



2016/0222(COD)

18.1.2017

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DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast)
(COM(2016)0465 – C8-0323/2016 – 2016/0222(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Sophia in 't Veld

(Recast – Rule 104 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) (COM(2016)0465 – C8-0323/2016 – 2016/0222(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0465),
 - having regard to Article 294(2) and Article 78(2) (f) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0323/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 14 December 2016,
 - having regard to the opinion of the Committee of the Regions of ... 2017,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
 - having regard to the letter of2017 from the Committee on Legal Affairs to the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 104(3) of its Rules of Procedure,
 - having regard to Rules 104 and 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Employment and Social Affairs (A8-0000/2017),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

¹ OJ C 77, 28.3.2002, p. 1.

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 8

Text proposed by the Commission

Amendment

(8) *Where an applicant is present in another Member State from the one in which he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation], the applicant should not be entitled to the reception conditions set out in Articles 14 to 17.*

deleted

Or. en

Amendment 2

Proposal for a directive Recital 12

Text proposed by the Commission

Amendment

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. ***It needs to be clarified that Member States should only provide applicants with a travel document when serious humanitarian or other imperative reasons arise.*** The validity of travel documents should ***also*** be limited to the purpose and duration needed for the reason for which

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. The validity of travel documents should be limited to the purpose and duration needed for the reason for which they are issued. ***Such a reason*** could for instance be ***that*** an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close

they are issued. ***Serious humanitarian reasons*** could for instance be ***considered when*** an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other ***imperative*** reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other ***such*** reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

Or. en

Amendment 3

Proposal for a directive Recital 13

Text proposed by the Commission

(13) Applicants do not have the right to choose the Member State of application. An applicant must apply for international protection in the Member State either of first entry or, in case of legal presence, in the Member State of legal stay or residence. ***An applicant who has not complied with this obligation is less likely, following a determination of the Member State responsible under Regulation (EU) No XXX/XXX [Dublin Regulation], to be allowed to stay in the Member State where the application was made and consequently more likely to abscond. His or her whereabouts should therefore be closely monitored.***

Amendment

(13) Applicants do not have the right to choose the Member State of application. An applicant must apply for international protection in the Member State either of first entry or, in case of legal presence, in the Member State of legal stay or residence.

Or. en

Amendment 4

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Applicants are required to ***be present in*** the Member State where they made an application or in the Member State to which they are transferred in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. ***In case*** an applicant has absconded ***from this Member State and, without authorisation, travelled to another Member State,*** it is vital, for the purpose of ensuring a well-functioning Common European Asylum System that the applicant is swiftly returned to the Member State where he or she is required to be present. Until such a transfer has taken place, there is a risk that the applicant may abscond and his or her whereabouts should therefore be closely monitored.

Amendment

(14) Applicants are required to ***remain available to the relevant authorities of*** the Member State where they made an application or in the Member State to which they are transferred in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. ***Where*** an applicant has absconded ***and has travelled to another Member State without authorisation,*** it is vital, for the purpose of ensuring a well-functioning Common European Asylum System that the applicant is swiftly returned to the Member State where he or she is required to be present. Until such a transfer has taken place, there is a risk that the applicant may abscond and his or her whereabouts should therefore be closely monitored.

Or. en

Amendment 5

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) ***The fact that an applicant has previously absconded to another Member State is an important factor when assessing the risk that the applicant may abscond. To ensure that the applicant does not abscond again and remains available to the competent authorities, once the applicant has been sent back to the Member State where he or she is required to be present, his or her whereabouts should therefore be closely monitored.***

Amendment

deleted

Amendment 6

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) For reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, ***for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] or in order to effectively prevent the applicant from absconding***, Member States should, where necessary, assign the applicant residence in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. Such a decision may be necessary to effectively prevent the applicant from absconding in particular in cases where the applicant has not complied with the obligations to: ***make an application in the Member State of first irregular or legal entry; to remain in the Member State where he or she is required to be present; or in cases where the applicant has been sent back to the Member State where he or she is required to be present after having absconded to another Member State. In case the applicant is entitled to material reception conditions, such material reception conditions should also be provided subject to the applicant residing in this specific place.***

Amendment

(16) For reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, ***or in order to effectively prevent the applicant from absconding where it has been established by the relevant authorities that there is a risk that an applicant may abscond***, Member States should, where necessary, ***be able to*** assign the applicant residence in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. Such a decision may be necessary to effectively prevent the applicant from absconding in particular in cases where the applicant has not complied with the obligations to remain in the Member State where he or she is required to be present, or, in cases where the applicant has been sent back to the Member State, where he or she is required to be present after having absconded to another Member State. ***Where*** the applicant is entitled to material reception conditions, such material reception conditions should also be provided subject to the applicant residing in this specific place.

Or. en

Amendment 7

Proposal for a directive Recital 17

Text proposed by the Commission

(17) Where there are reasons for considering that there is a risk that an applicant may abscond, Member States should require applicants to report to the competent authorities as frequently as necessary in order to monitor that the applicant does not abscond. To deter applicants from further absconding, Member States should also be able to grant material reception conditions, where the applicant is entitled to such material reception conditions, only in kind.

Amendment

(17) Where there are reasons for considering that there is a risk that an applicant may abscond, Member States should ***also, on the basis of a decision of judicial authorities***, require applicants to report to the competent authorities as frequently as necessary in order to monitor that the applicant does not abscond. To deter applicants from further absconding, Member States should also be able to grant material reception conditions, where the applicant is entitled to such material reception conditions, only in kind. ***Applicants should also be provided with the possibility of an appeal against decisions requiring them to report to the competent authorities***

Or. en

Amendment 8

Proposal for a directive Recital 18

Text proposed by the Commission

(18) ***All decisions restricting an applicant's freedom of movement need to be based on the individual behaviour and particular situation of the person concerned, taking into account any special reception needs of applicants and the principle of proportionality. Applicants must be duly informed of such decisions and of the consequences of non-compliance.***

Amendment

(18) ***Any restriction on the applicant's freedom of movement should be based on a decision of judicial authorities, which takes into account the individual behaviour and particular situation of the person concerned, including any special reception needs of applicants and the principle of proportionality. Applicants should be duly informed of such decisions and of the consequences of non-compliance. They should also be provided with the possibility of an appeal against such decisions.***

Amendment 9**Proposal for a directive****Recital 19***Text proposed by the Commission*

(19) In view of the serious consequences for applicants who have absconded or who are considered to be at risk of absconding, the meaning of absconding should be defined *in view of* encompassing both a deliberate action to avoid the applicable asylum procedures and the factual circumstance of not remaining available to the relevant authorities, *including by leaving the territory where the applicant is required to be present.*

Amendment

(19) In view of the serious consequences for applicants who have absconded or who are considered to be at risk of absconding, the meaning of absconding should be defined *as* encompassing both a deliberate action to avoid the applicable asylum procedures and the factual circumstance of not remaining available to the relevant authorities.

Or. en

Amendment 10**Proposal for a directive****Recital 20***Text proposed by the Commission*

(20) 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, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should

Amendment

(20) 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, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should

only be ordered in writing by judicial *or administrative* authorities stating the reasons on which it is based, including in the cases where the person is already detained when making the application for international protection. Where an applicant is held in detention he or she should have effective access to the necessary procedural guarantees, such as judicial remedy *before a national judicial authority*.

only be ordered in writing by judicial authorities stating the reasons on which it is based, including in the cases where the person is already detained when making the application for international protection. *Any decision imposing detention should contain a reference to the consideration of the available alternatives and the reasons why they could not be applied effectively.* Where an applicant is held in detention he or she should have effective access to the necessary procedural guarantees, such as judicial remedy.

Or. enJustification *Given that the draft report contains amendments to the newly proposed text on reporting obligations which limits the taking of relevant decisions only to judicial authorities, it is necessary to also amend the part of the text concerning the types of decision which can order detention, and for which, as the most restrictive measure of one's freedom of movement, decisions shall also, a fortiori, be taken by judicial authorities alone, otherwise the internal logic of the text would be disturbed.*

Amendment 11

Proposal for a directive Recital 30

Text proposed by the Commission

(30) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively. Reception conditions need to be adapted to the specific *situation* of minors, whether unaccompanied or within families, with due regard to their security, physical and emotional care and provided in a manner

Amendment

(30) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively. *The Member States should also ensure full compliance with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and the Convention on the Elimination of*

that encourages their general development.

all Forms of Discrimination Against Women. Reception conditions need to be adapted to the specific *needs* of minors, whether unaccompanied or within families, with due regard to their security, *in particular by means of providing child-friendly accommodation, the prevention of sexual and gender-based violence,* physical and emotional care and *education,* ***all*** provided in a manner that encourages their general development.

Or. en

Amendment 12

Proposal for a directive Recital 31

Text proposed by the Commission

(31) Member States should ensure that applicants receive ***the*** necessary health care which should include, at least, emergency care and essential treatment of illnesses, including of serious mental disorders. To respond to public health concerns with regard to disease prevention and safeguard the health of individual applicants, applicants' access to health care should also include preventive medical treatment, such as vaccinations. Member States may require medical screening for applicants on public health grounds. The results of medical screening should not influence the assessment of applications for international protection, which should always be carried out objectively, impartially and on an individual basis in line with Regulation (EU) No XXX/XXX [Procedures Regulation].

Amendment

(31) Member States should ensure that applicants receive ***full access to*** necessary health care which should include, at least, emergency care, ***maternity care*** and essential treatment of illnesses, including of serious mental disorders, ***such as post-traumatic stress disorders (PTSD).*** To respond to public health concerns with regard to disease prevention and safeguard the health ***and rights*** of individual applicants, applicants' access to health care should also include ***sexual and reproductive health services and*** preventive medical treatment, such as vaccinations. Member States may require medical screening for applicants on public health grounds, ***in accordance with guidelines to be established, jointly, by the European Union Agency for Asylum and the European Centre for Disease Prevention and Control.*** The results of medical screening should not influence the assessment of applications for international protection, which should always be carried out objectively, impartially and on an individual basis in line with Regulation

Amendment 13

Proposal for a directive Recital 32

Text proposed by the Commission

(32) ***An applicant's entitlement to material reception conditions under this Directive may be curtailed in certain circumstances such as where an applicant has absconded to another Member State from the Member State where he or she is required to be present. However, Member States should in all circumstances ensure access to health care and a dignified standard of living for applicants in line with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker. Due regard must also be given to applicants with special reception needs.*** The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account. ***When a minor is in a Member State other than the one in which he or she is required to be present, Member States should provide the minor with access to suitable educational activities pending the transfer to the Member State responsible.*** The specific needs of ***women applicants*** who have experienced gender-based ***harm*** should be

Amendment

(32) Member States should in all circumstances ensure access to health care. The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account. The specific needs of ***applicants, in particular women, who have experienced sexual or gender-based violence*** should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care. ***Such applicants should be considered to be persons with special reception needs.***

taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care.

Or. en

Amendment 14

Proposal for a directive Recital 33

Text proposed by the Commission

(33) The scope of the definition of family member should 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 States.

Amendment

(33) The scope of the definition of family member should ***be non-discriminatory and should*** 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 States. ***Member States should apply the definition of family member in accordance with the Charter of Fundamental Rights of the European Union, the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law of the European Court of Human Rights on the scope of the definition of family, taking into account the different circumstances of dependency and the particular attention that is to be paid to the best interests of the child, underlining the importance of protecting female applicants, who are the victim of child, early or forced marriage. Unmarried couples should not be discriminated against on grounds of sexual orientation or gender identity.***

Or. en

Amendment 15

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions that effectively hinder an applicant from seeking employment. ***Labour market tests used to give priority to nationals or to other Union citizens or to third-country nationals legally resident in the Member State concerned should not hinder effective access for applicants to the labour market and should be implemented without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession .***

Amendment

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions that effectively hinder an applicant from seeking employment.

Or. en

Amendment 16

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) ***The maximum time frame for access to the labour market should be aligned with the duration of the examination procedure on the merits.*** In order to increase integration prospects and self-sufficiency of applicants, ***earlier*** access to the labour market ***is encouraged where the application is likely to be well-founded, including when its examination***

Amendment

(35) In order to increase integration prospects and self-sufficiency of applicants, ***immediate*** access to the labour market should ***be provided***.

has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States should therefore consider reducing that time period as much as possible with a view to ensuring that applicants have access to the labour market no later than 3 months from the date when the application was lodged in cases where the application is likely to be well-founded. Member States should however not grant access to the labour market to applicants whose application for international protection is likely to be unfounded and for which an accelerated examination procedure is applied.

Or. en

Amendment 17

Proposal for a directive Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) Language skills are indispensable in order to ensure that applicants have an adequate standard of living, that they are granted immediate access to the labour market and that their material reception conditions, including non-food items, are safeguarded. Learning the official language or one of official languages of the Member State concerned would increase self-reliance and the chance of integration in the host society, and constitutes a deterrent against secondary movements. Effective access to language courses should therefore be granted to all applicants from the date on which their application for international protection is made.

Or. en

Amendment 18

Proposal for a directive

Article 2 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘absconding’: means **the** action **by which an applicant, in order to avoid** asylum procedures, **either leaves the territory where he or she is obliged to be present in accordance with Regulation (EU) No XXX/XXX³² [Dublin Regulation] or does not remain** available to the **competent** authorities **or to the court or tribunal**;

³² OJ C [...], [...], p. [...].

Amendment

(10) ‘absconding’: means **a deliberate** action **to avoid the applicable** asylum procedures **and the factual circumstance of not remaining** available to the **relevant** authorities;

³² OJ C [...], [...], p. [...].

Or. en

Amendment 19

Proposal for a directive

Article 2 – paragraph 1 – point 11

Text proposed by the Commission

(11) ‘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 an applicant may abscond;

Amendment

(11) ‘risk of absconding’: means the existence of **specific** reasons in an individual case, which are based on objective **and specific** criteria **in accordance with guidelines of the European Union Agency for Asylum and with** national law, to believe that an applicant may abscond, **not including criteria such as merely being an applicant within the meaning of Regulation (EU).../[Procedures Regulation], or one's nationality, which are of a general nature**;

Or. en

Amendment 20

Proposal for a directive

Article 2 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘applicant with special reception needs’: means an applicant who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive, such as applicants who are minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical **or** sexual violence, such as victims of female genital mutilation .

Amendment

(13) ‘applicant with special reception needs’: means an applicant who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive, such as applicants who are minors, unaccompanied minors, disabled people, elderly people, pregnant women, single **women, adolescent girls, women-headed households, lesbian, gay, bisexual, trans and intersex persons, single** parents with minor children, victims of human trafficking, **victims of child, early or forced marriage, non-believers, apostates and religious minorities**, persons with serious illnesses, persons with mental disorders, **including post-traumatic stress disorder (PTSD)**, and persons who have been subjected to torture, rape or other serious forms of psychological, physical, **bias-motivated, sexual or gender-based** violence, such as victims of female genital mutilation.

Or. en

Amendment 21

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Member States shall inform applicants, as soon as possible and at the latest when they are lodging their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall

Amendment

1. Member States shall inform applicants, as soon as possible and at the latest when they are lodging their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall

point out in the information provided ***that the applicant is not*** entitled to ***the reception conditions set out in Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]***.

point out, in the information provided, ***which reception conditions the applicants are*** entitled to, ***the consequences of absconding, the grounds for detention, the grounds for replacement, reduction or withdrawal of any reception conditions, the right to appeal against detention or decisions relating to the replacement, reduction or withdrawal of reception conditions. The Member States shall also inform the applicants about the relevant asylum procedures, and the rights granted after having been granted refugee status.***

Or. en

Amendment 22

Proposal for a directive Article 5 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the information referred to in paragraph 1 is in writing using a standard template which shall be developed by the European Union Agency for Asylum and in a language that the applicant understands or is reasonably supposed to understand. Where necessary, this information shall also be supplied orally and adapted to the needs of minors.

Amendment

2. Member States shall ensure that the information referred to in paragraph 1 is in writing ***in a concise, transparent, intelligible and easily accessible form,*** using ***clear and plain language and*** a standard template which shall be developed by the European Union Agency for Asylum and in a language that the applicant understands or is reasonably supposed to understand. ***It shall include relevant information in relation to the personal circumstances that may result in special reception needs or needs of special procedural guarantees as provided for in this Directive and [the Procedure Regulation].*** Where necessary, this information shall also be supplied orally and ***in a visualised form through videos or pictograms and shall be*** adapted to the needs of minors ***or persons with special reception needs.***

Or. en

Justification

Based on the formulation proposed in the Commission proposal on the EURODAC Regulation recast.

Amendment 23

Proposal for a directive

Article 6

Text proposed by the Commission

Member States shall provide applicants with a travel document ***only when serious humanitarian or other imperative reasons arise that require their presence in another State.*** The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued.

Amendment

Member States shall provide applicants with a travel document ***without delay, when the presence of the applicant is required in another State, in particular for reasons such as when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives.*** Other ***such*** reasons ***include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.*** The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued.

Or. en

Amendment 24

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – introductory wording

Text proposed by the Commission

2. Member States ***shall*** where necessary decide on the residence of an applicant in a specific place for any of the

Amendment

2. Member States ***may*** where necessary decide on the residence of an applicant in a specific place ***such as an accommodation centre, a private house,***

following reasons:

flat, hotel or other premises adapted for housing applicants, on the basis of objective criteria defined by national law and of a decision by judicial authorities, for any of the following reasons:

Or. en

Amendment 25

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 - point c

Text proposed by the Commission

Amendment

(c) for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation];

deleted

Or. en

Justification

This ground could be applied by most Member States to all the new applicants they are processing, while the necessity is not proven.

Amendment 26

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 - point d – introductory wording

Text proposed by the Commission

Amendment

(d) to effectively prevent the applicant from absconding, in particular:

*(d) to effectively prevent the applicant from absconding **where it has been established by the relevant authorities that there is a risk of absconding**, in particular:*

Or. en

Amendment 27

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 - point d – indent 1

Text proposed by the Commission

- for applicants who have not complied with the obligation to make an application in the first Member State of entry as set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] and have travelled to another Member State without adequate justification and made an application there;
or

Amendment

- for applicants who have ***deliberately*** not complied with the obligation to make an application in the first Member State of entry as set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] ***in order to avoid the applicable asylum procedures***, and have travelled to another Member State without adequate justification and made an application there;
or

Or. en

Amendment 28

Proposal for a directive

Article 7 – paragraph 3

Text proposed by the Commission

3. Where there are reasons for considering that there is a risk that an applicant may abscond, Member States ***shall***, where necessary, require the applicant to report to the competent authorities, or to appear before them in person, either without delay or at a specified time as frequently as necessary to effectively prevent the applicant from absconding.

Amendment

3. Where there are reasons for considering that there is a risk that an applicant may abscond, Member States ***may***, where necessary ***and proportionate and on the basis of a decision of judicial authorities***, require the applicant to report to the competent authorities, or to appear before them in person, either without delay or at a specified time as frequently as necessary to effectively prevent the applicant from absconding.

Or. en

Amendment 29

Proposal for a directive Article 7 – paragraph 8

Text proposed by the Commission

8. Member States shall state reasons in fact and, where relevant, in law in any decision taken in accordance with this Article. Applicants shall be immediately informed in writing, in a language which they understand or are reasonably supposed to understand, of the adoption of such a decision, of the procedures for challenging the decision in accordance with Article 25 and of the consequences of non-compliance with the obligations imposed by the decision.

Amendment

8. Member States shall state reasons in fact and, where relevant, in law in any decision taken in accordance with this Article. Applicants shall be immediately informed in writing, in a language which they understand or are reasonably supposed to understand ***in a concise, transparent, intelligible and easily accessible form, using clear and plain language***, of the adoption of such a decision, of the procedures for challenging the decision in accordance with Article 25 and of the consequences of non-compliance with the obligations imposed by the decision.

Or. en

Justification

Based on the formulation proposed in the Commission proposal on the EURODAC Regulation recast.

Amendment 30

Proposal for a directive Article 8 – paragraph 1

Text proposed by the Commission

1. Member States shall not hold a person in detention for the sole reason that he or she is an applicant .

Amendment

1. Member States shall not hold a person in detention for the sole reason that he or she is an applicant ***or on the basis of an applicant's nationality. The detention shall be based on a decision of judicial authorities, shall be strictly necessary for the purpose of securing the fulfilment of a specific and concrete obligation incumbent on the applicant, shall be ended as soon as the specific and concrete obligation has been fulfilled, and shall not be punitive in nature.***

Amendment 31

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 - point d

Text proposed by the Commission

Amendment

(d) in order to decide, in the context of a border procedure in accordance with Article [41] of Regulation (EU) No XXX/XXX [Procedures Regulation], on the applicant's right to enter the territory; **deleted**

Or. en

Justification

Asylum seekers who have the right to remain on the territory of Member States may not be detained for immigration reasons. Article 5(1)(b) ECHR: 'detention to fulfil legal obligation' does not apply.

Amendment 32

Proposal for a directive

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

Detention of applicants shall be ordered in writing by judicial **or administrative** authorities. The detention order shall state the reasons in fact and in law on which it is based.

Detention of applicants shall be ordered in writing by judicial authorities. The detention order shall state the reasons in fact and in law on which it is based **and shall contain a reference to the consideration of the available alternatives and the reasons as to why they could not be applied effectively.**

Or. en

Justification

Given that the draft report contains amendments to the newly proposed text on reporting

obligations which limits the taking of relevant decisions only to judicial authorities, it is necessary to also amend the part of the text concerning the types of decision which can order detention, and for which, as the most restrictive measure of one's freedom of movement, decisions shall also, a fortiori, be taken by judicial authorities alone, otherwise the internal logic of the text would be disturbed. This justification also applies to amendments 33,34 and 35 for the same reason.

Amendment 33

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

Amendment

Where detention is ordered by administrative authorities, Member States shall provide for a speedy judicial review of the lawfulness of detention to be conducted *ex officio* and/or at the request of the applicant. When conducted *ex officio*, such review shall be decided on as speedily as possible from the beginning of detention. When conducted at the request of the applicant, it shall be decided on as speedily as possible after the launch of the relevant proceedings. To this end, Member States shall define in national law the period within which the judicial review *ex officio* and/or the judicial review at the request of the applicant shall be conducted.

deleted

Where, as a result of the judicial review, detention is held to be unlawful, the applicant concerned shall be released immediately.

Or. en

Amendment 34

Proposal for a directive Article 9 – paragraph 5

Text proposed by the Commission

Amendment

Detention shall be reviewed by a judicial authority at reasonable intervals of time, *ex officio* and/or at the request of the applicant concerned, in particular

Detention shall be reviewed by a judicial authority at reasonable intervals of time, *ex officio* and/or at the request of the applicant concerned, in particular

whenever it is of a prolonged duration, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention.

whenever it is of a prolonged duration, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention. ***Where, as a result of the judicial review, detention is held to be unlawful, the applicant concerned shall be released immediately.***

Or. en

Amendment 35

Proposal for a directive Article 9 – paragraph 6 - subparagraph 1

Text proposed by the Commission

In cases of a judicial review of the detention order provided for in paragraph 3, Member States shall ensure that applicants have access to free legal assistance and representation. This shall include, at least, the preparation of the required procedural documents and participation in the hearing before the judicial authorities on behalf of the applicant.

Amendment

In cases of a judicial review of the detention order provided for in paragraph 5, Member States shall ensure that applicants have access to free legal assistance and representation. This shall include, at least, the preparation of the required procedural documents and participation in the hearing before the judicial authorities on behalf of the applicant.

Or. en

Amendment 36

Proposal for a directive Article 15 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Member States shall ensure that applicants have access to the labour market ***no later than 6 months*** from the date when the application for international protection was lodged ***if an administrative decision by the competent authority has not been***

Amendment

1. Member States shall ensure that applicants have access to the labour market from the date when the application for international protection was lodged.

taken and the delay cannot be attributed to the applicant.

Or. en

Amendment 37

Proposal for a directive Article 15 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

For reasons of labour market policies, Member States may verify whether a vacancy could be filled by nationals of the Member State concerned or by other Union citizens, or by third-country nationals lawfully residing in that Member State.

deleted

Or. en

Amendment 38

Proposal for a directive Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

Language courses

Member States shall provide applicants effective access to language courses free of charge from the date when the application for international protection was made. However, Member States may require applicants to cover or contribute to the cost of such courses in accordance with the conditions set out in Article 16(4) and (5).

Or. en

Justification

The Rapporteur considers that applicants' self-reliance and chances of integration in the host society will be truly increased if they have access to language courses from the moment they make their application for international protection. As a tool for rendering immediate access to the labour market effective and enhancing material reception conditions, as well as deterring secondary movements, which is a stated aim of the Commission proposal, language skills are indispensable. Member States should therefore have an obligation to provide all applicants with access to language courses from the date that their application was made.

Amendment 39

Proposal for a directive

Article 17 – paragraph 1 – introductory wording

Text proposed by the Commission

1. Where housing is provided in kind, it shall supply an adequate standard of living and take one or a combination of the following forms:

Amendment

1. Where housing is provided in kind, it shall supply an adequate standard of living, ***with the purpose of being suitable for applicants taking into consideration their specific situation and needs throughout the application procedure in order to avoid unnecessary moving between different places of accommodation***, and take one or a combination of the following forms:

Or. en

Amendment 40

Proposal for a directive

Article 17 – paragraph 3

Text proposed by the Commission

3. Member States shall take into consideration gender and age-specific concerns and the situation of applicants with special reception needs when providing material reception conditions.

Amendment

3. Member States shall take into consideration gender and age-specific concerns and the situation of applicants with special reception needs when providing material reception conditions. ***In addition to age and gender, Member States shall also take into account diversity (Age, Gender and Diversity (AGD) approach).***

Justification

To ensure compliance with UNHCR's global Age, Gender and Diversity (AGD) approach, the Rapporteur adds the diversity dimension. For more information:
<https://emergency.unhcr.org/entry/51771/age-gender-and-diversity-agd>

Amendment 41**Proposal for a directive
Article 17 – paragraph 4***Text proposed by the Commission*

4. Member States shall take appropriate measures to prevent assault and gender-based violence, including sexual assault and harassment when providing accommodation .

Amendment

4. Member States shall take appropriate measures to prevent assault and gender-based violence, including sexual assault and harassment ***as well as all forms of violence committed with a bias and discriminatory motive related to the victims' personal characteristics as referred to in Article 22(3) of Directive 2012/29/EU of the European Parliament and of the Council^{1a}*** when providing accommodation.

^{1a} *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57).*

Or. en

Amendment 42**Proposal for a directive
Article 17 – paragraph 9 – subparagraph 2***Text proposed by the Commission*

Such different conditions shall in any circumstances ensure access to health care

Amendment

Such different conditions shall in any circumstances ensure ***full*** access to health

in accordance with Article 18 and a dignified standard of living for all applicants.

care in accordance with Article 18 and a dignified standard of living for all applicants *in which their safety is guaranteed and special reception needs are identified, registered and met.*

Or. en

Amendment 43

Proposal for a directive Article 17a

Text proposed by the Commission

Amendment

Article 17a

deleted

Reception conditions in a Member State other than the one in which the applicant is required to be present

1. An applicant shall not be entitled to the reception conditions set out in Articles 14 to 17 in any Member State other than the one in which he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].

2. Member States shall ensure a dignified standard of living for all applicants.

3. Pending the transfer under Regulation (EU) No XXX/XXX [Dublin Regulation] of a minor to the Member State responsible, Member States shall provide him or her with access to suitable educational activities.

Or. en

Justification

Irrelevant as a distinction between reception conditions and dignified treatment is not necessary.

A minor should always have full access to education. It's unclear what 'suitable' means in this context.

Amendment 44

Proposal for a directive

Article 19 – paragraph 1 – introductory wording

Text proposed by the Commission

Amendment

1. With regard to applicants *who are required to be present on their territory in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]*, Member States may , in the situations described in paragraph 2 :

1. With regard to applicants Member States may, in the situations described in paragraph 2, ***and on the basis of a decision of judicial authorities:***

Or. en

Amendment 45

Proposal for a directive

Article 19 – paragraph 2 – subparagraph 1 - point g

Text proposed by the Commission

Amendment

(g) *has not complied with the obligation set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] and has travelled to another Member State without adequate justification and made an application there; or*

deleted

Or. en

Amendment 46

Proposal for a directive

Article 19 – paragraph 2 – subparagraph 1 - point h

Text proposed by the Commission

Amendment

(h) *has been sent back after having absconded to another Member State.*

deleted

Justification

There are already provisions on restricting freedom of movement after absconding and not having applied for international protection in the Member State responsible.

Amendment 47**Proposal for a directive
Article 21 – paragraph 2 – point c***Text proposed by the Commission*

(c) refer applicants to a doctor or a psychologist for further assessment of their psychological and physical state where there are indications that applicants may have been victim of torture, rape or of another serious form of psychological, physical or sexual violence and that this could affect the reception needs of the applicant; and

Amendment

(c) refer applicants to a doctor or a psychologist for further assessment of their psychological and physical state where there are indications that applicants may have been victim of torture, rape or of another serious form of psychological, physical, ***bias-motivated*** or sexual ***and gender-based*** violence and that this could affect the reception needs of the applicant; and

Or. en

Amendment 48**Proposal for a directive
Article 24 – paragraph 1***Text proposed by the Commission*

1. Member States shall ensure that persons who have been subjected to gender-based ***harm***, torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care.

Amendment

1. Member States shall ensure that persons who have been subjected to ***sexual and gender-based violence, other forms of bias-motivated violence***, torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care.

Or. en

Amendment 49

Proposal for a directive Article 29 – paragraph 1

Text proposed by the Commission

1. Member States shall take appropriate measures to ensure that authorities and other organisations implementing this Directive have received the necessary training with respect to the needs of both male and female applicants. To that end, Member States shall integrate the European asylum curriculum developed by the European Union Agency for Asylum into the training of their personnel in accordance with Regulation (EU) No XXX/XXX [Regulation on the European Union Agency for Asylum].

Amendment

1. Member States shall take appropriate measures to ensure that authorities and other organisations implementing this Directive have received the necessary training with respect to the needs of both male and female applicants. To that end, Member States shall integrate the European asylum curriculum developed by the European Union Agency for Asylum into the training of their personnel in accordance with Regulation (EU) No XXX/XXX [Regulation on the European Union Agency for Asylum], ***underlining the importance of active identification of special reception needs (AGD approach) and adequate prevention and response activities to sexual and gender-based violence and bias-motivated violence from the date when the application for international protection was made.***

Or. en

Amendment 50

Proposal for a directive Article 30 – paragraph 1

Text proposed by the Commission

By [***three years*** after the entry into force of this Directive] at the latest, and at least every five years thereafter, the Commission shall present a report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary.

Amendment

By [***one year*** after the entry into force of this Directive] at the latest, and at least every five years thereafter, the Commission shall present a report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary.

Or. en

Amendment 51

Proposal for a directive Article 30 – paragraph 2

Text proposed by the Commission

Member States shall at the request of the Commission send the necessary information for drawing up the report by [*two years* after the entry into force of this Directive] and every *five* years thereafter.

Amendment

Member States shall at the request of the Commission send the necessary information for drawing up the report by [*six months* after the entry into force of this Directive] and every *three* years thereafter.

Or. en

EXPLANATORY STATEMENT

In 2016 the European Commission proposed a reform of the Common European Asylum System (CEAS) that included changing some directives into fully harmonised regulations and for reception conditions the Commissions proposed a recast of the existing directive with some further harmonisation. The Rapporteur accepts the Commission's choice of legal instrument but considers that further harmonisation is necessary within the directive.

The main elements of the Commission's recast proposal aim to reduce asylum applicants leaving the Member State responsible for their application (secondary movements) by proposing punitive measures and increase integration of asylum applicants. The draft report of the Rapporteur also focusses on reducing secondary movement but is based on incentives and not punitive measures. As to integration, the Rapporteur proposes access to language courses and the labour market from day one of the application, to increase the applicant's self-reliance and chances of integration in the host society. A further key element in the draft report aims to ensure that the fundamental rights of all asylum applicants are safeguarded and in order to achieve that the Rapporteur clarifies provisions for applicants with specific needs.

Reducing Secondary Movements

The Rapporteur does not share the punitive approach put forward in the Commission proposal but does accept that measures need to be taken to de-incentivise asylum applicants from leaving the Member State responsible for their application. The Rapporteur is of the view that the provision of high quality reception conditions, at the same level throughout the EU will be the most important factor in preventing secondary movements.

The draft report maintains the possibility for freedom of movement to be restricted in certain specific cases to prevent secondary movement but these cases have been limited and a number of safeguards, such as judicial review, have been added. The Rapporteur clarifies the definition of absconding and deletes the possibility to provide a lower standard of reception conditions (dignified standard of living). The draft report greatly restricts the use of detention and this will only be possible with the highest safeguards and under the strictest conditions.

Integration

The Rapporteur considers that applicants' self-reliance and chances of integration in the host society will be truly increased if they have access to the labour market and language courses from day one of the procedure.

The Commission proposes to reduce the maximum period of nine months for access to the labour market by applicants to six months. The Rapporteur proposes to provide for immediate access to the labour market and deletes the possibility of using a labour market test. The Rapporteur's proposal will mean that applicants whose applications are likely to be successful will be more self-reliant from the outset as they will be able to integrate effectively, learn the local language, and contribute to the host society.

The Rapporteur supports the Commission's proposal for equal treatment of asylum applicants with EU nationals regarding working conditions, education, vocational training and the recognition of diplomas. In addition, the Rapporteur proposes that Member States shall provide language courses from the start of the application procedure to increase integration prospects for the applicant in the Member State where they are living

To increase integration and stability for the applicants, the Rapporteur introduces the obligation for Member States to find appropriate housing from the outset to avoid applicants being rehoused in multiple reception centres and temporary accommodation.

Safeguarding fundamental rights

The Rapporteur believes that all asylum applicants should be safe during their application process and a key to achieving that by making sure the fundamental rights of all applicants are safeguarded within the reception process. Extra measures are necessary to protect the fundamental rights for applicants with special needs and the Rapporteur welcomes the Commission's proposals for specific rules for applicants with special needs, which are further clarified in the draft report.

The Rapporteur underlines the importance of quick identification of persons with special reception needs and monitoring throughout the application procedure, training of personnel on the identification of persons with special reception needs, child-friendly reception conditions as well as full access to necessary healthcare, including sexual and reproductive health services and mental healthcare.

In addition, the Rapporteur's proposal stresses the Member States' obligations under international law, the EU's common values as enshrined in Article 2 TEU and the Charter of Fundamental Rights of the European Union, United Nations Convention on the Rights of the Child and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) to combat and prevent sexual and gender based violence, as well as all other forms of hate crime when providing accommodation.