental organisations and bodies ⇐ ~~non governmental organisations (NGOs) recognised by Member States.~~

⁶² Scrutiny reservation: **AT** preferring the text in the Directive currently in force. Furthermore, **AT** requested clarification of the term "communicating". In response, **Cion** indicated that this term - which can include communication by telephone - is already included in the Directive currently in force.

↓ 2003/9/EC article 14(7) (adapted)

⇒ new

(c)⁶³ ⇒ Family members ⇐, legal advisers ~~advisors~~ or counsellors ~~of asylum seekers~~,
⊗ persons representing ⊗ ~~and representatives of~~ the United Nations High
Commissioner for Refugees ⊗ (UNHCR) ⊗ ⊗ and ⊗ ~~or~~ ⇒ relevant ⇐ non-
governmental organisations ~~designated by the latter and~~ recognised by the Member
State concerned ⊗ are ⊗ ~~shall be granted access to accommodation centres and~~
~~other housing facilities~~ in order to assist the said asylum seekers. Limits on such
access may be imposed only on grounds relating to the security ⁶⁴of ⊗ these
premises ⊗ ~~the centres and facilities~~ and of the asylum seekers.

↓ new

3.⁶⁵ Member States shall take into consideration gender and age specific concerns and the
situation of vulnerable persons in relation to applicants within the premises and
accommodation centres referred to in paragraph 1(a) and (b).

⁶³ Scrutiny reservation: **AT** expressing concerns about the addition of "family members". In response, **Cion** indicated that the addition of "family members" is in line with the Return Directive.

⁶⁴ **NL** proposed to insert in conformity with Article 10.4 the phrase: ", the public order or administrative management".

⁶⁵ **AT** requested clarification about the implementation of paragraph 3.

↓ 2003/9/EC (adapted)

⇒ new

4. Member States shall take appropriate measures to prevent pay particular attention to the prevention of assault and gender based violence including sexual assault⁶⁶, within the premises and accommodation centres referred to in paragraph 1(a) and (b).
- ~~3.~~ ~~Member States shall ensure, if appropriate, that minor children of applicants or applicants who are minors are lodged with their parents or with the adult family member responsible for them whether by law or by custom.~~
5. ~~4.~~ Member States shall ensure that transfers of applicants from one housing facility to another take place only when necessary. Member States shall provide for the possibility for applicants to inform their legal advisers ~~advisors~~ or counsellors of the transfer and of their new address.
6. ~~5.~~ Persons working in accommodation centres shall be adequately trained and shall be bound by the confidentiality principle as defined in the national law in relation to any information they obtain in the course of their work.
7. ~~6.~~ Member States may involve applicants in managing the material resources and non-material aspects of life in the centre through an advisory board or council representing residents.
- ~~7.~~ ~~Legal advisors or counsellors of asylum seekers and representatives of the United Nations High Commissioner for Refugees or non-governmental organisations designated by the latter and recognised by the Member State concerned shall be granted access to accommodation centres and other housing facilities in order to assist the said asylum seekers. Limits on such access may be imposed only on grounds relating to the security of the centres and facilities and of the asylum seekers.~~

⁶⁶ Scrutiny reservation: **FR, LV, RO, SE**
FR, RO opposed the proposed specification considering it added unnecessary detail.

8. ⇒ In duly justified cases, ⇐ Member States may exceptionally set modalities for material reception conditions different from those provided for in this Article, for a reasonable period which shall be as short as possible, when:

(a) = an ~~initial~~ assessment of the specific needs of the applicant is required ⇒ , in accordance with Article 22 ⇐ ,

~~material reception conditions, as provided for in this Article, are not available in a certain geographical area,~~

(b) = housing capacities normally available are temporarily exhausted,

~~the asylum seeker is in detention or confined to border posts.~~

These different conditions shall cover in any case basic needs.

Article ~~19~~ 15

Health care⁶⁷

1. Member States shall ensure that applicants receive the necessary health care which shall include, at least, emergency care and essential treatment of illness ⇒ or post traumatic disorders ⁶⁸ ⇐.
2. Member States shall provide necessary medical or other assistance to applicants who have special ⇒ reception ⇐ needs, ⇒ including appropriate mental health care where needed ⇐.

⁶⁷ Scrutiny reservation: **CZ, EL, ES, LV, PT**

⁶⁸ Reservation: **AT, DE, RO, UK**

AT, DE, UK considered the specification of "post traumatic disorders" unnecessary and expressed concerns that this term could be used by asylum seekers as a pretext to frustrate removal from the territory. In general, **DE** expressed the view that the Directive should set rules that enable Member States to concentrate on examining protection needs and not on examining health care needs. In response, **Cion**, under reference to Article 22.2, indicated that examination of health care needs has no consequences for the examination of the asylum application.

ES, RO considered the term "post traumatic disorder" insufficiently clear.

CHAPTER III

REDUCTION OR WITHDRAWAL OF ~~⊗~~ MATERIAL ~~⊗~~ RECEPTION CONDITIONS

Article 20 ~~16~~⁶⁹

Reduction or withdrawal of ~~⊗~~ material ~~⊗~~ reception conditions

1. Member States may reduce or withdraw ~~⊗~~ material ~~⊗~~ reception conditions ~~in the following cases:~~

~~(a)~~ where an asylum seeker:

~~(a)~~ = abandons the place of residence determined by the competent authority without informing it or, if requested, without permission, or

~~(b)~~ = does not comply with reporting duties or with requests to provide information or to appear for personal interviews concerning the asylum procedure during a reasonable period laid down in national law, or

~~70(c)~~ = ~~has already lodged~~ ⇒ a subsequent application as defined in Article 2(q) of [...]/.../EU] [the Asylum Procedures Directive] ⇐ ~~an application in the same Member State~~. ~~⊗~~, or ~~⊗~~

~~⊗ (d)~~ has concealed financial resources and has therefore unduly benefited from material reception conditions. ~~⊗~~

⁶⁹ Scrutiny reservation: **AT** given this provision concerns a competence of the Länder which therefore need to be consulted.

⁷⁰ Scrutiny reservation: **CY, EL, ES, FR, SI** because of reference to subsequent application in Asylum Procedures Directive. In response, **Cion** indicated this point is merely a clarification of the text already in the Directive currently in force.

⊗ In relation to cases (a) and (b), ⊗ ~~W~~when the applicant is traced or voluntarily reports to the competent authority, a duly motivated decision, based on the reasons for the disappearance, shall be taken on the reinstatement of the grant of some or all of the ⊗ material ⊗ reception conditions ⊗ withdrawn or reduced ⊗;

~~(b) where an applicant has concealed financial resources and has therefore unduly benefited from material reception conditions.~~

~~If it transpires that an applicant had sufficient means to cover material reception conditions and health care at the time when these basic needs were being covered, Member States may ask the asylum seeker for a refund.⁷¹~~

~~2. Member States may refuse conditions in cases where an asylum seeker has failed to demonstrate that the asylum claim was made as soon as reasonably practicable after arrival in that Member State.⁷²~~

2. ~~3.~~ Member States may determine sanctions applicable to serious breaching of the rules of the accommodation centres as well as to seriously violent behaviour.

3. ~~4.~~ Decisions for reduction, withdrawal or refusal of ⊗ material ⊗ reception conditions or sanctions referred to in paragraphs 1, 2 and 3 shall be taken individually, objectively and impartially and reasons shall be given. Decisions shall be based on the particular situation of the person concerned, especially with regard to persons covered by Article ⇒ 21 ⇐ ~~17~~, taking into account the principle of proportionality. Member States shall under all circumstances ensure access to ~~emergency~~ health care ⇒ in accordance with Article 19 ⇐.

4. ~~5.~~ Member States shall ensure that material reception conditions are not withdrawn or reduced before a ~~negative~~ decision is taken ⊗ in accordance with paragraph 3 ⊗.

⁷¹ DE proposed as additional ground a refusal of a job offer. Cion did not see the need for such additional ground.

⁷² In response of a request for clarification of CY, DE, NL, Cion indicated that this subparagraph has been transferred to Article 17.4

⁷³ CY proposes to re-insert this paragraph.

CHAPTER IV

PROVISIONS FOR ⇒ VULNERABLE PERSONS ⇐ ~~PERSONS WITH SPECIAL NEEDS~~

Article 21 ~~17~~⁷⁴

General principle

~~1.~~ Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children ⇒, victims of trafficking, persons with serious physical illnesses, mental illnesses, or post-traumatic disorders⁷⁵, ⇐ and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, in the national legislation implementing ⇒ this Directive ⇐ ~~the provisions of Chapter II relating to material reception conditions and health care.~~

~~2.~~ ~~Paragraph 1 shall apply only to persons found to have special needs after an individual evaluation of their situation.~~

⁷⁴ Reservation: **AT, ES, SI** because of the potentially comprehensive scope of the group of vulnerable persons which could have financial implications. In response, **Cion** indicated that the examples listed only concern the most serious categories of vulnerable persons.

Scrutiny reservation: **BG, DE, ES, FR, IT, PT**

DE proposed to maintain the text of the Directive currently in force which reflects Article 3(9) of the Return Directive.

LU pointed out the particular position of victims of human trafficking and, for that reason, questioned if it were appropriate to include this group in the list of vulnerable persons mentioned in Article 21, and if so, **LU** questioned whether this group should not be further qualified.

⁷⁵ Reservation: **AT, ES, RO, SI**

Article 22⁷⁶

Identification of the special reception needs of vulnerable persons

1. Member States shall establish mechanisms with a view to identifying whether the applicant is a vulnerable person and, if so, has special reception needs, also indicating the nature of such needs. Those mechanisms shall be initiated within a reasonable time after an application for international protection is made. Member States shall ensure that these special reception needs are also addressed, in accordance with the provisions of this Directive, if they become apparent at a later stage in the asylum procedure.

Member States shall ensure adequate support⁷⁷ for persons with special reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation.

⁷⁶ Scrutiny reservation: **BG, CY,CZ, DE, FI, FR, IT, PT, SE, SK, LT, LU, MT, RO** fearing bureaucracy and financial implications. **LU, MT** remarked that in particular smaller Member States would have problems creating such a mechanism. **DE** considered the rules concerning identification of special reception needs of vulnerable persons a key issue. **DE** explained it understood the provision to have three stages: 1. identification of vulnerable persons, 2. identification of special reception needs, 3. analysis of the measures that need to be taken to address the special reception needs. **DE** considered this a heavy procedure which, moreover, would lead to an undesirable shift from examination of protection needs to examination of special (medical) needs. In response, **Cion** indicated that the approach of a non exhaustive list of persons who are vulnerable as well as the identification of persons with special needs already exists in Article 17 of the Directive currently in force.

⁷⁷ **AT** requested clarification of the term "support". In response, **Cion** suggested to clarify this term by adding: "as described in this Directive".

2. The identification mechanisms provided for in paragraph 1 shall be without prejudice to the assessment of international protection needs pursuant to Directive [.../.../EU] [the Qualification Directive].⁷⁸
-

↓ 2003/9/EC

⇒ new

Article ~~23~~⁷⁹

Minors

1. The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this Directive that involve minors. ⇒ Member States shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development. ⇐
-

↓ new

2. In assessing the best interests of the child, Member States shall in particular take due account of the following factors:
- (a) family reunification possibilities;

⁷⁸ CZ suggested to include a reference to persons with special procedural needs as contained in the Asylum Procedures Directive.

⁷⁹ Scrutiny reservation: AT, CZ

CZ suggested to clarify that Member States are not obliged to provide better conditions to minor asylum applicants than to their own minor nationals.

(b) the minor's well-being and social development, taking into particular consideration the minor's ethnic, religious, cultural and linguistic background;⁸⁰

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of trafficking;

(d) the views of the minor in accordance with his/her age and maturity.

3. Member States shall ensure that minors have access to leisure-activities, including play and recreational activities appropriate to their age within the premises and accommodation centres referred to in Article 18(1)(a) and (b) and to open-air activities.

↓ 2003/9/EC

4. 2. Member States shall ensure access to rehabilitation services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and ensure that appropriate mental health care is developed and qualified counselling is provided when needed.

⁸⁰ **ES, DE, FR, NL, UK** proposed to delete the phrase: "taking into particular consideration the minor's ethnic, religious, cultural and linguistic background" in order to be consistent with both the approach agreed between Council and Parliament in the recast of the Qualification Directive and the Council position on the recast of the Dublin Regulation. Furthermore, these delegations considered that such deletion would improve the implementation of the provision.

↓ 2003/9/EC article 14(3)

⇒ new

5. Member States shall ensure, ~~if appropriate,~~ that minor children of applicants or applicants who are minors are lodged with their parents or with the adult family member responsible for them whether by law or ~~by custom~~ ⇒ the national practice of the Member States concerned, provided this is in the best interests of the minors concerned ⇐.
-

↓ 2003/9/EC

⇒ new

Article 24 ~~19~~

Unaccompanied minors⁸¹

- 1.⁸² Member States shall as soon as possible take measures to ensure ~~the necessary representation of unaccompanied minors by legal guardianship or, where necessary, representation by an organisation which is responsible for the care and well-being of minors, or by any other appropriate representation~~ ⇒ that a representative represents and⁸³ assists the unaccompanied minor to enable him/her to benefit from the rights and comply with the obligations provided for in this Directive⁸⁴. The representative shall have the necessary expertise⁸⁵ in the field of childcare and shall perform his/her duties in accordance with the principle of the best interests of the child, as prescribed in Article 23(2). ⇐

Regular assessments shall be made by the appropriate authorities.

⁸¹ Scrutiny reservation: **FI**

⁸² Scrutiny reservation: **ES, FR, RO**

⁸³ **FR** proposed "and/or" instead of "and".

⁸⁴ Reservation: **NL** wishing to distinguish between a legal representative and a guardian.

⁸⁵ **EL** requested clarification as to the term "necessary expertise".

2.⁸⁶ Unaccompanied minors who make an application for ⇒ international protection ⇐
asylum shall, from the moment they are admitted to the territory to the moment they are
obliged to leave the host Member State in which the application for ⇒ international
protection ⇐ asylum was made or is being examined, be placed:

- (a) with adult relatives;
- (b) with a foster-family;
- (c) in accommodation centres with special provisions for minors;
- (d) in other accommodation suitable for minors.

Member States may place unaccompanied minors aged 16 or over in accommodation centres for adult asylum seekers, ⇒ if it is in their best interests, as prescribed in Article 23(2)⇐ .

As far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.

⁸⁶ Scrutiny reservation: **DE** requesting clarification on the geographical scope of the tracing.

↓ 2003/9/EC (adapted)

⇒ new

- 3.⁸⁷ ⇒ Member States shall establish mechanisms for tracing the family members of an unaccompanied minor. ⇐ ☒ They ☒ ~~Member States protecting the unaccompanied minor's best interest~~ shall endeavour ⇒ start ⇐ to trace, the members of ☒ the unaccompanied minor's ☒ ~~his or her~~ family ⇒, where necessary with the assistance of international or of other relevant organisations, ⇐ as soon as possible ⇒ after an application for international protection is made whilst protecting his/her best interests ⇐.
- In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardizing their safety.

⁸⁷ Scrutiny reservation: **AT, CY, CZ, DE, ES, EL, FR, IT, RO, SK** because of potential organisational and financial implications.
CY requested clarification what extra efforts the establishment of a tracing mechanism implies for Member States. In response, **Cion** indicated that the new provision strengthens the obligation for tracing by requiring the establishment of mechanisms.
CZ remarked that unaccompanied minors may be sent to the EU by their parents. These parents might not be interested to be traced so that they will be re-united with their minor child.

↓ 2003/9/EC

⇒ new

- 4.⁸⁸ Those working with unaccompanied minors shall have had ⇒ and shall continue to⁸⁹ ⇐ ⇒ receive appropriate training concerning their needs, and shall be bound by the confidentiality principle as defined in the national law, in relation to any information they obtain in the course of their work.

Article ~~25~~ ²⁰

Victims of torture and violence

- 1.⁹¹ Member States shall ensure that ~~if necessary~~ persons who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment of damages caused by the aforementioned acts ⇒, in particular access to rehabilitation services that should allow for obtaining medical and psychological treatment ⇐.

⁸⁸ Scrutiny reservation: **EL**

⁸⁹ **NL** requested clarification of the phrase: "and shall continue to".

⁹⁰ Scrutiny reservation: **AT, FI, FR**

AT requested clarification how victims of torture and violence related to vulnerable persons. In response, **Cion** indicated that these terms already existed in the Directive currently in force.

⁹¹ Scrutiny reservation: **ES, CZ, DE, LV** considering the provision to contain too much detail. Moreover **CZ, LV** expressed concerns that the provision seems to offer higher standards to asylum seekers than to own nationals.

As in Article 19, **DE** underlined the need to focus on the examination of the asylum application and not on the examination of the special (medical) needs.

↓ new

2.⁹² Those working with victims of torture, rape or other serious acts of violence shall have had and shall continue to⁹³ receive appropriate training concerning their needs, and shall be bound by the confidentiality rules provided for in the relevant national law, in relation to any information they obtain in the course of their work.⁹⁴

↓ 2003/9/EC (adapted)

⇒ new

CHAPTER V

APPEALS

Article ~~26~~

Appeals

1. Member States shall ensure that ~~negative~~ decisions relating to the granting ⇒, withdrawal or reduction ⇐ of benefits under this Directive or decisions taken under Article 7 which individually affect asylum seekers may be the subject of an appeal within the procedures laid down in the national law. At least in the last instance the possibility of an appeal or a review ⇒, in fact and in law, ⇐ before a judicial body shall be granted.

⁹² Scrutiny reservation: **DE, ES** considering this provision too detailed. Moreover, **DE** considered that this subject matter can better be treated at national level.

⁹³ **NL** requested clarification of the implications of the phrase "and shall continue to".

⁹⁴ **CZ, ES** remarked that confidentiality should be taken into consideration for all applicants for asylum and not only for victims of torture and violence.

↓ new

2.⁹⁵ In relation to the cases referred to in paragraph 1, Member States shall ensure that asylum seekers have access to free legal assistance and representation, where they cannot afford the costs involved and in so far as it is necessary to ensure their effective access to justice.

Legal assistance and representation shall include at least preparation of the required procedural documents and representation before the judicial authorities.

Legal assistance and representation may be restricted to legal advisers or counsellors specifically designated by national law to assist and represent asylum seekers.

↓ 2003/9/EC

⇒ new

2 Procedures for access to legal assistance ⇒ and representation ⇐ in such cases shall be laid down in national law.

⁹⁵ Reservation: **AT, MT**

AT indicated that in Austria no free legal assistance exists for equivalent cases in, for instance, the field of social welfare.

Scrutiny reservation: **CY, CZ, DE, FR, LV, PL, SK** in particular in relation to the rules on legal assistance and representation in Article 9 of this modified recast of the Reception Conditions Directive and in the modified recast of the Asylum procedures Directive.

In response to a question of **CZ, Cion** indicated that the rules on free legal assistance are only relevant in case of judicial authorities and not before administrative authorities.

CHAPTER VI

ACTIONS TO IMPROVE THE EFFICIENCY OF THE RECEPTION SYSTEM

Article 22

Cooperation

~~Member States shall regularly inform the Commission on the data concerning the number of persons, broken down by sex and age, covered by reception conditions and provide full information on the type, name and format of the documents provided for by Article 6.~~

↓ new

Article 27

Competent authorities

Each Member State shall notify the Commission of the authorities responsible for fulfilling the obligations arising under this Directive. Member States shall inform the Commission of any changes in the identity of such authorities.

↓ 2003/9/EC

⇒ new

Article ~~28~~ ~~23~~⁹⁶

Guidance, monitoring and control system

1.⁹⁷ Member States shall, with due respect to their constitutional structure, ⇒ put in place relevant mechanisms in order to ⇐ ensure that appropriate guidance, monitoring and control of the level of reception conditions are established.

↓ new

2.⁹⁸ Member States shall submit relevant information to the Commission in the form set out in Annex I, by [1 year after the transposition deadline] at the latest.

⁹⁶ Reservation: **AT**

Scrutiny reservation: **DE, EL, PT, SK**

⁹⁷ Parliamentary scrutiny reservation: **LU** in relation to the competences of the Ombudsman in Luxemburg.

⁹⁸ Scrutiny reservation: **FR, LU**

DE proposed to delete paragraph 2 because of doubts whether the requested information is available and on the proportionality of delivering such information..

↓ 2003/9/EC

Article 29 ~~24~~

Staff and resources

1. Member States shall take appropriate measures to ensure that authorities and other organisations implementing this Directive have received the necessary basic training with respect to the needs of both male and female applicants.
2. Member States shall allocate the necessary resources in connection with the national provisions enacted to implement this Directive.

↓ 2003/9/EC (adapted)

⇒ new

CHAPTER VII

FINAL PROVISIONS

Article 30 ~~25~~

Reports

By ⇒ [two years after the transposition deadline] at the latest ⇐ ~~6 August 2006~~, the Commission shall report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary.

Member States shall send the Commission all the information that is appropriate for drawing up the report, ~~including the statistical data provided for by Article 22~~ by ~~⇒ [.../.../...] ⇐ 6 February 2006~~.

After presenting the first report, the Commission shall report to the European Parliament and the Council on the application of this Directive at least every five years.

↓ 2003/9/EC (adapted)

Article 31 ~~26~~⁹⁹

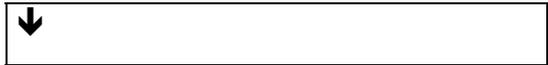
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with ~~this Directive by 6 February 2005~~ Articles [...] [The articles which have been changed as to the substance by comparison with the earlier Directive] and Annex I by [...] at the latest . They shall forthwith ~~inform~~ communicate to the Commission ~~thereof~~ the text of those provisions and a correlation table between those provisions and this Directive .

When ~~the~~ Member States adopt ~~these measures~~ those provisions , they shall contain a reference to this Directive or ~~shall~~ be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such a reference is to be made. They shall also include a statement that references in existing laws, regulations and administrative provisions to the directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field ~~relating to the enforcement of~~ covered by this Directive.

⁹⁹ **CY, DE, EL, ES, FR, LV, PT** opposed the obligation to submit a correlation table.

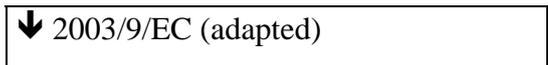


Article 32¹⁰⁰

Repeal

Directive 2003/9/EC is repealed for the Member States bound by this Directive with effect from [day after the date set out in the first subparagraph of Article 31(1) of this Directive], without prejudice to the obligations of the Member States relating to the time-limit for transposition into national law of the Directive set out in Annex II, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.



Article ~~33~~²⁷

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Articles [...] [*The articles which are unchanged by comparison with the earlier Directive*] and Annex I shall apply from [day after the date set out in the first subparagraph of Article 31(1)].

¹⁰⁰ UK requested clarification why Article 32 is not grey-shaded.

Article ~~34~~ 28

Addressees

This Directive is addressed to the Member States in accordance with the Treaties ~~in accordance with the Treaty establishing the European Union.~~

Done at [...]

For the European Parliament

The President

[...]

For the Council

The President

[...]

ANNEX I¹⁰¹

Reporting form on the information to be submitted by Member States, as required under Article 28(2) of Directive [...]/.../EU. After the date referred to in Article 28(2) of this Directive this information shall be re-submitted to the Commission when there is a substantial change in the national law or practice that outdate the provided information.

1. On the basis of Articles 2(k) and 22 of Directive [...]/.../EU], please explain the different steps for the identification of persons with special reception needs, including the moment it is triggered and its consequences in relation to addressing such needs, in particular for unaccompanied minors, victims of torture, rape or other serious forms of psychological, physical or sexual violence and victims of trafficking.

2. Provide full information on the type, name and format of the documents provided for in Article 6 of Directive [...]/.../EU].

3. With reference to Article 15 Directive [...]/.../EU], please indicate to the extent that any particular conditions are attached to labour market access for asylum seekers, and describe in detail such restrictions.

¹⁰¹ Scrutiny reservation: **CZ, EL, PL, SK**

4. With reference to Article 2(g) of Directive [.../.../EU], please describe how material reception conditions are provided (i.e. which material reception conditions are provided in kind, in money, in vouchers or in a combination of these elements) and indicate the level of the daily expenses allowance provided to asylum seekers.¹⁰²

5. Where applicable, with reference to Article 17(5) Directive [.../.../EU], please explain the point(s) of reference applied by national law or practice with a view to determining the level of financial assistance provided to asylum seekers. To the extent that there is a less favourable treatment of asylum seekers compared to nationals, explain the reasons in this respect.



ANNEX II

Part A

Repealed Directive

(referred to in Article 32)

Council Directive 2003/9/EC

(OJ L 31, 6.2.2003, p. 18)

Part B

Time-limit for transposition into national law

(referred to in Article 31)

| Directive | Time-limit for transposition |
|-----------|------------------------------|
| 2003/9/EC | 6 February 2005 |





ANNEX III

CORRELATION TABLE

| Directive 2003/9/EC | This Directive |
|---------------------------------|--|
| Article 1 | Article 1 |
| Article 2, introductory words | Article 2, introductory words |
| Article 2(a) | - |
| Article 2(b) | - |
| - | Article 2(a) |
| Article 2(c) | Article 2(b) |
| Article 2(d) introductory words | Article 2(c) introductory words |
| - | Article 2(c) point (i) introductory words |
| Article 2(d), point (i) | Article 2(c), point (i) first indent |
| Article 2(d), point (ii) | Article 2(c), point (i) second indent |
| - | Article 2(c), point (i) third indent |
| - | Article 2(c) point (ii) introductory words |
| - | Article 2(c) point (ii) first indent |
| - | Article 2(c) point (ii) second indent |
| - | Article 2(c) point (iii) |
| Article 2 (e), (f) and and (g) | - |
| - | Article 2(d) |
| Article 2(h) | Article 2(e) |

| | |
|----------------------|-----------------------------------|
| Article 2(i) | Article 2(f) |
| Article 2(j) | Article 2(g) |
| Article 2(k) | Article 2(i) |
| Article 2(l) | Article 2(j) |
| - | Article 2(k) |
| - | Article 2(l) |
| Article 3 | Article 3 |
| Article 4 | Article 4 |
| Article 5 | Article 5 |
| Article 6 (1) –(5) | Article 6(1)-(5) |
| - | Article 6(6) |
| Article 6 (2) to (5) | Article 6(2) to 6 (5) |
| Article 7(1) and (2) | Article 7(1) and (2) |
| Article 7(3) | - |
| Article 7(4) to (6) | Article 7(3) to (5) |
| - | Article 8 |
| - | Article 9 |
| - | Article 10 |
| - | Article 11 |
| Article 8 | Article 12 |
| Article 9 | Article 13 |
| Article 10(1) | Article 14(1) |
| Article 10(2) | Article 14(2) first subparagraph |
| - | Article 14(2) second subparagraph |

| | |
|---|---|
| Article 10 (3) | Article 14(3) |
| Article 11(1) | - |
| - | Article 15(1) |
| Article 11(2) | Article 15(2) |
| Article 11(3) | Article 15(3) |
| Article 11(4) | - |
| Article 12 | Article 16 |
| Article 13(1) to (4) | Article 17 (1) to (4) |
| Article 13(5) | - |
| - | Article 17 (5) |
| Article 14 (1) | Article 18 (1) |
| Article 14 (2) introductory words, paragraphs (a) and (b) | Article 18 (2) introductory words, paragraphs (a) and (b) |
| - [<i>old Article 14)7) adapted</i>] | Article 18 (2)(c) |
| Article 14(2) second subparagraph | Article 18 (4) |
| Article 14(3) | - |
| Article 14(4) | Article 18(5) |
| Article 14(5) | Article 18(6) |
| Article 14(6) | Article 18(7) |
| Article 14(8) introductory words, first indent | Article 18 (8) introductory words, paragraph (a) |
| Article 14(8) second indent | - |
| Article 14(8) third indent | Article 18(8) point (b) |
| Article 14(8) first subparagraph, | Article 18 (8) first subparagraph, |
| Article 14(8) third and fourth intend | Article 18(8) points (b) and (c) |

| | |
|---|---|
| Article 14(8) fourth indent | - |
| Article 14 (8) second subparagraph | Article 18(8) second subparagraph |
| Article 15 | Article 19 |
| Article 16 (1) introductory wording | Article 20(1) introductory wording |
| Article 16 (1) (a) | - |
| Article 16 (1) (a) first, second and third indent | Article 20(1) paragraphs (a), (b) and (c) |
| - | Article 20(1) point (d) |
| Article 16(1) second sub-paragraph | Article 20 second sub-paragraph |
| Article 16 (1) (b) first subparagraph | - |
| Article 16 (1) (b) second subparagraph | - |
| Article 16 (2) | - |
| Article 16 (3) to (5) | Article 20(2) to (4) |
| Article 17 (1) | Article 21 |
| Article 17 (2) | - |
| - | Article 22 |
| Article 18 (1) | Article 23(1) |
| - | Article 23(2) and (3) |
| Article 18 (2) | Article 23(4) |
| | Article 23(5) |
| Article 19 | Article 24 |
| Article 20 | Article 25(1) |
| - | Article 25(2) |
| Article 21 (1) | Article 26 (1) |

| | |
|----------------|--------------------------------|
| - | Article 26 (2) |
| Article 21 (2) | Article 26 (2) |
| Article 22 | - |
| - | Article 27 |
| Article 23 | Article 28 (1) |
| - | Article 28 (2) |
| Article 24 | Article 29 |
| Article 25 | Article 30 |
| Article 26 | Article 31 |
| - | Article 32 |
| Article 27 | Article 33 first subparagraph |
| - | Article 33 second subparagraph |
| Article 28 | Article 34 |
| - | Annex I |
| - | Annex II |
| - | Annex III |