



2016/0222(COD)

23.2.2017

AMENDMENTS

52 - 295

Draft report

Sophia in 't Veld

(PE593.978v02-00)

on the proposal for a directive of the European Parliament and of the Council
laying down standards for the reception of applicants for international
protection (recast)

Proposal for a directive

(COM(2016)0465 – C8-0323/0216 – 2016/0222(COD))

Amendment 52
Gilles Lebreton

Proposal for a directive

—

Proposal for rejection

***The European Parliament rejects the
Commission proposal.***

Or. fr

Amendment 53
Beatrix von Storch

Proposal for a directive

—

Proposal for a rejection

***The European Parliament rejects the
Commission proposal.***

Or. en

Amendment 54
Jussi Halla-aho

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) A common policy on asylum, including a Common European Asylum System (CEAS), which is 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, 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

Amendment

(2) A common policy on asylum, including a Common European Asylum System (CEAS), which is 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, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection

in the Union, thus affirming the principle of non-refoulement. Such a policy should be governed by the principle of ***solidarity and fair sharing of responsibility, including its financial implications, between the Member States.***

in the Union, thus affirming the principle of non-refoulement. Such a policy should be governed by the principle of ***affordability, taking into account the absorption capacities of the receiving societies as well as maximal self-reliance of the seekers of protection.***

Or. en

Justification

An effective Common European Asylum System (CEAS) cannot be built on the premise of burden sharing and solidarity. Instead the effective management of migration flows and curtailment of unnecessary pull factors, such as generous social benefits, should guide the implementation of the CEAS.

Amendment 55

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) The Common European Asylum System (CEAS) is based on a system for determining the Member State responsible for applicants for international protection and common standards for asylum procedures, reception conditions and procedures and rights of beneficiaries of international protection. Notwithstanding the significant progress that has been made in the development of the CEAS, there are still notable differences between the Member States with regard to the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection. These divergences ***are important drivers of secondary movement and*** undermine the objective of ensuring that all applicants are equally treated wherever they apply in the

Amendment

(3) The Common European Asylum System (CEAS) is based on a system for determining the Member State responsible for applicants for international protection and common standards for asylum procedures, reception conditions and procedures and rights of beneficiaries of international protection. Notwithstanding the significant progress that has been made in the development of the CEAS, there are still notable differences between the Member States with regard to the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection. These divergences undermine the objective of ensuring that all applicants are equally treated wherever they apply in the Union.

Amendment 56

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) In its Communication of 6 April 2016 entitled 'Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe',²² the Commission underlined the need for strengthening and harmonising further the CEAS. It also set out options for improving the CEAS, namely to establish a sustainable and fair system for determining the Member State responsible for applicants for international protection, to reinforce the Eurodac system, to achieve greater convergence in the Union asylum system, to prevent secondary movements within the Union and a new mandate for the European Union Agency for Asylum. This answers to calls by the European Council on 18-19 February 2016²³ and on 17-18 March 2016²⁴ to make progress towards reforming the Union's existing framework so as to ensure a humane and efficient asylum policy. It also proposes a way forward in line with the holistic approach to migration set out by the European Parliament in its own initiative report of 12 April 2016.

²² COM(2016) 197 final.

²³ EUCO 19.02.2016, SN 1/16.

²⁴ EUCO 12/1/16.

Amendment

(4) In its Communication of 6 April 2016 entitled 'Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe',²² the Commission underlined the need for strengthening and harmonising further the CEAS. It also set out options for improving the CEAS, namely to establish a sustainable and fair system for determining the Member State responsible for applicants for international protection, to reinforce the Eurodac system, to achieve greater convergence in the Union asylum system, to prevent secondary movements within the Union and a new mandate for the European Union Agency for Asylum. This answers to calls by the European Council on 18-19 February 2016²³ and on 17-18 March 2016²⁴ to make progress towards reforming the Union's existing framework so as to ensure a humane and efficient asylum policy. It also proposes a way forward *partially* in line with the holistic approach to migration set out by the European Parliament in its own initiative report of 12 April 2016.

²² COM(2016) 197 final.

²³ EUCO 19.02.2016, SN 1/16.

²⁴ EUCO 12/1/16.

Amendment 57
Jussi Halla-aho

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The ***persistent problems in ensuring adherence to the reception standards required for a dignified treatment of applicants in some*** Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards ***which are then under pressure to reduce their standards***. More equal reception standards set at an appropriate level across all Member States will contribute to a ***more dignified treatment and*** fairer distribution of applicants across the EU.

Amendment

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The ***variance in*** the reception standards ***among*** Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards. More equal reception standards set at an appropriate ***and economically realistic*** level across all Member States will contribute to a fairer distribution of applicants across the Union ***thus contributing to the faster processing of applications***.

Or. en

Amendment 58
Bodil Valero
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for a dignified

Amendment

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for a dignified

treatment of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to **reduce** their **standards**. **More equal** reception standards **set at an appropriate level** across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the EU.

treatment of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to **ensure that** their **high** reception standards **are maintained**. **Equal and high reception standards** across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the Union.

Or. en

Amendment 59

Alessandra Mussolini, Salvatore Domenico Pogliese

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for **a dignified** treatment of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to reduce their standards. More equal reception standards set at an appropriate level across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the EU.

Amendment

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for **appropriate** treatment of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to reduce their standards. More equal reception standards set at an appropriate level across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the EU.

Or. it

Amendment 60

Jussi Halla-aho

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The resources of the Asylum, Migration and Integration Fund and of the European Union Agency for Asylum should be mobilised to provide **adequate** support to Member States' efforts in implementing the standards set in this Directive, including to those Member States which are faced with specific and disproportionate pressures on their asylum systems, due in particular to their geographical or demographic situation.

Amendment

(6) The resources of the Asylum, Migration and Integration Fund and of the European Union Agency for Asylum should be **sparingly** mobilised to provide **supplementary** support to Member States' efforts in implementing the standards set in this Directive, including to those Member States which are faced with specific and disproportionate pressures on their asylum systems, due in particular to their geographical or demographic situation.

Or. en

Justification

The main responsibility to cover the costs of receiving asylum seekers lies with the Member States.

Amendment 61
Jussi Halla-aho

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) In order to ensure equal treatment of applicants throughout the Union, this Directive should apply during all stages and types of procedures concerning applications for international protection, in all locations and facilities hosting applicants and for as long as they are allowed to remain on the territory of the Member States as applicants. It is necessary to clarify that material reception conditions should be made available to applicants as from the moment when the person expresses his or her wish to apply

Amendment

(7) In order to ensure equal treatment of applicants throughout the Union, this Directive should apply during all stages and types of procedures concerning applications for international protection, in all locations and facilities hosting applicants and for as long as they are allowed to remain on the territory of the Member States as applicants. ***This Directive does not apply to persons that have not lodged an application for international protection or are no longer considered to be applicants.*** It is necessary

for international protection to officials of the determining authority, as well as any officials of other authorities which are designated as competent to receive and register applications or which assist the determining authority to receive such applications in line with Regulation (EU) No XXX/XXX [Procedures Regulation].

to clarify that material reception conditions should be made available to applicants as from the moment when the person expresses his or her wish to apply for international protection to officials of the determining authority, as well as any officials of other authorities which are designated as competent to receive and register applications or which assist the determining authority to receive such applications in line with Regulation (EU) No XXX/XXX [Procedures Regulation].

Or. en

Justification

Persons that have refused to lodge an application for international protection in due manner shouldn't be entitled to enjoy the safeguards provided by this Directive.

Amendment 62 **Cornelia Ernst**

Proposal for a directive **Recital 8**

Text proposed by the Commission

Amendment

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

deleted

Or. de

Amendment 63 **Bodil Valero** on behalf of the Verts/ALE Group

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 64
Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

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

deleted

Or. it

Amendment 65
Jeroen Lenaers

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

(8) *Where* an applicant is present in another Member State from the one in

(8) *In order to discourage secondary movements*, an applicant *that* is present in

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

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

Or. en

Amendment 66

Udo Voigt

Proposal for a directive

Recital 8

Text proposed by the Commission

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

Amendment

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

Or. de

Amendment 67

Beatrix von Storch

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) ***Standard*** conditions for the reception of applicants ***that will suffice to ensure them a dignified standard of living and comparable living conditions in all Member States should be laid down. The harmonisation of conditions for the reception of applicants should help to limit the secondary movements of applicants influenced by the variety of***

Amendment

(10) Conditions for the reception of applicants ***are determined by the Member States. These conditions are not to be harmonised in respect of the principle of subsidiarity. Furthermore, diversity in reception conditions is recognised as a result of different priorities within each Member States budget.***

conditions for their reception.

Or. en

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts. It would be nonsensical to have the principle applied only to the grey parts.

Amendment 68

Jussi Halla-aho

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) Standard conditions for the reception of applicants *that will suffice to ensure them a dignified standard of living* and comparable living conditions in all Member States should be laid down. The harmonisation of conditions for the reception of applicants should help to limit the secondary movements of applicants influenced by the variety of conditions for their reception.

Amendment

(10) Standard conditions for the reception of applicants and comparable living conditions in all Member States should be laid down. The harmonisation of conditions for the reception of applicants should help to limit the secondary movements of applicants influenced by the variety of conditions for their reception.

Or. en

Justification

The word `dignified` is subjective and open to interpretation.

Amendment 69

Alessandra Mussolini, Salvatore Domenico Pogliese

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) Standard conditions for the

Amendment

(10) Standard conditions for the

reception of applicants that will suffice to ensure them **a dignified** standard of living and comparable living conditions in all Member States should be laid down. The harmonisation of conditions for the reception of applicants should help to limit the secondary movements of applicants influenced by the variety of conditions for their reception.

reception of applicants that will suffice to ensure them **an adequate** standard of living and comparable living conditions in all Member States should be laid down. The harmonisation of conditions for the reception of applicants should help to limit the secondary movements of applicants influenced by the variety of conditions for their reception.

Or. it

Justification

Use of the adjective 'dignified' to describe the standard of living that applicants ought to be guaranteed through the adoption of harmonised conditions for their reception, without specifying what this means, could lead to disputes involving those concerned.

Amendment 70

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, as soon as possible and at the latest when they **lodge** their application, of all the **obligations with which applicants must comply** relating to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted and of any benefits.

Amendment

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, as soon as possible and at the latest when they **make** their application, of all the **rights, entitlements and obligations** relating to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted and of any benefits **and legal aid, special needs, redress and right of appeal against detention or decisions relating to the replacement, reduction or withdrawal of reception conditions and information on the relevant asylum procedure.**

Or. en

Amendment 71

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, ***as soon as possible*** and at the latest when they lodge their application, of all the obligations with which applicants must comply relating to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted and of any benefits.

Amendment

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, ***at the time when the person concerned expresses the intention to apply for international protection*** and at the latest when they lodge their application, of all the obligations with which applicants must comply relating to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted and of any benefits.

Or. it

Amendment 72

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 12

Text proposed by the Commission

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

Amendment

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. The validity of travel documents should also be limited to the purpose and duration needed for the reason for which they are issued.

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

Or. it

Amendment 73
Jussi Halla-aho

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. It needs to be clarified that Member States should only provide applicants with a travel document when serious humanitarian or other imperative reasons arise. The validity of travel documents should also be limited to the purpose and duration needed for the reason for which they are issued. Serious humanitarian reasons could for instance be considered when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. ***Other imperative reasons could include situations where applicants who have***

Amendment

(12) Harmonised Union rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. It needs to be clarified that Member States should only provide applicants with a travel document when serious humanitarian or other imperative reasons arise. The validity of travel documents should also be limited to the purpose and duration needed for the reason for which they are issued. Serious humanitarian reasons could for instance be considered when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives.

been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

Or. en

Amendment 74
Beatrix von Storch

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. It needs to be clarified that Member States should only provide applicants with a travel document when serious humanitarian or other imperative reasons arise. The validity of travel documents should also be limited to the purpose and duration needed for the reason for which they are issued. Serious humanitarian reasons could for instance be considered when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other imperative reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

Amendment

(12) Harmonised Union rules on the documents to be issued to applicants ***in order to*** make it more difficult for applicants to move in an unauthorised manner within the Union ***can only be adopted if permanent border controls are reinstated***. It needs to be clarified that Member States should only provide applicants with a travel document when serious humanitarian or other imperative reasons arise. The validity of travel documents should also be limited to the purpose and duration needed for the reason for which they are issued. Serious humanitarian reasons could for instance be considered when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other imperative reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

Or. en

Amendment 75

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. It needs to be clarified that Member States should **only** provide applicants with a travel document when serious humanitarian or other **imperative** reasons arise. The validity of travel documents should **also be limited to** the purpose and duration needed for the reason for which they are issued. Serious humanitarian reasons could for instance be considered when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other **imperative** reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

Amendment

(12) Harmonised Union rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. It needs to be clarified that Member States should provide applicants with a travel document when serious humanitarian or other reasons arise. The validity of travel documents should **cover at least** the purpose and duration needed for the reason for which they are issued. Serious humanitarian reasons could for instance be considered when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

Or. en

Amendment 76

Cornelia Ernst

Proposal for a directive

Recital 13

Text proposed by the Commission

Amendment

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

Or. de

Amendment 77

Emil Radev

Proposal for a directive

Recital 13

Text proposed by the Commission

Amendment

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

Amendment 78

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 13

Text proposed by the Commission

Amendment

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

Or. en

Amendment 79

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 13

Text proposed by the Commission

Amendment

(13) Applicants do not have the right to choose the Member State of application. An applicant must apply for international protection in the Member State either of first entry or, in case of legal presence, in the Member State of legal stay or residence. An applicant who has not **(13) Applicants do not have the right to choose the Member State of application. An applicant must apply for international protection on the basis of the criteria established in Regulation (EU) No XXX/XXX [Dublin Regulation].**

complied with this obligation is less likely, following a determination of the Member State responsible under Regulation (EU) No XXX/XXX [Dublin Regulation], to be allowed to stay in the Member State where the application was made and consequently more likely to abscond. His or her whereabouts should therefore be closely monitored.

Or. it

Amendment 80
Cornelia Ernst

Proposal for a directive
Recital 14

Text proposed by the Commission

Amendment

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

deleted

Or. de

Amendment 81
Bodil Valero
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 14

Text proposed by the Commission

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

Amendment

(14) Applicants are required to ***remain available to the relevant authorities of*** the Member State where they made an application or in the Member State to which they are transferred in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. ***Member States should not impose sanctions on*** an applicant ***for the sole reason of irregularly entering or being present on their territory, including for not complying with the obligation to make an application in the first Member State of entry as set out in [Article 4(1) of the Dublin IV Regulation] or to be present in*** another Member State ***in accordance with [the Dublin IV Regulation], where there are serious reasons to believe*** that the applicant ***arrives from a territory where his or her life or freedom was threatened in line with [Article 9 of the Qualification Regulation] or [Article 16 of the Qualification Regulation] or where*** the applicant ***shows good cause for*** his or her ***irregular entry or presence.***

Or. en

Amendment 82
Emil Radev

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Applicants are required to be present in the Member State where they made an application or in the Member State to which they are transferred in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. ***In case***

Amendment

(14) Applicants are required to be present in the Member State where they made an application or in the Member State to which they are transferred in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. Until

an applicant has absconded from this Member State and, without authorisation, travelled to another Member State, it is vital, for the purpose of ensuring a well-functioning Common European Asylum System, that the applicant is swiftly returned to the Member State where he or she is required to be present. Until such a transfer has taken place, there is a risk that the applicant may abscond and his or her whereabouts should therefore be closely monitored.

such a transfer has taken place, there is a risk that the applicant may abscond and his or her whereabouts should therefore be closely monitored.

Or. bg

Amendment 83

Udo Voigt

Proposal for a directive

Recital 14

Text proposed by the Commission

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

Amendment

(14) Applicants are required to be present in the Member State where they made an application or in the Member State to which they are transferred in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. An applicant ***who*** has absconded from ***that*** Member State and, without authorisation, travelled to another Member State ***has no further entitlement to reside in the European Union.***

Or. de

Amendment 84

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 14

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 85

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 15

Text proposed by the Commission

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

Amendment

deleted

required to be present, his or her whereabouts should therefore be closely monitored.

Or. en

Amendment 86

Emil Radev

Proposal for a directive

Recital 15

Text proposed by the Commission

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

Amendment

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

Or. bg

Amendment 87

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) For ***reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No***

Amendment

(16) For ***duly justified and serious reasons of public interest or public*** order, Member States ***may***, where necessary, assign the applicant residence in a specific place, such as an ***open*** accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. In case the applicant is entitled to material

XXX/XXX [Dublin Regulation] or in order to effectively prevent the applicant from absconding, Member States *should*, where necessary, assign the applicant residence in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. *Such a decision may be necessary to effectively prevent the applicant from absconding in particular in cases where the applicant has not complied with the obligations to: make an application in the Member State of first irregular or legal entry; to remain in the Member State where he or she is required to be present; or in cases where the applicant has been sent back to the Member State where he or she is required to be present after having absconded to another Member State.* In case the applicant is entitled to material reception conditions, such material reception conditions should also be provided *subject* to the applicant residing in this specific place.

reception conditions, such material reception conditions should also be provided to the applicant residing in this specific place.

Or. en

Amendment 88
Emil Radev

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) For reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] or in order to effectively prevent the applicant from absconding, Member States should, where necessary, assign the applicant residence in

Amendment

(16) For reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] or in order to effectively prevent the applicant from absconding, Member States should, where necessary, assign the applicant residence in

a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. *Such a decision may be necessary to effectively prevent the applicant from absconding in particular in cases where the applicant has not complied with the obligations to: make an application in the Member State of first irregular or legal entry; to remain in the Member State where he or she is required to be present; or in cases where the applicant has been sent back to the Member State where he or she is required to be present after having absconded to another Member State.* In case the applicant is entitled to material reception conditions, such material reception conditions should also be provided subject to the applicant residing in this specific place.

a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. In case the applicant is entitled to material reception conditions, such material reception conditions should also be provided subject to the applicant residing in this specific place.

Or. bg

Amendment 89

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) For reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] *or in order to effectively prevent the applicant from absconding*, Member States should, where necessary, assign the applicant residence in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. Such a decision may be

Amendment

(16) For reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation], Member States should, where necessary, assign the applicant residence in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. Such a decision may be necessary to effectively prevent the applicant from absconding. In case the

necessary to effectively prevent the applicant from absconding *in particular in cases where the applicant has not complied with the obligations to: make an application in the Member State of first irregular or legal entry; to remain in the Member State where he or she is required to be present; or in cases where the applicant has been sent back to the Member State where he or she is required to be present after having absconded to another Member State*. In case the applicant is entitled to material reception conditions, such material reception conditions should also be provided subject to the applicant residing in this specific place.

applicant is entitled to material reception conditions, such material reception conditions should also be provided subject to the applicant residing in this specific place.

Or. it

Amendment 90

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 17

Text proposed by the Commission

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

Amendment

(17) Where there are *specific and objective* reasons for considering that there is a *serious and imminent* risk that an applicant may abscond, Member States *may, where necessary, proportionate and duly justified after an individualised assessment carried out by a judicial authority, and after consulting the applicant concerned, require applicants to report to the competent authorities at a reasonable frequency and time*. Member States should also be able to grant material reception conditions, where the applicant is entitled to such material reception conditions, only in kind, *where, following an individual assessment and a decision by a judicial authority, there are duly justified reasons for considering that*

there is a risk that an applicant may abscond. Applicants should have a right of appeal against decisions imposing reporting duties or providing material reception conditions only in kind and should be duly informed of this right.

Or. en

Amendment 91

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 18

Text proposed by the Commission

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

Amendment

(18) All decisions restricting an applicant's freedom of movement need to be *adopted only as a measure of last resort and need to be* based on the *decision of a judicial authority, following an individual assessment of the* particular situation of the person concerned, taking into account any special reception needs of applicants and the *principles of necessity and* proportionality. Applicants must be duly informed of such decisions, of the consequences of non-compliance *and of their right to appeal against these decisions.*

Or. en

Amendment 92

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) In view of the serious consequences

Amendment

(19) In view of the serious consequences

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

for applicants who have absconded or who are considered to be at risk of absconding, the meaning of absconding should be *strictly defined, in line with guidelines set up by the European Union Agency for Fundamental Rights, and based on an assessment of the individual circumstances of the person involved carried out by a judicial authority, as encompassing both a deliberate action to avoid the applicable asylum procedures and the factual circumstance of not remaining available to the relevant authorities. Irregular entry, lack of an address or documents proving the identity of an applicant should never constitute valid criteria to determine the risk of absconding.*

Or. en

Amendment 93

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should only be ordered in writing by judicial *or*

Amendment

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should only be ordered in writing by judicial

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

authorities stating the *individual* reasons on which it is based, including in the cases where the person is already detained when making the application for international protection. ***A justification of the reasons why alternatives to detention were not applied in the individual case has to be provided in writing by the judicial authority.*** Where an applicant is held in detention he or she should have effective access to the necessary procedural guarantees, such as judicial remedy before a national judicial authority.

Or. en

Amendment 94

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should only be ordered in writing by judicial ***or administrative*** authorities stating the reasons on which it is based, including in the cases where the person is already detained when making the application for international protection. Where an applicant is held in detention he or she

Amendment

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. ***Minors should not be detained or placed in confinement under any circumstances.*** Detention of applicants pursuant to this Directive should only be ordered in writing by judicial authorities stating the reasons on which it is based, including in the cases where the person is already detained when making the application for international protection.

should have effective access to the necessary procedural guarantees, such as judicial remedy before a national judicial authority.

Where an applicant is held in detention he or she should have effective access to the necessary procedural guarantees, such as judicial remedy before a national judicial authority *and the right to free legal assistance*.

Or. it

Justification

The last part of the AM is necessary to ensure consistency with other legislative proposals in particular with the APR that grants free legal assistance in all stages of the procedure. This is an information that is essential for the applicant and therefore worth mentioning.

Amendment 95

Salvatore Domenico Pogliese, Alessandra Mussolini

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should only be ordered in writing by judicial *or administrative* authorities stating the reasons on which it is based, including in the cases where the person is already detained when making the application for international protection. Where an applicant is held in detention he or she

Amendment

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should only be ordered in writing by judicial authorities stating the reasons on which it is based, including in the cases where the person is already detained when making the application for international protection. Where an applicant is held in detention he or she should have effective access to the

should have effective access to the necessary procedural guarantees, such as judicial remedy before a national judicial authority.

necessary procedural guarantees, such as judicial remedy before a national judicial authority.

Or. it

Amendment 96

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) Where an applicant has been assigned a specific place of residence but has not complied with this obligation, there needs to be a demonstrated risk that the applicant may abscond in order for the applicant to be detained. In all circumstances, special care must be taken to ensure that the length of the detention is proportionate and that it ends as soon as the obligation put on the applicant has been fulfilled or there are no longer reasons for believing that he or she will not fulfil this obligation. The applicant must also have been made aware of the obligation in question and of the consequences of non-compliance.

Amendment

(21) Where an applicant has been assigned a specific place of residence but has not complied with this obligation, there needs to be a demonstrated, ***individually justified, imminent and serious*** risk that the applicant may abscond in order for the applicant to be detained. In all circumstances, special care must be taken to ensure that the length of the detention is proportionate and that it ends as soon as the obligation put on the applicant has been fulfilled or there are no longer reasons for believing that he or she will not fulfil this obligation. The applicant must also have been made aware of the obligation in question and of the consequences of non-compliance.

Or. en

Amendment 97

Jussi Halla-aho

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) Where an applicant has been

Amendment

(21) Where an applicant has been

assigned a specific place of residence but has not complied with this obligation, ***there needs to be a demonstrated risk that the*** applicant may abscond ***in order*** for the applicant to be detained. In all circumstances, special care must be taken to ensure that the length of the detention is proportionate and that it ends as soon as the obligation put on the applicant has been fulfilled or there are no longer reasons for believing that he or she will not fulfil this obligation. The applicant must also have been made aware of the obligation in question and of the consequences of non-compliance.

assigned a specific place of residence but has not complied with this obligation, it ***should be considered as being an indication that an*** applicant may abscond, ***providing the grounds*** for the applicant to be detained. In all circumstances, special care must be taken to ensure that the length of the detention is proportionate and that it ends as soon as the obligation put on the applicant has been fulfilled or there are no longer reasons for believing that he or she will not fulfil this obligation. The applicant must also have been made aware of the obligation in question and of the consequences of non-compliance.

Or. en

Justification

It is impossible to prove an eventuality, making the notion of “a demonstrated risk” an absurdity. Therefore an alternative formulation is provided.

Amendment 98 **Jussi Halla-aho**

Proposal for a directive **Recital 22**

Text proposed by the Commission

(22) With regard to administrative procedures relating to the grounds for detention, the notion of ‘due diligence’ at least requires that Member States take concrete and meaningful steps to ensure that the time needed to verify the grounds for detention is as short as possible, and that there is a real prospect that such verification can be carried out successfully in the shortest possible time. ***Detention shall not exceed the time reasonably needed to complete the relevant procedures.***

Amendment

(22) With regard to administrative procedures relating to the grounds for detention, the notion of ‘due diligence’ at least requires that Member States take concrete and meaningful steps to ensure that the time needed to verify the grounds for detention is as short as possible, and that there is a real prospect that such verification can be carried out successfully in the shortest possible time.

Or. en

Justification

For safeguarding the public order and internal security of the Member States it is necessary to avoid placing restrictions for the duration of detention period.

Amendment 99

Jussi Halla-aho

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) Applicants who are in detention should be treated with full respect for human dignity ***and their reception should be specifically designed to meet their needs in that situation.*** In particular, Member States should ensure that Article 24 of the Charter of Fundamental Rights of the European Union and Article 37 of the 1989 United Nations Convention on the Rights of the Child is applied.

Amendment

(24) Applicants who are in detention should be treated with full respect for human dignity. In particular, Member States should ensure that Article 24 of the Charter of Fundamental Rights of the European Union and Article 37 of the 1989 United Nations Convention on the Rights of the Child is applied.

Or. en

Justification

The arrangement of special reception conditions for people who are in detention constitutes an unnecessary administrative burden for Member States.

Amendment 100

Jussi Halla-aho

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) When deciding on housing arrangements, Member States should take due account of the best interests of the child, as well as of the particular circumstances of any applicant who is dependent on family members ***or other***

Amendment

(28) When deciding on housing arrangements, Member States should take due account of the best interests of the child, as well as of the particular circumstances of any applicant who is dependent on family members already

close relatives such as unmarried minor siblings already present in the Member State.

present in the Member State.

Or. en

Justification

The scope of family members should not be widened.

Amendment 101

Jussi Halla-aho

Proposal for a directive

Recital 30

Text proposed by the Commission

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

Amendment

(30) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively.

Or. en

Amendment 102

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive
Recital 30

Text proposed by the Commission

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

Amendment

(30) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively. Reception conditions need to be adapted to the specific situation of minors, whether unaccompanied or within families, with due regard to their security, physical and emotional care and provided in a manner that encourages their general development.
Detention of children, whether unaccompanied or within families, is never in their best interests, always constitutes a child rights violation and should therefore be prohibited.

Or. en

Justification

Amendments aimed at prohibiting detention of children are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including children. The UN CRC, UNHCR and UNICEF have clarified that children, whether unaccompanied, separated, or together with their parents or other caregivers, should never be detained for immigration purposes, irrespective of their legal/migration status or that of their parents, and that detention can never be justified as in a child's best interests. See: UNHCR's position regarding the detention of refugee and migrant children in the migration context, January 2017, p. 2; UNHCR 2012 Detention Guidelines, paragraph 51. References to the application of Art.37(b), "exceptional circumstances / measure of last resort", are not appropriate for cases of detention of any child for immigration related purposes. It is understood from the commentaries of the UN CRC, that while Art. 37 (b) may apply in other contexts (such as in cases of children in conflict with the law – CRC/C/GC/10), its application to detention in the immigration context would be in conflict with the principle of best interests of the child. See also: CRC/GC/2005/6) – para. 61; UN CRC, Report on the 2012 DGD: The rights of all children in the context of international

migration – para.78: "The detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. In this light, States should expeditiously and completely cease the detention of children on the basis of their immigration status."; UN SR on Torture, 5 March 2015 (A/HRC/28/68) – para. 80.

Amendment 103

Udo Voigt

Proposal for a directive

Recital 31

Text proposed by the Commission

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

Amendment

(31) Member States should ensure that applicants receive the necessary health care which should include emergency care and essential treatment of illnesses. To respond to public health concerns with regard to disease prevention and safeguard the health of individual applicants, applicants' access to health care should also include preventive medical treatment, such as vaccinations. Member States may require medical screening for applicants on public health grounds. The results of medical screening influence the assessment of applications for international protection.

Or. de

Amendment 104

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 31

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

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

Or. en

Amendment 105

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 32

(32) ***An applicant's entitlement to material reception conditions under this Directive may be curtailed in certain circumstances such as where an applicant has absconded to another Member State from the Member State where he or she is required to be present. However, Member States should in all circumstances ensure access to health care and a dignified standard of living for applicants in line with the Charter of Fundamental Rights***

(32) Due regard must also be given to applicants with special reception needs. The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account. When a minor is in a Member State other than the one in which he or she is required to be present, Member States should provide the minor with access to suitable educational activities pending the transfer to the

of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker. Due regard must also be given to applicants with special reception needs. The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account. When a minor is in a Member State other than the one in which he or she is required to be present, Member States should provide the minor with access to suitable educational activities pending the transfer to the Member State responsible. The specific needs of women applicants who have experienced gender-based harm should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care.

Member State responsible. The specific needs of women applicants who have experienced gender-based harm should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care.

Or. it

Amendment 106
Jussi Halla-aho

Proposal for a directive
Recital 32

Text proposed by the Commission

(32) An applicant's entitlement to material reception conditions under this Directive *may* be curtailed in certain circumstances such as where an applicant has absconded to another Member State from the Member State where he or she is required to be present. However, Member States should in all circumstances ensure

Amendment

(32) An applicant's entitlement to material reception conditions under this Directive *should* be curtailed in certain circumstances such as where an applicant has absconded to another Member State from the Member State where he or she is required to be present. However, Member States should in all circumstances ensure

access to health care *and a dignified standard of living* for applicants *in line with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker.* Due regard must also be given to applicants with special reception needs. *The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account.* When a minor is in a Member State other than the one in which he or she is required to be present, Member States should provide the minor with access to suitable *educational* activities pending the transfer to the Member State responsible. The specific needs of women applicants who have experienced gender-based harm should be taken into account, *including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care.*

access to *emergency* health care for applicants. Due regard must also be given to applicants with special reception needs. When a minor is in a Member State other than the one in which he or she is required to be present, Member States should provide the minor with access to suitable activities pending the transfer to the Member State responsible. The specific needs of women applicants who have experienced gender-based harm should be taken into account.

Or. en

Amendment 107

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 32

Text proposed by the Commission

(32) *An applicant's entitlement to material reception conditions under this Directive may be curtailed in certain*

Amendment

(32) Member States should in all circumstances ensure access to health care and *an adequate* standard of living for

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

applicants in line with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker. Due regard must also be given to applicants with special reception needs. The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account. The specific needs of women applicants who have experienced **sexual or gender-based violence** should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care.

Or. en

Amendment 108

Ulrike Lunacek, Daniele Viotti, Malin Björk

Proposal for a directive

Recital 32 a (new)

(32a) Violence that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately, is understood as gender-based violence. It may result in physical, sexual, emotional or psychological harm, or economic loss, to the victim. Gender-based violence is understood to be a form of discrimination and a violation of the fundamental freedoms of the victim and includes violence in close relationships, sexual violence (including rape, sexual assault and harassment), trafficking in human beings, slavery, and different forms of harmful practices, such as forced marriages, female genital mutilation and so-called 'honour crimes'. Women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence.

Or. en

Justification

Gender-based violence cannot be understood as violence against women only. It is necessary to extend the definition and include gender identity and expression.

Amendment 109

Jussi Halla-aho

Proposal for a directive

Recital 33

(33) The scope of the definition of family member should reflect the reality

deleted

of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The definition should therefore include families formed outside the country of origin, but before their arrival on the territory of the Member States.

Or. en

Amendment 110

Udo Voigt

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) The *scope of the* definition of family member should *reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The definition should therefore include families formed outside the country of origin, but before their arrival on the territory of the Member States.*

Amendment

(33) The definition of family member should *be in line with Member States' legal requirements.*

Or. de

Amendment 111

Ulrike Lunacek, Daniele Viotti, Malin Björk

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) The scope of the definition of family member should reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a

Amendment

(33) The scope of the definition of family member should reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a

prolonged period of time in transit. The definition should therefore include families formed outside the country of origin, but before their arrival on the territory of the Member States.

prolonged period of time in transit. The definition should therefore include families formed outside the country of origin, but before their arrival on the territory of the Member States. ***Regarding unmarried couples, the notion should not discriminate based on the gender of the partners.***

Or. en

Justification

Many countries do not recognize homosexual couples with marriage or civil partnership. It is necessary to protect unions and consequently families that could not be recognised by the law of the country of origin.

Amendment 112

Jussi Halla-aho

Proposal for a directive

Recital 34

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 113

Salvatore Domenico Pogliese, Alessandra Mussolini

Proposal for a directive

Recital 34

Text proposed by the Commission

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

Amendment

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions that effectively hinder an applicant from seeking employment, ***save for the possibility of the Member State concerned giving*** priority to nationals or to other Union citizens.

Or. it

Justification

This amendment specifies that Member States are able to adopt measures designed to ensure that greater attention is paid to their nationals and EU citizens when it comes to accessing the labour market. This is a highly sensitive issue for EU citizens, and the signatories wish to make clear that, when it comes to accessing the labour market, there will be no special measures or quotas designed to assist applicants for international protection to find work more easily than Member State nationals.

Amendment 114

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive
Recital 34

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 115
Jeroen Lenaers

Proposal for a directive
Recital 34

Text proposed by the Commission

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions that effectively hinder an applicant from seeking employment. Labour market tests used to give priority to nationals or to other Union citizens or to third-country nationals legally resident in the Member State

Amendment

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing *disproportional* conditions that effectively hinder an applicant from seeking employment. Labour market tests used to give priority to nationals or to other Union citizens or to third-country nationals legally resident in the Member State

concerned should not ***hinder*** effective access for applicants to the labour market and should be implemented without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession.

concerned should not ***constitute disproportionate barriers to*** effective access for applicants to the labour market and should be implemented without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession.

Or. en

Amendment 116

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) ***The maximum time frame for access to the labour market should be aligned with the duration of the examination procedure on the merits.*** In order to increase integration prospects and self-sufficiency of applicants, ***earlier*** access to the labour market ***is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation].*** Member States should ***therefore consider reducing that time period as much as possible with a view to ensuring that applicants have access to the labour market no later than 3 months from the date when the application was lodged in cases where the application is likely to be well-founded.*** Member States should however not grant access to the labour market to applicants whose application for international protection is likely to be unfounded and for which an accelerated examination procedure is applied.

Amendment

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

Or. en

Amendment 117

Udo Voigt

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) The maximum time frame for access to the labour market should ***be aligned with the duration of the examination procedure on the merits. In order to increase integration prospects and self-sufficiency of applicants, earlier access to the labour market is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States should therefore consider reducing that time period as much as possible with a view to ensuring that applicants have access to the labour market no later than 3 months from the date when the application was lodged in cases where the application is likely to be well-founded.*** Member States should *however* not grant access to the labour market to applicants whose application for international protection is likely to be unfounded and for which an accelerated examination procedure is applied.

Amendment

(35) The maximum time frame for access to the labour market should ***primarily be based on labour market requirements in the Member State concerned.*** Member States should not grant access to the labour market to applicants whose application for international protection is likely to be unfounded and for which an accelerated examination procedure is applied.

Or. de

Amendment 118

Jussi Halla-aho

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) ***The maximum time frame for***

Amendment

(35) In order to increase integration

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

prospects and self-sufficiency of applicants, earlier access to the labour market is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States should not grant access to the labour market to applicants whose application for international protection is likely to be unfounded and for which an accelerated examination procedure is applied.

Or. en

Amendment 119

Jeroen Lenaers

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) The maximum time frame for access to the labour market should be aligned with the duration of the examination procedure on the merits. In order to increase integration prospects and self-sufficiency of applicants, earlier access to the labour market is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States should

Amendment

(35) ***It is crucial to support and encourage the integration of those applicants that have a realistic chance of receiving asylum. Therefore*** the maximum time frame for access to the labour market should be aligned with the duration of the examination procedure on the merits. In order to increase integration prospects and self-sufficiency of applicants, earlier access to the labour market is encouraged where the application is likely to be well-founded, including when its examination has been

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

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

Or. en

Amendment 120

Alessandra Mussolini, Salvatore Domenico Pogliese

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) The maximum time frame for access to the labour market should be aligned with the duration of the examination procedure on the merits. In order to increase integration prospects and self-sufficiency of applicants, earlier access to the labour market is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States should therefore consider reducing that time period as much as possible with a view to ensuring that applicants have access to the labour market no later than 3 months from the date when the application was lodged in cases where the application is likely to be well-founded. Member States should however not grant access to the labour

Amendment

(35) The maximum time frame for access to the labour market should be aligned with the duration of the examination procedure on the merits. In order to increase integration prospects and self-sufficiency of applicants, earlier access to the labour market, ***including by involving the applicant in a socially-beneficial activity***, is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States should therefore consider reducing that time period as much as possible with a view to ensuring that applicants have access to the labour market no later than 3 months from the date when the application was lodged in cases where the application is likely to

market to applicants whose application for international protection is likely to be unfounded and for which an accelerated examination procedure is applied.

be well-founded. Member States should however not grant access to the labour market to applicants whose application for international protection is likely to be unfounded and for which an accelerated examination procedure is applied.

Or. it

Amendment 121

Udo Voigt

Proposal for a directive

Recital 36

Text proposed by the Commission

(36) Once applicants are granted access to the labour market, they should be entitled to a common set of rights based on equal treatment with nationals. Working conditions should cover at least pay and dismissal, health and safety requirements at the workplace, working time and leave, taking into account collective agreements in force. ***Applicants should also enjoy equal treatment as regards freedom of association and affiliation, education and vocational training, the recognition of professional qualifications and social security.***

Amendment

(36) Once applicants are granted access to the labour market, they should be entitled to a common set of rights based on equal treatment with nationals, ***with a particular focus also on preventing discrimination against nationals.*** Working conditions should cover at least pay and dismissal, health and safety requirements at the workplace, working time and leave, taking into account collective agreements in force.

Or. de

Amendment 122

Jussi Halla-aho

Proposal for a directive

Recital 36

Text proposed by the Commission

(36) Once applicants are granted access to the labour market, they should be entitled to a common set of rights based on

Amendment

(36) Once applicants are granted access to the labour market, they should be entitled to a common set of rights based on

equal treatment with nationals. Working conditions should cover at least pay and dismissal, health and safety requirements at the workplace, working time and leave, taking into account collective agreements in force. Applicants should also enjoy equal treatment as regards freedom of association and affiliation, *education and vocational training, the recognition of professional qualifications and social security*.

equal treatment with nationals. Working conditions should cover at least pay and dismissal, health and safety requirements at the workplace, working time and leave, taking into account collective agreements in force. Applicants should also enjoy equal treatment as regards freedom of association and affiliation.

Or. en

Amendment 123
Jussi Halla-aho

Proposal for a directive
Recital 37

Text proposed by the Commission

(37) A Member State should recognise professional qualifications acquired by an applicant in another Member State in the same way as those of citizens of the Union and should take into account qualifications acquired in a third country in accordance with Directive 2005/36/EC of the European Parliament and of the Council.²⁵ *Special measures also need to be considered with a view to effectively addressing the practical difficulties encountered by applicants concerning the authentication of their foreign diploma, certificates or other evidence of formal qualifications, in particular due to the lack of documentary evidence and their inability to meet the costs related to the recognition procedures.*

²⁵ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Amendment

(37) A Member State should recognise professional qualifications acquired by an applicant in another Member State in the same way as those of citizens of the Union and should take into account qualifications acquired in a third country in accordance with Directive 2005/36/EC of the European Parliament and of the Council.²⁵

²⁵ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Amendment 124

Jussi Halla-aho

Proposal for a directive

Recital 38

Text proposed by the Commission

Amendment

(38) The definition of branches of social security used in Regulation (EC) No 883/2004 of the European Parliament and of the Council²⁶ should apply. *deleted*

²⁶ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1.).

Amendment 125

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 39

Text proposed by the Commission

Amendment

(39) Due to the possibly temporary nature of the stay of applicants and without prejudice to Regulation (EU) No 1231/2010 of the European Parliament and of the Council, Member States should be able to exclude family benefits and unemployment benefits from equal treatment between applicants and their own nationals and should be able to limit the application of equal treatment in relation to education and vocational training. The right to freedom of association and affiliation may also be *deleted*

limited by excluding applicants from taking part in the management of certain bodies and from holding a public office.

Or. it

Amendment 126

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 39

Text proposed by the Commission

(39) *Due to the possibly temporary nature of the stay of applicants and without prejudice to Regulation (EU) No 1231/2010 of the European Parliament and of the Council, Member States should be able to exclude family benefits and unemployment benefits from equal treatment between applicants and their own nationals and should be able to limit the application of equal treatment in relation to education and vocational training.* The right to freedom of association and affiliation may *also* be limited by excluding applicants from taking part in the management of certain bodies and from holding a public office.

Amendment

(39) The right to freedom of association and affiliation may be limited by excluding applicants from taking part in the management of certain bodies and from holding a public office.

Or. en

Amendment 127

Udo Voigt

Proposal for a directive

Recital 39

Text proposed by the Commission

(39) Due to the *possibly* temporary nature of the stay of applicants and without prejudice to Regulation (EU) No

Amendment

(39) Due to the temporary nature of the stay of applicants and without prejudice to Regulation (EU) No 1231/2010 of the

1231/2010 of the European Parliament and of the Council, Member States should be able to exclude family benefits and unemployment benefits from equal treatment between applicants and their own nationals and should be able to limit the application of equal treatment in relation to education and vocational training. The right to freedom of association and affiliation *may* also be limited by excluding applicants from taking part in the management of certain bodies and from holding a public office.

European Parliament and of the Council, Member States should be able to exclude family benefits and unemployment benefits from equal treatment between applicants and their own nationals and should be able to limit the application of equal treatment in relation to education and vocational training. The right to freedom of association and affiliation *must* also be limited by excluding applicants from taking part in the management of certain bodies and from holding a public office.

Or. de

Amendment 128
Jeroen Lenaers

Proposal for a directive
Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) Language skills are indispensable in order to ensure that applicants have an adequate standard of living, that they are granted immediate access to the labour market and that their material reception conditions, including non-food items, are safeguarded. Learning the official language or one of official languages of the Member State concerned would increase self-reliance and the chance of integration in the host society, and constitutes a deterrent against secondary movements. Effective access to language courses should therefore be granted to applicants as soon as possible, but no later than six months from the date on which their application for international protection is made. Priority should be given to applicants whose application is likely to be well-founded. Likewise, Member States should not be responsible for language courses for applicants, whose application for international

protection is likely to be unfounded, and for which an accelerated examination procedure is applied.

Or. en

Justification

Language courses are an important tool to increase an applicants' self-reliance and chances of integration in a host society. Member States should therefore have an obligation to make language courses available as soon as possible and should focus on applicants that have a high probability of receiving asylum. It is necessary to focus on those that have a high probability because a substantive share of the asylum seekers that arrive in Europe today do not have a right to asylum. (This amendment should be read together with the accompanying amendment on a new article for language courses (art. 15a))

Amendment 129

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 41

Text proposed by the Commission

(41) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, including not only housing, food and clothing but also essential non-food items such as sanitary items. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers on the basis of relevant references to ensure adequate standards of living for nationals, such as minimum income benefits, minimum wages, minimum pensions, unemployment benefits and social assistance benefits . That does not mean that the amount granted should be the same as for nationals. *Member States may grant less favourable treatment to applicants than to nationals as specified in this Directive.*

Amendment

(41) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, including not only housing, food and clothing but also essential non-food items such as sanitary items. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers on the basis of relevant references to ensure adequate standards of living for nationals, such as minimum income benefits, minimum wages, minimum pensions, unemployment benefits and social assistance benefits . That does not mean that the amount granted should be the same as for nationals.

Justification

There is no need to keep the last sentence of this recital in the text of the directive as the recast part clarifies already that MS can foresee a different treatment for asylum seekers.

Amendment 130**Jussi Halla-aho****Proposal for a directive****Recital 41***Text proposed by the Commission*

(41) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, including not only housing, food and clothing but also essential non-food items such as sanitary items. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers *on the basis of relevant references to ensure adequate standards of living for nationals, such as minimum income benefits, minimum wages, minimum pensions, unemployment benefits and social assistance benefits*. That does not mean that the amount granted should be the same as for nationals. Member States may grant less favourable treatment to applicants than to nationals as specified in this Directive.

Amendment

(41) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, including not only housing, food and clothing but also essential non-food items such as sanitary items. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers *and the possible variation thereof on the basis of relevant references*. That does not mean that the amount granted should be the same as for nationals. Member States may grant less *but not more* favourable treatment to applicants than to nationals as specified in this Directive.

Or. en

Justification

Conflicts with the recital 40 which states that Union law should not interfere in the power of the Member States to organise their social security schemes, including the possibility of setting a minimum for income benefits, wages and pensions.

Amendment 131

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 41

Text proposed by the Commission

(41) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, including not only housing, food and clothing but also essential non-food items such as sanitary items. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers on the basis of relevant references to ensure adequate standards of living for nationals, such as minimum income benefits, minimum wages, minimum pensions, unemployment benefits and social assistance benefits. That does not mean that the amount granted should be the same as for nationals. Member States may grant less favourable treatment to applicants than to nationals as specified in this Directive.

Amendment

(41) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, including not only housing, food and clothing but also essential non-food items such as sanitary items, ***medical devices or education material***. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers on the basis of relevant references to ensure adequate standards of living for nationals, such as minimum income benefits, minimum wages, minimum pensions, unemployment benefits and social assistance benefits. That does not mean that the amount granted should be the same as for nationals. Member States may grant less favourable treatment to applicants than to nationals as specified in this Directive.

Or. en

Amendment 132

Jussi Halla-aho

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) In order to restrict the possibility of abuse of the reception system, Member

Amendment

(42) In order to restrict the possibility of abuse of the reception system, Member

States should ***be able to*** provide material reception conditions only to the extent applicants do not have sufficient means to provide for themselves. When assessing the resources of an applicant and ***requiring an applicant*** to cover or contribute to the material reception conditions, Member States should observe the principle of proportionality ***and take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs.*** ***Applicants should not be required to cover or contribute to the costs of their necessary health care.*** The possibility of abuse of the reception system should also be restricted by specifying the circumstances in which accommodation, food, clothing and other essential non-food items provided in the form of financial allowances or vouchers may be replaced with reception conditions provided in kind and the circumstances in which the daily allowance may be reduced or withdrawn ***while at the same time ensuring a dignified standard of living for all applicants.***

States should provide material reception conditions only to the extent applicants ***or their family members as defined in this Directive and when present in the Member State***, do not have sufficient means to provide for themselves. When assessing the resources of an applicant and ***his or her family members and requiring them*** to cover or contribute to the material reception conditions, Member States should observe the principle of proportionality. The possibility of abuse of the reception system should also be restricted by specifying the circumstances in which accommodation, food, clothing and other essential non-food items provided in the form of financial allowances or vouchers may be replaced with reception conditions provided in kind and the circumstances in which the daily allowance may be reduced or withdrawn.

Or. en

Justification

It is necessary that the authorities take into account the financial situation of the applicant's family members when determining the level of the material reception conditions. The word "dignified" is subjective and too open to interpretation.

Amendment 133

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 42

(42) ***In order to restrict the possibility of abuse of the reception system***, Member States should be able to provide material reception conditions only to the extent applicants do not have sufficient means to provide for themselves. When assessing the resources of an applicant and requiring an applicant to cover or contribute to the material reception conditions, Member States should observe the principle of proportionality and take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs. Applicants should not be required to cover or contribute to the costs of their necessary health care. The possibility of abuse of the reception system should also be restricted by specifying the circumstances in which accommodation, food, clothing and other essential non-food items provided in the form of financial allowances or vouchers may be replaced with reception conditions provided in kind and the circumstances in which the daily allowance may be reduced or withdrawn while at the same time ensuring a dignified standard of living for all applicants.

(42) Member States should be able to provide material reception conditions only to the extent applicants do not have sufficient means to provide for themselves. When assessing the resources of an applicant and requiring an applicant to cover or contribute to the material reception conditions, Member States should observe the principle of proportionality and take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs. Applicants should not be required to cover or contribute to the costs of their necessary health care. The possibility of abuse of the reception system should also be restricted by specifying the circumstances in which accommodation, food, clothing and other essential non-food items provided in the form of financial allowances or vouchers may be replaced with reception conditions provided in kind and the circumstances in which the daily allowance may be reduced or withdrawn while at the same time ensuring a dignified standard of living for all applicants.

Or. en

Amendment 134

Alessandra Mussolini, Salvatore Domenico Pogliese

Proposal for a directive

Recital 42

(42) In order to restrict the possibility of abuse of the reception system, Member States should be able to provide material reception conditions only to the extent applicants do not have sufficient means to

(42) In order to restrict the possibility of abuse of the reception system, Member States should be able to provide material reception conditions only to the extent applicants do not have sufficient means to

provide for themselves. When assessing the resources of an applicant and requiring an applicant to cover or contribute to the material reception conditions, Member States should observe the principle of proportionality and take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs. Applicants should not be required to cover or contribute to the costs of their necessary health care. The possibility of abuse of the reception system should also be restricted by specifying the circumstances in which accommodation, food, clothing and other essential non-food items provided in the form of financial allowances or vouchers may be replaced with reception conditions provided in kind and the circumstances in which the daily allowance may be reduced or withdrawn while at the same time ensuring *a dignified* standard of living for all applicants.

provide for themselves. When assessing the resources of an applicant and requiring an applicant to cover or contribute to the material reception conditions, Member States should observe the principle of proportionality and take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs. Applicants should not be required to cover or contribute to the costs of their necessary health care. The possibility of abuse of the reception system should also be restricted by specifying the circumstances in which accommodation, food, clothing and other essential non-food items provided in the form of financial allowances or vouchers may be replaced with reception conditions provided in kind and the circumstances in which the daily allowance may be reduced or withdrawn while at the same time ensuring *an adequate* standard of living for all applicants.

Or. it

Justification

Use of the adjective 'dignified' to describe the standard of living that applicants ought to be guaranteed through the adoption of harmonised conditions for their reception, without specifying what this means, could lead to disputes involving those concerned.

Amendment 135 **Jussi Halla-aho**

Proposal for a directive **Recital 45**

Text proposed by the Commission

(45) Experience shows that contingency planning is needed to ensure adequate reception of applicants in cases where Member States are confronted with a disproportionate number of applicants for

Amendment

(45) Experience shows that contingency planning is needed to ensure adequate reception of applicants in cases where Member States are confronted with a disproportionate number of applicants for

international protection. Whether the measures envisaged in Member States' contingency plans are adequate should be regularly monitored and assessed.

international protection. ***National contingency plans should provide the national authorities with the necessary legislative framework to perform push-backs at internal borders in case of a sudden influx of irregular migrants.*** Whether the measures envisaged in Member States' contingency plans are adequate should be regularly monitored and assessed.

Or. en

Amendment 136
Jussi Halla-aho

Proposal for a directive
Recital 46

Text proposed by the Commission

(46) Member States should have the power to introduce or maintain more favourable provisions for third-country nationals and stateless persons who ask for international protection from a Member State.

Amendment

(46) Member States should ***not*** have the power to introduce or maintain more favourable provisions for third-country nationals and stateless persons who ask for international protection from a Member State ***unless when explicitly mentioned in this Directive.***

Or. en

Justification

Varying standards and provisions among Member States contribute to asylum shopping and secondary movement within the Union. Removing such pull factors should be a key priority in the CEAS.

Amendment 137
Jussi Halla-aho

Proposal for a directive
Recital 47

Text proposed by the Commission

(47) Member States are also invited to apply the provisions of this Directive in connection with procedures for deciding on applications for forms of protection other than that provided for under Regulation (EU) No XXX/XXX [Qualification Regulation].

Amendment

(47) Member States are also invited to apply the provisions of this Directive **as a maximum level of reception conditions** in connection with procedures for deciding on applications for forms of protection other than that provided for under Regulation (EU) No XXX/XXX [Qualification Regulation].

Or. en

Justification

Applying only minimum standards in the reception conditions discourages migratory pressure on the EU and secondary movement within the Union.

Amendment 138

Jussi Halla-aho

Proposal for a directive

Recital 49

Text proposed by the Commission

(49) Since the objective of this Directive, namely to establish standards for the reception conditions of applicants in Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

Amendment

(49) Since the objective of this Directive, namely to establish **common** standards for the reception conditions of applicants in Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

Or. en

Justification

Common minimum standards in receptions conditions are vital in discouraging secondary movements of irregular migrants.

Amendment 139

Kati Piri, Sylvie Guillaume, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Tanja Fajon, Péter Niedermüller, Maria Grapini

Proposal for a directive

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘family members’: means family *members* as defined *in Article [2(9)] of Regulation (EU) XXX/XXX²⁹* *[Qualification Regulation]*;

Amendment

(3) ‘family members’: means *the following members of the applicant's family who are present on the territory of the Member States*

- *the spouse of the applicant or his or her unmarried partner in a stable relationship where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals,*
- *the minor children of couples referred to in the first indent or of the applicant... and regardless whether they were born out of wedlock or adopted as defined or recognised under national law,*
- *when the applicant is a minor..., the father, mother or another adult responsible for the applicant, whether by law or by practice of the Member State where the adult is present,*
- *the sibling or siblings of the applicant;*

²⁹ *OJ C [...], [...], p. [...].*

Or. en

Justification

The definition of “family members” should be aligned across the Asylum Acquis. The definition given in the Dublin Regulation has been used as a template with the necessary modifications to ensure that married children are not at a disadvantage.

Amendment 140

Jussi Halla-aho

Proposal for a directive

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘family members’: means family members *as defined in Article [2(9)] of Regulation (EU) XXX/XXX*²⁹ *[Qualification Regulation]*;

Amendment

(3) ‘family members’: means, *in so far as the family already existed in the country of origin, the following* members of the applicant’s family who are present in the same Member State in relation to the application for international protection: the spouse of the applicant, the unmarried minor children of the applicant and the parents of the unmarried minor applicant;

²⁹ *OJ C [...], [...], p. [...].*

Or. en

Justification

As the Qualification Directive is currently under review and the future definition of ‘family members’ remains undecided the current definition substantially should be retained.

Amendment 141

Beatrix von Storch

Proposal for a directive

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. ‘family members’: means *family members as defined in Article [2(9)] of*

Amendment

3. ‘family members’: means *a spouse of an applicant, an applicant’s direct*

²⁹ *OJ C [...], [...], p. [...].*

Or. de

Amendment 142

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point 7

Text proposed by the Commission

(7) ‘material reception conditions’: means the reception conditions that include housing, food, clothing and other essential non-food items matching the needs of the applicants in their specific reception conditions, such as sanitary items, provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance;

Amendment

(7) ‘material reception conditions’: means the reception conditions that include housing, food, clothing and other essential non-food items matching the needs of the applicants in their specific reception conditions, such as sanitary items, ***medical devices or education material***, provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance;

Or. en

Amendment 143

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) ‘Adequate standard of living’: means a quality of life such as to guarantee the health and well-being of the applicant and their family, with particular regard to receiving the necessary food, clothing, accommodation, medical treatment and social services;

Justification

This definition is essential to clarify what is meant by the Directive when it refers to ‘adequate standard of living’. It is proposed to keep only this definition and delete from the text any reference to ‘dignified standard of living’.

Amendment 144

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point 10

Text proposed by the Commission

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

³² *OJ C [...], [...], p. [...].*

Amendment

(10) ‘absconding’: means ***a deliberate and unjustified*** action by which an applicant ***intentionally and repeatedly avoids contact with*** the competent authorities;

Amendment 145

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point 11

Text proposed by the Commission

(11) ‘risk of absconding’: means the existence of reasons in an individual case, which are based on objective criteria defined by national law, to believe that an

Amendment

(11) ‘risk of absconding’: means the ***proven*** existence of reasons in an individual case, which are based on ***specific and*** objective criteria ***strictly***

applicant may abscond;

defined by national law, *in line with guidelines set up by the European Union Agency for Fundamental Rights*, to believe that an applicant may abscond;

Or. en

Amendment 146
Jussi Halla-aho

Proposal for a directive
Article 2 – paragraph 1 – point 13

Text proposed by the Commission

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

Amendment

(13) ‘applicant with special reception needs’: means an applicant who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive.

Or. en

Justification

An open-ended list would ensure that each applicant’s case is assessed individually and without victimising e.g. all pregnant women. Further, a large part of female applicants are circumcised, making them automatically fall within the scope as victims of female genital mutilation.

Amendment 147
Kati Piri, Juan Fernando López Aguilar, Tanja Fajon, Péter Niedermüller, Maria Grapini, Elly Schlein, Soraya Post, Anna Hedh, Cécile Kashetu Kyenge

Proposal for a directive

Article 2 – paragraph 1 – point 13

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 148

Beatrix von Storch

Proposal for a directive

Article 2 – paragraph 1 – point 13

Text proposed by the Commission

13. ‘applicant with special reception needs’: means an applicant who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive, such as applicants who are minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders

Amendment

13. ‘applicant with special reception needs’: means an applicant who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive, such as applicants who are minors, unaccompanied minors, disabled people, ***frail*** elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders

and persons who have been subjected to torture, rape or other *serious* forms of *psychological, physical or sexual* violence, *such as victims of female genital mutilation* .

and persons who have been subjected to torture, rape or other forms of *serious* violence.

Or. de

Amendment 149

Ulrike Lunacek, Daniele Viotti, Malin Björk

Proposal for a directive

Article 2 – paragraph 1 – point 13

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

LGBTI people are "applicants with special reception needs" because they are a vulnerable, discriminated group.

Amendment 150

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point 13

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 151

Beatrix von Storch

Proposal for a directive

Article 3 – paragraph 1

Text proposed by the Commission

(1) This Directive applies to all third-country nationals and stateless persons who make an application for international protection *on the territory, including at the* external border, in *the* territorial sea or in *the* transit zones *of the Member States*, as long as they are allowed to remain on the territory as applicants, as well as to family members, if they *are covered by such application for* international protection according to *national* law.

Amendment

(1) This Directive applies to all third-country nationals and stateless persons who *enter a Member State via the external border and* make an application for international protection at *its* external border, in *its* territorial sea or in *its* transit zones, as long as they are allowed to remain on the territory *of that Member State* as applicants, as well as to family members, if they *enjoy* international protection according to *international* law.

Or. de

Justification

The original text is legally incorrect as one can make an application for international protection while on the borders and not yet on the territory or the transit zones of a Member State.

Amendment 152

Anna Maria Corazza Bildt, Caterina Chinnici, Hilde Vautmans, Vilija Blinkevičiūtė, Julie Ward, Luigi Morgano, Bodil Valero, Brando Benifei, Damiano Zoffoli, Nathalie Griesbeck, Jean Lambert

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall apply this Directive to all unaccompanied minors from third countries from the moment of their arrival to the moment of their qualification as a refugee or grant of subsidiary protection under Regulation (EU) XXX/XXX [Qualification Regulation], or the grant of some other form of humanitarian protection, or their transfer to a third country, in accordance with their best interests, under national law.

Or. en

Justification

Unaccompanied Minors have specific basic needs from the moment of their arrival, regardless of whether they are asylum seekers, economic migrants or trafficked children. It is important that Member States apply this Directive immediately upon their arrival without waiting for the lodge of the asylum application.

Amendment 153

Kati Piri, Péter Niedermüller, Juan Fernando López Aguilar, Tanja Fajon, Maria Grapini, Sylvie Guillaume, Elly Schlein, Anna Hedh, Cécile Kashetu Kyenge

Proposal for a directive

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. *This Directive does not apply when Council Directive 2001/55/EC³³ applies.* *deleted*

³³ *Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 1).*

Or. en

Justification

In practice, the Council Directive 2001/55/EC has never been triggered, despite large influxes of third country nationals. In any event, the Reception Conditions Directive should always apply.

Amendment 154
Jussi Halla-aho

Proposal for a directive
Article 4

Text proposed by the Commission

Amendment

Article 4

deleted

More favourable provisions

Member States may introduce or retain more favourable provisions as regards reception conditions for applicants and their depending close relatives who are present in the same Member State, or for humanitarian reasons, insofar as these provisions are compatible with this Directive.

Or. en

Justification

To effectively combat the asylum shopping, there should be no possibility for a Member State to grant more favourable reception conditions than this directive.

Amendment 155

Kati Piri, Juan Fernando López Aguilar, Péter Niedermüller, Maria Grapini, Tanja Fajon, Sylvie Guillaume, Elly Schlein, Anna Hedh, Cécile Kashetu Kyenge

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

Member States may introduce or retain more favourable provisions as regards reception conditions for applicants and their ***depending*** close relatives who are present in the same Member State, or for humanitarian reasons, insofar as these provisions are compatible with this Directive.

Amendment

Member States may introduce or retain more favourable provisions as regards reception conditions for applicants and their close relatives who are present in the same Member State, or for humanitarian reasons, insofar as these provisions are compatible with this Directive.

Or. en

Justification

Member States should be free to choose to provide more favourable provisions for family members, whether they are 'dependant' relatives or not.

Amendment 156

Kati Piri, Juan Fernando López Aguilar, Péter Niedermüller, Maria Grapini, Tanja Fajon

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

Member States shall inform applicants when they are ***making*** their application for international protection of any established benefits and of the obligations with which they must comply ***in relation to*** reception

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

conditions.

Or. en

Justification

In accordance with its Article 3, this Directive applies to all persons who have “made” an application for international protection. Applicants should therefore receive information on their rights to reception conditions upon making their application, in the same way as they are informed of their procedural rights and obligations at that time under Article 8(2) of the proposed Procedures Regulation.

Amendment 157

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall inform applicants, as soon as possible and at the latest when they are lodging their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. *They shall point out in the information provided that the applicant is not entitled to the reception conditions set out in Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].*

Amendment

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

Or. en

Amendment 158

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall inform applicants, *as soon as possible* and at the latest when *they are lodging* their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. *They shall point out in the information provided that the applicant is not entitled to the reception conditions set out in Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].*

Amendment

Member States shall inform applicants, *at the time when the person concerned expresses the intention to apply for international protection* and at the latest when *they lodge* their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions.

Or. it

Amendment 159

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall inform applicants, as soon as possible and at the latest when they are *lodging* their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall point out in the information provided *that the applicant is not entitled to the reception conditions set out in Articles 14 to 17 of this Directive as*

Amendment

Member States shall inform applicants, as soon as possible and at the latest when they are *making* their application for international protection *pursuant to Article 25 of Regulation XXX/XXXX [Asylum Procedures Regulation]*, of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall point out in the information provided *the rights and*

stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].

entitlements of the applicant in relation to access to reception conditions, legal aid, special needs, redress and right of appeal against detention or decisions relating to the replacement, reduction or withdrawal of reception conditions and information on the relevant asylum procedures.

Or. en

Justification

The amendment is necessary for pressing reasons relating to the internal logic of the text and is inextricably linked to other admissible amendments in order to clarify that applicants has access to reception conditions from the moment of the making of the application in line with the Asylum Procedures Regulation.

Amendment 160 **Beatrix von Storch**

Proposal for a directive **Article 5 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

Member States ***shall*** inform applicants, as soon as possible and at the latest when they are lodging their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. They ***shall*** point out in the information provided that the applicant is not entitled to the reception conditions set out in Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].

Amendment

Member States ***may*** inform applicants, as soon as possible and at the latest when they are lodging their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. They ***may*** point out in the information provided that the applicant is not entitled to the reception conditions set out in Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].

Or. en

Justification

The “may” in the first part of subparagraph 1 reflects the change in the admissible amendment to the second part of subparagraph 1.

Amendment 161

Heinz K. Becker

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall inform applicants, *as soon as possible and at the latest when they are lodging* their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall point out in the information provided that the applicant is not entitled to the reception conditions set out in Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].

Amendment

Member States shall inform applicants, *within a reasonable time frame, not exceeding 15 days after they have made* their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall point out in the information provided that the applicant is not entitled to the reception conditions set out in Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].

Or. en

Amendment 162

Jussi Halla-aho

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that applicants are provided with information on organisations or groups of persons that provide specific legal assistance and organisations that might be able to help or

Amendment

deleted

inform them concerning the available reception conditions, including health care.

Or. en

Justification

This paragraph would be more suitable in the new Asylum procedures regulation.

Amendment 163
Beatrix von Storch

Proposal for a directive
Article 5 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

The “may” in the first part of subparagraph 1 reflects the change in the admissible amendment to the second part of subparagraph 1.

Amendment 164
Kati Piri, Elly Schlein, Juan Fernando López Aguilar, Péter Niedermüller, Maria Grapini, Tanja Fajon, Cécile Kashetu Kyenge

Proposal for a directive
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall not impose unnecessary or disproportionate

documentation or other administrative requirements on applicants before granting them the rights to which they are entitled under this Directive for the sole reason that they are applicants for international protection, or on the sole basis of an applicant's nationality.

Or. en

Justification

This provision exists in the current Directive. It should be retained.

Amendment 165

Ulrike Lunacek, Daniele Viotti, Malin Björk

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall ensure that the information referred to in paragraph 1 is in writing using a standard template which shall be developed by the European Union Agency for Asylum and ***shall visibly display relevant information in relation to the personal circumstances that may result in special reception needs or needs of special procedural guarantees as listed in this Directive and the Asylum Procedures Regulation, and*** in a language that the applicant understands or is reasonably supposed to understand. Where necessary, this information shall also be supplied orally and adapted to the needs of minors.

Or. en

Justification

Authorities should be able to immediately assess the need of special reception or procedural guarantees and meet the applicant's necessities.

Amendment 166

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall ensure that the information referred to in paragraph 1 is in writing using a standard template which shall be developed by the European Union Agency for Asylum and **by the European Union Agency for Fundamental Rights and** in a language that the applicant understands or is reasonably supposed to understand. This information shall also be supplied orally and adapted to the needs of **children or persons with special reception needs**.

Or. en

Amendment 167

Beatrix von Storch

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts which also guided by the principle of subsidiarity. It would be nonsensical to have the principle only applied to the grey parts.

Amendment 168

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall ensure that the information referred to in paragraph 1 is in writing using a standard template which shall be developed by the European Union Agency for Asylum and in a language that the applicant understands. Where necessary, this information shall also be supplied orally and adapted to the needs of *the person concerned, taking account of their individual circumstances*.

Or. en

Amendment 169

Jussi Halla-aho

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

Member States shall provide applicants with a travel document only when *the identity of the applicant has been verified and when* serious humanitarian or other imperative reasons arise that require their presence in another State. The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued. *For safety reasons, the travel document cannot be issued for*

travelling to a conflict area.

Or. en

Justification

The offering of travel documents should be done only in exceptional cases and only if the personal information of the applicant can be verified.

Amendment 170

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. it

Justification

The cases in which a travel document could be released are unduly restrictive in the recast proposed text and that there is no need for such a restrictive approach. This amendment is in line with all amendments presented that aim at limiting the punitive approach towards applicants for international protection.

Amendment 171

Heinz K. Becker

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

Member States ***shall*** provide applicants with a travel document only when serious

Amendment

Member States ***may*** provide applicants with a travel document only when serious

humanitarian *or other imperative* reasons arise that require their presence in another State. The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued.

humanitarian reasons arise that require their presence in another State. The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued.

Or. en

Amendment 172

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 173

József Nagy

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 174

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This travel document shall allow for unlimited re-entry to the territory of the issuing Member State.

Or. en

Justification

This clarification is necessary because Article 6 is now about 'travel documents', and not 'documentation' anymore. It includes the possibility that the travel document might be issued for travel outside the Union, thus introducing a need for re-entry.

Amendment 175

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. Applicants may move freely within the territory of the host Member State *or within an area assigned to them by that Member State. The assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under this Directive.*

1. Applicants may move freely within the territory of the host Member State.

Or. en

Justification

The part deleted here is intrinsically linked to the old Article 6 (1), that the Commission is proposing to delete. Without a document satisfying the old Article 6 (1), the restriction to an area within a Member State cannot make sense anymore.

Amendment 176
Jussi Halla-aho

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

1. Applicants may move freely within the territory of the host Member State or within an area assigned to them by that Member State. ***The assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under this Directive.***

Amendment

1. Applicants may move freely within the territory of the host Member State or within an area assigned to them by that Member State.

Or. en

Justification

Member States should have a wide discretion when assigning an area to the applicants to stay in.

Amendment 177
Beatrix von Storch

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

(1) Applicants may move freely within the territory of the host Member State or within an area assigned to them by that Member State. The assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all ***benefits*** under this Directive.

Amendment

(1) Applicants may move freely within the territory of the host Member State or within an area assigned to them by that Member State. The assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all ***rights*** under this Directive.

Or. de

Justification

A law can only grant rights, not benefits.

Amendment 178

Heinz K. Becker

Proposal for a directive

Article 7 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States may make provision of the material reception conditions subject to actual residence by the applicants in a specific place to be determined by the Member States. The determination of the residence in a specific place need not take the form of an administrative procedure.

Or. en

Justification

The need of an individual decision (which could be appealed against) should be limited to restrictions like the determination of residence (§2) and not to a regular allocation of accommodation (provision of material reception conditions) (§1). In case that a regular allocation of accommodation would have to be based on such an individual decision, reception systems of Member States like Austria would be paralyzed, as the formal decision would have to be taken even before the allocation process has started.

Amendment 179

Kati Piri, Juan Fernando López Aguilar, Péter Niedermüller, Maria Grapini, Tanja Fajon, Elly Schlein, Anna Hedh, Cécile Kashetu Kyenge

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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

2. Member States ***may*** decide on the residence of an applicant in a specific place for any of the following reasons:

Justification

A “shall, where necessary,” clause is very misleading - is there an obligation on the Member States to decide in each case whether an applicant must reside in a specific place? A “may” provision is clearer. The Member States should retain the option of being able to determine that an applicant must reside in a specific place.

Amendment 180

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

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

Amendment

2. Member States ***may*** decide on the residence of an applicant in a specific place for any of the following reasons:

Or. en

Amendment 181

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

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

Amendment

2. Member States ***may***, where necessary, ***proportionate and duly justified***, decide on the residence of an applicant in ***an open reception centre or*** specific ***open accommodation*** for any of the following reasons:

Or. en

Amendment 182
Heinz K. Becker

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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

2. Member States ***may*** where necessary decide on the residence of an applicant in a specific place for ***justified reasons such as***:

Or. en

Justification

As mentioned above the determination of the regular allocation of accommodation and the decision on the residence of applicants should be seen separately. Also, the list of reasons should be non-exhaustive.

Amendment 183
Jussi Halla-aho

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) public interest or public order ;

(a) public interest or public order, ***such as allowing for even distribution of applicants to the area of the Member State***;

Or. en

Justification

Immigrants tend to concentrate in certain areas. Such clustering contributes to segregation and hinders integration.

Amendment 184
Beatrix von Storch

Proposal for a directive
Article 7 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) public interest or public order;

(a) public interest, ***public security*** or public order;

Or. de

Justification

There is a difference between public order and public security

Amendment 185

Kati Piri, Juan Fernando López Aguilar, Péter Niedermüller, Maria Grapini, Tanja Fajon, Elly Schlein, Cécile Kashetu Kyenge

Proposal for a directive
Article 7 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 186

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive
Article 7 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) *for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with*

deleted

Regulation (EU) No XXX/XXX [Dublin Regulation];

Or. en

Justification

To be compliant with fundamental rights guaranteed by the Charter and Article 2 of Protocol 4 ECHR, restrictions on movement may only be imposed for reasons of national security, public order, crime prevention, the protection of health or morals, the protection of the rights of others, or where it is justified by the public interest in a democratic society. Maintaining this risks implying a blanket application of residence restrictions in cases where the Dublin Regulation is applicable.

Amendment 187

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

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

Or. en

Amendment 188

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point d – introductory part

Text proposed by the Commission

Amendment

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

Or. en

Amendment 189

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point d – introductory part

Text proposed by the Commission

Amendment

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

Or. en

Amendment 190

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point d – introductory part

Text proposed by the Commission

Amendment

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

Or. it

Amendment 191

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Amendment 192

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Or. it

Amendment 193

Emil Radev

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Or. bg

Amendment 194

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 195

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

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

Text proposed by the Commission

Amendment

- *where applicants are required to* *deleted*
be present in another Member State in
accordance with Regulation (EU) No
XXX/XXX [Dublin Regulation]; or

Or. en

Amendment 196

Emil Radev

Proposal for a directive

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

Text proposed by the Commission

Amendment

- *where applicants are required to* *deleted*

be present in another Member State in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]; or

Or. bg

Amendment 197

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

- *where applicants are required to be present in another Member State in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]; or* *deleted*

Or. en

Amendment 198

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

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

Text proposed by the Commission

Amendment

- *where applicants are required to be present in another Member State in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]; or* *deleted*

Or. it

Amendment 199

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point d – indent 3

Text proposed by the Commission

Amendment

- *for applicants who have been sent back to the Member State where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] after having absconded to another Member State.* *deleted*

Or. en

Amendment 200

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point d – indent 3

Text proposed by the Commission

Amendment

- *for applicants who have been sent back to the Member State where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] after having absconded to another Member State.* *deleted*

Or. en

Amendment 201

Emil Radev

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point d – indent 3

Text proposed by the Commission

Amendment

- *for applicants who have been sent back to the Member State where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] after having absconded to another Member State.* *deleted*

Amendment 202

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – point d – indent 3

Text proposed by the Commission

Amendment

- *for applicants who have been sent back to the Member State where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] after having absconded to another Member State.* *deleted*

Or. it

Amendment 203

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

In those cases, the provision of material reception conditions shall be subject to the actual residence by the applicant in that specific place. *deleted*

Or. en

Amendment 204

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

In those cases, the provision of material *deleted*

reception conditions shall be subject to the actual residence by the applicant in that specific place.

Or. en

Amendment 205

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 3

Text proposed by the Commission

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

Amendment

3. Where there are ***specific and objective*** reasons for considering that there is a ***serious and imminent*** risk that an applicant may abscond, Member States ***may***, where necessary, ***proportionate and duly justified after an individualised assessment carried out by a judicial authority, and after consulting with the applicant,*** require the applicant to report to the competent authorities, ***electronically or by telephone*** or to appear before them in person, ***at a reasonable frequency and time. These measures shall be necessary, proportionate and shall not be so extensive or invasive as to restrict the applicant's freedom of movement or right to privacy and family life.***

Or. en

Justification

As a restriction on free movement, reporting requirements must also be scrutinised against the requirements of fundamental rights under the Charter and the ECHR. This includes an individualised assessment, as well as necessity and proportionality of such measures.

Amendment 206

Kati Piri, Juan Fernando López Aguilar, Péter Niedermüller, Maria Grapini, Tanja Fajon, Anna Hedh

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

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

Amendment

3. Where there are reasons for considering that there is a risk that an applicant may abscond, Member States ***may***, where necessary ***and proportionate***, require the applicant to report to the competent authorities, or to appear before them in person, either without delay or at a specified time as frequently as necessary to effectively prevent the applicant from absconding. ***Such a decision shall be taken in writing and be subject to judicial review. Such judicial review shall be carried out ex-officio if it is maintained for a period of longer than two months.***

Or. en

Justification

Any decision to require an applicant to appear before competent authorities must be necessary and proportionate, should be given in writing and should be subject to judicial review. Such judicial review should be carried out automatically if the measure is maintained for a period in excess of two months.

Amendment 207
Cornelia Ernst, Martina Anderson

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

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

Amendment

3. Where there are reasons for considering that there is a risk that an applicant may abscond, Member States ***may***, where necessary ***and proportionate and on the basis of a decision of a judicial authority***, require the applicant to report to the competent authorities, or to appear before them in person, at a specified time

effectively prevent the applicant from absconding.

as frequently as necessary, ***but no more than once every working day***, to effectively prevent the applicant from absconding.

Or. en

Amendment 208

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive Article 7 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 209

Beatrix von Storch

Proposal for a directive Article 7 – paragraph 3

Text proposed by the Commission

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

Amendment

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

effectively prevent the applicant from absconding.

effectively prevent the applicant from absconding.

Or. en

Amendment 210

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 7 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Member States shall provide for the possibility of granting applicants temporary permission to leave their place of residence **or assigned area**. Decisions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if they are negative.

Amendment

Member States shall provide for the possibility of granting applicants temporary permission to leave their place of residence. Decisions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if they are negative.

Or. en

Justification

This amend is inextricably linked to the deletions by the Commission in Article 6.

Amendment 211

Kati Piri, Juan Fernando López Aguilar, Péter Niedermüller, Maria Grapini, Tanja Fajon

Proposal for a directive

Article 7 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Member States shall provide for the possibility of granting applicants temporary permission to leave their place of residence or assigned area. Decisions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if they are negative.

Amendment

Member States shall provide for the possibility of granting applicants temporary permission to leave their place of residence or assigned area **and to reside elsewhere**. Decisions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if they are negative.

Justification

The right to temporarily leave a place of residence also implies a right to reside somewhere else. This should be made explicit.

Amendment 212
Beatrix von Storch

Proposal for a directive
Article 7 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Member States ***shall*** provide for the possibility of granting applicants temporary permission to leave their place of residence or assigned area. Decisions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if they are negative.

Amendment

Member States ***may*** provide for the possibility of granting applicants temporary permission to leave their place of residence or assigned area. Decisions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if they are negative.

Or. en

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts which also guided by the principle of subsidiarity. It would be nonsensical to have the principle only applied to the grey parts.

Amendment 213
Bodil Valero
on behalf of the Verts/ALE Group

Proposal for a directive
Article 7 – paragraph 5

Text proposed by the Commission

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address or a telephone number

Amendment

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address or a telephone number

where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

or electronic mail address where they may be reached and notify any change of telephone number *or electronic mail* or address to such authorities as soon as possible.

Or. en

Amendment 214

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 7 – paragraph 5

Text proposed by the Commission

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address or a telephone number where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

Amendment

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address, *including their e-mail address*, or a telephone number where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

Or. it

Amendment 215

Beatrix von Storch

Proposal for a directive

Article 7 – paragraph 5

Text proposed by the Commission

5. Member States *shall* require applicants to inform the competent authorities of their current place of residence or address or a telephone number where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

Amendment

5. Member States *may* require applicants to inform the competent authorities of their current place of residence or address or a telephone number where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

Or. en

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts which also guided by the principle of subsidiarity. It would be nonsensical to have the principle only applied to the grey parts.

Amendment 216

József Nagy

Proposal for a directive

Article 7 – paragraph 5

Text proposed by the Commission

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address **or** a telephone number where they may be reached and notify any change of telephone number **or** address to such authorities as soon as possible.

Amendment

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address **and** a telephone number where they may be reached and notify any change of telephone number **and** address to such authorities as soon as possible.

Or. en

Amendment 217

Kinga Gál

Proposal for a directive

Article 7 – paragraph 5

Text proposed by the Commission

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address **or** a telephone number where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

Amendment

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address **and** a telephone number where they may be reached and notify any change of telephone number, **place of residence** or address to such authorities as soon as possible.

Or. en

Amendment 218
Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive
Article 7 – paragraph 5

Text proposed by the Commission

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address or a telephone number where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

Amendment

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address or, ***where applicable***, a telephone number where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

Or. en

Justification

This is to take into account those cases, however rare, where an applicant does not have a phone number.

Amendment 219
József Nagy

Proposal for a directive
Article 7 – paragraph 6

Text proposed by the Commission

6. Member States may make provision of the material reception conditions subject to actual residence by the applicants in a specific place.

Amendment

6. Member States may make provision of the material reception conditions subject to actual residence by the applicants in a specific place. ***Such a decision needs to take the form of an administrative decision.***

Or. en

Amendment 220
Beatrix von Storch

Proposal for a directive
Article 7 – paragraph 6

Text proposed by the Commission

(6) Member States may make provision of the material reception conditions subject to *actual residence by the applicants* in a specific place.

Amendment

(6) Member States may make provision of the material reception conditions subject to *genuine compliance by applicants with the requirements laid down for them, in particular, for instance, residence* in a specific place.

Or. de

Justification

Clarification is due to the fact that the second grey sentence has been deleted which refers to the national law.

Amendment 221
Jussi Halla-aho

Proposal for a directive
Article 7 – paragraph 6

Text proposed by the Commission

6. Member States *may* make provision of the material reception conditions subject to actual residence by the applicants in a specific place.

Amendment

6. Member States *shall* make provision of the material reception conditions subject to actual residence by the applicants in a specific place.

Or. en

Justification

To discourage secondary movements, it is vital that migrants are subject to the same rules in all Member States.

Amendment 222
Bodil Valero
on behalf of the Verts/ALE Group

Proposal for a directive
Article 7 – paragraph 7

Text proposed by the Commission

7. Decisions referred to in this Article shall be based on ***the*** individual ***behaviour and*** particular situation of the person concerned, including with regard to applicants with special reception needs, and with due regard to the ***principle of*** proportionality.

Amendment

7. Decisions referred to in this Article shall be based on ***an*** individual ***assessment of the*** particular situation of the person concerned, including with regard to applicants with special reception needs, and with due regard to the ***principles of necessity and*** proportionality.

Or. en

Amendment 223
Heinz K. Becker

Proposal for a directive
Article 7 – paragraph 7

Text proposed by the Commission

7. Decisions referred to in ***this Article*** shall be based on the individual behaviour and particular situation of the person concerned, including with regard to applicants with special reception needs, and with due regard to the principle of proportionality.

Amendment

7. Decisions referred to in ***paragraph 2*** shall be based on the individual behaviour and particular situation of the person concerned, including with regard to applicants with special reception needs, and with due regard to the principle of proportionality.

Or. en

Amendment 224
Beatrix von Storch

Proposal for a directive
Article 7 – paragraph 8

Text proposed by the Commission

(8) Member States shall state reasons in fact and, where relevant, in law in any decision taken in accordance with this Article. Applicants shall be immediately

Amendment

(8) Member States shall state reasons in fact and, where relevant, in law in any decision taken in accordance with this Article. Applicants shall be immediately

informed in writing, in a language which they understand or are reasonably supposed to understand, of the adoption of such a decision, of the procedures for challenging the decision in accordance with Article 25 and of the consequences of non-compliance with the obligations imposed by the decision.

informed in writing, in a language which they understand or are reasonably supposed to understand, of the adoption of such a decision, of the procedures for challenging the decision in accordance with Article 25 and of the consequences of non-compliance with the obligations imposed by the decision. ***Applicants may be asked to make an appropriate contribution towards the cost of any translation required.***

Or. de

Amendment 225

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive Article 7 – paragraph 8

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 226

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive Article 7 – paragraph 8

Text proposed by the Commission

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

Amendment

8. Member States shall state reasons in fact and, where relevant, in law in any decision taken in accordance with this Article. Applicants shall be immediately informed in writing, in ***the official language of the Member State as well as in a language the applicant understands***, of the adoption of such a decision, of the procedures for challenging the decision in accordance with Article 25 and of the consequences of non-compliance with the obligations imposed by the decision.

Or. en

Amendment 227

Heinz K. Becker

Proposal for a directive

Article 7 – paragraph 8

Text proposed by the Commission

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

Amendment

8. Member States shall state reasons in fact and, where relevant, in law in any decision taken in accordance with ***paragraph 2***. Applicants shall be immediately informed in writing, in a language which they understand or are reasonably supposed to understand, of the adoption of such a decision, of the procedures for challenging the decision in accordance with Article 25 and of the consequences of non-compliance with the obligations imposed by the decision.

Or. en

Amendment 228

Kati Piri, Elly Schlein, Juan Fernando López Aguilar, Péter Niedermüller, Maria Grapini, Tanja Fajon, Anna Hedh, Cécile Kashetu Kyenge

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall not hold a person in detention for the sole reason that he or she is an applicant ***or on sole basis of an applicants' nationality.***

Or. en

Justification

An applicant's nationality should not be the sole reason for holding that applicant in detention.

Amendment 229

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Under no circumstances may minors be detained or placed in confinement.

Or. it

Justification

The amendment is necessary to ensure consistency with other parts that have been amended and to clearly state that minors cannot be detained in any circumstances.

Amendment 230

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive
Article 8 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Any decision which involves detaining the applicant must be taken by judicial authorities;

Or. it

Justification

This Article also needs to be amended in order to ensure consistency in the text of the Directive, since amendments have been made to other sections of the text which stipulate that any decision involving the detention or placing in confinement of an asylum seeker must necessarily be issued by the judicial authorities.

Amendment 231

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Applicants shall not be detained before the evaluation of their special reception needs, pursuant to Article 21, is carried out.

Or. en

Justification

This addition is to implement the changes introduced by the Commission to the new Article 21, where it is stipulated that the assessment is to be done systematically. This amendment follows the logic of the changes introduced to Article 21 and is necessary in this respect.

Amendment 232

Beatrix von Storch

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

(3) An applicant may be detained **only**:

(3) An applicant may be detained ***in particular***:

Or. de

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts which also guided by the principle of subsidiarity. It would be nonsensical to have the principle only applied to the grey parts.

Amendment 233
Jussi Halla-aho

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

3. An applicant ***may*** be detained only:

3. An applicant ***shall*** be detained only:

Or. en

Justification

Member States should be bound by law to use detention in specific cases.

Amendment 234
Jussi Halla-aho

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) in order to determine or verify his or her identity or nationality;

(a) in order to determine or verify his or her identity or nationality ***or when the information given by the applicant concerning his or her identity or***

nationality proves to be false;

Or. en

Justification

Falsification of personal information should be discouraged by effective consequences.

Amendment 235

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) *in order to ensure compliance with legal obligations imposed on the applicant through an individual decision in accordance with Article 7(2) in cases where the applicant has not complied with such obligations and there is a risk of absconding of the applicant.* *deleted*

Or. en

Amendment 236

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) *in order to ensure compliance with legal obligations imposed on the applicant through an individual decision in accordance with Article 7(2) in cases where the applicant has not complied with such obligations and there is a risk of absconding of the applicant.* *deleted*

Or. en

Justification

This ground does not concern the fulfilment of a clear and precise obligation incumbent on the applicant, as required by Article 5(1)(b) ECHR and Article 6 of the Charter. This ground also indicates a punitive character to detention, which also contravenes Article 5(1)(b) ECHR and Article 6 of the Charter.

Amendment 237

József Nagy

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – point c

Text proposed by the Commission

(c) in order to ensure compliance with ***legal obligations imposed*** on the ***applicant through an individual decision in accordance with Article 7(2) in cases where the applicant has not complied with such obligations*** and there is a risk of absconding of the applicant.

Amendment

(c) in order to ensure compliance with the ***obligation to remain*** on the ***territory of the responsible Member State where*** there is a risk of absconding of the applicant.

Or. en

Amendment 238

Bodil Valero

on behalf of the Verts/ALE Group

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – point d

Text proposed by the Commission

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

Amendment

Or. en

Justification

Detention on this ground cannot serve the purpose of “preventing unauthorised entry” and

therefore would be at odds with Article 5(1)(f) ECHR. A possibility to detain while deciding “on the applicant’s right to enter the territory” would not be in line with Article 5(1)(f) and Article 5(1)(b) ECHR.

Amendment 239

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

This deletion is in order to be coherent with the changes introduced by the Commission to the new Article 21, where it is stipulated that an assessment on whether an applicant has special needs is to be done systematically and as early as possible. This amendment follows the logic of the changes introduced to Article 21 and is necessary in this respect as with the existing text a detention may be done before the assessment which may lead to prohibition/limitation of detention.

Amendment 240

Jussi Halla-aho

Proposal for a directive

Article 8 – paragraph 3 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) when he or she is detained subject to a return procedure under Directive 2008/115/EC of the European Parliament and of the Council³⁴, in order to prepare the return and/or carry out the removal process, *and* the Member State concerned can substantiate on the basis of objective criteria, including that he or she already

(e) when he or she is detained subject to a return procedure under Directive 2008/115/EC of the European Parliament and of the Council³⁴, in order to prepare the return and/or carry out the removal process, *or* the Member State concerned can substantiate on the basis of objective criteria, including that he or she already

had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;

³⁴ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 343, 23.12.2011, p.1).

had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;

³⁴ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 343, 23.12.2011, p.1).

Or. en

Justification

The unnecessary legal hurdles for the returns should be removed.

Amendment 241 **Jussi Halla-aho**

Proposal for a directive **Article 8 – paragraph 4**

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Electronic ankle monitors provide the Members States a cost effective tool to monitor the applicants effectively.

Amendment 242
Jussi Halla-aho

Proposal for a directive
Article 9 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Administrative procedures relevant to the grounds for detention set out in Article 8(3) shall be executed with due diligence.

Delays in administrative procedures that cannot be attributed to the applicant shall not justify a continuation of detention.

Amendment

Administrative procedures relevant to the grounds for detention set out in Article 8(3) shall be executed with due diligence.

Or. en

Justification

Detention should continue for as long as the grounds for detention, set out in Article 8(3), exist.

Amendment 243
Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. it

Justification

This Article also needs to be amended in order to ensure consistency in the text of the Directive, since amendments have been made to Article 8 which stipulate that any decision involving the detention or placing in confinement of an asylum seeker must necessarily be issued by the judicial authorities.

Amendment 244
Jussi Halla-aho

Proposal for a directive
Article 9 – paragraph 3

Text proposed by the Commission

Amendment

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

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

Or. en

Justification

Member States should not be burdened with a requirement to provide a judicial review when detention has been ordered by administrative authorities.

Amendment 245
Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive
Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. *Where detention is ordered by* *deleted*

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

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

Or. it

Justification

This Article also needs to be amended in order to ensure consistency in the text of the Directive, since amendments have been made to Article 8 which stipulate that any decision involving the detention or placing in confinement of an asylum seeker must necessarily be issued by the judicial authorities.

Amendment 246

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Where detention is ordered by administrative authorities, Member States shall provide for a speedy judicial review of the lawfulness of detention to be conducted ex officio and/or at the request of the applicant. When conducted ex officio, such review shall be decided on as speedily as possible from the beginning of

deleted

detention. When conducted at the request of the applicant, it shall be decided on as speedily as possible after the launch of the relevant proceedings. To this end, Member States shall define in national law the period within which the judicial review ex officio and/or the judicial review at the request of the applicant shall be conducted.

Or. it

Justification

This Article also needs to be amended in order to ensure consistency in the text of the Directive, since amendments have been made to Article 8 which stipulate that any decision involving the detention or placing in confinement of an asylum seeker must necessarily be issued by the judicial authorities.

Amendment 247

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

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

deleted

Or. it

Justification

This Article also needs to be amended in order to ensure consistency in the text of the Directive, since amendments have been made to Article 8 which stipulate that any decision involving the detention or placing in confinement of an asylum seeker must necessarily be issued by the judicial authorities.

Amendment 248

Jussi Halla-aho

Proposal for a directive
Article 9 – paragraph 5

Text proposed by the Commission

5. Detention shall be reviewed by a judicial authority at reasonable intervals of time, ex officio and/or at the request of the applicant concerned, in particular whenever ***it is of a prolonged duration***, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention.

Amendment

5. Detention shall be reviewed by a judicial authority at reasonable intervals of time, ex officio and/or at the request of the applicant concerned, in particular whenever relevant circumstances arise or new information becomes available which may affect the lawfulness of detention.

Or. en

Justification

A long detention period in itself cannot be considered a specific reason for a judicial review.

Amendment 249
Jussi Halla-aho

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

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Automatic access to free legal assistance is not compatible with the aims of this Directive.

Amendment 250
Jussi Halla-aho

Proposal for a directive
Article 9 – paragraph 7 – introductory part

Text proposed by the Commission

Amendment

7. Member States *may* also provide that free legal assistance and representation are granted:

7. Member States *shall* also provide that free legal assistance and representation are granted:

Or. en

Justification

Free legal assistance shall be provided only in clearly defined cases.

Amendment 251
Jussi Halla-aho

Proposal for a directive
Article 9 – paragraph 7 – point a

Text proposed by the Commission

Amendment

(a) only to those who lack sufficient resources; *and/or*

(a) only to those who lack sufficient resources;

Or. en

Justification

This should be the only reason for getting free legal assistance.

Amendment 252
Jussi Halla-aho

Proposal for a directive
Article 9 – paragraph 7 – point b

Text proposed by the Commission

Amendment

(b) *only through the services provided by legal advisers or other counsellors specifically designated by national law to assist and represent applicants.* **deleted**

Or. en

Justification

This condition is unnecessary in safeguarding the legal protection of applicants.

Amendment 253

Jussi Halla-aho

Proposal for a directive

Article 9 – paragraph 8 – introductory part

Text proposed by the Commission

Amendment

8. Member States **may** also:

8. Member States **shall** also:

Or. en

Justification

There should be clear limits on the scope of the free legal assistance.

Amendment 254

Jussi Halla-aho

Proposal for a directive

Article 9 – paragraph 9

Text proposed by the Commission

Amendment

9. Member States **may** demand to be reimbursed wholly or partially for any costs granted if and when the applicant's financial situation has improved considerably or if the decision to grant such costs was taken on the basis of false

9. Member States **shall** demand to be reimbursed wholly or partially for any costs granted if and when the applicant's financial situation has improved considerably or if the decision to grant such costs was taken on the basis of false

information supplied by the applicant.

information supplied by the applicant.

Or. en

Justification

The stronger wording is needed to discourage applicants from giving false information.

Amendment 255

Jussi Halla-aho

Proposal for a directive

Article 10 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that family members, legal advisers ***or counsellors and persons representing relevant non-governmental organisations recognised by the Member State concerned*** have the possibility to communicate with and visit applicants in conditions that respect privacy. Limits to access to the detention facility may be imposed only where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of the detention facility, provided that access is not thereby severely restricted or rendered impossible.

Amendment

4. Member States shall ensure that family members, legal advisers ***and counsellors*** have the possibility to communicate with and visit applicants in conditions that respect privacy. Limits to access to the detention facility may be imposed only where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of the detention facility, provided that access is not thereby severely restricted or rendered impossible.

Or. en

Justification

The actions of many NGOs hamper the effective implementation of the CEAS and therefore NGOs should be kept apart from the asylum process.

Amendment 256

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where applicants with special reception needs are detained, Member States shall ensure regular monitoring and adequate support taking into account their particular situation, including their health.

Amendment

Where applicants with special reception needs are detained, Member States shall ensure regular monitoring and adequate support taking into account their particular situation, including their ***physical and mental*** health.

Or. en

Justification

This is a clarification that is inextricably linked to the definition of applicants with special reception needs, from which follows that those applicants could suffer from psychological harm only. Provisions relating simply to physical health or that are ambiguous in that respect would hence be useless.

Amendment 257

Elly Schlein

Proposal for a directive

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where ***applicants with special reception needs*** are detained, Member States shall ensure regular monitoring and adequate support taking into account their particular situation, including their health.

Amendment

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

Or. en

Amendment 258

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Minors shall be detained only as a measure of last resort and after it having

Amendment

deleted

been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors.

Or. it

Justification

This part of the text also needs to be amended in order to ensure consistency with the changes made in Article 8.1a which state that a minor seeking asylum may not be detained while awaiting a decision on their asylum application.

Amendment 259

Salvatore Domenico Pogliese, Alessandra Mussolini

Proposal for a directive

Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Minors shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors.

Amendment

Detention of children shall be prohibited. However this shall not impinge on the criminal law of the Member State.

Or. en

Justification

The amendment seeks to prohibit the detention of children in the context of the implementation of the reception Directive but at the same time it specifies that in those cases where children commit crimes he or she can be still punishable under the national law.

Amendment 260
Jussi Halla-aho

Proposal for a directive
Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Minors shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. ***Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors.***

Amendment

Minors shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively.

Or. en

Justification

Unjustifiable restrictions on the use of detention cannot be maintained.

Amendment 261

Anna Maria Corazza Bildt, Caterina Chinnici, Hilde Vautmans, Vilija Blinkevičiūtė, Julie Ward, Luigi Morgano, Salvatore Domenico Pogliese, Alessandra Mussolini, Brando Benifei, Damiano Zoffoli, Nathalie Griesbeck

Proposal for a directive
Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Minors shall be detained ***only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors.***

Amendment

Minors shall ***not*** be detained; ***Member States shall instead accommodate minors and families with minors in non-custodial, community-based placements while their immigration status is processed.***

Or. en

Justification

The amendment seeks to align this Directive with the UN CRC by ensuring that best interests of the child are respected by prohibiting detention of children in the context of this Directive. The detention of minors is never in their best interests.

Amendment 262

Sophia in 't Veld

on behalf of the ALDE Group

Kati Piri, Tanja Fajon

on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström, Barbara Spinelli, Miriam Dalli, Péter Niedermüller, Nathalie Griesbeck, Anna Maria Corazza Bildt

Proposal for a directive

Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Minors shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors.

Amendment

Detention of children shall be prohibited. Member States shall establish appropriate care arrangements and community-based programmes to ensure the adequate reception of children and their families.

Or. en

Justification

The amendment seeks to align this Directive with the UN CRC by ensuring that best interests of the child are respected by prohibiting detention of children in the context of this Directive. Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 263**Sophia in 't Veld**

on behalf of the ALDE Group

Kati Piri

on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström, Barbara Spinelli, Miriam Dalli, Péter Niedermüller, Caterina Chinnici, Nathalie Griesbeck

Proposal for a directive**Article 11 – paragraph 2 – subparagraph 2***Text proposed by the Commission*

The best interests of the child, as referred to in Article 22(2), shall be a primary consideration for Member States.

Amendment

The best interests of the child, as referred to in Article 22(2), shall be a primary consideration for Member States. ***Suitable care arrangements and reception measures for children and their families shall be community based, the least intrusive and respect the right to privacy and family life.***

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 264**Sophia in 't Veld**

on behalf of the ALDE Group

Kati Piri, Tanja Fajon

on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström, Barbara Spinelli, Anna Maria Corazza Bildt, Caterina Chinnici, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Where minors are detained, their right to education must be secured and they shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age. **deleted**

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 265

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 11 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Where minors are detained, their right to education must be secured and they shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age. **deleted**

Or. it

Justification

This part of the text also needs to be amended in order to ensure consistency with the changes made in Article 8.1a which state that a minor seeking asylum may not be detained while awaiting a decision on their asylum application.

Amendment 266
Jussi Halla-aho

Proposal for a directive
Article 11 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where minors are detained, ***their right to education must be secured and*** they shall have the possibility to engage in ***leisure activities, including play and recreational*** activities appropriate to their age.

Amendment

Where minors are detained, they shall have the possibility to engage in activities appropriate to their age.

Or. en

Justification

Access to education and leisure activities during detention add too much burden on Member States.

Amendment 267
Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive
Article 11 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Unaccompanied minors shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible. ***deleted***

Amendment

Or. it

Justification

This part of the text also needs to be amended in order to ensure consistency with the changes made in Article 8.1a which state that a minor seeking asylum may not be detained while awaiting a decision on their asylum application.

Amendment 268

Anna Maria Corazza Bildt, Caterina Chinnici, Hilde Vautmans, Vilija Blinkevičiūtė, Julie Ward, Luigi Morgano, Brando Benifei, Damiano Zoffoli, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Unaccompanied minors shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible. ***deleted***

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 269

Jussi Halla-aho

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Unaccompanied minors shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible. ***deleted***

Or. en

Justification

Many unaccompanied minors are not de facto in a vulnerable position, due to their age being near the maturity at 16 or 17 years, which makes this requirement baseless.

Amendment 270

Sophia in 't Veld

on behalf of the ALDE Group

Kati Piri, Tanja Fajon

on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström, Barbara Spinelli, Péter Niedermüller, Anna Maria Corazza Bildt, Caterina Chinnici, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Unaccompanied minors shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible. *deleted*

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 271

Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Unaccompanied minors shall never be detained in prison accommodation. *deleted*

Or. it

Justification

This part of the text also needs to be amended in order to ensure consistency with the changes made in Article 8.1a which state that a minor seeking asylum may not be detained while awaiting a decision on their asylum application.

Amendment 272

Sophia in 't Veld

on behalf of the ALDE Group

Kati Piri, Tanja Fajon

on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström, Barbara Spinelli, Miriam Dalli, Anna Maria Corazza Bildt, Caterina Chinnici, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Unaccompanied minors shall never be detained in prison accommodation. ***deleted***

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 273

Anna Maria Corazza Bildt, Caterina Chinnici, Hilde Vautmans, Vilija Blinkevičiūtė, Julie Ward, Luigi Morgano, Brando Benifei, Damiano Zoffoli, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

***Unaccompanied minors shall never be
detained in prison accommodation.*** ***deleted***

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 274
Jussi Halla-aho

Proposal for a directive
Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Unaccompanied minors ***shall never*** be
detained in prison accommodation.

Unaccompanied minors ***should not*** be
detained in prison accommodation ***where
that can reasonably be avoided.***

Or. en

Justification

It should not be categorically prohibited to house unaccompanied minors in prison like accommodations.

Amendment 275

Sophia in 't Veld

on behalf of the ALDE Group

Kati Piri, Tanja Fajon

on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López

Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström, Barbara Spinelli, Miriam Dalli, Anna Maria Corazza Bildt, Caterina Chinnici, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

As far as possible, unaccompanied minors shall be provided with accommodation in institutions provided with personnel who take into account the rights and needs of persons of their age and facilities adapted to unaccompanied minors. **deleted**

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 276

Sophia in 't Veld

on behalf of the ALDE Group

Kati Piri, Tanja Fajon

on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López

Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström,

Barbara Spinelli, Anna Maria Corazza Bildt, Caterina Chinnici, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 4

Text proposed by the Commission

Amendment

Where unaccompanied minors are detained, Member States shall ensure that they are accommodated separately from **deleted**

adults.

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 277

Anna Maria Corazza Bildt, Caterina Chinnici, Hilde Vautmans, Vilija Blinkevičiūtė, Julie Ward, Luigi Morgano, Brando Benifei, Damiano Zoffoli, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 4

Text proposed by the Commission

Amendment

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

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 278

Jussi Halla-aho

Proposal for a directive

Article 11 – paragraph 4

Text proposed by the Commission

Amendment

4. Detained families shall be provided with separate accommodation **deleted**

guaranteeing adequate privacy.

Or. en

Justification

It is practically impossible to always provide separate accommodations for detained families.

Amendment 279

Anna Maria Corazza Bildt, Caterina Chinnici, Hilde Vautmans, Vilija Blinkevičiūtė, Julie Ward, Luigi Morgano, Brando Benifei, Damiano Zoffoli, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 4

Text proposed by the Commission

Amendment

4. Detained families shall be provided with separate accommodation guaranteeing adequate privacy. *deleted*

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 280

Sophia in 't Veld

on behalf of the ALDE Group

Kati Piri, Tanja Fajon

on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López

Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström,

Barbara Spinelli, Anna Maria Corazza Bildt, Caterina Chinnici, Nathalie Griesbeck

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors.

Amendment 281
Jussi Halla-aho

Proposal for a directive
Article 11 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Amendment

Where female applicants are detained, Member States shall ensure that **they** are accommodated separately **from male applicants**, unless **the latter** are family members and all individuals concerned consent thereto.

Member States shall ensure that **detained male and female applicants** are accommodated separately, unless **they** are family members and all individuals concerned consent thereto.

Or. en

Justification

This rephrasing emphasizes the equal rights of both sexes.

Amendment 282
Sophia in 't Veld
on behalf of the ALDE Group
Kati Piri, Tanja Fajon
on behalf of the S&D Group

Cornelia Ernst

on behalf of the GUE/NGL Group

Bodil Valero

on behalf of the Verts/ALE Group

Jean Lambert, Sylvie Guillaume, Miltiadis Kyrkos, Anna Hedh, Juan Fernando López Aguilar, Elly Schlein, Christine Revault D'Allonnes Bonnefoy, Cecilia Wikström, Barbara Spinelli, Miriam Dalli, Péter Niedermüller, Caterina Chinnici, Nathalie Griesbeck

Proposal for a directive

Article 11 – paragraph 6

Text proposed by the Commission

6. In duly justified cases and for a reasonable period that shall be as short as possible Member States may derogate from ***the third subparagraph of paragraph 2, paragraph 4 and*** the first subparagraph of paragraph 5, when the applicant is detained at a border post or in a transit zone, ***with the exception of the cases referred to in Article 41 of Regulation (EU) No XXX/XXX [Procedures Regulation].***

Amendment

6. In duly justified cases and for a reasonable period that shall be as short as possible Member States may derogate from the first subparagraph of paragraph 5, when the applicant is detained at a border post or in a transit zone.

Or. en

Justification

Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors, This Amendment is also inextricably linked with the Rapporteur's admissible Amendment on Article 8 para. 3 (d) (AM 31 of the draft report).

Amendment 283

Jussi Halla-aho

Proposal for a directive

Article 11 – paragraph 6

Text proposed by the Commission

6. In duly justified cases and for a reasonable period that shall be as short as possible Member States may derogate from

Amendment

6. In duly justified cases and for a reasonable period that shall be as short as possible Member States may derogate from

the third subparagraph of paragraph 2, **paragraph 4** and the first subparagraph of paragraph 5, when the applicant is detained at a border post or in a transit zone, with the exception of the cases referred to in Article 41 of Regulation (EU) No XXX/XXX [Procedures Regulation].

the third subparagraph of paragraph 2 and the first subparagraph of paragraph 5, when the applicant is detained at a border post or in a transit zone, with the exception of the cases referred to in Article 41 of Regulation (EU) No XXX/XXX [Procedures Regulation].

Or. en

Justification

Unaccompanied minors tend to be juvenile males, a demographic that coincides with a higher than average occurrence of circumstances calling for their detention. As a practical necessity, it should therefore be possible to detain unaccompanied minors as a last resort in prison accommodation as their rights cannot override the rights of others to safety and security.

Amendment 284 **Beatrix von Storch**

Proposal for a directive **Article 12 – paragraph 1**

Text proposed by the Commission

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

Amendment

Member States shall take ***suitable*** measures to ***ensure that an applicant and his or her family members*** present within their territory ***remain together, as far as possible***, if applicants are provided with housing by the Member State concerned.

Or. de

Justification

It's a legal clarification relating to the definitions. See above in Article 2.

Amendment 285 **Beatrix von Storch**

Proposal for a directive **Article 13 – paragraph 1**

Text proposed by the Commission

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

Amendment

Member States may require medical screening for applicants, ***in particular*** on public health grounds.

Or. de

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts which also guided by the principle of subsidiarity. It would be nonsensical to have the principle only applied to the grey parts.

Amendment 286

Anna Maria Corazza Bildt, Caterina Chinnici, Hilde Vautmans, Vilija Blinkevičiūtė, Julie Ward, Luigi Morgano, Bodil Valero, Brando Benifei, Damiano Zoffoli, Nathalie Griesbeck, Jean Lambert

Proposal for a directive

Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

Member States shall grant to minor children of applicants and to applicants who are minors access to the education system under ***the same*** conditions as their own nationals for ***the entire duration of their presence in the territory of the Member State***. Such education may be provided in accommodation centres, ***as a temporary measure until access to national education systems is ensured***.

Or. en

Justification

The wording "similar conditions" may lead to segregated schooling. Article 14(3) already provides the possibility for other arrangements to be made in the case that what paragraph 1 prescribes is not possible.

Amendment 287
Jussi Halla-aho

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

Member States ***may*** grant applicants who are minors access to education under similar conditions as their own nationals ***and residents until receiving*** their ***asylum decision***. Such education may be provided in accommodation centres.

Or. en

Justification

It is not justified to broaden the scope to include children of applicants in this article as the scope of the directive according to Article 3.1 is limited to the applicants for international protection only. As regards granting access to education systems of the Member States, it would be preferable to take a more flexible approach, taking into account e.g. the language skills of applicants, and to provide them with more tailored education. Putting applicants in foreign language class rooms is not beneficial but a potential source of social problems.

Amendment 288
Beatrix von Storch

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

Member States ***may*** grant minor children of applicants and applicants who are minors access to the education system under ***appropriate*** conditions for so long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centres.

Or. en

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts which also guided by the principle of subsidiarity. It would be nonsensical to have the principle only applied to the grey parts.

Amendment 289
Beatrix von Storch

Proposal for a directive
Article 14 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Member States ***shall*** not withdraw secondary education for the sole reason that the minor has reached the age of majority.

Amendment

Member States ***may*** not withdraw from secondary education for the sole reason that the minor has reached the age of majority.

Or. en

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts which also guided by the principle of subsidiarity. It would be nonsensical to have the principle only applied to the grey parts.

Amendment 290
Beatrix von Storch

Proposal for a directive
Article 14 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Access to the education system ***shall*** not be postponed for more than three months from the date on which the application for international protection was lodged by or on behalf of the minor.

Amendment

Access to the education system ***may*** not be postponed for more than three months from the date on which the application for international protection was lodged by or on behalf of the minor.

Or. en

Justification

We have admissible amendments which are guided by the principle of subsidiarity and are inextricably linked to amendments in the white parts which also guided by the principle of subsidiarity. It would be nonsensical to have the principle only applied to the grey parts.

Amendment 291

Jussi Halla-aho

Proposal for a directive

Article 14 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Access to **the** education **system** shall not be postponed for more than three months from the date on which the application for international protection was lodged by or on behalf of the minor.

Amendment

When granted, access to education shall not be postponed for more than three months from the date on which the application for international protection was lodged by or on behalf of the minor.

Or. en

Justification

An automatic access to the education system for minor applicants would add too much pressure on Member States and could threaten social cohesion in the school environment.

Amendment 292

Cornelia Ernst, Martina Anderson, Barbara Spinelli

Proposal for a directive

Article 14 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Access to the education system shall not be postponed for more than **three months** from the **date on which the** application for international protection **was lodged by or on behalf of the minor.**

Amendment

Access to the education system shall not be postponed for more than **one month** from the **moment that the minor made an** application for international protection.

Or. en

Justification

This follows from the logic of Article 22.

Amendment 293

Anna Maria Corazza Bildt, Caterina Chinnici, Hilde Vautmans, Vilija Blinkevičiūtė, Julie Ward, Luigi Morgano, Bodil Valero, Brando Benifei, Damiano Zoffoli, Nathalie Griesbeck

Proposal for a directive

Article 14 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Access to the education system shall not be postponed for more than ***three months*** from the date on which the application for international protection was lodged by or on behalf of the minor.

Amendment

Access to the education system shall not be postponed for more than ***one month*** from the date on which the application for international protection was lodged by or on behalf of the minor.

Or. en

Justification

Early access to the education system can help children to regain a sense of normalcy and favours integration. For these reasons, access to the education system should be ensured as soon as possible and no later than one month from the lodging of an application by or on behalf of the minor.

Amendment 294

Jussi Halla-aho

Proposal for a directive

Article 14 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Preparatory classes, including language classes, ***shall*** be provided to minors where it is necessary to facilitate their access to and participation in the education system as set out in paragraph 1.

Amendment

Preparatory classes, including language classes, ***may*** be provided to minors where it is necessary to facilitate their access to and participation in the education system as set out in paragraph 1.

Or. en

Justification

Preparatory classes should be provided only when it's deemed to be feasible by the Member States.

Amendment 295

Jussi Halla-aho

Proposal for a directive

Article 14 – paragraph 3

Text proposed by the Commission

3. Where access to *the* education *system* as set out in paragraph 1 is not possible due to the specific situation of the minor, the Member State concerned *shall* offer other education arrangements in accordance with its national law and practice.

Amendment

3. Where access to education as set out in paragraph 1 is not possible due to the specific situation of the minor, the Member State concerned *may* offer other education arrangements in accordance with its national law and practice.

Or. en

Justification

Member States should be allowed not to provide educational services when this is due to circumstances beyond their control.