

Thursday 7 May 2009

Applications for international protection lodged in one of the Member States by third-country nationals or stateless persons (recast) *I**

P6_TA(2009)0377

European Parliament legislative resolution of 7 May 2009 on the 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 lodged in one of the Member States by a third-country national or a stateless person (recast) (COM(2008)0820 – C6-0474/2008 – 2008/0243(COD))

(2010/C 212 E/52)

(Codecision procedure – recast)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0820),
 - having regard to Article 251(2) and Article 63(1)(a) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0474/2008),
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽¹⁾,
 - having regard to the letter of 3 April 2009 from the Committee on Legal Affairs to the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 80a(3) of its Rules of Procedure,
 - having regard to Rules 80a and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0284/2009),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question 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. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission and as amended below;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 77, 28.3.2002, p. 1.

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P6_TC1-COD(2008)0243

Position of the European Parliament adopted at first reading on 7 May 2009 with a view to the adoption of Regulation (EC) No .../2009 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 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 establishing the European Community, and in particular Article 63, first paragraph, point (1)(a) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) A number of substantive changes are to be made to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ⁽⁴⁾. In the interests of clarity, that Regulation should be recast.
- (2) A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Community.
- (3) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967, thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of *non-refoulement*. In this respect, and without affecting the responsibility criteria laid down in this Regulation, Member States, *which all respect the principle of non-refoulement*, are considered as safe countries for third-country nationals.
- (4) The Tampere conclusions also stated that this system should include, in the short term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.
- (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 *ensure* effective access to the procedures for determining international protection status and not to compromise the objective of the rapid processing of applications for international protection.

⁽¹⁾ OJ C ...

⁽²⁾ OJ C ...

⁽³⁾ *Position of the European Parliament of 7 May 2009.*

⁽⁴⁾ OJ L 50, 25.2.2003, p. 1.

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- (6) **As regards the introduction in successive phases of a Common European Asylum System that should lead, in the longer term, to a common procedure and a uniform status valid throughout the Union for those granted asylum, it is appropriate at this stage, while making the necessary improvements in the light of experience, to confirm the principles underlying the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 (the Dublin Convention), whose implementation has stimulated the process of harmonising asylum policies.**
- (7) The first phase in the creation of a Common European Asylum System || has now been *completed*. The European Council of 4 November 2004 adopted The Hague Programme, which sets 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 || Commission to conclude the evaluation of the first phase legal instruments and to submit the second-phase instruments and measures to the Council and the European Parliament with a view to their adoption before 2010.
- (8) **The services of the Member States responsible for asylum should receive practical aid to meet their day-to-day operational requirements. Here the European Asylum Support Office, established by Regulation (EC) No .../... of ... ⁽¹⁾, has a vital role to play.**
- (9) In the light of the results of the evaluations undertaken, it is appropriate, at this stage, to confirm the principles underlying Regulation (EC) No 343/2003, while making the necessary improvements in the light of experience to enhance the effectiveness of the system and the protection granted to applicants for international protection under this procedure.
- (10) *With a view to ensuring equal treatment for all applicants and beneficiaries of international protection, as well as in order to ensure consistency with current EU asylum acquis, in particular with Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted || ⁽²⁾, it is appropriate to extend the scope of this Regulation in order to include applicants for subsidiary protection and persons enjoying subsidiary protection.*
- (11) In order to ensure equal treatment of all asylum seekers, Directive || .../.../EC || of the European Parliament and of the Council of ... [laying down minimum standards for the reception of asylum seekers] ⁽³⁾ should apply to the procedure regarding the determination of the Member State responsible as *prescribed* under this Regulation.
- (12) In accordance with the 1989 United Nations Convention on the Rights of the Child and the Charter of Fundamental Rights of the European Union, the best interests of the child should be a primary consideration of Member States in the application of this Regulation. In addition, specific procedural *safeguards* for unaccompanied minors should be laid down on account of their particular vulnerability.
- (13) In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union, respect for family unity should be a primary consideration of Member States when applying this Regulation.
- (14) 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 and the decisions taken in respect of them are consistent and that the members of one family are not separated.

⁽¹⁾ OJ L ...

⁽²⁾ OJ L 304, 30.9.2004, p. 12.

⁽³⁾ OJ L ...

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- (15) In order to ensure full respect for the principle of family unity and of the best interests of the child, the existence of a relationship of dependency between an applicant and his/her extended family on account of pregnancy or maternity, their state of health or great age, should become binding responsibility *criteria*. When the applicant is an unaccompanied minor, the presence of a relative on the territory of another Member State who can take care of him/her should also become a binding responsibility criterion.
- (16) Any Member State should be able to derogate from the responsibility criteria, in particular for humanitarian and compassionate reasons, 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, provided that the Member State *concerned* and the applicant agree thereto.
- (17) A personal interview should be organised in order to facilitate the determination of the Member State responsible for examining an application for international protection and ■ to orally inform applicants about the application of this Regulation.
- (18) In accordance in particular with Article 47 of the Charter of Fundamental Rights of the European Union, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established to *ensure* effective protection of the rights of the individuals concerned.
- (19) In accordance with the case-law of the European Court of Human Rights, *an* effective remedy 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 in order to ensure that international law is respected.
- (20) ***For the purposes of this Regulation ‘detention’ should not carry a penal or punitive connotation, but should mean an exclusively administrative and temporary measure equivalent to a holding operation.***
- (21) Detention of asylum seekers should be applied in line with the underlying principle that a person should not be held in detention for the sole reason that he/she is seeking international protection. In particular, detention of asylum seekers must be applied in line with Article 31 of the Geneva Convention ***in administrative holding centres distinct from prison facilities*** and under the clearly defined exceptional circumstances and *safeguards* prescribed in Directive ■ .../.../EC ■ [laying down minimum standards for the reception of asylum seekers]. Moreover, the use of detention for the purpose of transfer to the Member State responsible should be limited and subject to the principle of proportionality with regard to the means taken and objective pursued.
- (22) In accordance with Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 ⁽¹⁾, transfers to the Member State responsible may be carried out on a voluntary basis, by supervised departure or under escort. Member States should promote voluntary transfers and should ensure that supervised or escorted transfers are undertaken in a *humane* manner, in full *compliance with* fundamental rights and human dignity.
- (23) The progressive creation of an area without internal frontiers in which free movement of persons is guaranteed in accordance with the Treaty ■ and the establishment of Community policies regarding the conditions of entry and stay of third country nationals, including common efforts towards the management of external borders, *make* it necessary to strike a balance between responsibility criteria in a spirit of solidarity.

(1) OJ L 222, 5.9.2003, p. 3.

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- (24) The application of this Regulation may, in certain circumstances, create additional burdens on Member States faced with a particularly urgent situation which places an exceptionally heavy pressure on their reception capacities, asylum system or infrastructure. In such circumstances, it is necessary to lay down an efficient procedure to allow the temporary suspension of transfers towards the Member State concerned and to provide financial assistance, in accordance with existing EU financial instruments. The temporary suspension of Dublin transfers can thus contribute to *achieving* a higher degree of solidarity towards those Member States facing particular pressures on their asylum systems, due in particular to their geographical or demographic situation.
- (25) *The procedure for the suspension of transfers should also be applied when the Commission considers that the level of protection for applicants for international protection in a given Member State is not in conformity with Community legislation on asylum, in particular in terms of reception conditions, **qualification for international protection** and access to the asylum procedure, with a view to ensuring that all applicants for international protection benefit from an adequate level of protection in all Member States.*
- (26) *The procedure for the suspension of transfers is an exceptional measure to address issues of particular pressure or ongoing protection concerns.*
- (27) *The Commission should periodically review progress toward improving the long-term development and harmonisation of the Common European Asylum System, and the degree to which solidarity measures and the availability of a suspension procedure are facilitating that progress, and report on that progress.*

In view of the fact that the Dublin system was not intended to be a mechanism for equitably sharing responsibilities with regard to the examination of applications for international protection, and that a number of Member States are particularly exposed to migratory flows, in particular by virtue of their geographical location, it is essential to reflect on and propose legally binding instruments to ensure greater solidarity between Member States and higher standards of protection. Such instruments should especially facilitate the secondment of officials from other Member States to assist those Member States which are faced with specific pressures and where applicants cannot benefit from adequate standards of protection and, where the reception capacities of one Member State are insufficient, facilitate the resettlement of beneficiaries of international protection in other Member States, providing that those concerned consent and that their fundamental rights are respected.

- (28) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽¹⁾ applies to the processing of personal data by the Member States in application of this Regulation.
- (29) The exchange of applicant's personal data, including sensitive data concerning health, to be transferred before a transfer is carried out will ensure that the competent asylum authorities are in a position to provide applicants with adequate assistance and to ensure continuity in the protection and rights afforded to them. Special provision should be made to ensure the protection of data relating to applicants involved in this situation, in conformity with Directive 95/46/EC.
- (30) 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.

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.

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- (31) Continuity between the system for determining the Member State responsible established by the Regulation (EC) No 343/2003 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation (EC) No .../... of the European Parliament and of the Council of ... [concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No .../... 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] ⁽¹⁾.
- (32) The operation of the Eurodac system, as established by Regulation (EC) No .../... [concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No .../... 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] and in particular the implementation of Articles 6 and 10 thereof should facilitate the application of this Regulation.
- (33) The operation of the Visa Information System, as established by 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 ⁽²⁾, and in particular the implementation of Articles 21 and 22 thereof, should facilitate the application of this Regulation.
- (34) With respect to the treatment of persons falling within the scope of this Regulation, Member States are bound by obligations under instruments of international law to which they are party.
- (35) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾.
- (36) In particular, the Commission should be empowered to adopt the conditions and procedures for implementing the provisions regarding unaccompanied minors and the reunification of dependent relatives and to adopt the criteria necessary for carrying out transfers. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (37) The measures necessary for the implementation of Regulation (EC) No 343/2003 have been adopted by Regulation (EC) No 1560/2003. Certain provisions of Regulation (EC) No 1560/2003 should be incorporated into this Regulation, for reasons of clarity or because they can serve a general objective. In particular, it is important both for the Member States and for the asylum seekers 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 whole of this Regulation.
- (38) The effective monitoring of the application of this Regulation requires that it be evaluated at regular intervals.
- (39) 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 and to promote the application of Articles 1, 4, 7, 24 and 47 of the Charter and should be applied accordingly.

⁽¹⁾ OJ L ...

⁽²⁾ OJ L 218, 13.8.2008, p. 60.

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

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- (40) 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, given its scale and effects, can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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,

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 lodged in one of the Member States by a third-country national or a stateless person.

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 17(1) of the Treaty ^{||} and who is not a person enjoying the Community right of free movement, as defined in Article 2(5) of Regulation (EC) No 562/2006 of the European Parliament and of the Council ⁽¹⁾;
- (b) 'application for international protection' means an application for international protection as defined in Article 2(g) of Directive 2004/83/EC;
- (c) 'applicant' or 'asylum seeker' 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 Council Directive 2005/85/EC ⁽²⁾, except for procedures for determining the Member State responsible in accordance with this Regulation, and Directive 2004/83/EC;
- (e) 'withdrawal of an application for international protection' means the actions by which the applicant terminates the procedures initiated by the submission of his/her application for international protection, in accordance with Directive 2005/85/EC, either *expressly* or *impliedly*;
- (f) 'person granted international protection' means a third-country national or a stateless person recognised as *being* in need of international protection as defined in Article 2(a) of Directive 2004/83/EC;
- (g) 'minor' means a third-country national or a stateless person below the age of 18 years;

⁽¹⁾ OJ L 105, 13.4.2006, p.1.

⁽²⁾ OJ L 326, 13.12.2005, p. 13.

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- (h) 'unaccompanied minor' means a minor who arrives in the territory of the Member States unaccompanied by an adult responsible for *him/her* whether by law or by custom, and for as long as *he/she* is not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of Member States;
- (i) 'family members' means, insofar as the family already existed in the country of origin, the following members of the applicant's family who are present in the territory of the Member States:
- the spouse of the asylum seeker or his or her unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to *foreigners*;
 - 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 the national law;
 - the married minor children of couples referred to in *the first indent* or of the applicant, regardless of whether they were born in or out of wedlock or adopted as defined under the national law **and provided they are not accompanied by their spouses**, where it is in their best interests to reside with the applicant;
 - the father, mother or guardian of the applicant when the *applicant* is a minor and unmarried, or when *he/she* is a minor and married **and not accompanied by his/her spouse** but it is in his/her best interests to reside with his/her father, mother or guardian;
 - the minor unmarried siblings of the applicant, when the *applicant* is a minor and unmarried, or when the applicant or his/her siblings are minors and married **and not accompanied by his/her spouse** but it is in the best interests of one or more of them that they reside together;
- (j) 'residence document' means any authorisation issued by the authorities of a Member State authorising a third-country national or a stateless person to stay in its territory, including the documents substantiating the authorisation to remain in 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 responsible Member State as established in this Regulation or during examination of an application for international protection or an application for a residence permit;
- (k) '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:
- (i) 'long-stay visa' means the authorisation or decision of a Member State required for entry for an intended stay in that Member State of more than three months;
 - (ii) 'short-stay visa' means the authorisation or decision of a Member State required for entry for an intended stay in that Member State or in several Member States for a period whose total duration does not exceed three months;
 - (iii) 'transit visa' means the authorisation or decision of a Member State for entry for transit through the territory of that Member State or several Member States, except for transit at an airport;
 - (iv) 'airport transit visa' means the authorisation or decision allowing a third-country national specifically subject to *such a* requirement to pass through the transit zone of an airport, without gaining access to the national territory of the Member State concerned, during a stopover or a transfer between two *legs* of an international flight;

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- (l) 'risk of absconding' means the existence of reasons in an individual case, which are based on objective criteria defined by law, to believe that an applicant or a third-country national or a stateless person who is subject to a transfer decision may abscond.

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 a transit zone. The application shall be examined by a single Member State, which shall be the one which the criteria set out in Chapter III of this Regulation indicate is responsible.
2. Where no Member State responsible for examining the application for international protection can be designated on the basis of the criteria listed in this Regulation, the first Member State with which the application for international protection is lodged shall be responsible for examining it.
3. Any Member State shall retain the right to send an asylum seeker to a safe third country, subject to the rules and safeguards laid down in Directive 2005/85/EC.

Article 4

Right to information

1. As soon as an application for international protection is lodged, the competent authorities of Member States shall inform the asylum seeker of the application of this Regulation, and in particular of:
 - (a) the objectives of this Regulation and the consequences of making another application in a different Member State;
 - (b) the criteria for allocating responsibility and their hierarchy;
 - (c) the general procedure and time-limits to be followed by the Member States;
 - (d) the possible outcomes of the procedure and their consequences;
 - (e) the possibility to challenge a transfer decision;
 - (f) the fact that the competent authorities *may* exchange data on him/her for the sole purpose of implementing the obligations arising under this Regulation;
 - (g) **■** the right of access to data relating to him/her, and the right to request that inaccurate data relating to him/her be corrected or that unlawfully processed data relating to him/her be deleted, **as well as** the procedures for exercising those rights, **including** the contact details **of the authorities referred to in Article 34 and** of the National Data Protection Authorities which shall hear claims concerning the protection of personal data.
2. The information referred to in paragraph 1 shall be provided in writing in a language that the applicant **understands or may** reasonably **be presumed** to understand. Member States shall use the common leaflet drawn up pursuant to paragraph 3 for that purpose.

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For the proper understanding of the applicant, the information shall also be supplied orally, at the interview *arranged* pursuant to Article 5.

Member States shall provide the information in a manner appropriate to the age of the applicant.

3. A common leaflet containing at least the information referred to in paragraph 1 shall be drawn up in accordance with the *regulatory* procedure referred to in *Article 41(2)*.

Article 5

Personal interview

1. The Member State carrying out the process of determining the Member State responsible under this Regulation shall **call the** applicants **for** a personal interview with a qualified person under national law to conduct such an interview.

2. The personal interview shall **have** the purpose of facilitating the process of determining the Member State responsible, in particular **■** allowing the applicant to submit *the* relevant information necessary for the correct identification of the responsible Member State, **as well as** the purpose of informing the applicant orally about the application of this Regulation.

3. The personal interview shall take place in a timely manner following the lodging of an application for international protection and, in any event, before any decision is taken to transfer the applicant to the responsible Member State pursuant to Article 25(1).

4. The personal interview shall take place in a language that the applicant **understands or may** reasonably **be presumed to** understand and in which he/she is able to communicate. Where necessary, Member States shall select an interpreter who is able to ensure appropriate communication between the applicant and the person who conducts the personal interview.

5. The personal interview shall take place under conditions which ensure appropriate confidentiality.

6. The Member State conducting the personal interview shall make a short written report containing the main information supplied by the applicant at the interview and shall make a copy of that report available to the applicant. The report shall be attached to any transfer decision pursuant to Article 25(1).

Article 6

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. Member States shall ensure that a representative **within the meaning of Article 2(i) of Directive 2005/85/EC** represents and/or assists the unaccompanied minor with respect to all procedures provided for in this Regulation. This representative may also be the representative referred to in *Article 24 of Directive .../.../EC* **||** [laying down minimum standards for the reception of asylum seekers].

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, taking into particular consideration the minor's ethnic, religious, cultural and linguistic background;

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- (c) safety and security considerations, in particular where there is a risk of the child being a victim of trafficking;
- (d) the views of the minor, in accordance with his/her age and maturity.

4. Member States shall establish procedures **■** for tracing the family members or other relatives present in the Member States of unaccompanied minors, **where necessary with the assistance of international or other relevant organisations**. They shall start to trace the members of the unaccompanied minor's family or other relatives as soon as possible after the lodging of the application for international protection *while* protecting his/her best interests.

5. The competent authorities referred to in *Article 34* who deal with requests concerning unaccompanied minors shall receive appropriate training concerning the specific needs of minors.

6. Within the framework of the application of this Regulation and under the conditions laid down in Article 17 of Directive 2005/85/EC, Member States may use medical examinations to determine the age of unaccompanied minors.

In cases where medical examinations are used, Member States shall ensure that they are conducted in a reasonable and thorough manner, as required by scientific and ethical standards.

CHAPTER III

CRITERIA FOR DETERMINING THE MEMBER STATE RESPONSIBLE

Article 7

Hierarchy of criteria

1. The criteria for determining the Member State responsible shall be applied in the order in which they are set out in this Chapter.
2. The Member State responsible in accordance with the criteria set out in this Chapter shall be determined on the basis of the situation *existing* when the asylum seeker first lodged his/her application for international protection with a Member State.

■

Article 8

Unaccompanied minors

1. Where the applicant is an unaccompanied minor, the Member State responsible for examining the application for international protection shall be that where a member of his or her family is legally present, provided that this is in the best interests of the minor.
2. Where the applicant is an unaccompanied minor who has ***no family members within the meaning of Article 2(i) legally present in another Member State but who has another*** relative legally present in another Member State who can take care of him or her, that Member State shall be responsible for examining the application, provided that this is in the best interests of the minor.
3. Where members of the applicant's family or his/her other relatives are legally present in more than one Member State, the Member State responsible for examining the application shall be decided on the basis of what is in the best interests of the minor.

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4. In the absence of a family member or of another relative, the Member State responsible for examining the application shall be that where the minor has lodged his or her application for international protection, provided that this is in the best interest of the minor.

5. The conditions and procedures for implementing paragraphs 2 and 3 shall be adopted by the Commission. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 41(3).

Article 9

Family members who are persons granted international protection

Where the asylum seeker 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 person granted 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 10

Family members who are applicants for international protection

If the asylum seeker 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 11

Dependent relatives

1. Where the asylum seeker is dependent on the assistance of a relative on account of pregnancy or a new-born child, serious illness, severe *disability* or old age, or where a relative is dependent on the assistance of the asylum seeker for the same reasons, the Member State responsible for examining the application shall be the one considered the most appropriate for keeping them together or reunifying them, provided that family ties existed in the country of origin and that the persons concerned expressed their desire in writing. In determining the most appropriate Member State, the best interests of the persons concerned shall be taken into account, such as the ability of the dependent person to travel.

2. The conditions and procedures for implementing paragraph 1 shall be adopted by the Commission. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 41(3).

Article 12

Family procedure

Where several members of a family 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 them 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 members of the family shall lie with the Member State which the criteria indicate is responsible for taking charge of the largest number of family members;
- (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.

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Article 13

Issuing of residence documents or visas

1. Where the asylum seeker 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 asylum seeker 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* or on the written authorisation of another Member State. In such a case, *that other* Member State shall be responsible for examining the application for international protection. Where a Member State first consults the central authority of another Member State, in particular for security reasons, the latter's reply to the consultation shall not constitute written authorisation within the meaning of this provision.
3. Where the asylum-seeker 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 *residence* 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;
 - (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.
4. Where the asylum seeker is in possession only of one or more residence documents which have expired less than two years previously or one or more visas which have expired less than six months previously and which enabled him/her actually to enter the territory of a Member State, paragraphs 1, 2 and 3 shall apply for such time as the applicant has not left the *territory* of the Member States.

Where the asylum seeker is in possession of one or more residence documents which have expired more than two years previously or one or more visas which have expired more than six months previously and enabled him/her actually to enter the territory of a Member State and where he/she has not left the *territory* of the Member States, the Member State in which the application for international protection is lodged shall be responsible.

5. 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 is *able to* establish that fraud was committed after the document or visa had been issued.

Article 14

Entry and/or stay

1. Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) of this Regulation, including the data referred to in Chapter III of Regulation (EC) No .../... [concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of || Regulation || (EC) No || .../... *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*], that an asylum seeker has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for international protection. *Such* responsibility shall cease 12 months after the date on which the irregular border crossing took place.

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2. When a Member State cannot or can no longer be held responsible in accordance with paragraph 1, and where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 22(3), that the asylum seeker - who has entered the *territory* of the Member States irregularly or whose circumstances of entry cannot be established - has been living for a continuous period of at least five months in a Member State before lodging the application for international protection, that Member State shall be responsible for examining the application for international protection.

If the applicant has been living for periods of time of at least five months in several Member States, the Member State where *he/she* has *lived* most recently shall be responsible for examining the application for international protection.

Article 15

Visa waived entry

1. 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 Member State shall be responsible for examining his or her application for international protection.

2. The principle set out in paragraph 1 *shall* not apply if the third-country national or the stateless person lodges his or her application for international protection in another Member State, in which the need for him or her to have a visa for entry into the territory is also waived. In *that case*, *that other* Member State shall be responsible for examining the application for international protection.

Article 16

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

DISCRETIONARY CLAUSES

Article 17

Discretionary clauses

1. By way of derogation from Article 3 || (1) || each Member State may, in particular for humanitarian and compassionate reasons, decide to examine an application for international protection 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, provided that the applicant agrees thereto.

In such an event, that Member State shall become the Member State responsible within the meaning of this Regulation 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 or take back the applicant by using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003.

The Member State becoming responsible in accordance with this paragraph shall also forthwith indicate in *Eurodac* that it *has* assumed responsibility pursuant to Article 6(3) of Regulation (EC) No || .../... || [concerning the establishment of '*Eurodac*' for the comparison of fingerprints for the effective application of || Regulation (EC) No .../... *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*].

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2. The Member State in which an application for international protection is made and which is carrying out the process of determining the Member State responsible, or the Member State responsible, may, at any time, request another Member State to take charge of an applicant in order to bring together family members, as well as other relatives, on humanitarian grounds based in particular on family or cultural considerations, even where *that other* Member State is not responsible under the criteria laid down in Articles 8 to 12 ¶. 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 substantiate the humanitarian reasons cited, and shall give a decision on the request within two months of the date on which the request was received. A decision refusing the request shall state the reasons on which it is based.

Where the requested Member State accepts the request, responsibility for examining the application shall be transferred to it.

CHAPTER V

OBLIGATIONS OF THE MEMBER STATE RESPONSIBLE

Article 18

Obligations of the Member State responsible

1. The Member State responsible for examining an application for international protection under this Regulation shall be obliged to:

- (a) take charge, under the conditions laid down in Articles 21, 22 and 28, of an asylum seeker who has lodged an application in a different Member State;
- (b) take back, under the conditions laid down in Articles 23, 24 and 28, an applicant whose application is under examination and who made an application in another Member State or who is in the territory of another Member State without a residence document;
- (c) take back, under the conditions laid down in Articles 23, 24 and 28, an applicant who has withdrawn the application under examination and made an application in another Member State;
- (d) take back, under the conditions laid down in Articles 23, 24 and 28, a third-country national or a stateless person whose application has been rejected and who made an application in another Member State or who is in the territory of another Member State without a residence document.

2. The Member State responsible shall in all circumstances referred to in paragraph 1(a) to (d) examine or complete the examination of the application for international protection made by the applicant, within the meaning of Article 2(d). When the Member State responsible *had* discontinued the examination of an application following its withdrawal by the applicant, it shall revoke that decision and complete the examination of the application, within the meaning of Article 2(d).

Article 19

Cessation of responsibilities

1. Where a Member State issues a residence document to the applicant, the obligations specified in Article 18(1), shall be transferred to that Member State.

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2. The obligations specified in Article 18(1), shall cease where the Member State responsible for examining the application can establish, when requested to take charge or take back an applicant or another person as referred to in Article 18(1)(d), that the person concerned has left the territory of the Member States for at least three months, unless the person concerned is in possession of a valid residence document issued by the Member State responsible.

An application lodged after such an absence shall be regarded as a new application giving rise to a new procedure for the determination of the Member State responsible.

3. The obligations specified in Article 18(1)(c) and (d), shall cease where the Member State responsible for examining the application can establish, when requested to take back an applicant or another person as referred to in Article 18(1)(d), that the person concerned has left the territory of the Member States in compliance with a return decision or removal order *which* it issued following the withdrawal or rejection of the application.

An application lodged after an effective removal shall be regarded as a new application giving rise to a new procedure for the determination of the Member State responsible.

CHAPTER VI

PROCEDURES FOR TAKING CHARGE AND TAKING BACK

Section I

Start of the procedure

Article 20

Start of the procedure

1. The process of determining the Member State responsible under this Regulation shall start as soon as an application for international protection is first lodged with a Member State.

2. An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or a report prepared by the authorities has reached the competent authorities of the Member State concerned. Where an application is not made in writing, the time elapsing between the statement of intention and the preparation of a report should be as short as possible.

3. For the purposes of this Regulation, the situation of a minor who is accompanying the asylum seeker and meets the definition of a family member set out in Article 2 || (i) shall be indissociable from that of his/her parent or guardian and shall be a matter for the Member State responsible for examining the application for international protection of that parent or guardian, even if the minor is not individually an asylum seeker, provided that this is in his/her best interests. The same treatment shall be applied to children born after the asylum seeker arrives in 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 lodged with the competent authorities of a Member State by an applicant who is in 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 received the application and shall then, for the purposes of this Regulation, be regarded as the Member State with which the application for international protection was lodged.

The applicant shall be informed in writing of this transfer and of the date on which it took place.

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5. An asylum seeker who is present in another Member State *where he/she* lodges an application for international protection after withdrawing his/her first application made in a different Member State during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles 23, 24 and 28, by the Member State with which that application for international protection was *first* lodged, with a view to completing the process of determining the Member State responsible for examining the application for international protection.

This obligation shall cease where the Member State requested to complete the process of determining the responsible Member State *is able to* establish that the asylum seeker has in the meantime left the *territory* of the Member States for a period of at least three months or has obtained a residence document from another Member State.

An application lodged after such an absence shall be regarded as a new application giving rise to a new procedure for the determination of the responsible Member State.

Section II

Procedures for take-charge requests

Article 21

Submitting a take charge request

1. Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it may, as quickly as possible and in any *event* within three months of the date on which the application was lodged within the meaning of Article 20(2), request the other Member State to take charge of the applicant.

Where the request to take charge of an applicant is not made within *that* period of three months, responsibility for examining the application for international protection shall lie with the Member State in which the application was lodged.

2. The requesting Member State may ask for an urgent reply in cases where the application for international protection was lodged after leave to enter or remain was refused, after an arrest for an unlawful stay or after the service or execution of a removal order and/or where the asylum seeker is *being* held in detention.

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.

3. In both cases, 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 22(3) and/or relevant elements from the asylum seeker'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 rules on the preparation of and the procedures for transmitting requests shall be adopted in accordance with the *regulatory* procedure referred to in Article 41(2).

Article 22

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 the date on which the request was received.

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2. In the procedure for determining the Member State responsible for examining the application for international protection established in this Regulation, elements of proof and circumstantial evidence shall be used.
3. In accordance with the *regulatory* procedure referred to in *Article 41(2)* two lists shall be established and periodically reviewed, indicating the elements of proof and circumstantial evidence in accordance with the following criteria:
- (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 41* 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 *evidential* value attributed to them.
- (ii) Their *evidential* value, in relation to the responsibility for examining the application for international protection, shall be assessed on a case-by-case basis.
4. The requirement of proof should not exceed what is necessary for the proper application of this Regulation.
5. 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.
6. Where the requesting Member State has pleaded urgency in accordance with the provisions of *Article 21(2)*, the requested Member State shall make every effort to *comply with* the time limit requested. 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 give its reply after the time limit requested, but in any *event* within one month. In such situations the requested Member State *shall* communicate its decision to postpone a reply to the requesting Member State within the time limit originally requested.
7. Failure to act within the two-month period mentioned in paragraph 1 and the one-month period mentioned in paragraph 6 shall be tantamount to accepting the request, and entail the obligation to take charge of the person, including the obligation to provide for proper *reception* arrangements ¶.

Section III

Procedures for take-back requests

Article 23

Submitting a take-back request

1. Where a Member State with which a subsequent application for international protection has been lodged or on whose territory an applicant or another person as referred to in *Article 18(1)(d)* is staying without a residence document, considers that another Member State is responsible in accordance with *Article 20(5)* and *Article 18(1)(b)*, (c) and (d), it may request that other Member State to take back that person.

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2. In the event of a subsequent application for international protection, the request to take back the person concerned shall be made as quickly as possible and in any event within **one month** of receiving the Eurodac hit, pursuant to Article 6(6) of Regulation (EC) No .../... || [concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of || Regulation (EC) No .../... 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].

If the request to take back the applicant who lodged a subsequent application for international protection is based on evidence other than data obtained from the Eurodac system, it shall be sent to the requested Member State within three months of the date on which the application for international protection was lodged within the meaning of Article 20(2).

3. Where there is no subsequent application for international protection, and if the requesting Member State decides to search the Eurodac system in accordance with Article 13 of Regulation (EC) No .../... || [concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of || Regulation (EC) No .../... 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], the request to take back the person concerned shall be made as quickly as possible and in any event within **one month** of receiving the Eurodac hit, pursuant to Article 13(4) of that Regulation.

If the request to take back the person concerned is based on evidence other than data obtained from the Eurodac system, it shall be sent to the requested Member State within three months of the date on which the requesting Member State becomes aware that another Member State may be responsible for the person concerned.

4. Where the request to take back of an applicant or another person as referred to in Article 18(1)(d) is not made within the periods laid down in paragraphs 2 and 3 of this Article, responsibility for examining the application for international protection shall lie with the Member State in which the application was subsequently lodged or on whose territory the person is staying without a residence document.

5. The request for the applicant or for another person as referred to in Article 18(1)(d) to be taken back shall be made using a standard form and including proof or circumstantial evidence and/or relevant elements from the person's statements, enabling the authorities of the requested Member State to check whether it is responsible.

The rules of proof and evidence and their interpretation, and on the preparation of and the procedures for transmitting requests, shall be adopted in accordance with the regulatory procedure referred to in Article 41(2).

Article 24

Replying to a take back request

1. The requested Member State shall make the necessary checks and shall *issue* a decision on the request to take back the person concerned as quickly as possible and in any event no later than one month from the date on which the request was received. When the request is based on data obtained from the Eurodac system, *that time limit shall be* reduced to two weeks.

2. Failure to act within the one month period or the two weeks period mentioned in paragraph || 1 || shall be tantamount to accepting the request, and entail the obligation to take back the person concerned, including the obligation to provide for proper *reception* arrangements.

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Section IV

Procedural safeguards

Article 25

Notification of a transfer decision

1. Where the requested Member State agrees to take charge or to take back an applicant or another person as referred to in Article 18(1)(d), the requesting Member State shall notify the person concerned of the decision to transfer him/her to the responsible Member State and, where applicable, *that it will not be* examining his/her application for international protection. Such notification shall be made in writing, in a language which the **applicant understands or may reasonably be presumed** to understand and within no more than 15 working days from the date of receipt of the reply from the requested Member State.

2. The decision referred to in paragraph 1 shall set out the grounds on which it is based, including a description of the main steps in the procedure leading to the decision. It shall contain information on available legal remedies and the time-limits applicable for *exercising* such remedies, as well as information on persons or entities that may provide specific legal assistance and/or representation to the person. It shall contain details of the time limit 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 he/she is travelling to the responsible Member State by his/her own means. The time-limits for carrying out the transfer shall be set in order to allow the person a reasonable period of time to *exercise* a remedy in accordance with Article 26.

Article 26

Remedies

1. The applicant or another person as referred to in Article 18(1)(d) shall have the right to an effective judicial remedy, in the form of an appeal or a review, in fact and in law, of the transfer decision referred to in Article 25 before a court or tribunal.

2. Member States shall provide for a reasonable period of time within which the person concerned may exercise his/her right to an effective judicial remedy pursuant to paragraph 1.

That period of time shall not be less than 10 working days as from the date of notification referred to in Article 25(1).

3. In the event of an appeal or review concerning the transfer decision referred to in Article 25, the authority referred to in paragraph 1 of this Article shall, acting ***either at the request of the person concerned or, in the absence of such a request,*** ex-officio, decide, as soon as possible, and in any event no later than ***five*** working days from the lodging of an appeal or of *an application for review*, whether or not the person concerned may remain on the territory of the Member State concerned pending the outcome of his/her appeal or review.

4. No transfer shall take place before the decision referred to in paragraph 3 is taken. A decision not to allow the person concerned to remain on the territory of the Member State concerned pending the outcome of his/her appeal or review shall state the reasons on which it is based.

5. Member States shall ensure that the person concerned has access to legal assistance and/or representation and, where necessary, to linguistic assistance.

6. Member States shall ensure that ***the necessary*** legal assistance and/or representation ***is granted on request*** free of charge ***in accordance with Article 15(3) to (6) of Directive 2005/85/EC.***

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

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Section V

Detention for the purpose of transfer

Article 27

Detention

1. Member States shall not hold a person in detention for the sole reason that he/she is an applicant for international protection in accordance with Directive 2005/85/EC.

2. Without prejudice to Article 8(2) of Directive \parallel .../.../EC \parallel [laying down minimum standards for the reception of asylum seekers], when it proves necessary, on the basis of an individual assessment of each case, \blacksquare Member States may detain an asylum-seeker or another person as referred to in Article 18(1)(d) of this Regulation, who is subject to a decision of transfer to the responsible Member State, **in a non-detention facility only if other less coercive measures have not been effective and**, only if there is a risk of his/her absconding.

3. When assessing the application of other less coercive measures for the purpose of paragraph 2, Member States shall take into consideration alternatives to detention such as regular reporting to the authorities, the deposit of a financial guarantee, an obligation to stay at a designated place or other measures to prevent the risk of absconding.

4. Detention pursuant to paragraph 2 may only be applied from the moment a decision of transfer to the responsible Member State has been notified to the person concerned in accordance with Article 25 until that person is transferred to the responsible Member State.

5. Detention pursuant to paragraph 2 shall be ordered for the shortest period possible. It shall be no longer than the time reasonably necessary to fulfil the required administrative procedures for carrying out a transfer.

6. Detention pursuant to paragraph 2 shall be ordered by judicial authorities. In urgent cases it may be ordered by administrative authorities, in which case the detention order shall be confirmed by judicial authorities within 72 hours from the beginning of the detention. Where the judicial authority finds detention to be unlawful, the person concerned shall be released immediately.

7. Detention pursuant to paragraph 2 shall be ordered in writing with reasons in fact and in law, in particular specifying the reasons on the basis of which it is considered that there is a \blacksquare risk of the person concerned absconding, as well as the time period of its duration.

Detained persons shall immediately be informed of the reasons for detention, the intended duration of the detention and the procedures laid down in national law for challenging the detention order, in a language which they **understand or may** reasonably **be presumed** to understand.

8. In every case of a *detention* pursuant to paragraph 2, the \blacksquare detention shall be reviewed by a judicial authority at reasonable intervals of time either on request by the person concerned or ex-officio. Detention shall never be unduly prolonged.

9. Member States shall ensure access to legal assistance and/or representation in cases of detention pursuant to paragraph 2 that shall be free of charge where the person concerned cannot afford the costs involved.

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

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10. Minors shall not be detained unless it is in their best interests as prescribed in **Article 6(3)** of this Regulation and in accordance with an individual examination of their situation in accordance with Article 11(5) of Directive $\parallel \dots/\dots/EC \parallel$ [laying down minimum standards for the reception of asylum seekers].

11. Unaccompanied minors shall never be detained.

12. Member States shall ensure that asylum-seekers detained in accordance with this Article enjoy the same level of reception conditions for detained applicants as those laid down in particular in Articles 10 and 11 of Directive $\parallel \dots/\dots/EC \parallel$ [laying down minimum standards for the reception of asylum seekers].

Section VI

Transfers

Article 28

Arrangements and time-limits

1. The transfer of the applicant or of another person as referred to in Article 18(1)(d) from the requesting Member State to the responsible Member State 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 six months of acceptance of the request by another Member State to take charge or to take back the person concerned or of the final decision on an appeal or review where a suspensive effect is granted in accordance with Article 26(3).

If necessary, the asylum seeker shall be supplied by the requesting Member State with a laissez passer of the design adopted in accordance with the *regulatory* procedure referred to in Article 41(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/she did not appear within the set time limit.

2. Where the transfer does not take place within the six months' time limit, the Member State responsible shall be relieved of its obligations to take charge or to take back the person concerned and responsibility shall then be transferred to the requesting Member State. *That* time limit may be extended up to a maximum of one year if the transfer could not be carried out due to *the* imprisonment of the person concerned or up to a maximum of 18 months if the person concerned absconds.

3. If a person has been transferred erroneously or a decision to transfer is overturned on appeal after the transfer has been carried out, the Member State which carried out the transfer shall promptly accept that person back.

4. The Commission may adopt supplementary rules on carrying out transfers. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 41(3).

Article 29

Costs of transfers

1. The costs necessary to transfer an applicant or another person as referred to in Article 18(1)(d) to the responsible Member State shall be met by the transferring Member State.

2. Where the person concerned has to be sent back to a Member State as a result of an erroneous transfer or of a transfer decision that has been overturned on appeal 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.

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3. Persons to be transferred pursuant to this Regulation shall not be required to meet the costs of such transfers.
4. Supplementary rules relating to the obligation of the *transferring* Member State to meet the costs of transfers may be adopted in accordance with the *regulatory* procedure referred to in *Article 41(2)*.

Article 30

Exchange of relevant information before transfers *are* carried out

1. In all cases of transfers, the transferring Member State shall inform the receiving Member State if the person concerned is fit for the transfer. Only persons who are fit for the transfer shall be transferred.
2. The Member State carrying out the transfer shall communicate to the responsible Member State such personal data concerning the applicant to be transferred as is appropriate, relevant and non-excessive for the sole purposes of ensuring that the competent asylum authorities in the responsible Member State are in a position to provide the applicant with adequate assistance, including the provision of necessary medical care, and to ensure continuity in the protection and rights afforded by this Regulation and by Directive || .../.../EC || [laying down minimum standards for the reception of asylum seekers]. That information shall be communicated at an early stage and at the latest seven working days before a transfer is carried out, except when the Member State becomes aware of it at a later stage.
3. Member States shall in particular exchange the following information:
 - (a) contact details of family members or of other relatives in the receiving Member State, where applicable;
 - (b) in the case of minors, information in relation to their level of education;
 - (c) information about the age of an applicant;
 - (d) any other information that the sending Member State deems essential in order to safeguard the rights and special needs of *an* applicant.
4. For the sole purpose of the provision of care or treatment, in particular *with respect to* 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 transmit information about any special needs of the applicant to be transferred, which in specific cases may include information about the physical and mental health of the applicant to be transferred. The responsible Member State shall ensure that those special needs are adequately *met*, including in particular any essential medical care that may be required.
5. Any information mentioned in paragraph 4 shall only be transmitted by the transferring Member State to the responsible Member State after the *express* consent of the applicant and/or of his/*her* representative has been obtained or when necessary to protect the vital interests of the individual or of another person where he/*she* is physically or legally incapable of giving his/*her* consent. Once the transfer has been completed, *the* information shall be deleted immediately by the transferring Member State.
6. The processing of personal health data shall only be carried out by a health professional subject under national law or rules established by national competent bodies to the obligation of *medical confidentiality* or by another person subject to an equivalent obligation of *confidentiality*. *Such* health professionals and persons receiving and processing *the* information shall receive appropriate medical training as well as training regarding the appropriate processing of sensitive personal data relating to health.

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7. The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with *Article 34 of this Regulation* using the 'DubliNet' electronic communication network ¶. The authorities notified according to *Article 34* of this Regulation shall also specify the health professionals authorized to process the information mentioned in paragraph 4 of *this Article*. The information exchanged shall be used *only* for the purposes set out in *paragraphs 2 and 4* of this Article.

8. With a view to facilitating the exchange of information between Member States, a standard form for transferring the data required pursuant to this Article shall be adopted in accordance with the *regulatory* procedure laid down in *Article 41(2)*.

9. The rules laid down in *Article 33(8) to (12)* shall apply to the exchange of information pursuant to this Article.

Article 31

Method of carrying out transfers

1. *The Member State carrying out a transfer shall promote voluntary transfers by providing adequate information to the applicant.*

2. *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.*

Section VII

Temporary suspension of transfers

Article 32

Temporary suspension of transfers

1. When a Member State is faced with a particularly urgent situation which places an exceptionally heavy burden on its reception capacities, asylum system or infrastructure, and when the transfer of applicants for international protection in accordance with this Regulation to that Member State could add to that burden, that Member State may request that such transfers be suspended.

The request shall be addressed to the Commission. It shall indicate the grounds on which it is based and shall in particular include:

- (a) a detailed description of the particularly urgent situation which places an exceptionally heavy burden on the requesting Member State's reception capacities, asylum system or infrastructure, including relevant statistics and supporting evidence;
- (b) a substantiated forecast of the likely evolution of *the* situation in the short-term;
- (c) a substantiated explanation of the further burden that the transfer of applicants for international protection in accordance with this Regulation could add to the requesting Member State's reception capacities, asylum system or infrastructure, including relevant statistics and other supporting evidence.

2. When the Commission considers that the circumstances prevailing in a Member State may lead to a level of protection for applicants for international protection which is not in conformity with Community legislation, in particular with Directive ¶ .../.../EC ¶ [laying down minimum standards for the reception of asylum seekers], Directive 2005/85/EC **and Directive 2004/83/EC**, it may decide in *accordance* with the procedure laid down in paragraph 4 that all transfers of applicants in accordance with this Regulation to the Member State concerned be suspended.

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3. When a Member State is concerned that the circumstances prevailing in another Member State may lead to a level of protection for applicants for international protection which is not in conformity with Community legislation, in particular with Directive *...*/EC *...* [laying down minimum standards for the reception of asylum seekers], Directive 2005/85/EC **and Directive 2004/83/EC**, it may request that all transfers of applicants in accordance with this Regulation to the Member State concerned be suspended.

That request shall be addressed to the Commission. It shall indicate the grounds on which it is based and shall in particular include detailed information on the situation in the Member State *concerned*, indicating a possible lack of conformity with Community legislation, in particular Directive *...*/EC *...* [laying down minimum standards for the reception of asylum seekers], Directive 2005/85/EC **and Directive 2004/83/EC**.

4. Following the receipt of a request pursuant to paragraphs 1 or 3, or *on its own initiative* pursuant to paragraph 2, the Commission may decide that all transfers of applicants in accordance with this Regulation to the Member State concerned be suspended. Such decision shall be taken as soon as possible and at the latest one month following the receipt of a request. The decision to suspend transfers shall state the reasons on which it is based and shall in particular include:

- (a) an examination of all the relevant circumstances prevailing in the Member State *to* which transfers could be suspended;
- (b) an examination of the potential impact of the suspension of transfers on the other Member States;
- (c) the proposed date on which the suspension of transfers *would* take effect;
- (d) any particular conditions attached to such suspension;
- (e) ***indicia of measures, benchmarks and timetables to be established in order to assess progress toward resolution of the circumstances identified pursuant to point (a).***

5. The Commission shall notify the Council and the Member States of the decision to suspend all transfers of applicants in accordance with this Regulation to the Member State concerned. Any Member State may refer the decision of the Commission to the Council within one month from the receipt of the notification. The Council, acting by qualified majority, may take a different decision in one month from the date of the referral by a Member State.

6. Following the decision of the Commission to suspend transfers to a Member State, the other Member States in which the applicants whose transfers have been suspended are present shall be responsible for examining the applications for international protection of those persons.

The decision to suspend transfers to a Member State shall take due account of the need to ensure the protection of minors and of family unity.

7. A decision to suspend transfers to a Member State pursuant to paragraph 1 shall justify the granting of assistance for the emergency measures laid down in Article 5 of Decision No 573/2007/EC of the European Parliament and of the Council ⁽¹⁾, following a request for assistance from that Member State.

8. A Member State as referred to in paragraphs 1 to 3 shall take effective and timely steps to remedy the situation that led to the temporary suspension of transfers.

9. Transfers may be suspended for a period which *may not* exceed six months. Where the grounds for the measures still persist after six months, the Commission may decide, *on* a request from the Member State referred to *in* paragraph 1 or *on its own initiative*, to extend their application for a further six months period. **The provisions of paragraph 5 shall also be applicable.**

⁽¹⁾ OJ L 144, 6.6.2007, p. 1.

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10. Nothing in this Article shall be interpreted as allowing Member States to derogate from their general obligation to take all appropriate measures, whether general or particular, to ensure fulfilment of their obligations arising out of Community legislation on asylum, in particular this Regulation, Directive || .../.../EC || [laying down minimum standards for the reception of asylum seekers], and Directive 2005/85/EC.

11. On a proposal by the Commission to the European Parliament and the Council, and acting in accordance with the procedure referred to in Article 251 of the Treaty, instruments shall be enacted, binding on all Member States, in order to provide effective support to those Member States which are faced with specific and disproportionate pressures on their national systems due, in particular, to their geographical or demographic situation. Those instruments shall enter into force no later than 31 December 2011 and in any event make provision for the following:

(a) the secondment of officials from other Member States, under the aegis of the European Asylum Support Office, to assist those Member States which are faced with specific pressures and where the applicants cannot benefit from adequate standards of protection;

(b) a scheme to reallocate beneficiaries of international protection from Member States which are faced with specific and disproportionate pressures to others, in consultation with the Office of the United Nations High Commissioner for Refugees, while ensuring that the reallocation follows non-discretionary, transparent and unequivocal rules.

12. This Article shall cease to apply as soon as the instruments referred to in paragraph 11 have entered into force, and in any event on 31 December 2011 at the latest.

13. As part of the monitoring and evaluation referred to in Article 42, the Commission shall review the application of this Article and report to the European Parliament and the Council no later than 30 June 2011. In its report, the Commission shall assess whether there is a justified need to extend the application of this Article beyond 31 December 2011. If the Commission considers it appropriate, it shall submit a proposal for such an extension to the European Parliament and the Council in accordance with the procedure laid down in Article 251 of the Treaty.

CHAPTER VII

ADMINISTRATIVE COOPERATION

Article 33

Information sharing

1. Each Member State shall communicate to any Member State that so requests such personal data concerning the asylum seeker as is appropriate, relevant and non-excessive for:

(a) the determination of the Member State responsible for examining the application for international protection;

(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) the personal details of the applicant, and, where appropriate, the members of his/her family (full name and where appropriate, former name; nicknames or pseudonyms; nationality, present and former; date and place of birth);

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- (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 fingerprints processed in accordance with Regulation (EC) No .../... ||[concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of || Regulation (EC) No .../... 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];
- (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 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 asylum seeker bases his/her application and, where applicable, the grounds for any decisions taken concerning the applicant. The Member State may refuse to respond to the request submitted to it, if the communication of such information *would be* likely to harm the essential interests of the Member State 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 requested Member State. In *such a* case, the applicant must know for what information he/she is giving his/her approval.

4. Any request for information shall || be sent *only* 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* asylum seekers enter the *territory* 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 the individual asylum seeker.

5. The requested Member State shall reply within four weeks. Any delays in the reply shall be duly justified. If the research carried out by the requested Member State which did not respect the maximum time-limit yields information which shows that it is responsible, that Member State may not invoke the expiry of the time-limit provided for in Articles 21 and 23 as a reason for refusing to comply with a request to take charge or take back.

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 34(1)*.

7. The information exchanged may be used *only* for the purposes set out in paragraph 1. In each Member State such information may, depending on its type and the powers of the *receiving* authority, be communicated *only* to the authorities and courts and tribunals entrusted with:

- (a) the determination of the Member State responsible for examining the application for international protection;

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- (b) examining the application for international protection;
- (c) implementing any obligation arising under this Regulation.

8. The Member State which forwards the information shall ensure that it is accurate and up-to-date. If it transpires that that Member State has forwarded information which is inaccurate or which should not have been forwarded, the *receiving* Member States shall be informed thereof immediately. They shall be obliged to correct such information or to have it erased.

9. The asylum seeker shall have the right to be informed, on request, of any data that *are* processed concerning him/her.

If he/she finds that *the data have* been processed in breach of this Regulation or of Directive 95/46/EC, in particular because it is incomplete or inaccurate, he/she is entitled to have it corrected or erased.

The authority correcting or erasing the data shall inform, as appropriate, the Member State transmitting or receiving the information.

The asylum seeker shall have the right to bring an action or a complaint before the competent authorities or courts of the Member State which refused the right of access to or the right of correction or deletion of data relating to him/her.

10. 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.

11. The data exchanged shall be kept for a period not exceeding that which is necessary for the purposes for which *they are* exchanged.

12. Where the data *are* not processed automatically or *are* not contained, or intended to be entered, in a file, each Member State shall take appropriate measures to ensure compliance with this Article through effective checks.

Article 34

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 *hereto*. They 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 of and requests to take back asylum seekers.

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. Rules relating to the establishment of secure electronic transmission channels between the authorities mentioned in paragraph 1 for transmitting requests, replies and all written correspondence and ensuring that senders automatically receive an electronic proof of delivery shall be established in accordance with the *regulatory* procedure referred to in Article 41(2).

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Article 35

Administrative arrangements

1. Member States may, on a bilateral basis, establish administrative arrangements between *each other* 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 *the* transmission and the examination of requests to take charge of or take back asylum seekers.

2. The arrangements referred to in paragraph 1 shall be communicated to the Commission. The Commission shall approve the arrangements referred to in paragraph 1(b), after it has verified that they do not infringe this Regulation.

CHAPTER VIII

Conciliation

Article 36

Conciliation

1. Where the Member States cannot resolve a dispute on any matter related to the application of this Regulation, they may have recourse to the conciliation procedure provided for in paragraph 2.

2. The conciliation procedure shall be initiated by a request from one of the Member States in dispute to the Chairman of the Committee set up by *Article 41*. By agreeing to use the conciliation procedure, the Member States concerned ***commit themselves to taking*** the utmost account of the solution proposed.

The Chairman of the Committee shall appoint three members of the Committee representing three Member States not connected with the matter. They shall receive the arguments of the parties either in writing or orally and, after deliberation, shall propose a solution within one month, where necessary after a vote.

The *Chair* of the Committee, or his/*her* deputy, shall chair the discussion. He/*she* may put forward his point of view but he/*she* may not vote.

Whether it is adopted or rejected by the parties, the solution proposed shall be final and irrevocable.

CHAPTER IX

TRANSITIONAL PROVISIONS AND FINAL PROVISIONS

Article 37

Penalties

Member States shall take the necessary measures to ensure that any misuse of data processed in accordance with this Regulation is punishable by penalties, including administrative and/or criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.

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Article 38

Transitional measures

Where an application has been lodged after the date mentioned in the second paragraph of *Article 45*, 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, with the exception of the events mentioned in *Article 14(2)*.

Article 39

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 40

Territorial scope

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

Article 41

Committee

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, *Articles 5 and 7* of Decision 1999/468/EC shall apply, *having regard to the provisions of Article 8 thereof*.

The period laid down in *Article 5(6)* of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, *Article 5a(1) to (4)*, and *Article 7* of Decision 1999/468/EC shall apply, *having regard to the provisions of Article 8 thereof*.

Article 42

Monitoring and evaluation

At the latest three years after the date mentioned in the first paragraph of *Article 45*, **and without prejudice to *Article 32(13)***, the Commission shall report to the European Parliament and the Council on the application of this Regulation and, where appropriate, shall propose *any* 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.

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After having submitted that report, the Commission shall report to the European Parliament and 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 28 of Regulation (EC) No || .../... || [concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of || Regulation (EC) No .../... 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].

Article 43

Statistics

In accordance with Article 4(4) of 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 ⁽¹⁾, Member States shall communicate to the Commission (Eurostat), statistics concerning the application this Regulation and of Regulation (EC) No 1560/2003.

Article 44

Repeal

Regulation (EC) 343/2003 is hereby repealed.

Articles 11(1), 13, 14 and 17 of || Regulation (EC) No 1560/2003 are hereby repealed.

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

Article 45

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*.

It shall apply to applications for international protection lodged as from the first day of the sixth month following its entry into force and, from that date, it shall apply to any request to take charge of or take back asylum seekers, irrespective of the date on which the application was made. 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 (EC) No 343/2003.

This Regulation shall be binding in its entirety and directly applicable in the Member States in conformity with the Treaty ||.

Done at ||

For the European Parliament
The President

For the Council
The President

⁽¹⁾ OJ L 199, 31.7.2007, p. 23.

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ANNEX I

Repealed regulation

(referred to in Article 44)

Council Regulation (EC) No 343/2003	(OJ L 50, 25.2.2003)
Commission Regulation (EC) No 1560/2003, only Articles 11(1), 13, 14 and 17	(OJ L 222, 5.9.2003)

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ANNEX II

Correlation Table

Regulation (EC) 343/2003	This Regulation
Article 1	Article 1
Article 2(a)	Article 2(a)
Article 2(b)	deleted
Article 2(c)	Article 2(b)
Article 2(d)	Article 2(c)
Article 2(e)	Article 2(d)
Article 2(f)	Article 2(e)
Article 2(g)	Article 2(f)
—	Article 2(g)
Article 2(h) to (k)	Article 2(h) to (k)
—	Article 2(l)
Article 3(1)	Article 3(1)
Article 3(2)	Article 17(1)
Article 3(3)	Article 3(3)
Article 3(4)	Article 4(1), introductory wording
—	Article 4(1)(a) to (g)
—	Article 4(2) and (3)
Article 4 (1) to (5)	Article 20 (1) to (5)
—	Article 20 (5), third subparagraph
—	Article 5
—	Article 6

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Regulation (EC) 343/2003	This Regulation
Article 5(1)	Article 7(1)
Article 5(2)	Article 7(2)
—	Article 7(3)
Article 6, first paragraph	Article 8(1)
—	Article 8(3)
Article 6, second paragraph	Article 8(4)
Article 7	Article 9
Article 8	Article 10
Article 9	Article 13
Article 10	Article 14
Article 11	Article 15
Article 12	Article 16
Article 13	Article 3(2)
Article 14	Article 12
Article 15(1)	Article 17(2), first subparagraph
Article 15(2)	Article 11(1)
Article 15(3)	Article 8(2)
Article 15(4)	Article 17(2), fourth subparagraph
Article 15(5)	Articles 8(5) and Article 11(2);
Article 16(1)(a)	Article 18(1)(a)
Article 16(1)(b)	Article 18(2)
Article 16(1)(c)	Article 18(1)(b)
Article 16(1)(d)	Article 18(1)(c)
Article 16(1)(e)	Article 18(1)(d)
Article 16(2)	Article 19(1)
Article 16(3)	Article 19(2), first subparagraph
—	Article 19(2), second subparagraph
Article 16(4)	Article 19(3)
	Article 19(3), second subparagraph
Article 17	Article 21
Article 18	Article 22
Article 19(1)	Article 25(1)
Article 19(2)	Article 25(2) and Article 26(1)
—	Article 26(2) to (6)
Article 19(3)	Article 28(1)

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Regulation (EC) 343/2003	This Regulation
Article 19(4)	Article 28(2)
—	Article 28(3)
Article 19(5)	Article 28(4)
Article 20(1), introductory wording	Article 23(1)
—	Article 23(2)
—	Article 23(3)
—	Article 23(4)
Article 20(1)(a)	Article 23(5), first subparagraph
Article 20(1)(b)	Article 24(1)
Article 20(1)(c)	Article 24(2)
Article 20(1)(d)	Article 28(1), first subparagraph
Article 20(1)(e)	Article 25(1), (2), Article 26(1), Article 28(1), second and third subparagraphs;
Article 20(2)	Article 28(2)
Article 20(3)	Article 23(5), second subparagraph
Article 20(4)	Article 28(4)
—	Article 27
—	Article 29
—	Article 30
—	Article 32
Article 21(1) to (9)	Article 33(1) to (9) first to third subparagraphs Article 33(9) fourth subparagraph
Article 21(10) to (12)	Article 33(10) to (12)
Article 22(1)	Article 34(1)
—	Article 34(2)
—	Article 34(3)
Article 22(2)	Article 34(4)
Article 23	Article 35
Article 24(1)	deleted
Article 24(2)	Article 38
Article 24(3)	deleted
Article 25(1)	Article 39
Article 25(2)	deleted
Article 26	Article 40
Article 27(1), (2)	Article 41(1), (2)
Article 27(3)	deleted

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Regulation (EC) 343/2003	This Regulation
Article 28	Article 42
Article 29	Article 45
—	Article 36
—	Article 37
—	Article 43
—	Article 44

Regulation (EC) 1560/2003	This Regulation
Article 11(1)	Article 11(1)
Article 13(1)	Article 17(2), first subparagraph
Article 13(2)	Article 17(2), second subparagraph
Article 13(3)	Article 17(2), third subparagraph
Article 13(4)	Article 17(2), first subparagraph
Article 14	Article 36
Article 17(1)	Articles 9, 10, 17(2), first subparagraph
Article 17(2)	Article 33(3)

Establishment of 'Eurodac' for the comparison of fingerprints (recast) ***I

P6_TA(2009)0378

European Parliament legislative resolution of 7 May 2009 on the proposal for a regulation of the European Parliament and of the Council concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No (.../...) [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] (recast) (COM(2008)0825 – C6-0475/2008 – 2008/0242(COD))

(2010/C 212 E/53)

(Codecision procedure – recast)

The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0825),

— having regard to Article 251(2) and Article 63(1)(a) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0475/2008),