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Subject: Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection by a third-country national or a stateless person registered in one of the Member States by a third-country national or a stateless person (recast)

Delegations will find in Annex the Presidency compromise suggestions on the above proposal.

2016/0133 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection by a third-country national or a stateless person registered lodged in one of the Member States ~~by a third-country national or a stateless person~~ (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 Article 78(2)(e) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

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

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) A number of substantive changes are to be made Regulation (EU) No 604/2013 of the European Parliament and of the Council¹. In the interests of clarity, that Regulation should be recast.
- (2) A common policy on asylum, including a Common European Asylum System (CEAS), 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 Union.
- (3) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, agreed to work towards establishing the CEAS, 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 ('the Geneva Convention'), thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of *non-refoulement*. In this respect, and without the responsibility criteria laid down in this Regulation being affected, Member States, all respecting the principle of *non-refoulement*, are considered as safe countries for third-country nationals.
- (4) The Tampere conclusions also stated that the CEAS should include, in the short-term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.

¹ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

- (5) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.
- (6) The first phase in the creation of a CEAS that should lead, in the longer term, to a common procedure and a uniform status, valid throughout the Union, for those granted international protection, has now been completed. The European Council 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 legal instruments and to submit the second-phase instruments and measures to the European Parliament and to the Council with a view to their adoption before 2010.
- (7) In the Stockholm Programme, the European Council reiterated its commitment to the objective of establishing a common area of protection and solidarity in accordance with Article 78 of the Treaty on the Functioning of the European Union (TFEU), for those granted international protection, by 2012 at the latest. Furthermore it emphasised that the Dublin system remains a cornerstone in building the CEAS, as it clearly allocates responsibility among Member States for the examination of applications for international protection. In May 2015 the Commission indicated in its Communication on the European Agenda on Migration that the Dublin Regulation would be evaluated and, if necessary, that a proposal for its revision would be made, in particular to achieve a fairer distribution of asylum seekers in Europe.
- (8) *deleted in the Commission proposal*

- (9) The European Union Agency for Asylum should provide adequate support in the implementation of this Regulation, in particular by establishing the reference key for the distribution of asylum seekers under the corrective allocation mechanism, and by adapting the figures underlying the reference key annually, as well as the reference key based on Eurostat data.
- (10) In the light of the results of the evaluation undertaken of the implementation of Regulation (EU) 604/2013, it is appropriate, at this stage, to confirm the principles underlying Regulation (EU) No 604/2013, while making the necessary improvements, in the light of experience, to the effectiveness of the Dublin system and the protection granted to applicants under that system. Based on this evaluation and on consultation with Member States, the European Parliament and other stakeholders, it is also considered appropriate to establish in the Regulation measures required for a fair share of responsibility between Member States for applications for international protection, in particular to ensure that a disproportionate burden is not placed upon some Member States.
- (11) In order to ensure equal treatment for all applicants and beneficiaries of international protection, and consistency with the current Union asylum *acquis*, in particular with Directive 2011/95/EU of the European Parliament and of the Council ², the scope of this Regulation encompasses applicants for subsidiary protection and persons eligible for subsidiary protection.
- (12) In order to ensure that beneficiaries of international protection who entered the territory of another Member State than the Member State responsible without fulfilling the conditions of stay in that other Member State are taken back by the Member State responsible, it is necessary to encompass beneficiaries of international protection in the scope of this Regulation.

² Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

- (13) Directive 2013/33/EU of the European Parliament and of the Council³ should apply to the procedure for the determination of the Member State responsible as regulated under this Regulation, subject to the limitations in the application of that Directive.
- (14) Directive 2013/32/EU of the European Parliament and of the Council⁴ should apply in addition and without prejudice to the provisions concerning the procedural safeguards regulated under this Regulation, subject to the limitations in the application of that Directive.
- (15) In accordance with the 1989 United Nations Convention on the Rights of the Child and with the Charter of Fundamental Rights of the European Union, the best interests of the child should be a primary consideration of Member States when applying this Regulation. In assessing the best interests of the child, Member States should, in particular, take due account of the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity, including his or her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability.
- (16) In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms and with the Charter of Fundamental Rights of the European Union, respect for family life should be a primary consideration of Member States when applying this Regulation.

³ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013, p. 96).

⁴ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

- (17) ~~In order to prevent that applicants with inadmissible claims or who are likely not to be in need of international protection, or who present a security risk are transferred among the Member States, it is necessary to ensure that pre-checks to the actual determination of the Member States responsible are done. Thus, the Member State of first application should always be able to check whether the cases for inadmissibility of the application apply, namely first country of asylum or safe third country. If the cases for the inadmissibility of the application apply, the Member State of first application should be considered the Member State responsible and the application should be counted as part of its share. Similarly, the Member State of first application should always be able to check whether the applicant comes from a safe country of origin or the applicant presents a security risk. In that case~~ If the applicant comes from a safe country of origin or presents a security risks, the Member State of first application should become ~~considered~~ the Member State responsible and the application should be counted as part of its fair share. If none of the above cases apply, the procedures in this Regulation for determination ~~identification~~ and, if applicable, transfer to the Member State responsible should apply.

~~In order to prevent that applicants with inadmissible claims or who are likely not to be in need of international protection, or who represent a security risk are transferred among the Member States, it is necessary to ensure that the Member where an application is first lodged verifies the admissibility of the claim in relation to the first country of asylum and safe third country, examines in accelerated procedures applications made by applicants coming from a safe country of origin designated on the EU list, as well as applicants presenting security concerns.~~

- (18) The processing together of the applications for international protection of the members of one family by a single Member State makes it possible to ensure that the applications are examined thoroughly, the decisions taken in respect of them are consistent and the members of one family are not separated.

- (19) The definition of a family member in this Regulation should include the sibling or siblings of the applicant. Reuniting siblings is of particular importance for improving the chances of integration of applicants and hence reducing secondary movements. The scope of the definition of family member should also reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The definition should therefore include families formed outside the country of origin, but before their arrival on the territory of the Member State. This limited and targeted enlargement of the scope of the definition is expected to reduce the incentive for some secondary movements of asylum seekers within the EU.
- (20) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion. In order to discourage secondary movements of unaccompanied minors, which are not in their best interests, in the absence of a family member or a relative, the Member State responsible should be that where the unaccompanied minor first has lodged his or her application for international protection, unless it is demonstrated that this would not be in the best interests of the child. Before transferring an unaccompanied minor to another Member State, the transferring Member State should make sure that that Member State will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a representative or representatives tasked with safeguarding respect for all the rights to which they are entitled. Any decision to transfer an unaccompanied minor should be preceded by an assessment of his/her best interests by staff with the necessary qualifications and expertise.

- (21) **A Member State's decision to derogate from the binding criteria laid down in this Regulation may undermine the effectiveness and sustainability of the system. Therefore, a Member State should be able to derogate from the responsibility criteria only in exceptional cases, in particular on humanitarian grounds, for family reasons, for security reasons, or for reasons of procedural efficiency where, in case of rejection of the application, return by that Member State is considered to be more efficient . This discretion should be solely for the Member State to exercise and the applicant should have no right to request its exercise.**

~~Assuming responsibility by a Member State for examining an application lodged with it in cases when such examination is not its responsibility under the criteria laid down in this Regulation may undermine the effectiveness and sustainability of the system and should be exceptional. Therefore, a Member State should be able to derogate from the responsibility criteria only on humanitarian grounds, in particular for family reasons, before a Member State responsible has been determined and examine an application for international protection lodged with it or with another Member State, even if such examination is not its responsibility under the binding criteria laid down in this Regulation.~~

- (22) In order to ensure that the aims of this Regulation are achieved and obstacles to its application are prevented, in particular in order to avoid absconding and secondary movements between Member States, it is necessary to establish clear obligations to be complied with by the applicant in the context of the procedure, of which he or she should be duly informed in a timely manner. Violation of those legal obligations should lead to appropriate and proportionate procedural consequences for the applicant and to appropriate and proportionate consequences in terms of his or her reception conditions. In line with the Charter of Fundamental Rights of the European Union, the Member State where such an applicant is present should in any case ensure that the immediate material needs of that person are covered.

- (23) A personal interview with the applicant should be organised in order to facilitate the determination of the Member State responsible for examining an application for international protection unless the applicant has absconded or the information provided by the applicant is sufficient for determining the Member State responsible. As soon as the application for international protection is lodged, the applicant should be informed in particular of the application of this Regulation, of the lack of choice as to which Member State will examine his or her asylum application; of his or her obligations under this Regulation and of the consequences of not complying with them
- (24) **The maintaining of an area of freedom, security and justice within the Union, and in particular the swift and effective application of the close cooperation between Member States set out in this Regulation which is an essential instrument within an area without internal border controls, is based on mutual trust and a presumption of compliance by all Member States with Union law, and in particular with fundamental rights as guaranteed by the Charter of Fundamental Rights of the European Union and with the detailed harmonised provisions of the Common European Asylum System.**

In order to fulfil the objective of this Regulation to rationalise the treatment of applications for international protection, to increase legal certainty and to avoid forum shopping by quickly designating the Member State responsible through a swift and effective cooperation between Member States, a refusal to transfer an applicant to the Member State primarily designated as responsible should be limited, in accordance with the case law of the Court of Justice, to exceptional cases where there are substantial grounds for believing that there is a real and proven risk, on the basis of objective, reliable, specific and properly updated evidence, that the transfer of the applicant would entail a manifest breach of the prohibition of inhuman or degrading treatment within the meaning of Article 4 of the Charter.

In order to guarantee effective protection of the fundamental rights of the persons concerned, an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established in compliance with Article 47 of the Charter. However, in order to ensure the fulfilment of the objectives of this Regulation as an instrument of cooperation governing relations between Member States which is not aimed at granting substantive rights to the applicants save as regards respect of Article 4 of the Charter and of the criteria related to minors, family and dependents, the scope of such remedy should be limited only to assessing whether the transfer would result for the person concerned in a real and proven risk of inhuman or degrading treatment or whether the criteria related to minors, family and dependents as set out in Articles 10 to 13 and 18, which are aimed at protecting the rights of the child and respect for family life, were infringed upon.

~~In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State is responsible on the basis that he has a family member or, for unaccompanied minors, a relative in another Member State. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred. The scope of the effective remedy should be limited to an assessment of whether applicants' fundamental rights to respect of family life, the rights of the child, or the prohibition of inhuman and degrading treatment risk to be infringed upon.~~

- (25) **In order to prevent secondary movements**, the Member State which is determined as responsible under this Regulation should remain responsible for examination of **any further** [...] application of that applicant, including any subsequent application, in accordance with **Regulation (EU) XXX/XXXX (Asylum Procedures Regulation) until the conditions for cessation of the responsibility under this Regulation are fulfilled. Any new application registered lodged by the applicant after the responsibility has ceased should be regarded as a new application under this Regulation, regardless of whether this application is considered a subsequent application under Regulation (EU) XXX/XXXX (Asylum Procedures Regulation) by the Member State responsible [...]**. Provisions in Regulation (EU) 604/2013 which had provided for the **shift** [...] of responsibility in certain circumstances, including when deadlines for the carrying out of transfers had elapsed for a certain period of time, had created an incentive for absconding, and should therefore be removed.
- (26) In order to ensure the speedy determination of responsibility and allocation of applicants for international protection between Member States, the deadlines for making and replying to requests to take charge, for making take back notifications, and for carrying out transfers, as well as for making and deciding on appeals, should be streamlined and shortened to the greatest extent possible.
- (27) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection. Detention should be for as short a period as possible and subject to the principles of necessity and proportionality. In particular, the detention of applicants must be in accordance with Article 31 of the Geneva Convention. The procedures provided for under this Regulation in respect of a detained person should be applied as a matter of priority, within the shortest possible deadlines. As regards the general guarantees governing detention, as well as detention conditions, where appropriate, Member States should apply the provisions of Directive 2013/33/EU also to persons detained on the basis of this Regulation.

- (28) Deficiencies in, or the collapse of, asylum systems, often aggravated or contributed to by particular pressures on them, can jeopardise the smooth functioning of the system put in place under this Regulation, which could lead to a risk of a violation of the rights of applicants as set out in the Union asylum *acquis* and the Charter of Fundamental Rights of the European Union, other international human rights and refugee rights.
- (29) Proper registration of all asylum applications in the EU under a unique application number should help detect multiple applications and prevent irregular secondary movements and asylum shopping. An automated system should be established for the purpose of facilitating the application of this Regulation. It should enable registration of asylum applications lodged in the EU, effective monitoring of the share of applications of each Member State and a correct application of the corrective allocation mechanism.
- (30) The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011⁵ should be responsible for the preparation, development and the operational management of the central system and the communication infrastructure between the central system and the national infrastructures.

⁵ Regulation (EU) No 1077/2011 of the European Parliament and of the council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

- (31) **With a view to preventing situations in which Member States' asylum and reception systems would be rendered ineffective as a result of disproportionate pressure as well as with a view to preventing possible crises at Member States' external borders, the Commission should continuously monitor the situation of Member States in normal circumstances, as regards the situation of asylum in Member States, including through the monitoring mechanism for the operational and technical application of the Common European Asylum System led by the Asylum Agency in accordance with Regulation (EU) No. XXX/XXX (EUAA Regulation) and the management of the external borders, including through the vulnerability assessment carried out by Frontex in accordance with Regulation (EU) 2016/1624 with the aim of assessing the capacity and readiness of the Member States to face threats and challenges at their external borders.**

~~In accordance with Article 80 of the Treaty, Union acts should, whenever necessary, contain appropriate measures to give effect to the principle of solidarity. A corrective allocation mechanism should be established in order to ensure a fair sharing of responsibility between Member States and a swift access of applicants to procedures for granting international protection in situations when a Member State is confronted with a disproportionate number of applications for international protection for which it is responsible under this Regulation.~~

- (31a) **Where a Member State is in challenging circumstances or in a situation of severe crisis, the relevant Union institutions, agencies and bodies as well as all Member States should make every effort towards alleviating the pressure on the Member State concerned. They should cooperate closely as early as possible and to the extent that is capable of addressing the main causes of the problem, in order to get back to the normal functioning of Member States' asylum and reception systems and avoid the possible deterioration of the situation.**

- (31b) The financial support provided under this Regulation should be without prejudice to other financial support provided by the Union to Member States for return, for the integration of beneficiaries of international protection or for the strengthening and development of the Common European Asylum System under the relevant financial instruments.**
- (31c) In accordance with its mandate, the European Union Agency for Asylum should provide operational and technical assistance to Member States, in particular where their asylum and reception systems are subject to disproportionate pressure. A situation of disproportionate pressure could be characterized by a sudden and massive influx of third-country nationals, including applicants for international protection or those likely to be in need of international protection, or a high risk of such influx to the extent that it places extreme burden even on well-prepared asylum and reception systems and requires immediate action. A Member State facing disproportionate pressure may also be in challenging circumstances within the meaning of this Regulation because the number of applicants for which it is determined to be responsible after a check of the criteria under this Regulation is above a certain threshold. A Member State may also be in challenging circumstances without necessarily facing disproportionate pressure. Under this Regulation, the European Union Agency for Asylum should prioritize the operational and technical assistance provided to a Member State in challenging circumstances both where such assistance has already been provided under the terms of Regulation (EU) No XXX/XXX (EUAA Regulation) and where this has not or not yet been the case.**

- (31d) Comprehensive migration management should be ensured by a variety of measures, including measures which make the EU return policy more effective and ensure that persons who are the subject to return decisions are effectively returned. These measures should include in particular strengthening the assisted voluntary return programmes, cooperation on return with the authorities of third countries, including through the EU delegations in these countries, notably as regards the acquisition of travel documents and the possible use of leverages, providing appropriate assistance to Member States in conducting their return and readmission activities, as well as strengthening and streamlining the existing relevant networks, the European Migration Liaison Officers and the Liaison Officers of the EBCG to third countries. Targeted resettlement should be undertaken to reduce irregular flows into the Member State in challenging circumstances; this may include measures to address emergency situations.**
- (31e) Specific procedures are laid down in Chapter VIa in relation to the allocation of applicants as regards steps to be taken within defined deadlines. The general procedures laid down in Chapters V and VI should apply only where no such specific procedures are regulated in Chapter VIa.**
- (31f) If the Union is in a situation of severe crisis, following a discussion and political direction given by the European Council on the situation and on possible additional actions that may be necessary to remedy that situation the Commission should ensure the follow-up to that political direction, including, where appropriate, a proposal for an implementing decision to continue with allocation, as well as, where appropriate, a proposal pursuant to Article 78(3) of the Treaty with any further measures identified.**

- (32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds 150% of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.
- (33) When the allocation mechanism applies, the applicants who lodged their applications in the benefitting Member State should be allocated to Member States which are below their share of applications on the basis of the reference key as applied to those Member States. Appropriate rules should be provided for in cases where an applicant may for serious reasons be considered a danger to national security or public order, especially rules as regards the exchange of information between competent asylum authorities of Member States. After the transfer, the Member State of allocation should determine the Member State responsible, and should become responsible for examining the application, unless the overriding responsible criteria, related in particular to the presence of family members, determine that a different Member State should be responsible.
- (34) Under the allocation mechanism, the costs of transfer of an applicant to the Member State of allocation should be reimbursed from the EU budget.

- (35) A Member State of allocation may decide not to accept the allocated applicants during a twelve months-period, in which case it should enter this information in the automated system and notify the other Member States, the Commission and the European Union Agency for Asylum. Thereafter the applicants that would have been allocated to that Member State should be allocated to the other Member States instead. The Member State which temporarily does not take part in the corrective allocation should make a solidarity contribution of EUR 250,000 per applicant not accepted to the Member State that was determined as responsible for examining those applications. The Commission should lay down the practical modalities for the implementation of the solidarity contribution mechanism in an implementing act. The European Union Agency for Asylum will monitor and report to the Commission on a yearly basis on the application of the financial solidarity mechanism.
- (36) In accordance with Commission Regulation (EC) No 1560/2003⁶, transfers to the Member State responsible for examining an application for international protection may be carried out on a voluntary basis, by supervised departure or under escort. Member States should promote voluntary transfers by providing adequate information to the applicant and should ensure that supervised or escorted transfers are undertaken in a humane manner, in full compliance with fundamental rights and respect for human dignity, as well as the best interests of the child and taking utmost account of developments in the relevant case law, in particular as regards transfers on humanitarian grounds.
- (37) The progressive creation of an area without internal frontiers in which free movement of persons is guaranteed in accordance with the TFEU and the establishment of Union policies regarding the conditions of entry and stay of third-country nationals, including common efforts towards the management of external borders, makes it necessary to strike a balance between responsibility criteria in a spirit of solidarity.

⁶ OJ L 222, 5.9.2003, p. 3.

- (38) The *[General Data Protection Regulation (EU) .../2016]* applies to the processing of personal data by the Member States under this Regulation from the date set out in that Regulation; until this date Directive 95/46/EC applies. Member States should implement appropriate technical and organisational measures to ensure and be able to demonstrate that processing is performed in accordance with that Regulation and the provisions specifying its requirements in this Regulation. In particular those measures should ensure the security of personal data processed under this Regulation and in particular to prevent unlawful or unauthorised access or disclosure, alteration or loss of personal data processed. The competent supervisory authority or authorities of each Member State should monitor the lawfulness of the processing of personal data by the authorities concerned, including of the transmission to and from the automated system and to the authorities competent for carrying out security checks.
- (39) The processing of personal data by the European Union Agency for Asylum should be subject to the monitoring of the European Data Protection Supervisor in accordance with Regulation (EC) No 45/2001 and the provisions on data protection laid down in *[Proposal for a Regulation on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010]*.
- (40) The application of this Regulation can be facilitated, and its effectiveness increased, by bilateral arrangements between Member States for improving communication between competent departments, reducing time limits for procedures or simplifying the processing of requests to take charge or take back, or establishing procedures for the performance of transfers.
- (41) Continuity between the system for determining the Member State responsible established by Regulation (EU) No 604/2013 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation *[Proposal for a Regulation recasting Regulation (EU) No 603/2013 of the European Parliament and of the Council]*.

- (42) A network of competent Member State authorities should be set up and facilitated by the European Union Agency for Asylum to enhance practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance.
- (43) The operation of the Eurodac system, as established by Regulation [*Proposal for a Regulation recasting Regulation (EU) No 603/2013 of the European Parliament and of the Council*], should facilitate the application of this Regulation.
- (44) The operation of the Visa Information System, as established by Regulation (EC) No 767/2008 of the European Parliament and of the Council ⁷, and in particular the implementation of Articles 21 and 22 thereof, should facilitate the application of this Regulation.
- (45) With respect to the treatment of persons falling within the scope of this Regulation, Member States are bound by their obligations under instruments of international law, including the relevant case-law of the European Court of Human Rights.
- (46) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers⁸.

⁷ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (OJ L 218, 13.8.2008, p. 60).

⁸ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (47) The examination procedure should be used for the adoption of a common leaflet on Dublin/Eurodac, as well as a specific leaflet for unaccompanied minors; of a standard form for the exchange of relevant information on unaccompanied minors; of uniform conditions for the consultation and exchange of information on minors and dependent persons; of uniform conditions on the preparation and submission of take charge requests and take back notifications; of two lists of relevant elements of proof and circumstantial evidence, and the periodical revision thereof; of a *laissez passer*; of uniform conditions for the consultation and exchange of information regarding transfers; of a standard form for the exchange of data before a transfer; of a common health certificate; of uniform conditions and practical arrangements for the exchange of information on a person's health data before a transfer, and of secure electronic transmission channels for the transmission of requests.
- (48) In order to provide for supplementary rules, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the identification of family members or relatives of an unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State; the elements for assessing a dependency link; the criteria for assessing the capacity of a person to take care of a dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 8 of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (49) In the application of this Regulation, including the preparation of delegated acts, the Commission should consult experts from, among others, all relevant national authorities.
- (50) Detailed rules for the application of Regulation (EU) No 604/2013 have been laid down by Regulation (EC) No 1560/2003. Certain provisions of Regulation (EC) No 1560/2003 as amended by Regulation 118/2014 should be incorporated into this Regulation, either for reasons of clarity or because they can serve a general objective. In particular, it is important, both for the Member States and the applicants concerned, that there should be a general mechanism for finding a solution in cases where Member States differ over the application of a provision of this Regulation. It is therefore justified to incorporate the mechanism provided for in Regulation (EC) No 1560/2003 for the settling of disputes on the humanitarian clause into this Regulation and to extend its scope to the entirety of this Regulation.
- (51) The effective monitoring of the application of this Regulation requires that it be evaluated at regular intervals.
- (52) In order to assess whether the corrective allocation mechanism in this Regulation is meeting the objective of ensuring a fair sharing of responsibility between Member States and of relieving disproportionate pressure on certain Member States, the Commission should review the functioning of the corrective allocation mechanism and in particular verify that the threshold for the triggering and cessation of the corrective allocation effectively ensures a fair sharing of responsibility between the Member States and a swift access of applicants to procedures for granting international protection in situations when a Member State is confronted with a disproportionate number of applications for international protection for which it is responsible under this Regulation.
- (53) This Regulation respects the fundamental rights and observes the principles which are acknowledged, in particular, in the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full observance of the right to asylum guaranteed by Article 18 of the Charter as well as the rights recognised under Articles 1, 4, 7, 24 and 47 thereof. This Regulation should therefore be applied accordingly.

- (54) Since the objective of this Regulation, namely the establishment of criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (55) [In accordance with Article 3 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, those Member States have notified their wish to take part in the adoption and application of this Regulation]

OR

- (56) [In accordance with Articles 1 and 2 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 Article 4 of that Protocol, those Member States are not taking part in the adoption of this Regulation and are not bound by it or subject to its application.]

OR

- (53) *[In accordance with Articles 1 and 2 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 Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]*

(54) *In accordance with Article 3 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, Ireland has notified (, by letter of ...,) its wish to take part in the adoption and application of this Regulation.]*

OR

(53) *In accordance with Article 3 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, the United Kingdom has notified (, by letter of ...,) its wish to take part in the adoption and application of this Regulation.*

(54) *In accordance with Articles 1 and 2 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 Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]*

(57) *In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application,*

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down the criteria and mechanisms for determining the [...] Member State responsible for examining an application for international protection **by a third-country national or a stateless person registered** lodged in one of the Member States ~~by a third-country national or a stateless person~~ ('the Member State responsible').

Article 2

Definitions

For the purposes of this Regulation:

- (a) 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU and who is not national of a State which participates in this Regulation by virtue of an agreement with the Union;
- (b) 'application for international protection' means **a request for protection made to a Member State by a third-country national or a stateless person, who can be understood as seeking refugee status or subsidiary protection status [...]**;

- (c) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;
- (d) ‘examination of an application for international protection’ means any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with **Regulation (EU) No XXX/XXX (Asylum Procedures Regulation) and Regulation (EU) No XXX/XXX (Qualification Regulation)** [...], except for procedures for determining the Member State responsible in accordance with this Regulation;
- (e) ‘withdrawal of an application for international protection’ means the actions by which the applicant terminates the procedures initiated by the submission of his or her application for international protection, **in accordance with Regulation (EU) No. XXX/XXX (Asylum Procedures Regulation)** [...] either explicitly or **implicitly** [...];
- (f) ‘beneficiary of international protection’ means a third-country national or a stateless person who has been granted international protection as defined in **Regulation (EU) No. XXX/XXX (Qualification Regulation)** [...];
- (g) ‘family members’ means, insofar as the family already existed before the applicant arrived on the territory of the Member States, the following members of the applicant’s family who are present on the territory of the Member States:
- the spouse of the applicant or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals,

- the minor children of couples referred to in the first indent or of the applicant, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law,
 - when the applicant is a minor and unmarried, the father, mother or another adult responsible for the applicant, whether by law or by the practice of the Member State where the adult is present,
 - when the beneficiary of international protection is a minor and unmarried, the father, mother or another adult responsible for him or her whether by law or by the practice of the Member State where the beneficiary is present;
 - [...]
- (h) ‘relative’ means the applicant’s adult aunt or uncle or grandparent who is present in the territory of a Member State, regardless of whether the applicant was born in or out of wedlock or adopted as defined under national law;
- (i) ‘minor’ means a third-country national or a stateless person below the age of 18 years;
- (j) ‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States;
- (k) [...]

- (l) ‘residence document’ means any authorisation issued by the authorities of a Member State authorising a third-country national or a stateless person to stay on its territory, including the documents substantiating the authorisation to remain on the territory under temporary protection arrangements or until the circumstances preventing a removal order from being carried out no longer apply, with the exception of visas and residence authorisations issued during the period required to determine the Member State responsible as established in this Regulation or during the examination of an application for international protection or an application for a residence permit;
- (m) ‘visa’ means the authorisation or decision of a Member State required for transit or entry for an intended stay in that Member State or in several Member States. The nature of the visa shall be determined in accordance with the following definitions:
- ‘long-stay visa’ means an authorisation or decision issued by one of the Member States in accordance with its national law or Union law required for entry for an intended stay in that Member State of more than three months,
 - ‘short-stay visa’ means an authorisation or decision of a Member State with a view to transit through or an intended stay on the territory of one or more or all the Member States of a duration of no more than three months in any six-month period beginning on the date of first entry on the territory of the Member States,
 - ‘airport transit visa’ means a visa valid for transit through the international transit areas of one or more airports of the Member States;
- (n) ‘risk of absconding’ means the existence of reasons in an individual case, which are based on objective criteria defined by **national** law, to believe that **a person** [...] who is subject to a transfer procedure may abscond;

- (na) **'absconding'** means the deliberate action by which an applicant does not remain available to the competent administrative or judicial authorities or leaves the territory of a Member State without authorisation from the competent authorities;
- (o) 'benefitting Member State' means the Member State benefitting from the **measures** [...] set out in Chapter **VIA** [...] of this Regulation [...];
- (p) 'Member State of allocation' means the Member States to which an applicant will be allocated under **the procedure for allocation set out in Chapter VIA of this Regulation** [...];
- (q) 'resettled person' means a person **admitted to a Member State in accordance with Regulation (EU) No XXX/XXX (Resettlement Regulation) or under a national resettlement scheme** [...];
- (r) '[...] Asylum **Agency**' means the **European Union Agency for Asylum** as established by Regulation (EU) No XXX/XXX (EU Asylum Agency Regulation); [...]
- (s) **'fair share'** means the number of applicants for which a Member State is responsible, which corresponds to 100% of its reference number in accordance with Article 34g
- (t) **'normal circumstances'** means a situation in which the number of applicants in a Member State is equal to or below its fair share;
- (u) **'challenging circumstances'** means a situation in which the number of applicants in a Member State is higher than 120% of its fair share;
- (v) **"situation of severe crisis"** means a situation in which the number of applicants in a Member State is higher than 140 % of its fair share and the maximum number referred to in Article 34e(5) second subparagraph has been reached.

CHAPTER II

GENERAL PRINCIPLES AND SAFEGUARDS

Article 3

Access to the procedure for examining an application for international protection

1. Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones. The application shall be examined by a single Member State, which shall be the one which the criteria set out in Chapters III, **IV** and **VIA** indicate is responsible.
2. Where no Member State responsible can be designated on the basis of the criteria listed in this Regulation, the first Member State in which the application for international protection was **registered** ~~lodged~~ shall be responsible for examining it.

Where, **following the exercise of the remedy in accordance with Article 28**, it is impossible to transfer an applicant to the Member State primarily designated as responsible, the determining Member State shall continue to examine the criteria set out in Chapter III in order to establish whether another Member State can be designated as responsible.

Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in Chapter III or to the first Member State **where** ~~with~~ ~~which~~ the application was **registered** ~~lodged~~, the determining Member State shall become the Member State responsible.

- 2a. Before applying the criteria for determining a Member State responsible in accordance with Chapter III, the first Member State in challenging circumstances in which the application for international protection was registered lodged shall examine the application in accelerated procedure pursuant to Article 40 of Regulation (EU) No XXX/XXX (Asylum Procedures Regulation) where:
- (a) there are reasonable grounds to consider the applicant as a danger to the national security or public order of that Member State; or
 - (b) the applicant has been forcibly expelled for serious reasons of national security or public order under national law.
3. ~~Without prejudice to Article 8(1), the first Member State in which the application for international protection was lodged may, before [...] applying the criteria for determining a Member State responsible in accordance with Chapter III [...],~~
- ~~(a) decide on the inadmissibility of an application in accordance with Article 36(1a) points (a) and (b) of Regulation (EU) No XXX/XXX (Asylum Procedures Regulation) [...]; and~~
 - ~~(b) examine the application in accelerated procedure pursuant to Article 40 of Regulation (EU) No XXX/XXX (Asylum Procedures Regulation) [...] when [...] a third country may be considered as a safe country of origin for the applicant within the meaning of the Regulation (EU) No XXX/XXX (Asylum Procedures Regulation) [...].~~
4. Where the Member State ~~decides that [...]~~ an application is inadmissible or examines an application in accelerated procedure pursuant to paragraphs 2a or 3, that Member State shall become [...] the Member State responsible.
- 4a. Any Member State shall retain the right to send an applicant to a safe third country, subject to the rules and safeguards laid down in Regulation (EU) No. XXX/XXX (Asylum Procedures Regulation).**

5. ~~Where a third country as referred to in Articles 44(1) and 45(1) of Regulation (EU) No. XXX/XXX (Asylum Procedures Regulation) does not admit or readmit the applicant to its territory:~~
- ~~(a) without prejudice to Chapter VIA, the Member State referred to in paragraph 1 of this Article shall continue to examine the criteria set out in Chapter III in order to establish whether another Member State can be designated as responsible, and~~
 - ~~(b) the time limit for submitting a take charge request pursuant to Article 24 of this Regulation shall start to run:~~
 - ~~i) from the date when the Member State referred to in paragraph 1 of this Article received, within three months from the date when that Member State requests the third country concerned to admit or to readmit the applicant to its territory, a reply from that third country that the applicant will not be admitted or readmitted by that third country, or,~~
 - ~~ii) in case of a readmission agreement, from the date when the deadline set in the respective readmission agreement has expired. [...]~~

Article 3b

Union support for external dimension under normal circumstances

Where the number of applicants for which a Member State is responsible is below 100 % but the data in the Dublin automated system shows an unusual increase in the number of applications and significant deviation from the average number of applications over a six-month period, the Commission may recommend, in consultation with that Member State, measures to be taken to reinforce the cooperation with third countries of origin and transit, including first countries of asylum and neighbouring countries.

Article 4

Obligations of the applicant

1. **A third country national or stateless person who intends to make an application for international protection shall make and lodge that application in the Member State of first entry. [...]**
- 1a. **By derogation from paragraph 1, where a third country national or stateless person is in possession of a valid residence permit or a valid visa he or she shall make and lodge that application in the Member State that issued the residence permit or visa.**

Where a third country national or stateless person who intends to make an application for international protection is in possession of a residence permit or a visa which has expired, he or she shall make and lodge that application in the Member State where he or she is present.

2. **The applicant shall fully cooperate with the competent authorities of the Member States in matters covered by this Regulation, in particular by:**
 - (a) **submitting** as soon as possible, and at the latest during the interview pursuant to Article 7, all the elements **available to him or her** and information relevant for determining the Member State responsible [...]. **Where the applicant is not in a position to submit evidence to substantiate elements provided at the time of the interview, the competent authority may set a deadline within the period referred to in Article 24(1) for submitting such evidence;**
 - (b) **providing biometric data in accordance with Regulation (EU) No. XXX/XXX (Eurodac Regulation).**

- 2a. **The applicant shall be required to be present in:**
- (a) **the Member State referred to in paragraph 1 and 1a pending the determination of the Member State responsible and the implementation of the transfer procedure, if applicable;**
 - (b) **the Member State responsible;**
 - (c) **the Member State of allocation pursuant to a transfer, where Chapter VIA.**
3. The applicant shall [...] comply with a transfer decision notified to him or her in accordance with paragraphs 1 and 2 of Article 27 and point (b) of Article 34i [...].
- [...]

Article 5

Consequences of non-compliance

1. If an applicant does not comply with the obligation **to provide biometric data** set out in Article 4(2)(b), **to be present in the relevant Member State set out in Article 4(2a) or to comply with a transfer decision set out in Article 4(3) of this Regulation** [...], the Member State responsible [...] shall **reject the application as implicitly withdrawn as provided for in Article 39(1) and (1a) of Regulation (EU) XXX/XXX (Asylum Procedures Regulation)** [...].
2. [...]
3. **In accordance with Article 17a of Directive (EU) XXX/XXX (Reception Conditions Directive), the** [...] applicant shall not be entitled to the reception conditions set out in Articles 14 to 17 [...] of **that** Directive [...] in any Member State other than the one in which he or she is required to be present **pursuant to Article 4(2a) of this Regulation.**

4. [...] **Elements** and information relevant for determining the Member State responsible [...] submitted **after** [...] the deadline set out in Article 4(2) **shall not be taken into account by the competent authorities.**

Article 6

Right to information

1. As soon as an application for international protection is lodged [...] in a Member State, its competent authorities shall inform the applicant of the application of this Regulation and of the obligations set out in Article 4 as well as the consequences of non-compliance set out in Article 5 , and in particular:
- (a) that the right to apply for international protection does not encompass a [...] choice **by** [...] the applicant **in relation to either the** [...] Member State [...] responsible for examining the application for international protection **or the Member State of allocation;**
 - (b) of the objectives of this Regulation and the consequences of making another application in a different Member State as well as the consequences of leaving the Member State where he or she is **required** [...] to be present **in accordance with Article 4(2a),** [...];
 - (c) of the criteria and the procedures for determining the Member State responsible, the hierarchy of such criteria in the different steps of the procedure and their duration;
 - (d) **of the aim** of the personal interview pursuant to Article 7 and the obligation of submitting and substantiating **orally or through the provision of documents** information regarding the presence of family members, relatives or any other family relations in the Member States, including the means by which the applicant can submit such information;

- (e) of the possibility to challenge a transfer decision **within the time limit set out in Article 28(2)** [...] and of the fact that **the scope of** this challenge shall be limited **as set out in Article 28(1)**;
 - (f) that the competent authorities of Member States and the **Asylum Agency shall** process personal data of the applicant including for the exchange of data on him or her for the sole purpose of implementing their obligations arising under this Regulation;
 - (g) of the categories of personal data concerned;
 - (h) of the right of access to data relating to him or her and the right to request that such data be corrected if inaccurate or be deleted if unlawfully processed, as well as the procedures for exercising those rights, including the contact details of the authorities referred to in Article 47 and of the national data protection authorities responsible for hearing claims concerning the protection of personal data, and of the contact details of the data protection officer;
 - (i) where applicable, of the allocation procedure set out in Chapter **VIA**[...].
2. The information referred to in paragraph 1 shall be provided in writing in a language that the applicant understands or is reasonably supposed to understand. Member States shall use the common leaflet drawn up pursuant to paragraph 3 for that purpose.

Where necessary for the proper understanding of the applicant, the information shall also be supplied orally, for example in connection with the personal interview as referred to in Article 7.

3. The Commission shall, by means of implementing acts, draw up a common leaflet, as well as a specific leaflet for unaccompanied minors, containing at least the information referred to in paragraph 1 of this Article. This common leaflet shall also include information regarding the application of Regulation (EU) No. XXX/XXX (**Eurodac Regulation**) [...] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common leaflet shall be established in such a manner as to enable Member States to complete it with additional Member State-specific information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2) of this Regulation.

Article 7

Personal interview

1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant [...]. The interview shall also allow the proper understanding of the information supplied to the applicant in accordance with Article 6.
 - 1a. **The personal interview may be omitted if:**
 - (a) **the applicant has absconded; or**
 - (aa) **the applicant has not attended the personal interview and has not provided justified reasons for his or her absence; or**
 - (b) **after having received the information referred to in Article 4, the applicant has already provided the information relevant to determine the Member State responsible by other means.**
2. The personal interview shall take place in a timely manner and, in any event, before any take charge request pursuant to Article 24 is made .

3. The personal interview shall be conducted in a language that the applicant understands or is reasonably supposed to understand and in which he or she is able to communicate. Where necessary, Member States shall have recourse to an interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.
4. The personal interview shall take place under conditions which ensure appropriate confidentiality. It shall be conducted by a qualified person under national law.
5. The Member State conducting the personal interview shall make a written summary thereof which shall contain at least the main information supplied by the applicant at the interview. This summary may either take the form of a report or a standard form. The Member State shall ensure that the applicant and/or the legal advisor or other counsellor who is representing the applicant have timely access to the summary.

Article 8

Guarantees for minors

1. The best interests of the child shall be a primary consideration for Member States with respect to all procedures provided for in this Regulation.
2. Each Member State where an unaccompanied minor is [...] present shall ensure that **he or she is represented and assisted by a representative or a person suitable to assist him or her until a representative is designated as provided for in Article 22 of Regulation (EU) XXX/XXX (Asylum Procedures Regulation)** [...] with respect to the relevant procedures provided for in this Regulation. The representative **or a person suitable to assist him or her until a representative is designated** shall have the qualifications and expertise to ensure that the best interests of the **child** [...] are taken into consideration during the procedures carried out under this Regulation. Such representative **or a person suitable to assist him or her until a representative is designated** shall have access to the content of the relevant documents in the applicant's file including the specific leaflet for unaccompanied minors.

[...]

3. In assessing the best interests of the child, Member States shall closely cooperate with each other and shall, in particular, take due account of the following factors:
 - a) family reunification possibilities;
 - b) the minor's well-being and social development;
 - c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;
 - d) the views of the minor, in accordance with his or her age and maturity.
4. Before transferring an unaccompanied minor [...], the transferring Member State shall **notify** [...] the Member State responsible or the Member State of allocation **of the transfer of the unaccompanied minor** [...]. Any decision to transfer an unaccompanied minor shall be **based on** [...] an assessment of his **or** [...] her best interests **taking into account the** [...] factors listed in paragraph 3. [...]
5. For the purpose of applying Article 10, the Member State where the **application of the unaccompanied minor for international protection was registered** ~~lodge~~~~d an application for international protection~~ shall, as soon as possible, take appropriate action to identify the family members, **siblings** or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.

To that end, that Member State may call for the assistance of international or other relevant organisations, and may facilitate the minor's access to the tracing services of such organisations.

The staff of the competent authorities referred to in Article 47 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors.

6. With a view to facilitating the appropriate action to identify the family members, **siblings** or relatives of the unaccompanied minor living in the territory of another Member State pursuant to paragraph 5 of this Article, the Commission shall adopt implementing acts including a standard form for the exchange of relevant information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

CHAPTER III

CRITERIA FOR DETERMINING THE MEMBER STATE RESPONSIBLE

Section 1

General principles

Article 9

Hierarchy of criteria

1. **Without prejudice to Article 9a, the** [...] criteria for determining the Member State responsible shall be applied only once, in the order in which they are set out in **section 2** of this Chapter.
2. The Member State responsible in accordance with the criteria set out in **section 2** of this Chapter shall be determined on the basis of the **situation obtaining** [...] when the ~~applicant~~ ~~first lodged his or her~~ application for international protection **was first registered** with a Member State.

Article 9a

Stable responsibility of a Member State

1. **Once the responsibility of a Member State has been determined in accordance with this Regulation, that Member State shall remain responsible to examine any application by the same applicant.**
2. **The responsibility referred to in paragraph 1 shall cease eight years after the registration of the application for international protection ~~five years after a final decision on the application has been taken~~, unless:**
 - a) **the Member State responsible has granted international protection; or**
 - b) **it can be established, on the basis of the update of the data set referred to in Article 11(d) of Eurodac, that the applicant has left the territory of the Member States, either forced or voluntarily, in compliance with a return decision or removal order.**

An application registered ~~lodged~~ after the cessation of responsibility pursuant to this paragraph shall be regarded as a new application for the purposes of this Regulation giving rise to a new procedure for determining the Member State responsible.

3. **Where another Member State issues a residence permit or decides to apply Article 19, that Member State shall become the Member State responsible and shall assume the obligations set out in Article 20.**

Section 2

List of criteria

Article 9b

Resettled persons

Where a resettled person applies for international protection, the Member State which admitted that person shall be responsible for examining the application for international protection, unless the person has already been granted international protection.

Article 10

Minors

1. **Without prejudice to Article 9b**, where the applicant is an unaccompanied minor, only the criteria set out in this article shall apply, in the order in which they are set out in paragraphs 2 to 5.
2. The Member State responsible shall be that where a family member **or a sibling** of the unaccompanied minor is legally present, **unless it is demonstrated** [...] that it is not in the best interests of the **child** [...]. Where the applicant is a married minor, **provided that the marriage is recognised by the law of that Member State**, whose spouse is not legally present on the territory of the Member States, the Member State responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.
3. Where the applicant has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, **unless it is demonstrated** [...] that it is **not** in the best interests of the **child** [...].

4. Where family members, **siblings** or relatives as referred to in paragraphs 2 and 3, stay in more than one Member State, the Member State responsible shall be decided on the basis of what is in the best interests of the unaccompanied minor.
5. In the absence of a family member, **a sibling** or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be that where the **application of the** unaccompanied minor **for international protection was** first **registered** ~~has lodged his or her application for international protection~~, unless it is demonstrated that this is not in the best interests of the **child** [...].
6. The Commission is empowered to adopt delegated acts in accordance with Article 57 concerning the identification of family members, **siblings** or relatives of the unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of the unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 8(3).
7. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and the exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 11

Family members who are beneficiaries of international protection

Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who has been allowed to reside as a beneficiary of international protection in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Article 12

Family members who are applicants for international protection

If the applicant has a family member in a Member State whose application for international protection in that Member State has not yet been the subject of a first decision regarding the substance, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Article 13

Family procedure

Where several family members submit applications for international protection in the same Member State simultaneously, or on dates close enough for the procedures for determining the Member State responsible to be conducted together, and where the application of the criteria set out in this Regulation would lead to their being separated, the Member State responsible shall be determined on the basis of the following provisions:

- (a) responsibility for examining the applications for international protection of all the family members and/or minor unmarried siblings shall lie with the Member State which the criteria indicate is responsible for taking charge of the largest number of them;
- (b) failing this, responsibility shall lie with the Member State which the criteria indicate is responsible for examining the application of the oldest of them.

Article 14

Issue of residence documents or visas

1. Where the applicant is in possession of a valid residence document [...], the Member State which issued the document shall be responsible for examining the application for international protection.
2. Where the applicant is in possession of a valid visa [...], the Member State which issued the visa shall be responsible for examining the application for international protection, unless the visa was issued on behalf of another Member State under a representation arrangement as provided for in Article 8 of Regulation (EC) No 810/2009 of the European Parliament and of the Council⁹. In such a case, the represented Member State shall be responsible for examining the application for international protection.
3. Where the applicant is in possession of more than one valid residence document or visa issued by different Member States, the responsibility for examining the application for international protection shall be assumed by the Member States in the following order:
 - (a) the Member State which issued the residence document conferring the right to the longest period of residency or, where the periods of validity are identical, the Member State which issued the residence document having the latest expiry date;
 - (b) the Member State which issued the visa having the latest expiry date where the various visas are of the same type;

⁹ Regulation (EC) No 810/2009 of the European Parliament and of the Council, of 13 July 2009, establishing a Community Code on Visas (OJ L 243, 15.9.2009, p. 1).

(c) where visas are of different kinds, the Member State which issued the visa having the longest period of validity or, where the periods of validity are identical, the Member State which issued the visa having the latest expiry date.

3a. Where the applicant is in possession of one or more residence documents or one or more visas which have expired less than five years before the registering lodging of the application, paragraphs 1, 2 and 3 shall apply.

4. The fact that the residence document or visa was issued on the basis of a false or assumed identity or on submission of forged, counterfeit or invalid documents shall not prevent responsibility being allocated to the Member State which issued it. However, the Member State issuing the residence document or visa shall not be responsible if it can establish that a fraud was committed after the document or visa had been issued.

Article 14a

Disembarkation following a search and rescue operation

Where a third-country national or a stateless person is disembarked in the territory of a Member State following a search and rescue operation in international waters, the Member State where the disembarkation takes place shall be responsible for examining his or her application for international protection.

Article 15

Entry

Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 25(4) of this Regulation, including the data referred to in Regulation (EU) No. **XXX/XXX (Eurodac Regulation)**, that an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the **first** Member State thus entered shall be responsible for examining the application for international protection.

Article 16

Visa waived entry

If a third-country national or a stateless person enters into the territory of a Member State in which the need for him or her to have a visa is waived, that **first** Member State **of entry** shall be responsible for examining his or her application for international protection.

Article 17

Application in an international transit area of an airport

Where the application for international protection is made in the international transit area of an airport of a Member State by a third-country national or a stateless person, that Member State shall be responsible for examining the application.

CHAPTER IV

DEPENDENT PERSONS AND DISCRETIONARY CLAUSES

Article 18

Dependent persons

1. Where, on account of pregnancy, a new-born child, serious illness, severe disability or old age, an applicant is dependent on the assistance of his or her child, sibling or parent legally resident in one of the Member States, or his or her child, sibling or parent legally resident in one of the Member States is dependent on the assistance of the applicant, Member States shall normally keep or bring together the applicant with that child, sibling or parent, provided that family ties existed **before the applicant arrived on the territory of the Member States** [...], that the child, sibling or parent or the applicant is able to take care of the dependent person and that the persons concerned expressed their desire in writing.

In order to apply the first subparagraph and before making a take charge request, the Member State where such dependent person is present shall verify that no child, sibling or parent who can take care of that dependant legally resides on its territory.

- 1a. **In order to apply paragraph 1, a Member State where ~~with which~~ an application was registered ~~lodged~~ shall provide the requested Member State with all necessary and relevant documentary evidence concerning the existence of dependence grounds and of a child, sibling or parent who can take care of that dependent person referred to in that paragraph. The requested Member State shall justify the refusal of taking charge of the applicant on the basis of documentary evidence concerning the inexistence of dependence grounds or of a child, sibling or parent who can take care of that dependant referred to in that paragraph.**

2. Where the child, sibling or parent referred to in paragraph 1 is legally resident in a Member State other than the one where the applicant is present, the Member State responsible shall be the one where the child, sibling or parent is legally resident unless the applicant's health prevents him or her from travelling to that Member State for a significant period of time. In such a case, the Member State responsible shall be the one where the applicant is present. Such Member State shall not be subject to the obligation to bring the child, sibling or parent of the applicant to its territory.
3. The Commission is empowered to adopt delegated acts in accordance with Article 57 concerning the elements to be taken into account in order to assess the dependency link, the criteria for establishing the existence of proven family links, the criteria for assessing the capacity of the person concerned to take care of the dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time.
4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 19

Discretionary clauses

1. By way of derogation from Article 3(1) [...], each Member State may decide **in exceptional cases or for reasons of procedural efficiency** to examine an application for international protection **registered in** lodged with it by a third-country national or a stateless person [...], even if such examination is not its responsibility under the criteria laid down in this Regulation.

The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. Where applicable, it shall inform the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of the **applicant or has received a take back notification**.

The Member State which becomes responsible pursuant to this paragraph shall forthwith indicate it in Eurodac in accordance with Regulation (EU) No. XXX/XXX (Eurodac Regulation) [...] by adding the date when the decision to examine the application was taken.

The applicant shall have no right to request that its application be examined by a Member State in accordance with this paragraph discretionary clause.

2. The Member State in which an application for international protection is **registered** ~~lodged~~ [...] and which is carrying out the process of determining the Member State responsible may, [...] before a Member State responsible has been determined, request, **in exceptional cases**, another Member State to take charge of an applicant **based on family considerations** [...], even where that other Member State is not responsible under the criteria laid down in Articles 10 to 13 and 18, **or where the applicant provides new elements in relation to the application of Articles 10 to 12, which he or she could not have already brought forward pursuant to Article 4(2)(a)**. The persons concerned must express their consent in writing.

The request to take charge shall contain all the material in the possession of the requesting Member State to allow the requested Member State to assess the situation.

The requested Member State shall carry out any necessary checks to examine the **considerations** [...] cited, and shall reply to the requesting Member State within one month of receipt. A reply refusing the request shall state the reasons on which the refusal is based.

Where the requested Member State accepts the request, **it shall become the Member State responsible.**

CHAPTER V

OBLIGATIONS OF THE MEMBER STATE RESPONSIBLE

Article 20

Obligations of the Member State responsible

1. The Member State responsible under this Regulation shall be obliged to:
 - (a) take charge, under the conditions laid down in Articles 24, 25 and 30, of an applicant ~~who has lodged an~~ **whose** application **was registered** in a different Member State;
 - (b) take back, under the conditions laid down in Articles 26 and 30, an applicant whose application is under examination and who made an application in another Member State or who is on the territory of another Member State without a residence document;
 - (c) take back, under the conditions laid down in Articles 26 and 30, a third-country national or a stateless person who has withdrawn the application under examination and made an application in another Member State or who is on the territory of another Member State without a residence document;

- (d) take back, under the conditions laid down in Articles 26 and 30, a third-country national or a stateless person whose application has been rejected, **or whose status has been withdrawn**, [...] and who made an application in another Member State or who is on the territory of another Member State without a residence document;
- (e) ~~take back, under the conditions laid down in Articles 26 and 30, a beneficiary of international protection who made an application~~ **for international protection or who is irregularly present in a Member State other than the Member State which granted him or her international protection** [...];
- (f) take back, under the conditions laid down in Articles 26 and 30, a resettled person who made an application for international protection or who is irregularly present in a Member State other than the Member State which admitted him or her in accordance with Regulation No. XXX/XXX (Resettlement Regulation).

2. **In situations referred to in paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection in accordance with Regulation (EU) XXX/XXX (Asylum Procedures Regulation) with the exception of applications by beneficiaries of international protection.** [...]

3. [...]

4. [...]

5. [...]

6. [...]

7. [...]

CHAPTER VI

PROCEDURES

SECTION I

START OF THE PROCEDURE

Article 21

Start of the procedure

1. **Without prejudice to Article 3 and chapter VIA, the Member State where ~~with which~~ an application for international protection is first registered ~~lodged~~ shall start the process of determining the Member State responsible without delay. [...]**
- 1a. **The Member State where an application is ~~the applicant~~ first registered ~~lodged his or her application~~ or the Member State of allocation shall continue the procedures for determining the Member State responsible if the applicant leaves the territory of that Member State without authorisation or is otherwise not available for the competent authorities of that Member State.**
2. [...]
3. For the purposes of this Regulation, the situation of a minor who is accompanying the applicant and meets the definition of family member shall be indissociable from that of his or her family member and shall be a matter for the Member State responsible for examining the application for international protection of that family member, even if the minor is not individually an applicant, provided that it is in the minor's best interests. The same treatment shall be applied to children born after the applicant arrives on the territory of the Member States, without the need to initiate a new procedure for taking charge of them.

4. Where an application for international protection is **registered by a Member State and the** lodged with the competent authorities of a Member State by an applicant who is on the territory of another Member State, the determination of the Member State responsible shall be made by the Member State in whose territory the applicant is present. The latter Member State shall be informed without delay by the Member State which **registered** received the application and shall then, for the purposes of this Regulation, be regarded as the Member State **where** with which the application for international protection was **first registered** lodged.

The applicant shall be informed in writing of this change in the determining Member State and of the date on which it took place.

5. An applicant who is present in another Member State without a residence document or who there **makes** lodges an application for international protection [...] during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles 26 and 30, by the Member State **where** with which that application for international protection was first **registered** lodged.

6. **When the procedures referred to in paragraphs 1 and/or 1a of this Article have been concluded, the Member State which has conducted the procedures for determining the Member State responsible shall, without delay, indicate ~~in the electronic file referred to in Article 22(2)~~ the Member State responsible pursuant to Article 11(-a) of Regulation (EU) No. XXX/XXX (Eurodac). The procedures in paragraph 5 shall apply until this indication has been added. The Member State which becomes responsible pursuant to Article 19 or Article 9a(3) shall indicate ~~in the electronic file referred to in Article 22(2)~~ that it is the Member State responsible pursuant to Article 11(e) of Regulation (EU) No. XXX/XXX (Eurodac).**

SECTION II

Article 22

[...]

Article 23

[...]

SECTION III

PROCEDURES FOR TAKE CHARGE REQUESTS

Article 24

Submitting a take charge request

1. **If** ~~Where~~ a Member State **where** ~~with which~~ an application for international protection has been **registered lodged** considers that another Member State is responsible for examining the application, it shall, **without delay** [...] and in any event within **two** [...] months of the date on which the application was **registered lodged** [...], request that other Member State to take charge of the applicant. **The maximum time limit for submitting the request to take charge of the applicant who is an unaccompanied minor shall be three months.**

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

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

- 1a. The requesting Member State may ask for an urgent reply in cases where the application for international protection was registered ~~lodged~~ after issuing a decision to refuse entry or a return decision.**

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

- ~~**1b. Where the time limit for submitting a take charge request starts to run as referred to in Article 3(5), the requesting Member State shall include the reply from the third country concerned or, in case of readmission request, include the request made stating the date in its request.**~~

2. In the cases referred to in paragraphs **1** ~~and, 1a and 1b~~, the request that charge be taken by another Member State shall be made using a standard form and including proof or circumstantial evidence as described in the two lists mentioned in Article 25(4) and/or relevant elements from the applicant's statement, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, adopt uniform conditions on the preparation and submission of take charge requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Replying to a take charge request

1. The requested Member State shall make the necessary checks, and shall give a decision on the request to take charge of an applicant within **two** [...] months of receipt of the request.
2. Notwithstanding the first [...] paragraph, in the case of a Eurodac hit with data recorded pursuant to Article 13 of Regulation (EU) No. XXX/XXX (**Eurodac Regulation**) [...] or of a VIS hit with data recorded pursuant to Article 21(2) of Regulation (EU) 767/2008, the requested Member State shall give a decision on the request **to take charge** within **one month** [...] of receipt of the request.
3. In the procedure for determining the Member State responsible elements of proof and circumstantial evidence shall be used.
4. The Commission shall, by means of implementing acts, establish, and review periodically, two lists, indicating the relevant elements of proof and circumstantial evidence in accordance with the criteria set out in points (a) and (b) of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).
 - (a) Proof:
 - (i) this refers to formal proof which determines responsibility pursuant to this Regulation, as long as it is not refuted by proof to the contrary;
 - (ii) the Member States shall provide the Committee provided for in Article 56 with models of the different types of administrative documents, in accordance with the typology established in the list of formal proofs;

(b) Circumstantial evidence:

- (i) this refers to indicative elements which while being refutable may be sufficient, in certain cases, according to the evidentiary value attributed to them;
- (ii) their evidentiary value, in relation to the responsibility for examining the application for international protection shall be assessed on a case-by-case basis.

5. The requirement of proof should not exceed what is necessary for the proper application of this Regulation.
6. If there is no formal proof, the requested Member State shall acknowledge its responsibility if the circumstantial evidence is coherent, verifiable and sufficiently detailed to establish responsibility.
- 6a. Where the requesting Member State has asked for an urgent reply in accordance with Article 24(1a), the requested Member State shall reply within the time limit requested or, in the absence thereof, within 10 days of receipt of the request.**

In exceptional cases, where it can be demonstrated that the examination of a request for taking charge of an applicant is particularly complex, the requested Member State may reply after the time limits referred to in the first subparagraph, but in any event within one month. In this case, the requested Member State shall, within the time limit originally requested or, in absence thereof, within 10 days, inform the requesting Member State of its decision to postpone its reply.

7. Where the requested Member State does not object to the request within the **two** [...] -month period **set out** [...] in paragraph 1 by a **reasoned** reply which gives **full and detailed** [...] **reasons**, or where applicable within the **one-month** [...] period **set out** [...] in paragraphs 2 and 6a, **by a reply which gives full and detailed reasons**, this shall be tantamount to accepting the request, and entail the obligation to take charge of the person, including the obligation to provide for proper arrangements for arrival.

SECTION IV

PROCEDURES FOR TAKE BACK NOTIFICATIONS

Article 26

Submitting a take back notification

1. In a situation referred to in Article 20(1)(b), (c) (d), (e) **or (f)** the Member State where the person is present shall make a take back notification **without delay and in any event within one month** [...] after receiving the Eurodac hit [...].
2. A take back notification shall be made using a standard form and shall include **the unique application number referred to in Article 22(2) and the Eurodac search result** [...].
3. The Member State responsible shall **acknowledge** [...] immediately the receipt of the notification to the Member State which made the notification.
4. The Commission shall, by means of implementing acts, adopt uniform conditions for the preparation and submission of take back notifications. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

SECTION V

PROCEDURAL SAFEGUARDS

Article 27

Notification of a transfer decision

1. Where the requested Member State accepts to take charge of an applicant, the requesting Member State shall notify the applicant in writing without **undue** delay of the decision to transfer him or her to the Member State responsible and, where applicable, of not examining his or her application for international protection.
2. Where the applicant or another person referred to in Article 20(1) (c), (d), (e) **or (f)** is to be taken back, the Member State where the person concerned is present shall notify the person concerned in writing without [...] delay the decision to transfer him or her to the Member State responsible **and, where applicable, of not examining his or her application for international protection.**
3. If a legal advisor or other counsellor is representing the person concerned, Member States may choose to notify the decision to such legal advisor or counsellor instead of to the person concerned and, where applicable, communicate the decision to the person concerned.
4. The decision referred to in paragraphs 1 and 2 shall contain information on the legal remedies available and on the time limits applicable for seeking such remedies and for carrying out the transfer, and shall, if necessary, contain information on the place where, and the date on which, the person concerned should appear, if that person is travelling to the Member State responsible by his or her own means.

Member States shall ensure that information on persons or entities that may provide legal assistance to the person concerned is communicated to the person concerned together with the decision referred to in paragraphs 1 and 2, when that information has not been already communicated.

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

Article 28

Remedies

1. The applicant or another person as referred to in Article 20(1)(c), (d), (e) **or (f)** shall have the right to an effective remedy, in the form of an appeal or a review, in fact and in law, against a transfer decision, before a court or tribunal.

The scope of this remedy shall be limited to an assessment of whether the transfer would result for the applicant or the person concerned in a real and proven risk of inhuman or degrading treatment or, where the person concerned is taken charge of pursuant to Article 20(1)(a), whether the criteria related to minors, family and dependents as set out in Articles 10 to 13 and 18 are infringed upon.

2. Member States shall provide for a period of **10** [...] days after the notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.
3. **Appeals against, or reviews of, transfer decisions shall not suspend the implementation of the transfer, except where:**
 - (a) **the person concerned has requested a court or tribunal to suspend the implementation of that transfer decision pending the outcome of his or her appeal or review, and**

- (b) **that request was granted, following an individual assessment, by that court or tribunal within 30 days of the request.**

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

If suspensive effect was granted, the court or tribunal shall endeavour to decide on the substance of the review within 30 days after the decision to grant suspensive effect.

[...]

4. [...]

5. [...]

6. Member States shall ensure that the person concerned has access to legal assistance and, where necessary, to linguistic assistance.

7. Member States shall ensure that legal assistance is granted on request free of charge where the person concerned cannot afford the costs involved. Member States may provide that, as regards fees and other costs, the treatment of applicants shall not be more favourable than the treatment generally accorded to their nationals in matters pertaining to legal assistance.

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

Where a decision not to grant free legal assistance and representation pursuant to this paragraph is taken by an authority other than a court or tribunal, Member States shall provide the right to an effective remedy before a court or tribunal to challenge that decision. [...]

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

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

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

SECTION VI

DETENTION FOR THE PURPOSE OF TRANSFER

Article 29

Detention

1. Member States shall not hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation.
2. When there is a [...] risk of absconding, Member States may detain the person concerned in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively.
3. Detention shall be for as short a period as possible and shall be for no longer than the time reasonably necessary to fulfil the required administrative procedures with due diligence until the transfer under this Regulation is carried out.

Where a person is detained pursuant to this Article, the period for submitting a take charge request or a take back notification shall not exceed **20 days** [...] from the lodging of the application. **Where a person is detained at a later stage than the lodging of the application, the period for submitting a take charge request or a take back notification shall not exceed 15 days from the date when the person was detained.** The Member State carrying out the procedure in accordance with this Regulation shall ask for an urgent reply on a take charge request. Such reply shall be given within **14 days** [...] of receipt of the take charge request. Failure to reply within the **14-day** [...] period shall be tantamount to accepting the take charge request and shall entail the obligation to take the person in charge, including the obligation to provide for proper arrangements for arrival.

Where a person is detained pursuant to this Article, the transfer of that person from the requesting **and notifying** Member State to the Member State responsible shall be carried out as soon as practically possible, and at the latest within **40 days** [...] from the **date when the** [...] transfer decision **is taken, where no appeal or review has been lodged against such decision, or from the moment when the appeal or review no longer has a suspensive effect in accordance with Article 28(3)** [...].

When the requesting Member State fails to comply with the deadlines for submitting a take charge request or take back notification or where the transfer does not take place within the period of **30 days** [...] referred to in the third subparagraph, the person shall no longer be detained. Articles 24, 26 and 30 shall continue to apply accordingly.

4. As regards the detention conditions and the guarantees applicable to persons detained, in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive 2013/33/EU shall apply.

SECTION VII

TRANSFERS

Article 30

Modalities and time limits

1. The determining Member State whose take charge request referred to in Article 20(1) (a) was accepted or who made a take back notification referred to in Article 20(1) (b) to (f) [...] shall take a transfer decision at the latest within **10 days** [...] of acceptance or notification and transfer the applicant or the person concerned to the Member State responsible.

The transfer of the applicant or of another person as referred to in Article 20(1)(c), (d), (e) or (f) from the requesting Member State to the Member State responsible shall be carried out in accordance with the national law of the requesting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within **60 days** [...] from **the date when the transfer decision is no longer subject to remedy before a court or tribunal of first instance** [...].

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

If necessary, the applicant shall be supplied by the requesting Member State with a *laissez passer*. The Commission shall, by means of implementing acts, establish the design of the *laissez passer*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

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

2. If a person has been transferred erroneously or a decision to transfer is overturned on appeal or review after the transfer has been carried out, the Member State which carried out the transfer shall promptly accept that person back.
3. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States, in particular in the event of postponed or delayed transfers, transfers following acceptance by default, transfers of minors or dependent persons, and supervised transfers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 31

Costs of transfer

1. The costs necessary to transfer an applicant or another person as referred to in Article 20(1)(c), (d), (e) **or (f)** to the Member State responsible shall be met by the transferring Member State.
2. Where the person concerned has to be transferred back to a Member State as a result of an erroneous transfer or of a transfer decision that has been overturned on appeal or review after the transfer has been carried out, the Member State which initially carried out the transfer shall be responsible for the costs of transferring the person concerned back to its territory.
3. Persons to be transferred pursuant to this Regulation shall not be required to meet the costs of such transfers.

Exchange of relevant information before a transfer is carried out

1. The Member State carrying out the transfer of an applicant or of another person as referred to in Article 20(1)(c) or (d) shall communicate to the Member State responsible such personal data concerning the person to be transferred as is adequate, relevant and limited to what is necessary for the sole purposes of ensuring that the competent authorities, in accordance with national law in the Member State responsible, are in a position to provide that person with adequate assistance, including the provision of immediate health care required in order to protect his or her vital interests, and to ensure continuity in the protection and rights afforded by this Regulation and by other relevant asylum legal instruments. Those data shall be communicated to the Member State responsible within a reasonable period of time before a transfer is carried out, in order to ensure that its competent authorities in accordance with national law have sufficient time to take the necessary measures.
2. The transferring Member State shall, in so far as such information is available to the competent authority in accordance with national law, transmit to the Member State responsible any information that is essential in order to safeguard the rights and immediate special needs of the person to be transferred, and in particular:
 - (a) any immediate measures which the Member State responsible is required to take in order to ensure that the special needs of the person to be transferred are adequately addressed, including any immediate health care that may be required;
 - (b) contact details of family members, relatives or any other family relations in the receiving Member State, where applicable;
 - (c) in the case of minors, information on their education;
 - (d) an assessment of the age of an applicant.

3. The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with Article 47 of this Regulation using the ‘DubliNet’ electronic communication network set-up under Article 18 of Regulation (EC) No 1560/2003. The information exchanged shall only be used for the purposes set out in paragraph 1 of this Article and shall not be further processed.
4. With a view to facilitating the exchange of information between Member States, the Commission shall, by means of implementing acts, draw up a standard form for the transfer of the data required pursuant to this Article. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 56(2).
5. The rules laid down in Article 46(8) shall apply to the exchange of information pursuant to this Article.

Article 32a

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

Where the Member State carrying out the transfer is in possession of information that indicates that there are reasonable grounds to consider the applicant a danger to the national security or public order, that Member State shall also communicate that information to the Member State responsible.

Exchange of health data before a transfer is carried out

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

The Commission shall, by means of implementing acts, draw up the common health certificate. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 56(2).

2. The transferring Member State shall only transmit the information referred to in paragraph 1 to the Member State responsible after having obtained the explicit consent of the applicant and/or of his or her representative or when such transmission is necessary to protect public health and public security, or, if the applicant is physically or legally incapable of giving his or her consent, to protect the vital interests of the applicant or of another person. The lack of consent, including a refusal to consent, shall not constitute an obstacle to the transfer.
3. The processing of personal health data referred to in paragraph 1 shall only be carried out by a health professional who is subject, under national law or rules established by national competent bodies, to the obligation of professional secrecy or by another person subject to an equivalent obligation of professional secrecy.

4. The exchange of information under this Article shall only take place between the health professionals or other persons referred to in paragraph 3. The information exchanged shall only be used for the purposes set out in paragraph 1 and shall not be further processed.
5. The Commission shall, by means of implementing acts, adopt uniform conditions and practical arrangements for exchanging the information referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 56(2).
6. The rules laid down in Article 46(8) shall apply to the exchange of information pursuant to this Article.

CHAPTER VIA

Measures and additional criteria in response to challenging circumstances and severe crises

Article 34

General principles

1. **The measures set out in this Chapter shall be available where a Member State is in challenging circumstances or in a situation of severe crisis.**
2. **The measures and additional criteria shall include, as appropriate and adapted to the specific needs of the Member State in challenging circumstances or in a situation of severe crisis:**

- (a) **technical and operational assistance as provided for in Article 14(1) and (2) of Regulation (EU) 2016/1624¹⁰ as well as coordination of and support to return in accordance with Section 4 of Chapter II of that Regulation;**
- (b) **operational and technical assistance as provided for in Article 16 of Regulation (EU) No. XXX/XXX (EU Asylum Agency);**
- (c) **financial support by the Union pursuant to Article 34a;**
- (ca) **Union support for external dimension pursuant to Article 34d;**
- (d) **allocation of applicants from the benefitting Member State pursuant to Articles 34ba, 34c or 34e;**
- (ea) **assistance as provided for in Council decision 1313/2013/EU¹¹;**
- (f) **other support measures that can contribute to alleviating the situation in the Member State concerned.**

Section 1

Measures in response to challenging circumstances

Sub-section 1

Measures in response to challenging circumstances where the number of applicants in a Member State is between 120% and 140% of its fair share

¹⁰ OJ L251, 16.9.2016

¹¹ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism, OJ L 347, 20.12.2013, p. 924.

Article 34a

Financial support by the Union

- 1. In accordance with Regulation xx/xxxx (Union budget), a Member State shall receive an amount of EUR 10 000:**
 - (a) per applicant for whom that Member State becomes is responsible as from when and who is above that Member State's fair share and if that Member State is in challenging circumstances;**
 - (b) per applicant allocated to that Member State who is above the benefitting Member State's fair share and for whom the Member State of allocation becomes the Member State responsible and if that Member State is in challenging circumstances, even if the benefitting Member State is not in challenging circumstances.**
- 1a. In accordance with Regulation xx/xxxx (Union budget), the benefitting Member State shall be refunded by a lump sum of EUR 500 for each applicant transferred pursuant to Article 34i(c) or 34j(g), where applicable, to cover the transfer of the applicant.**
- 2. In accordance with Regulation xx/xxx (Union budget) a Member State shall receive an additional amount of EUR 20 000 per applicant referred to in paragraph 1 and who was granted international protection for the implementation of integration measures.**
- 3. In accordance with Regulation xx/xxx (Union budget) a Member State referred to in paragraph 1 shall receive an additional amount of EUR 10 000 per person whose application has been rejected and for whom the Member State can establish, on the basis of the update of the data set referred to in Article 11(d) of Regulation xx/xxxx (Eurodac) that the person has left the territory of the Member States, either forced or voluntarily, in compliance with a return decision or a removal order.**

4. In accordance with point (c) of Article 34d(4), Union and bilateral projects in the countries of origin and transit submitted for financial support by a Member State shall be assessed with priority.

Article 34aa

Union assessment of the situation

1. If a Member State is in challenging circumstances the Commission shall, in consultation with that Member State, make an assessment of the situation within two weeks after the number of applicants for which that Member State is responsible exceeds 120% of its fair share and corresponds to more than 0,1 % of its population, as well as identify the needs of that Member State and the measures to be taken. Such assessment shall be based on information provided by, in particular the Member State in challenging circumstances, the Asylum Agency, Frontex, Europol and the EEAS.
2. The assessment referred to in paragraph 1 shall cover in particular:
 - (a) the cause, nature, composition and trends of flows, including of the migration pressure, as well as the EU-wide recognition rates of the applicants concerned;
 - (b) whether there is a need for deployment of additional experts and technical equipment in the Member State concerned;
 - (c) the level of the cooperation with the countries of origin and transit, as well as first third countries of asylum and neighbouring countries.
3. In consultation with the Member State in challenging circumstances, the assessment referred to in paragraph 1 shall be accompanied, where appropriate, by:
 - (aa) measures to be taken by the relevant Union agencies and bodies;

- (a) a recommendation to the Member States with measures referred to in Article 34(2)(d) to be taken on a voluntary basis;
 - (b) concrete measures to be taken in accordance with Article 34d in the area of return and resettlement, reinforcing cooperation with relevant countries of origin and transit, in particular possible use of leverages;
 - (c) concrete measures to improve the fight against migrant smuggling;
 - (d) other support measures that can contribute to alleviating the situation in the Member State concerned.
4. The Commission shall present the assessment referred to in paragraph 1 to the Council. Where the Commission has presented recommendations and measures under paragraph 3, the Commission shall report to the Council on the implementation of these recommendations and measures every three months.

Article 34b

Support by the Union agencies

The Asylum Agency and Frontex shall prioritise the needs of a Member State in challenging circumstances according to the request or agreement of that Member State pursuant to Article 34(2)(a) and (b).

Article 34ba

Support on bilateral basis

1. If a Member State is in challenging circumstances, support measures may be agreed with other Member States on a bilateral basis, including the allocation of applicants pursuant to Article 34(2)(d). The supporting Member State shall inform the Commission every month about the implementation of such measures.

2. A Member State which intends to allocate applicants pursuant to paragraph 1 shall indicate the number of applicants who can be swiftly allocated to its territory and any other relevant information. Based on this information, the benefitting Member State shall identify the individual applicants who could be allocated. The Member States concerned shall agree among each other which parts of the procedure set out in Articles 34i to 34l shall apply.

Article 34c

Voluntary allocation

1. In case the Commission has presented a recommendation under Article 34aa(3)(a) Member States shall notify the Commission within two weeks the measures they will take and inform the Commission every month about the implementation of these measures.
2. A Member State which intends to allocate applicants pursuant to paragraph 1 shall indicate the number of applicants who can be swiftly allocated to its territory and any other relevant information. Based on this information, the benefitting Member State shall identify the individual applicants who could be allocated. For the remaining part of the procedure, Articles 34i to 34l shall apply. If a Member State has indicated a number of applicants who may be allocated to it, this number of allocations shall be deemed as carried out on a voluntary basis, regardless of whether they are carried out before or after the adoption of a Council decision pursuant to Article 34e.
3. The amount set out in Article 34a(1)(b) shall be doubled for the allocations carried out in accordance with this Article as well as for the allocations carried out in accordance with Article 34ba.

Article 34d

Union support for external dimension

Measures referred to in Article 34aa(3)(b) shall consist of targeted initiatives to be undertaken in the following areas, as appropriate:

- (a) Measures in the area of return shall be focused in particular on strengthening the assisted voluntary returns, enhancing return operations to countries of origin, readmission to third countries and transit and reinforcing the cooperation with the neighbouring third countries, including through EU migration liaison officers and EU delegations in these countries.**
- (b) Measures in the area of resettlement shall be focused in particular on the third countries generating the migration flow as provided for in the assessment pursuant to Article 34aa(2)(a).**
- (c) Measures for reinforcing the cooperation with the third countries of origin and transit, including first countries of asylum and neighbouring countries may also include measures at Union and bilateral level for capacity building and training in areas such as border management, asylum and migration management as well as other measures to strengthen the cooperation of these third countries.**

Sub-section 2

Measures in response to challenging circumstances where the number of applicants in a Member State exceeds 140 % of its fair share

Article 34da

Additional measures in response to challenging circumstances

- 1. If the number of applicants for which the Member State is responsible exceeds 140 % of its fair share and corresponds to more than 0,15 % of its population, the Commission shall, in consultation with that Member State:**
 - (a) make an assessment of the application of the measures taken under sub-section 1 when presenting the report pursuant to Article ~~34~~ 33aa(4), and**
 - (b) recommend:**
 - (i) enhanced application of measures taken under Article 34(2), and/or**
 - (ii) measures under Article 34(2) which were not yet taken.**

- 2. The Commission shall act in accordance with paragraph 1 within two weeks from the date when the Member State in challenging circumstances has exceeded 140 % of its fair share and corresponds to more than 0,15 % of its population. It shall inform the Council thereof.**

Article 34e

Allocation

- 1. Without prejudice to Article 34da, if the number of applicants for which the Member State is responsible exceeds 140 % of its fair share and corresponds to more than 0,15 % of its population, the Council, on a proposal from the Commission, shall adopt an implementing decision on the participation of each Member State in the measures referred to in Article 34(2)(d) on the basis of the reference key referred to in Article 34g.**

The proposal from the Commission shall be made in consultation with the Member State in challenging circumstances and shall be presented to the Council two weeks after the Member State in challenging circumstances has exceeded 140 % of its fair share, and corresponds to more than 0,15 % of its population.

The contribution each Member State implemented pursuant to Articles 34ba and ~~34e~~ as regards allocation of applicants and 34c shall be deducted from the measures decided pursuant to the first paragraph that a Member State needs to take on the basis of the reference key referred to in Article 34g. Contributions already indicated pursuant to Articles 34ba and 34c as regards allocation of applicants but not yet implemented shall be implemented pursuant to Article 34h.

- 2. Each Member State shall receive at least a number of applicants through allocation which corresponds to 50 % of the number of applicants for which that Member State shall become a Member State of allocation, except the benefitting Member State(s).**

Where a Member States decides to receive fewer applicants than corresponds to the number of applicants for which that Member State shall become a Member State of allocation, it shall take alternative measures pursuant to Article 34f (1).

- 3. A Member State may indicate its readiness to have more applicants allocated to it than what would correspond to the number of applicants for which that Member State shall become a Member State of allocation, or to have applicants allocated to it even where that Member State is above its fair share. The amount set out in Article 34a(1)(b) shall be doubled for the allocations carried out in accordance with this paragraph.**

4. In case the Council has not adopted an implementing decision in accordance with paragraph 1 and the number of applicants for which a Member State is responsible reaches more than 160 % of its fair share, that decision shall, within two weeks from the moment the 160% threshold is reached as notified pursuant to Article 34g(6), be deemed to be adopted by the Council as proposed by the Commission unless, within the same period, the Council adopts, on its own initiative and in consultation with the Member State in challenging circumstances, an implementing decision on the participation of each Member State in the measures referred to in Article 34(2)(d) on the basis of the reference key referred to in Article 34g ~~decides by a qualified majority to reject the proposal within two weeks from the moment the 160 % threshold is reached as notified pursuant to article 34g(6)~~.

5. Allocation shall continue until the moment that the benefitting Member State is below its fair share.

The Council implementing decision shall remain in force for a period of three months following that moment. During that period, allocation shall be activated in case the share of the benefitting Member State exceeds 140% of its fair share.

The maximum number of persons that may be allocated pursuant to Articles 34c and this Article 34e for a two year period shall not exceed 0,05 % of the EU population at the time of the Council decision.

6. That maximum number per Member State shall be determined pursuant to the reference key referred to in Article 34g(1), without prejudice to paragraph 3 of this Article 34e(3).

Article 34f

Alternative measures by a Member State

- 1. Alternative measures shall consist of either targeted resettlement or targeted humanitarian admission pledged in accordance with (Resettlement Regulation) or a financial contribution to the Union budget or combination of the two.**
- 2. Where, in accordance with Article 34e (2), a Member State chooses to replace a part of the number of applicants for which that Member State will be indicated by the automated system as a Member State of allocation with resettlement, it may do so only up to a maximum of 50 % of that number. One person admitted in accordance with (Resettlement Regulation) shall be counted as if one person had been allocated.**
- 3. Where, in accordance with Article 34e (2), a Member State chooses to replace a part of the number of applicants for which that Member State shall become a Member State of allocation with a financial contribution, it shall pay into the Union budget an amount as set out below.**

If a Member State chooses to use the possibility referred to in paragraph 2 up to 25% of the part of the number of applicants for which that Member State will be indicated by the automated system as a Member State of allocation, the amount shall be EUR 25 000 per person not allocated. For any other applicants not allocated, the amount shall be EUR 35 000 per person not allocated. The amount thus to be paid shall be calculated retroactively and every 6 months.

The financial contributions made available under this paragraph shall be used for enhancing measures in migration management, in particular for the Member State in challenging circumstances as well as for the purposes of point (c) of Article 34d.

4. Where a Member State chooses alternative measures referred to in paragraphs 2 and/or 3, it shall indicate to the Council, before the adoption of the Council implementing decision referred to in Article 34e(1) and (4), which of these measures it will take and for which part of the number of applicants for which that Member State shall become a Member State of allocation in accordance with Article 34e(6). The Council implementing decision may include a possibility for Member States to alter, every six months, the alternative measures they have indicated.

Article 34fa

Reporting and monitoring of the implementation of the additional measures

1. When additional measures in response to challenging circumstances as referred to in Article 34da and 34e have been adopted, Member States shall inform the Commission about the implementation of these measures on a monthly basis, including, where appropriate, possible alternative measures as referred to in Article 34f.
2. The Commission shall report to the Council every 3 months on the implementation of these measures in addition to the report pursuant to Article 34aa(4) .

The Commission shall base that report on the information provided by the Member States pursuant to paragraph 1 of this Article as well as on the data entered into the automated system established in accordance with Article 44.

Article 34g

Determination of the reference number

1. For the application of Article 34e, the reference number for each Member State shall be determined by a key.

2. **The reference key referred to in paragraph 1 shall be based on the following criteria for each Member State, according to Eurostat figures:**
 - (a) **the size of the population (50 % weighting);**
 - (b) **the total GDP (50% weighting);**
3. **The criteria referred to in paragraph 2 shall be applied by the formula as set out in Annex I.**
4. **The reference number of a Member State shall be determined by applying the reference key to the total number of applicants in the Union for which a Member State responsible has been entered in the automated system during the preceding 12 months. For the purpose of this paragraph, the total number of applicants shall include the total number of persons admitted under the Regulation EU (No.) XXX/XXX (Resettlement Regulation), except where a Member State has used Article 34f(1).**
5. **The automated system shall send information to Member States and the Commission once per week on the Member States' respective shares in applicants for which they are the Member State responsible.**
6. **The automated system shall continuously monitor whether any of the Member States is above the thresholds referred to in Articles 34(1) and 34e(1), and if so, notify the Member States, the Council and the Commission of this fact, indicating the number of applicants above these thresholds.**
7. **The European Union Agency for Asylum shall calculate the reference key and adapt the figures of the criteria for the reference key as well as the reference key referred to in paragraph 2 annually, based on Eurostat figures. It shall also calculate the population number referred to in Article 34e(1) and in Article 34e(5) second subparagraph and adapt the figures annually, based on Eurostat figures.**

Article 34h

Application of the reference key

- 1. When the Council implementing decision referred to in Article 34e has entered into force, the automated system shall apply the reference key referred to in Article 34g to those Member States with a number of applications for which they are the Member States responsible below their fair share and notify the Member States thereof.**
- 2. Applicants who lodged their first application in the benefitting Member State after the notification referred to in Article 34g(6) shall be subject to allocation in accordance with the provisions of this Regulation. Applicants who lodged their first application after the notification referred to in Article 34g(6) in a Member State other than the benefitting Member State and in relation to whom the benefitting Member State has accepted a take charge request based on Article 15, shall be directly transferred by that Member State to the Member State of allocation.**
- 3. Applicants whose application is being examined under the procedure referred to in Article 3(2a) shall not be subject to allocation pursuant to Article 34e.**

Applicants for whom the benefitting Member State is determined to be the Member State responsible pursuant to Article 34i (-a) and (-b) shall not be subject to allocation.

- 3a. The Asylum Agency shall, with the assistance of the determining authority, carry out an allocation check of whether or not an application is likely to be well-founded.

The allocation check shall include, as appropriate, a check on whether the applicant comes from a safe third country or a first country of asylum or whether a third country may be considered as a safe country of origin for the applicant within the meaning of the Regulation (EU) No XXX/XXX (Asylum Procedures Regulation), as well as an initial assessment of the application.

Based on the results of this allocation check, the Asylum Agency shall indicate in the automated system whether the applicant may be allocated or not. Applicants shall be subject to allocation pursuant to Article 34e when the allocation check has indicated that their application is likely to be well-founded.

Applicants may be subject to allocation on a voluntary basis in agreement with the benefitting Member State when the allocation check has indicated that their application is not likely to be well-founded. Such allocations shall be deducted from the reference number of the Member State of allocation.

4. On the basis of the application of the reference key pursuant to paragraph 1 of this Article and as soon as the Asylum Agency has inserted the information that an applicant may be allocated pursuant to paragraph 3a, the automated system shall indicate randomly and proportionately to the reference key set out in Article 34g(2) the Member State of allocation and communicate this information ~~not later than 72 hours after the entry in the automated system referred to in Article 22(1)~~ to the benefitting Member State and to the Member State of allocation, and add the Member State of allocation in the Dublin automated system pursuant to Article 11(ca) of Regulation (EU) No. XXX/XXX (Eurodac) electronic file referred to in Article 23(2). Family members to whom the procedure for allocation applies shall be allocated to the same Member State.

Article 34i

**Obligations of the benefitting Member State
in relation to the allocation of applicants**

The benefitting Member State shall:

- (-a) Search the VIS pursuant to Article 21 of Regulation (EU) 767/2008 with a view to determining whether another Member State is responsible pursuant to Article 14 and search Eurodac pursuant to Article xx of Regulation (Eurodac) with a view to determining whether another Member State is responsible pursuant to Article 15 of this Regulation**
- (-b) Determine whether it is the Member State responsible pursuant to the criteria set out in Articles 10 to 14 and Article 18.**
 - (a) take a decision to transfer the applicant to the Member State of allocation or, where a Member State is responsible pursuant to Article 14 or Article 15, to that Member State;**
 - (b) notify without delay the applicant of the decision to transfer him or her to the Member State of allocation or the Member State responsible pursuant to Article 14 or 15;**
 - (c) transfer the applicant to the Member State of allocation or the Member State responsible pursuant to Article 14 or 15, at the latest within 30 days from the date when the transfer decision is no longer subject to remedy before a court or tribunal.**

The limits set out in Article 28(1) of this Regulation with regard to the scope of the remedy shall apply to the remedy concerning decisions under point (a).

Article 34j

Obligations of the Member State of allocation

The Member State of allocation shall:

- (a) acknowledge to the benefitting Member State the receipt of the allocation communication and indicate the competent authority to which the applicant shall report following his or her transfer;**
- (b) communicate to the benefitting Member State the arrival of the applicant or the fact that he or she did not appear within the set time limit;**
- (c) receive the applicant and carry out the personal interview pursuant to Article 7, where applicable;**
- (d) examine his or her application for international protection as Member State responsible, unless, according to the criteria set out in Articles 10 to 13, with the exception of Article 10(5), and 16 to 19, a different Member State is responsible for examining the application;**
- (e) where, according to the criteria set out in Articles 13, with the exception of Article 10(5), and 16 to 19 a different Member State is responsible for examining the application, the Member State of allocation shall request that other Member State to take charge of the applicant;**
- (f) where applicable, communicate to the Member State responsible the transfer to that Member State;**
- (g) where applicable, transfer the applicant to the Member State responsible;**
- (h) where applicable, enter in the electronic file referred to in Article 23(2) that it will examine the application for international protection as Member State responsible.**

Article 34k

Exchange of relevant information for security verification in case of allocation

- 1. Member States shall actively cooperate and exchange relevant information, including relevant personal data, in order to ensure that applicants to be allocated that may be considered a danger to the national security or public order are identified and appropriate measures are taken.**
- 2. In particular, where a transfer decision according to point (a) of Article 34i is taken, the benefitting Member State shall transmit to the Member State of allocation, at the same time and for the sole purpose of verifying whether the applicant may for serious reasons be considered a danger to the national security or public order, all the relevant information concerning that applicant, including relevant personal data collected notably pursuant to Regulation (EU) No. XXX/XXX (Eurodac Regulation).**
 - 2a. The Member State of allocation may, in cooperation with the benefitting Member State, carry out further security verifications, including personal interview with the applicant, within two weeks of the decision taken pursuant to Article 34i.**
- 3. Where, following a security verification, information on an applicant reveals that he or she is for serious reasons considered to be a danger to the national security or public order, concrete information, including relevant personal data, on the nature of and underlying elements for the alert shall be shared with the law enforcement authorities or other competent authorities in the benefitting Member State and shall not be communicated via the electronic communication channels referred to in Article 47(4).**

The Member State of allocation shall inform the benefitting Member State of the existence of such alert, specifying the competent authorities in the benefitting Member State that have been fully informed, and record the existence of the alert in the automated system pursuant to Article 11(g) of Regulation (EU) No. XXX/XXX (Eurodac Regulation), within one week of receipt of the information concerning the applicant concerned pursuant to paragraph 2.

4. Where the outcome of the security verification confirms that the applicant may for serious reasons be considered a danger to the national security or public order, the benefitting Member State shall be the Member State responsible and shall examine the application in accelerated procedure pursuant to Article xx (Asylum Procedures Regulation).
5. The information exchanged, including personal data, shall only be used for the purposes set out in paragraph 1 and shall not be further processed.

Article 34l

Procedure for allocation

Chapters V and VI shall apply *mutatis mutandis*. By way of derogation from Article 28 (3), transfers may take place before the decision on the appeal or review is taken.

Section 2

Measures in response to situations of severe crisis

Article 34m

Union support for situation of severe crisis

- 1. The Commission shall present a report to the Council with assessment of the implementation of the measures implemented under Article 34d. The report shall also cover a new assessment of the cause, the nature, composition and trends of flows. The analysis shall include additional measures to be taken in the area of return and resettlement, as well as measures to be taken to further reinforce cooperation with relevant countries of origin and transit, in particular an assessment of possible use of leverages.**
- 2. By way of derogation from Article 34e(5) second subparagraph, where a Member State is in a situation of severe crisis and the implementation of any Council implementing decision(s) pursuant to Article 34e proves insufficient to address the crisis, the Council may, on a proposal from the Commission, which shall substantiate the number of allocations needed, based on, inter alia, reports from the EU-AA, adopt a new implementing decision pursuant to Article 34e(1) or (4) to allocate applicants for the remaining part of the two years period referred to in Article 34e(5) second subparagraph.**

CHAPTER VIII

Article 44

[...]

Article 45

[...]

Article 46

Information sharing

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

- (c) other information necessary for establishing the identity of the applicant, including **biometric data** [...] taken of the applicant by the Member State, in particular for the purposes of Article **34k** [...] in accordance with Regulation (EU) No **XXX/XXXX** (**Eurodac Regulation**) [...];
 - (d) places of residence and routes travelled;
 - (e) residence documents or visas issued by a Member State;
 - (f) the place where the application was lodged;
 - (g) the date on which any previous application for international protection was lodged, the date on which the present application was lodged, the stage reached in the proceedings and the decision taken, if any.
3. Furthermore, provided it is necessary for the examination of the application for international protection, the Member State responsible may request another Member State to let it know on what grounds the applicant bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. The other Member State may refuse to respond to the request submitted to it, if the communication of such information is likely to harm its essential interests or the protection of the liberties and fundamental rights of the person concerned or of others. In any event, communication of the information requested shall be subject to the written approval of the applicant for international protection, obtained by the requesting Member State. In that case, the applicant must know for what specific information he or she is giving his or her approval.

4. Any request for information shall only be sent in the context of an individual application for international protection. It shall set out the grounds on which it is based and, where its purpose is to check whether there is a criterion that is likely to entail the responsibility of the requested Member State, shall state on what evidence, including relevant information from reliable sources on the ways and means by which applicants enter the territories of the Member States, or on what specific and verifiable part of the applicant's statements it is based. It is understood that such relevant information from reliable sources is not in itself sufficient to determine the responsibility and the competence of a Member State under this Regulation, but it may contribute to the evaluation of other indications relating to an individual applicant.
5. The requested Member State shall be obliged to reply within **three** [...] weeks. Any delays in the reply shall be duly justified. Non-compliance with the **three** [...] week time limit shall not relieve the requested Member State of the obligation to reply. If the research carried out by the requested Member State which did not respect the maximum time limit withholds information which shows that it is responsible, the time limits provided for in Article 24 for submitting a request to take charge shall be extended by a period of time which shall be equivalent to the delay in the reply by the requested Member State.
6. The exchange of information shall be effected at the request of a Member State and may only take place between authorities whose designation by each Member State has been communicated to the Commission in accordance with Article 47(1).
7. The information exchanged may only be used for the purposes set out in paragraph 1. In each Member State such information may, depending on its type and the powers of the recipient authority, only be communicated to the authorities and courts and tribunals entrusted with:
 - (a) determining the Member State responsible;
 - (b) examining the application for international protection;
 - (c) implementing any obligation arising under this Regulation.

- 7a. The Member State which forwards the information shall ensure that it is accurate and up-to-date. If it transpires that it has forwarded information which is inaccurate or which should not have been forwarded, the recipient Member States shall be informed thereof immediately. They shall be obliged to correct such information or to have it erased.**
8. In each Member State concerned, a record shall be kept, in the individual file for the person concerned and/or in a register, of the transmission and receipt of information exchanged.

Article 47

Competent authorities and resources

1. Each Member State shall notify the Commission without delay of the specific authorities responsible for fulfilling the obligations arising under this Regulation, and any amendments thereto. The Member States shall ensure that those authorities have the necessary resources for carrying out their tasks and in particular for replying within the prescribed time limits to requests for information, requests to take charge, take back notifications and, if applicable, complying with their obligations under **Chapter VIA** [...].
2. The Commission shall publish a consolidated list of the authorities referred to in paragraph 1 in the *Official Journal of the European Union*. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated list.
3. The authorities referred to in paragraph 1 shall receive the necessary training with respect to the application of this Regulation.

4. The Commission shall, by means of implementing acts, establish secure electronic transmission channels between the authorities referred to in paragraph 1 [...] for transmitting information, **biometric** [...] data taken in accordance with Regulation (EU) No **XXX/XXXX (Eurodac Regulation)** [...], requests, notifications, replies and all written correspondence and for ensuring that senders automatically receive an electronic proof of delivery **and between those authorities and the European Union Agency for Asylum for transmitting information as provided for in this Regulation**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 48

Administrative arrangements

1. Member States may, on a bilateral basis, establish administrative arrangements between themselves concerning the practical details of the implementation of this Regulation, in order to facilitate its application and increase its effectiveness. Such arrangements may relate to:
 - (a) exchanges of liaison officers;
 - (b) simplification of the procedures and shortening of the time limits relating to transmission and the examination of requests to take charge of or take back applicants.
2. Member States may also maintain the administrative arrangements concluded under Regulation (EC) No 343/2003 and Regulation (EU) No 604/2013. To the extent that such arrangements are not compatible with this Regulation, the Member States concerned shall amend the arrangements in such a way as to eliminate any incompatibilities observed.

Article 49

Network of Dublin units

The European Union Agency for Asylum shall set up and facilitate the activities of a network of the competent authorities referred to in Article 47 (1), with a view to enhancing practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance.

Article 49a

Conciliation

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

As appropriate, information about the difficulties encountered and the solution found may be shared with the Commission and with the other Member States within the Committee referred to in Article 56.

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

As appropriate, information about the difficulties encountered, the recommendations made and the solution found may be shared with the other Member States within the Committee referred to in Article 56.

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

CHAPTER IX

TRANSITIONAL PROVISIONS AND FINAL PROVISIONS

Article 50

Data security and data protection

1. Member States shall implement appropriate technical and organisational measures to ensure the security of personal data processed under this Regulation and in particular to prevent unlawful or unauthorised access or disclosure, alteration or loss of personal data processed.
2. The competent supervisory authority or authorities of each Member State shall monitor the lawfulness of the processing of personal data by the authorities referred to in Article 47 of the Member State in question, including of the transmission to and from the automated system and to the authorities competent for carrying out checks referred to in Article 34k [...].

3. The processing of personal data by the European Union Agency for Asylum shall be subject to Regulation (EC) No 45/2001 and the provisions on data protection laid down in [*Proposal for a Regulation on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010*].

Article 51

Confidentiality

Member States shall ensure that the authorities referred to in Article 47 are bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

Article 52

Penalties

Member States shall lay down the rules on penalties, including administrative and/or criminal penalties in accordance with national law, applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 53

Transitional measures

Where an application has been lodged after [*the first day following the entry into force of this Regulation*], the events that are likely to entail the responsibility of a Member State under this Regulation shall be taken into consideration, even if they precede that date.

By way of derogation from Article 34 [...], during the first **six** [...] months after entry into force of this Regulation, the **measures and additional criteria in challenging circumstances and severe crises** [...] shall not be triggered. By way of derogation from Article 34g(4) [...], after the expiry of the **six** [...] month period following the entry into force of this Regulation and until the expiry of one year following the entry into force of this Regulation, the reference period shall be the period which has elapsed since the entry into force of this Regulation.

Article 54

Calculation of time limits

Any period of time prescribed in this Regulation shall be calculated as follows:

- (a) where a period expressed in days, weeks or months is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;
- (b) a period expressed in weeks or months shall end with the expiry of whichever day in the last week or month is the same day of the week or falls on the same date as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;
- (c) time limits shall include Saturdays, Sundays and official holidays in any of the Member States concerned.

Article 55

Territorial scope

As far as the French Republic is concerned, this Regulation shall apply only to its European territory.

Article 56

Committee

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 57

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 10(6) and 18(3) shall be conferred on the Commission for a period of 5 years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Articles 10(6) and 18(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 10(6) and 18(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 58

Review, monitoring and evaluation

By [18 months after entry into force] and from then on annually, the Commission shall review the functioning of the **measures and additional criteria** [...] set out in Chapter VIA [...] of this Regulation [...].

By [three years after entry into force], the Commission shall report to the European Parliament and to the Council on the application of this Regulation and, where appropriate, shall propose the necessary amendments. Member States shall forward to the Commission all information appropriate for the preparation of that report, at the latest six months before that time limit expires.

After having submitted that report, the Commission shall report to the European Parliament and to the Council on the application of this Regulation at the same time as it submits reports on the implementation of the Eurodac system provided for by Article 42 of Regulation [*Proposal for a Regulation recasting Regulation (EU) No 603/2013*].

Article 59

Statistics

1. In accordance with Article 4(4) of Regulation (EC) No 862/2007 of the European Parliament and of the Council¹², Member States shall communicate to the Commission (Eurostat), statistics concerning the application of this Regulation and of Regulation (EC) No 1560/2003.
2. The European Union Agency for Asylum shall publish at quarterly intervals the information transmitted pursuant to Article 34h(4).

Article 60

Repeal

Regulation (EU) No 604/2013 is repealed for the Member States bound by this Regulation [...].

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

Article 61

Entry into force and applicability

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

¹² Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection (OJ L 199, 31.7.2007, p. 23).

It shall apply to applications for international protection lodged as from ... [the first day **of the twelfth month** following its entry into force]. The Member State responsible for the examination of an application for international protection submitted before that date shall be determined in accordance with the criteria set out in Regulation 604/2013.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament

For the Council

The President

The President

Dublin automated system - Eurodac integration

To be included in the draft Eurodac Regulation:

Article 4a (new)

Dublin automated system

1. For the purposes of registering and monitoring the share of applicants for international protection and for the application of the measures and additional criteria set out in Chapter VIA of Regulation xx/xxxx (Dublin Regulation), an automated system ("Dublin automated system") shall be established as an integral part of the Central Unit.
2. The Dublin automated system shall indicate in real time:
 - (a) the number of applicants in the Union and in each Member State;
 - (b) the number of applications lodged in the Union and in each Member State;
 - (c) the number of resettled persons by each Member State;
 - (d) the actual number of applicants whose applications are to be examined by each Member State as Member State responsible as well as the share this number represents compared to that Member State's fair share ;
 - (e) the fair share of each Member State.
3. The Dublin automated system shall send information to the Member States and the Commission and shall monitor thresholds as set out in Article 34g(5) and (6) and shall allocate applicants as set out in Article 34h (4) of Regulation xx/xxxx (Dublin Regulation).

4. In order to perform the tasks indicated under paragraphs 2 and 3, the Dublin automated system shall be automatically updated with the relevant Eurodac data as soon as a Member State has entered or updated these.
5. The Asylum Agency shall have access to the Dublin automated system in order to perform the tasks pursuant to Articles 34g(7) and 34h(3a) of Regulation (EU) No XXX/XXX [Dublin Regulation].
6. The Asylum Agency shall enter the updated figures of the criteria for the reference key and the updated reference key pursuant to Article 34g(7) of Regulation (EU) No XXX/XXX [Dublin Regulation] once per year.
7. As soon as it has completed the allocation check in accordance with Article 34h(3a) of Regulation (EU) No XXX/XXX [Dublin Regulation], the Asylum Agency shall enter the result thereof into the Dublin automated system by adding whether or not an application is likely to be well-founded.

Changes to Article 11 Eurodac:

Article 11

Information on the status of the data subject

The following information shall be sent to the Central System in order to be stored in accordance with Article 17 (1) **for the purposes referred to in Article 4a(1) and** for the purpose of transmission under Articles 15 and 16:

- (-a) as soon as the Member State responsible has been determined in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation], **including when a Member State has voluntarily allocated an applicant pursuant to Articles 34ba and 34c of that Regulation** the [Member State conducting the procedures for determining the Member State responsible] shall update its data set recorded in conformity with Article 12 of this Regulation relating to the person concerned by adding the Member State responsible;

- (a) when an applicant for international protection or another person as referred to in Article 20 (1) (b), (c), (d), (e) **or (f)** of Regulation (EU) No XXX/XXX [Dublin Regulation] arrives in the Member State responsible following a transfer pursuant to a take back notification as referred to in Article 26 thereof, the Member State responsible shall update its data set recorded in conformity with Article 12 of this Regulation relating to the person concerned by adding his or her date of arrival;
- (b) when an applicant for international protection arrives in the Member State responsible following a transfer pursuant to a decision acceding to a take charge request according to Article 24 of Regulation (EU) No XXX/XXX [Dublin Regulation], the Member State responsible shall send a data set recorded in conformity with Article 12 of this Regulation relating to the person concerned and shall include his or her date of arrival;
- (c) when an applicant for international protection arrives in the Member State of allocation pursuant to Articles **34ba or 34c** of Regulation (EU) No. XXX/XXX [Dublin Regulation] [...], that Member State shall send a data set recorded in conformity with Article 12 of this Regulation relating to the person concerned and shall include his or her date of arrival and record that it is the Member State of allocation;
- (ca) as soon as the Dublin automated system has indicated the Member State of allocation pursuant to Article 34h (4) of Regulation (EU) No. XXX/XXX [Dublin Regulation], the data set recorded in conformity with Article 12 of this Regulation shall be updated automatically relating to the person concerned by adding the Member State of allocation.**
- (d) as soon as the Member State of origin ensures that the person concerned whose data was recorded in Eurodac in accordance with Article 12 of this Regulation has left the territory of the Member States in compliance with a return decision or removal order issued following the withdrawal or rejection of the application for international protection as provided for in Article 9a(2b) of Regulation (EU) No 604/2013, it shall update its data set recorded in conformity with Article 12 of this Regulation relating to the person concerned by adding the date of his or her removal or when he or she left the territory;

- (e) the Member State which becomes responsible in accordance with [Article 9a(3) **or Article 19** of Regulation (EU) No XXX/XXX [Dublin Regulation]] shall update its data set recorded in conformity with Article 12 of this Regulation relating to the applicant for international protection by adding the date when the decision to examine the application was taken;
- (f) **as soon as the first Member State in which the application for international protection was lodged has completed the assessment referred to in Article 3(2a) of Regulation (EU) No XXX/XXX [Dublin Regulation], that Member State shall update its data set recorded in conformity with Article 12 of this Regulation by adding the security status of the applicant resulting from that assessment;**
- (g) **as soon as the Member State of allocation has completed the security verification referred to in Article 34k of Regulation (EU) No XXX/XXX [Dublin Regulation], that Member State shall update its data set recorded in conformity with Article 12 of this Regulation by adding the security status of the applicant resulting from that assessment.**

Changes to Article 12 Eurodac:

Article 12

Recording of data

Only the following data shall be recorded in the Central System:

- (a) fingerprint data;
- (b) a facial image;
- (c) surname(s) and forename(s), name(s) at birth and previously used names and any aliases, which may be entered separately;
- (d) nationality(ies)

- (e) place and date of birth;
- (f) Member State of origin, place and date of the application for international protection; in the cases referred to in Article 11(b), the date of application shall be the one entered by the Member State who transferred the applicant;
- (h) where available, type and number of identity or travel document; three letter code of the issuing country and expiry date;
- (ha) where available, a scanned colour copy of an identity or travel document along with an indication of its authenticity or, where unavailable, another document which facilitates the identification of the third-country national or stateless person along with an indication of its authenticity;
- (i) reference number used by the Member State of origin;
- (ia) the result of the security check pursuant to Articles 3, and 34k of Regulation (EU) No XXX/XXX [Dublin Regulation]**
- (ib) the result of the allocation check pursuant to Article 34h (3a) of Regulation (EU) No XXX/XXX [Dublin Regulation]**
- (ic) the Member State of allocation in accordance with Articles 11(c) and 11(ca);**
- (id) the Member State responsible in accordance with Article 11(-a);**
- j) [...]
- (ja) [...]
- (k) [...]
- (l) date on which the biometric data were taken;
- (m) date on which the data were transmitted to the Central System;

- (n) operator user ID;
 - (o) where applicable in accordance with Article 11(a), the date of the arrival of the person concerned after a successful transfer;
 - (p) where applicable in accordance with Article 11(b), the date of the arrival of the person concerned after a successful transfer;
 - (q) where applicable in accordance with Article 11(c), the date of the arrival of the person concerned after a successful transfer;
 - (r) where applicable in accordance with Article 11(d), the date when the person concerned left or was removed from the territory of the Member States;
 - (s) where applicable in accordance with Article 11(e), the date when the decision to examine the application was taken.
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