European Parliament
2014-2019

Committee on Civil Liberties, Justice and Home Affairs

2016/0133(COD)

24.2.2017

***I
DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
(COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Cecilia Wikström

(Recast – Rule 104 of the Rules of Procedure)

Symbols for procedures

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.
By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

Page

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
(COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2016)0270),

– having regard to Article 294(2) and Article 78(2)(e) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0173/2016),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Czech Chamber of Deputies, the Czech Senate, the Italian Senate, the Hungarian Parliament, the Polish Sejm, the Polish Senate, the Romanian Chamber of Deputies and the Slovak Parliament asserting that the draft legislative act does not comply with the principle of subsidiarity,

– having regard to the opinion of the European Economic and Social Committee of 19 October 2016[1],

– having regard to the opinion of the Committee of the Regions of 8 December 2016[2],

– having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts[3],

– having regard to the letter of 30 November 2016 from the Committee on Legal Affairs to the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 104(3) of its Rules of Procedure,

– having regard to Rules 104 and 59 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Budgets (A8-0000/2017),

---

[1] OJ C 34, 2.2.2017, p. 144.
[2] Not yet published in the Official Journal.
[3] OJ C 77, 28.3.2002, p. 1.

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Recital 9

Text proposed by the Commission	*Amendment*
(9) The European Union Agency for Asylum should provide adequate support in the implementation of this Regulation, in particular by establishing the reference key for the distribution of asylum seekers under the corrective allocation mechanism, and by adapting the figures underlying the reference key annually, as well as the reference key based on Eurostat data.	(9) The European Union Agency for Asylum ***(the "Asylum Agency")*** should provide adequate support in the implementation of this Regulation, in particular by establishing the reference key for the distribution of asylum seekers under the corrective allocation mechanism, and by adapting the figures underlying the reference key annually, as well as the reference key based on Eurostat data. ***The Asylum Agency should also develop information material, in close cooperation with the relevant authorities of the Member States. The Asylum Agency should gradually become responsible for the transfer of applicants for, or beneficiaries of, international protection under this Regulation.***

Or. en

Justification

The amendments updates the recital given changes notably in Article 6 and 38

Amendment 2

Proposal for a regulation
Recital 15

Text proposed by the Commission	*Amendment*
(15) In accordance with the 1989 United Nations Convention on the Rights of the Child and with the Charter of Fundamental Rights of the European Union, the best interests of the child should be ***a*** primary consideration of Member States when applying this Regulation. In assessing the best interests of the child, Member States should, in particular, take due account of the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity, including his or her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability.	(15) In accordance with the 1989 United Nations Convention on the Rights of the Child and with the Charter of Fundamental Rights of the European Union, the best interests of the child should be ***the*** primary consideration of Member States when applying this Regulation. In assessing the best interests of the child, Member States should, in particular, take due account of the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity, including his or her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability.

Or. en

Justification

Update in relation to modifications in Article 8

Amendment 3

Proposal for a regulation
Recital 17

Text proposed by the Commission	*Amendment*
(17) In order to prevent that applicants with inadmissible claims or who are likely not to be in need of international protection, or who represent a security risk are transferred among the Member States, it is necessary to ensure that the Member where an application is first	***deleted***

lodged verifies the admissibility of the claim in relation to the first country of asylum and safe third country, examines in accelerated procedures applications made by applicants coming from a safe country of origin designated on the EU list, as well as applicants presenting security concerns.

Or. en

Justification

This amendment is a consequence of the deletion of article 3(3). Your rapporteur is not as such against the use of admissibility procedures but their use prior to the establishment of the Member State responsible would imply introducing an unreasonable (new) additional burden on frontline Member States. It would still remain possible for Member States to perform an admissibility procedure once the applicant is in the Member State responsible (under the provisions of the Asylum Procedures Regulation). With regards to security issues they are dealt with separately.

Amendment 4

Proposal for a regulation
Recital 18

Text proposed by the Commission	*Amendment*
(18) The processing together of the applications for international protection of the members of one family by a single Member State makes it possible to ensure that the applications are examined thoroughly, the decisions taken in respect of them are consistent and the members of one family are not separated.	(18) The processing together of the applications for international protection of the members of one family by a single Member State makes it possible to ensure that the applications are examined thoroughly, the decisions taken in respect of them are consistent and the members of one family are not separated. ***The processing together of the applications of a family is without prejudice to the right of an applicant to lodge an application individually.***

Or. en

Justification

This is a clarification of the applicable law rather than a modification

Amendment 5

Proposal for a regulation
Recital 20

Text proposed by the Commission	*Amendment*
(20) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion. ***In order to discourage secondary movements of unaccompanied minors, which are not in their best interests, in the absence of a family member or a relative, the Member State responsible should be that where the unaccompanied minor first has lodged his or her application for international protection, unless it is demonstrated that this would not be in the best interests of the child.*** Before transferring an unaccompanied minor to another Member State, the transferring Member State should make sure that that Member State will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a ***representative or representatives*** tasked with safeguarding respect for all the rights to which they are entitled. Any decision to transfer an unaccompanied minor should be preceded by an assessment of his/her best interests by ***staff*** with the necessary qualifications and expertise.	(20) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion. Before transferring an unaccompanied minor to another Member State, the transferring Member State should make sure that that Member State will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a ***guardian*** tasked with safeguarding respect for all the rights to which they are entitled. Any decision to transfer an unaccompanied minor should be preceded by an assessment of his/her best interests by ***a multidisciplinary team*** with the necessary qualifications and expertise.

Or. en

Justification

Unaccompanied children are some of the most vulnerable applicants and their interests must be appropriately protected. Attempting to transfer unaccompanied minors back to the first member state of arrival has proven to be an extremely time-consuming exercise which the CJEU has considered not to be in the best interest of the child in the landmark ruling MA and Others V the UK. Your rapporteur therefor suggests a model which would ensure a fair distribution between Member States for the reception of unaccompanied minors whilst ensuring full respect of the right of the minors as well as their swift access to the asylum procedure in a stable environment.

Amendment 6

Proposal for a regulation
Recital 21

Text proposed by the Commission	*Amendment*
(21) ***Assuming responsibility by*** a Member State ***for examining*** an application lodged with it ***in cases when*** such examination is not its responsibility under the criteria laid down in this Regulation ***may undermine the effectiveness and sustainability of the system and should be exceptional. Therefore, a*** Member State should be ***able to derogate from the responsibility criteria only on humanitarian grounds, in particular for family reasons, before a Member State responsible has been determined and examine an application for international protection lodged with it or with another*** Member State***, even if such examination is not its responsibility under the binding criteria laid down in this Regulation***.	(21) A Member State ***should be able to derogate from the responsibility criteria and examine*** an application ***for international protection*** lodged with it ***or with another Member State, even if*** such examination is not its responsibility under the ***binding*** criteria laid down in this Regulation***. In order to counter the phenomenon of secondary movements and encourage asylum seekers to apply promptly in the first*** Member State ***of arrival, an applicant*** should be ***allowed to make a written, duly motivated request, in particular on the basis of his or her extended family, cultural or social ties or language skills which would facilitate his or her integration into a specific Member State, for his or her application to be examined by the*** Member State ***where the application was lodged, or for that Member State to request another Member State to assume responsibility***.

Or. en

Justification

This corresponds to amendments of Article 19 which seek to return to the wording in Dublin III which gave Member States more flexible discretionary powers to assume responsibility

also in cases where the applicable rules would not force them to. In order to counter secondary movements and to offer a light match-making tool between applicants and Member States it should also be possible for an applicant to ask a specific Member State to assume responsibility for his or her application.

Amendment 7

Proposal for a regulation
Recital 22

Text proposed by the Commission	*Amendment*
(22) In order to ensure that the aims of this Regulation are achieved and obstacles to its application are prevented, in particular in order to avoid absconding and secondary movements between Member States, ***it is necessary to establish clear obligations to be complied with by the applicant in the context of the procedure, of which he or she should be duly informed in a timely manner. Violation of those legal obligations should lead to appropriate and proportionate procedural consequences for the applicant and to appropriate and proportionate consequences in terms of his or her reception conditions. In line with the Charter of Fundamental Rights of the European Union, the Member State where such an applicant is present should in any case ensure that the immediate material needs of that person are covered***.	(22) In order to ensure that the aims of this Regulation are achieved and obstacles to its application are prevented, in particular in order to avoid absconding and secondary movements between Member States, ***procedures should be put in place to ensure the cooperation of applicants and Member States in order to remove the incentives for them to obstruct the working of this Regulation. It is also necessary to establish clear obligations to be complied with by the applicant in the context of the procedure and to ensure that all applicants are appropriately informed of the application of this Regulation. The support and protection of minors, in particular unaccompanied minors, should be strengthened***.

Or. en

Justification

The rapporteur has chosen a different philosophy for tackling secondary movements. Instead of attempting to impose inefficient sanctions on a behaviour that is fundamentally rational under current rules we should strive to remove the underlying reasons for engaging in secondary movements. It should not be possible for an applicant to affect which Member State becomes responsible for his or her application by travelling there.

Amendment 8

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission	*Amendment*
	(22 a) In order to increase applicants' understanding of the functioning of the Common European Asylum System (CEAS) it is necessary to improve the provision of information significantly. Investing in the early provision of accessible information to applicants will greatly increase the likelihood that they will understand, accept and follow the procedures of this Regulation to a greater extent than to date. In order to reduce the administrative requirements and make effective use of common resources the Asylum Agency should develop suitable information material, in close cooperation with the national authorities. The Asylum Agency should make full use of modern information technologies when developing that material. In order to assist asylum seekers properly, the Asylum Agency should also develop audio-visual information material that can be used as a complement to written information material. The Asylum Agency should be responsible for maintaining a dedicated website with information on the functioning of the CEAS for applicants and potential applicants designed to counter the often incorrect information provided to them by smugglers. The information material developed by the Asylum Agency should be translated and made available in all of the major languages spoken by asylum seekers arriving in Europe.

Or. en

Justification

Whilst the provision of improved information to applicants is an investment for the European

Union as well as Member States it could potentially contribute significantly to reduce more important costs in other parts of the system by avoiding secondary movements, costly secondary transfers and legal proceedings. At the same time it would go a long way to increasing the understanding of as well as acceptance of the CEAS.

Amendment 9

Proposal for a regulation
Recital 22 b (new)

Text proposed by the Commission	*Amendment*
	(22 b) Different categories of applicants have differing information needs and information will therefore have to be provided in different ways and be adapted to those needs. It is particularly important to ensure that minors have access to child-friendly information that is specific to their needs and situation. Providing accurate, high-quality information to both accompanied and unaccompanied minors in a child-friendly environment can play an essential part both in providing a good environment for the minor but also in order to identify cases of suspected trafficking in human beings.

Or. en

Justification

This recital clarifies the reasons for the various information categories included in Article 6

Amendment 10

Proposal for a regulation
Recital 23

Text proposed by the Commission	*Amendment*
(23) A personal interview with the applicant should be organised in order to facilitate the determination of the Member State responsible for examining an application for international protection unless the applicant has absconded or the	(23) A personal interview with the applicant should be organised in order to facilitate the determination of the Member State responsible for examining an application for international protection unless the applicant has absconded or the

information provided by the applicant is sufficient for determining the Member State responsible . As soon as the application for international protection is lodged, the applicant should be informed in particular of the application of this Regulation, of the lack of choice as to which Member State will examine his or her asylum application; of his or her obligations under this Regulation and of the consequences of not complying with them .	information provided by the applicant is sufficient for determining the Member State responsible. As soon as the application for international protection is lodged, the applicant should be informed in particular of the application of this Regulation, of the lack of choice as to which Member State will examine his or her asylum application; of his or her obligations under this Regulation and of the consequences of not complying with them***. The applicant should also be fully informed about his or her rights, including the right to an effective remedy and legal assistance. The information to the applicant should be provided in a language that he or she understands, in a concise, transparent, intelligible and easily accessible form, using clear and plain language***.

Or. en

Justification

Clarification of the recital to ensure that it covers not only the obligations but also the rights of the applicant flowing from Article 6 and 7

Amendment 11

Proposal for a regulation
Recital 24

Text proposed by the Commission	*Amendment*
(24) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State	(24) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State

is responsible on the basis that he has a family member or, for unaccompanied minors, a relative in another Member State. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred. ***The scope of the effective remedy should be limited to an assessment of whether applicants' fundamental rights to respect of family life, the rights of the child, or the prohibition of inhuman and degrading treatment risk to be infringed upon.***	is responsible on the basis that he has a family member or, for unaccompanied minors, a relative in another Member State***, provided that such a transfer is in the best interests of the child***. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred.

Or. en

Justification

The deletion corresponds to the changes made in article 28 on remedies since it would likely not be compatible with the requirements of Article 47 of the Charter to limit the right of a remedy to only certain breaches of rights. A small addition has also been made to clarify that transfer of children must have their best interest in focus.

Amendment 12

Proposal for a regulation
Recital 29

Text proposed by the Commission	*Amendment*
(29) Proper registration of all asylum applications in the EU under a unique application number should help detect multiple applications and prevent irregular secondary movements and asylum shopping. An automated system should be established for the purpose of facilitating the application of this Regulation. It should enable registration of asylum applications lodged in the EU, effective monitoring of the share of applications of each Member State and a correct application of the corrective allocation mechanism.	(29) Proper registration of all asylum applications in the EU under a unique application number should help detect multiple applications and prevent irregular secondary movements and asylum shopping. An automated system should be established for the purpose of facilitating the application of this Regulation. It should enable registration of asylum applications lodged in the EU, effective monitoring of the share of applications of each Member State and a correct application of the corrective allocation mechanism. ***In full respect of the purpose limitation principle***

the unique identifier should not, in any case, be used for purposes other than those described in this Regulation.

Or. en

Justification

The addition was suggested by the EDPS to ensure that the principle of purpose limitation is applied to the new personal identification number and your rapporteur considers it appropriate to include the provision here.

Amendment 13

Proposal for a regulation
Recital 32

Text proposed by the Commission	*Amendment*
(32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds ***150%*** of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.	(32) A ***reference*** key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds ***100 % of the figure identified in the reference key***. ***The corrective allocation should cease to apply when the number of applicants for which a Member State is responsible drops below 75 %*** of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.

Or. en

Justification

This relates to adjustments in the corrective allocation system in Chapter VII

Amendment 14

Proposal for a regulation
Recital 32 a (new)

Text proposed by the Commission	*Amendment*
	(32 a) Member States have differing experiences with regard to the reception of applicants for international protection. In order to ensure that Member States that have not in recent years been among the main destination countries for applicants for international protection have sufficient time to build up their reception capacity, the corrective allocation mechanism should enable a gradual transition from the current situation to a situation with a more fair distribution of responsibilities under the corrective allocation mechanism. The transitional system should create a baseline based on the average relative numbers of historically lodged applications for international protection in Member States and then transition from this "status quo" model towards a fair distribution by removing 20 % of the baseline and adding 20 % of the fair distribution model per year until the system is fully based on the fair sharing of responsibilities. It is crucial that Member States, which have not in recent years been destination countries for applicants for international protection make full use of the possibilities offered by the gradual implementation of the corrective allocation mechanism to ensure that their reception capacity is sufficiently strengthened, in particular with regard to the reception of minors. The Asylum Agency should conduct a particular

stocktaking of the capacity for the reception of unaccompanied minors in all Member States during the transitional period in order to identify deficiencies and offer assistance to address those issues.

Or. en

Justification

The recital refers to the gradual implementation of a fair distribution model and relates to Article 53(2a) and Annex Ia

Amendment 15

Proposal for a regulation
Recital 33

Text proposed by the Commission	*Amendment*
(33) When the allocation mechanism applies, the applicants who lodged their applications in the benefitting Member State should be allocated to Member States which are below their share of applications on the basis of the reference key as applied to those Member States. Appropriate rules should be provided for in cases where an applicant may for serious reasons be considered a danger to national security or public order, especially rules as regards the exchange of information between competent asylum authorities of Member States. After the transfer, the Member State of allocation should determine the Member State responsible, and should become responsible for examining the application, unless the overriding responsible criteria***, related in particular to the presence of family members,*** determine that a different Member State should be responsible.	(33) When the allocation mechanism applies, the applicants who lodged their applications in the benefitting Member State should be allocated to Member States which are below their share of applications on the basis of the reference key as applied to those Member States. Appropriate rules should be provided for in cases where an applicant may for serious reasons be considered a danger to national security or public order, especially rules as regards the exchange of information between competent asylum authorities of Member States. After the transfer, the Member State of allocation should determine the Member State responsible, and should become responsible for examining the application, unless the overriding responsible criteria determine that a different Member State should be responsible.

Or. en

Justification

Related to the addition of the "light family reunification process" in Article 36b

Amendment 16

Proposal for a regulation
Recital 33 a (new)

Text proposed by the Commission	*Amendment*
	(33 a) Member State should ensure, in particular when benefiting from corrective allocation, that procedures are efficient and allow applicants for international protection to be promptly relocated to other Member States. With a view to avoiding costly and time-consuming secondary transfers and in order to provide an efficient access to family unity for applicants under the corrective allocation mechanism whilst not unduly overburdening frontline Member States a light family reunification procedure should be envisaged which would allow for the transfer of applicants that are likely to meet the relevant criteria to allow them to be reunited with family members in a particular Member State.

Or. en

Justification

Related with the "light family reunification process" in Article 36b

Amendment 17

Proposal for a regulation
Recital 33 b (new)

Text proposed by the Commission	*Amendment*
	(33 b) In order to avoid secondary movements and to increase the prospects of integration and facilitate the

administrative processing of applications for international protection it would be beneficial to ensure that applicants who wish to be transferred together can register and be transferred under the corrective allocation mechanism as a group to one Member State rather than to be split up between several Member States. It should be up to the applicants themselves to define their group and it should be made clear to applicants that such group registration does not entail a right to be transferred to a particular Member State but, rather, a right to be transferred together to a Member State as determined by the corrective allocation mechanism. Where an applicant qualifies for reunification with family members or a Member State has chosen to assume responsibility for the application under the discretionary provisions of this Regulation, the applicant should not be able to form part of a group in the context of the corrective allocation mechanism. In order to allow for the smooth and practical application the relocation system should be based on transfer lists of 30 applicants per list. A group that would be larger than 30 applicants should therefore be split into several lists, whilst ensuring the respect for family unity. In cases where an applicant belonging to a group cannot be transferred for example for health reasons or for reasons of public security or public order it should be possible to transfer the rest of the group or parts of the group before the applicant that cannot be transferred. Once the obstacles to the transfers have been resolved that applicant should be transferred to the same Member State as the rest of his or her group.

Or. en

Justification

The modifications by the rapporteur to the corrective allocation system include the possibility

for applicants to be relocated in groups. This recital clarifies some of the provisions in the articles.

Amendment 18

Proposal for a regulation
Recital 34

Text proposed by the Commission	*Amendment*
(34) A Member State of allocation may decide not to accept the allocated applicants during a twelve months-period, in which case it should enter this information in the automated system and notify the other Member States, the Commission and the European Union Agency for Asylum. Thereafter the applicants that would have been allocated to that Member State should be allocated to the other Member States instead. The Member State which temporarily does not take part in the corrective allocation should make a solidarity contribution of EUR 250,000 per applicant not accepted to the Member State that was determined as responsible for examining those applications. The Commission should lay down the practical modalities for the implementation of the solidarity contribution mechanism in an implementing act. The European Union Agency for Asylum will monitor and report to the Commission on a yearly basis on the application of the financial solidarity mechanism.	***deleted***

Or. en

Justification

This amendment is proposed since your rapporteur suggests deleting article 37.

Amendment 19

Proposal for a regulation
Recital 38 a (new)

Text proposed by the Commission	*Amendment*
	(38 a) Information on applicants for international protection in the Union could potentially be of value for authorities in the third country from which the applicants have moved away seeking international protection. Given the increased threat to EU information systems from third countries and as the system envisaged in this regulation will imply that all registrations will get a unique identifying number, Member States as well as responsible Union agencies should take all proportionate and necessary measures to ensure that the data is stored in a secure way.

Or. en

Justification

Applicants for international protection, not least those fleeing political persecution, have often fled from regimes in third countries that could have an interest in tracking down the applicant. Given the increased and systematic use by a number of countries of hacking and information warfare both Member States and EU agencies should take necessary precautions to ensure that the data on applicants for international protection in Europe do not end up in the wrong hands.

Amendment 20

Proposal for a regulation
Recital 45

Text proposed by the Commission	*Amendment*
(45) The examination procedure should be used for the adoption of a ***common leaflet on Dublin/Eurodac, as well as a specific leaflet for unaccompanied minors; of a*** standard form for the exchange of relevant information on unaccompanied minors; of uniform conditions for the consultation and exchange of information on minors and dependent persons; of uniform conditions	(45) The examination procedure should be used for the adoption of a standard form for the exchange of relevant information on unaccompanied minors; of uniform conditions for the consultation and exchange of information on minors and dependent persons; of uniform conditions on the preparation and submission of take charge requests and take back notifications ; of two lists of relevant elements of proof

on the preparation and submission of take charge requests and take back notifications ; of two lists of relevant elements of proof and circumstantial evidence, and the periodical revision thereof; of a laissez passer; of uniform conditions for the consultation and exchange of information regarding transfers; of a standard form for the exchange of data before a transfer; of a common health certificate; of uniform conditions and practical arrangements for the exchange of information on a person's health data before a transfer, and of secure electronic transmission channels for the transmission of requests.	and circumstantial evidence, and the periodical revision thereof; of a laissez passer; of uniform conditions for the consultation and exchange of information regarding transfers; of a standard form for the exchange of data before a transfer; of a common health certificate; of uniform conditions and practical arrangements for the exchange of information on a person's health data before a transfer, and of secure electronic transmission channels for the transmission of requests.

Or. en

Justification

This change is made due to a change in article 6 where the rapporteur moves the responsibility for the development of information materials from the commission and places it instead with the Agency. This implies that the need for an implementing act in this instance is removed.

Amendment 21

Proposal for a regulation
Article 2 – paragraph 1 – point k

Text proposed by the Commission	*Amendment*
(k) '***representative***' means a person ***or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Regulation with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out its duties in respect of the minor, in accordance with this*** Regulation***;***	(k) '***guardian***' means a person ***as defined in Article [4(2)(f)] of Regulation (EU) No XXX/XXX [Procedures*** Regulation***]***

Or. en

Justification

The proposal of the rapporteur seeks to align the terminology with the Asylum Procedures Regulation (APR) and Reception Conditions Directive (RCD) that have exchanged the term "representative" for "guardian". The term Guardian is defined in the APR and the formulation used here is the cross-reference used in RCD.

Amendment 22

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 1

Text proposed by the Commission	*Amendment*
Where no Member State responsible can be designated on the basis of the criteria listed in this Regulation, the ***first*** Member State ***in which*** the application for international protection ***was lodged*** shall be ***responsible for examining it***.	Where no Member State responsible can be designated on the basis of the criteria listed in this Regulation, the Member State ***responsible for examining*** the application for international protection shall be ***determined in accordance with the procedure laid down in Article 24a***.

Or. en

Justification

The proposal in this amendment constitutes a major novelty in the Dublin regulation. In cases where an applicant has not registered in the Member State of first irregular entry, or any other Member State, it has until now been practically impossible for the determining Member State to return the applicant as it is impossible to conclusively determine the responsible Member State. In practice the result has often been that the Member State to which the applicant has moved irregularly would de facto have no choice but to assume responsibility for the application. In practice this has implied that applicants that manage to evade registration by Member States achieve de facto a free choice of destination country. It has also implied that Member States have known that registering an applicant would likely imply that they would have to assume responsibility for the applicant which has promoted wave-through policies amongst Member States for applicants wishing to continue traveling towards other Member States. The provision in this amendment implies that any applicant registered in a state they could not have entered directly into from a third country would be automatically relocated to another Member State. This effectively removes the primary driver of secondary movements and incentivises Member States to register all applicants as soon as possible.

Amendment 23

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 2

Text proposed by the Commission	*Amendment*
Where it is impossible to transfer an applicant to the Member State ***primarily*** designated as responsible because there are substantial grounds for believing that ***there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that Member State, resulting in a*** risk of ***inhuman or degrading treatment within the meaning of Article 4 of the Charter of*** Fundamental ***Ri ghts of the European Union***, the determining Member State shall continue to examine the criteria set out in Chapter III in order to establish whether another Member State can be designated as responsible.	Where it is impossible to transfer an applicant to the Member State designated as responsible because there are substantial grounds for believing that ***the applicant would be subjected to a real*** risk of ***a serious violation of his or her*** fundamental ***rights***, the determining Member State shall continue to examine the criteria set out in Chapter III in order to establish whether another Member State can be designated as responsible***, provided that this does not prolong the procedure for an unreasonable length of time***.

Or. en

Justification

The definition of systemic deficiencies has caused divergent rulings from different national courts, despite guidance from the European Court of Human Rights in the Tarakhel v Switzerland case. The changes suggested here are made in order to ensure legal clarity and uniform application of the principle that people should not be transferred if they face a real risk of serious ill-treatment under article 3 of the ECHR (article 4 of the Charter). The change is also in line with the proposed modifications of Article 28(4) on redress.

Amendment 24

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 3

Text proposed by the Commission	*Amendment*
Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in Chapter III or to the first Member State with which the application was lodged, the ***determining*** Member State shall ***become the Member State responsible***.	Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in Chapter III or to the first Member State with which the application was lodged, the Member State ***responsible for examining the application for international protection*** shall ***be determined in accordance with the***

procedure laid down in Article 24a.

Or. en

Justification

The proposal in this amendment constitutes a major novelty in the Dublin regulation. In cases where an applicant has not registered in the Member State of first irregular entry, or any other Member State, it has until now been practically impossible for the determining Member State to return the applicant as it is impossible to conclusively determine the responsible Member State. In practice the result has often been that the Member State to which the applicant has moved irregularly would de facto have no choice but to assume responsibility for the application. In practice this has implied that applicants that manage to evade registration by Member States achieve de facto a free choice of destination country. It has also implied that Member States have known that registering an applicant would likely imply that they would have to assume responsibility for the applicant which has promoted wave-through policies amongst Member States for applicants wishing to continue traveling towards other Member States. The provision in this amendment implies that any applicant registered in a state they could not have entered directly into from a third country would be automatically relocated to another Member State. This effectively removes the primary driver of secondary movements and incentivises Member States to register all applicants as soon as possible.

Amendment 25

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Before applying the criteria for determining a Member State responsible in accordance with Chapters III and IV, the first Member State in which the application for international protection was lodged shall:	***deleted***
(a) examine whether the application for international protection is inadmissible pursuant to Article 33(2) letters b) and c) of Directive 2013/32/EU when a country which is not a Member State is considered as a first country of asylum or as a safe third country for the applicant; and	
(b) examine the application in accelerated procedure pursuant to Article	

31(8) of Directive 2013/32/EU when the following grounds apply:

(i) the applicant has the nationality of a third country, or he or she is a stateless person and was formerly habitually resident in that country, designated as a safe country of origin in the EU common list of safe countries of origin established under Regulation [Proposal COM (2015) 452 of 9 September 2015]; or

(ii) the applicant may, for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.

Or. en

Justification

It should be recalled that this issue is linked with the APR which regulates the use of these procedures. Once a responsible Member States has been determined in accordance with the Dublin regulation it would be possible for that Member State to perform these admissibility checks. Your rapporteur does however considers that the introduction of these checks before the "Dublin criteria" would imply a significant additional burden on front line member states. It would thus reduce their incentives to properly register applicants, and incentivise secondary movements.

Amendment 26

Proposal for a regulation
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Where the Member State considers an application inadmissible or examines an application in accelerated procedure pursuant to paragraph 3, that Member State shall be considered the Member State responsible.	***deleted***

Or. en

Justification

It should be recalled that this issue is linked with the APR which regulates the use of these procedures. Once a responsible Member States has been determined in accordance with the Dublin regulation it would be possible for that Member State to perform these admissibility checks. Your rapporteur does however considers that the introduction of these checks before the "Dublin criteria" would imply a significant additional burden on front line member states. It would thus reduce their incentives to properly register applicants, and incentivise secondary movements.

Amendment 27

Proposal for a regulation
Article 3 – paragraph 5

Text proposed by the Commission	*Amendment*
5. The Member State which ***has examined an application for international protection, including in the cases referred to in paragraph 3,*** shall be responsible for examining any further representations or a subsequent application of that applicant in accordance with Article 40, 41 and 42 of Directive 2013/32/EU, irrespective of whether the applicant has left or was removed from the territories of the Member States.	5. The Member State which ***was responsible for the examination of an application for international protection*** shall be responsible for examining any further representations or a subsequent application of that applicant in accordance with Article 40, 41 and 42 of Directive 2013/32/EU, irrespective of whether the applicant has left or was removed from the territories of the Member States.

Or. en

Justification

The amendment proposes a technical modification in order to clarify that permanent responsibility should apply once a Member State has been determined responsible and not only after examining the Dublin-criteria. Your rapporteur shares the view of the commission that a stable responsibility for applications will create a better functioning system, but in order to be able to apply such a provision in reality it is also crucial to ensure that the responsibility for applications is distributed equally among Member States.

Amendment 28

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The applicant shall submit as soon as possible ***and at the latest during the interview pursuant to Article 7, all*** the elements and information relevant for determining the Member State responsible ***and cooperate with the competent authorities of*** the Member ***States***.	2. The applicant shall submit as soon as possible ***all the available elements and information relevant for determining the Member State responsible and cooperate with the competent authorities of the Member States. The competent authorities shall take into account*** the elements and information relevant for determining the Member State responsible ***only insofar as they have been submitted before the final decision determining*** the Member ***State responsible***.

Or. en

Justification

Your rapporteur agrees that there should be a clear obligation on the applicant to cooperate with the authorities, at the same time rigid procedural requirements increase the risk for complicated and time consuming litigation. It should also be noted that although applicants should communicate all information that is available to them as soon as possible, it is not certain that all relevant information is immediately available to them. Such information could concern for example the presence of family members in other Member States. Given the current lack of appropriate information to applicants in many Member States the interview in Article 7 could also serve as an opportunity to identify possible additional information that could help determine correctly the responsible Member State, it should therefore be possible to submit information also after the interview but not after the authorities have reached a final decision on the Member State responsible.

Amendment 29

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission	*Amendment*
1. If an applicant does not comply with the obligation set out in Article 4(1), the Member State responsible in accordance with this Regulation shall examine the application in an accelerated procedure, in accordance with Article 31(8) of Directive 2013/32/EU.	***deleted***

Or. en

Justification

Your rapporteur agrees on the need to remove the incentives for secondary movements but proposes to tackle the underlying reasons that applicants move. Accelerated procedures should be considered as a practical tool to improve the efficiency of the procedures in cases where it will be relatively easy for the administration to reach a decision. In the view of the rapporteur they do not however constitute an effective sanction. Although the proposal to push all absconding applicants into accelerated procedures has been presented by the commission as a sanction it might actually imply that applicants with a high likelihood of getting a favourable decision would consider the accelerated procedure as more attractive than a normal procedure. The intended sanction could thus in practice be considered by some applicants even to be an incentive. For the Member State administrations it would also imply the risk of having to manage complex applications under unreasonably short deadlines.

Amendment 30

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The applicant shall not be entitled to the reception conditions set out in Articles 14 to 19 of Directive 2013/33/EU, with the exception of emergency health care, during the procedures under this Regulation in any Member State other than the one in which he or she is required to be present.	***deleted***

Or. en

Justification

Your rapporteur agrees on the need to remove the incentives for secondary movements but proposes to tackle the underlying reasons that applicants move. The commission has clarified in recital 22 that the withholding of reception conditions must be in conformity with the requirements of the charter of fundamental rights, which in practice implies that hardly any reception conditions currently offered could legally be withheld. Several Member States as well as NGOs have also pointed out that imposing far reaching limits to the access to basic needs would be unconstitutional in a number of Member States. Your rapporteur is of the view that applicants that abscond from the Member State that is responsible for their application should be promptly returned to the responsible Member State. The process to return the applicants should however be dignified and respect the fundamental rights of applicants.

Amendment 31

Proposal for a regulation
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. As soon as an application for international protection is ***lodged*** within the meaning of Article ***21(2)*** in a Member State, its competent authorities shall inform the applicant of the application of this Regulation ***and of the obligations set out in Article 4 as well as the consequences of non-compliance set out in Article 5 ,*** and in particular :	1. As soon as an application for international protection is ***registered*** within the meaning of Article ***27 [Proposal for the Asylum Procedures Regulation]*** in a Member State, its competent authorities shall inform the applicant of the application of this Regulation and in particular :

Or. en

Justification

The process of applying for asylum is regulated by the Asylum Procedures Regulation (APR) has three main steps, the making of the application, registration and finally lodging. The first step of "making" is the least formal one and Article 26(1) in the APR foresees the provision of basic information already at this step about the two further steps. The registration of the application is the first more structured step in the application process where the applicant gives basic information to the authorities. It is your rapporteurs view that this step of the procedure should also mark the start for information measures towards the applicant, not least since the applicant is required to submit all elements required for the application at the stage of lodging the application it would seem sensible to use the point of registration as a starting point for ensuring the applicant has all the relevant information in order to understand and comply with the provisions of the Regulation. The last sentence is moved to a point in the list below this paragraph for clarity through the amendment below.

Amendment 32

Proposal for a regulation
Article 6 – paragraph 1 – point a a (new)

Text proposed by the Commission	*Amendment*
	(a a) of the obligations on the applicant set out in Article 4 as well as the consequences on non-compliance set out in Article 5;

Or. en

Justification

The text has been moved from 6(1) in order to place it in the list as this increases the readability and clarity of the article

Amendment 33

Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) of the objectives of this Regulation and the consequences of making another application in a different Member State as well as the consequences of leaving the Member State where he or she is obliged to be present during the phases in which the Member State responsible under this Regulation is being determined and the application for international protection is being examined ***, in particular that the applicant shall not be entitled to the reception conditions set out in Articles 14 to 19 of Directive 2013/33/EU in any Member State other than the one where he or she is required to be present, with the exception of emergency health care*** ;	(b) of the objectives of this Regulation and the consequences of making another application in a different Member State as well as the consequences of leaving the Member State where he or she is obliged to be present during the phases in which the Member State responsible under this Regulation is being determined and the application for international protection is being examined;

Or. en

Justification

Your rapporteur proposes a simpler and more general text in this respect, not least since the withholding of material reception conditions in article 5 is suggested to be deleted.

Amendment 34

Proposal for a regulation
Article 6 – paragraph 1 – point c a (new)

Text proposed by the Commission	*Amendment*
	(c a) of the provisions relating to family

reunification and in this regard on the applicable definition of family members and relatives as well as of the need for the applicant to disclose early in the procedure any relevant information that can help to establish the whereabouts of family members or relatives present in other Member States, as well as any assistance that the Member State can offer with regard to the tracing of family members or relatives;

Or. en

Justification

For clarity the provisions on family unity have been moved from the paragraph on the personal interview and expanded to ensure that the applicant is informed about the applicable definition of the family according to the rules of this regulation.

Amendment 35

Proposal for a regulation
Article 6 – paragraph 1 – point c b (new)

Text proposed by the Commission	*Amendment*
	(c b) of the possibility under Article 19 to request the discretionary clause be applied by any Member State from the Member State where they are present, as well as of the specific modalities relating to the procedure;

Or. en

Justification

The procedure in 19 would allow an applicant to apply for the provision of the discretionary clause in a particular Member State already when the applicant is present in the first member state of lodging. This is a measure to deter secondary movements as well as provide a degree of agency for the individual asylum seeker. The inclusion here would imply that authorities would have to provide information about the existence of this procedure and the modalities related to it.

Amendment 36

Proposal for a regulation
Article 6 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) of the personal interview pursuant to Article 7 ***and the obligation of submitting and substantiating*** information ***regarding the presence of family members, relatives or any other family relations in the Member States, including the means by which the applicant can submit such information***;	(d) ***of the purpose*** of the personal interview pursuant to Article 7 ***as well as what*** information ***the applicant will be asked to submit during the interview***;

Or. en

Justification

Given the new point (c)a focusing on information related to family tracing it is suggested that this paragraph focus more on providing the applicant with information about the purpose of the personal interview as well as what information he/she will be expected to provide to the authorities.

Amendment 37

Proposal for a regulation
Article 6 – paragraph 1 – point e

Text proposed by the Commission	*Amendment*
(e) of the possibility to challenge a transfer decision ***within 7 days after notification and of the fact that this challenge shall be limited to an assessment of whether Articles 3(2) in relation to the existence of a risk of inhuman or degrading treatment or Articles 10 to 13 and 18 are infringed upon*** ;	(e) of the possibility ***and modalities*** to challenge a transfer decision ***and the right to have an effective remedy before a court or tribunal in accordance with Article 28, including in a situation where no transfer decision is taken***;

Or. en

Justification

This modification is made in order to take account of the modifications in article 28. It also

now explicitly mentions the right to an effective remedy in cases where there is no transfer, for example a family reunification transfer.

Amendment 38

Proposal for a regulation
Article 6 – paragraph 1 – point i a (new)

Text proposed by the Commission	*Amendment*
	(i a) in the case of unaccompanied minors, of the role and responsibilities of the guardian;

Or. en

Justification

It is crucial that unaccompanied minors get appropriate information about the role and responsibilities of guardians in the Common European Asylum System as this will further work to increase trust in the asylum system, provide a high standard of protection and encourage unaccompanied minors not to abscond.

Amendment 39

Proposal for a regulation
Article 6 – paragraph 1 – point i b (new)

Text proposed by the Commission	*Amendment*
	(i b) of the right to request free legal assistance and representation at all stages of the procedure in accordance with Articles 14 and 15 of [Proposal for the Asylum Procedures Regulation];

Or. en

Justification

The revision of the Asylum Procedures Regulation includes a provision granting applicants access to free legal assistance, your rapporteur is of the view that it is imperative to inform the applicant of this right in order to ensure that the applicant gets the appropriate support to provide the correct information in a timely way. Ensuring the access to legal assistance early on in the process, although an investment in the system, will be an important measure to increase the trust and cooperation in the system from the side of applicants and should ensure

a better quality in first instance decisions, reducing the need to have recourse to costly and time consuming appeals.

Amendment 40

Proposal for a regulation
Article 6 – paragraph 1 – point i c (new)

Text proposed by the Commission	*Amendment*
	(i c) of the existence of the information website set up in accordance with Article 6(3a);

Or. en

Justification

Article 6(3a) introduces a dedicated information website to be hosted by the EUAA, it would be reasonable that the applicant is given information about this website in order to assist them in finding information on their own.

Amendment 41

Proposal for a regulation
Article 6 – paragraph 2 – subparagraph 1

Text proposed by the Commission	*Amendment*
The information referred to in paragraph 1 shall be provided in writing in a language that the applicant understands ***or is reasonably supposed to understand***. Member States shall use the common ***leaflet*** drawn up pursuant to paragraph 3 for that purpose.	The information referred to in paragraph 1 shall be provided in writing in a language that the applicant understands***, in a concise, transparent, intelligible and easily accessible form, using clear and plain language. With regard to minors and, in particular, to unaccompanied minors the information shall be provided in a child-friendly manner by appropriately trained staff***. Member States shall use the common ***information material*** drawn up pursuant to paragraph 3 for that purpose.

Or. en

Justification

It is important to ensure that children, in particular unaccompanied minors, are provided with information materials adapted to their particular needs. If we want asylum seekers to cooperate within the official Common European Asylum System and not engage in secondary movements it is crucial that they are provided with accurate and adapted information about the procedures that they are expected to follow.

Amendment 42

Proposal for a regulation
Article 6 – paragraph 2 – subparagraph 2

Text proposed by the Commission	*Amendment*
Where necessary for the proper understanding of the applicant, the information shall ***also be supplied orally, for example in connection with the personal interview as referred to in Article 7***.	***The information shall be provided as soon as the application is registered. The information shall be provided both in written and oral form, where appropriate with the support of multimedia equipment. Oral*** information ***may be given either in individual or group sessions and applicants*** shall ***have the possibility to ask questions about the procedural steps they are expected to follow with regard to the process of determining a responsible Member State in accordance with this Regulation. In the case of minors, information shall be provided in a child-friendly manner by appropriately trained staff and with the involvement of the guardian***.

Or. en

Justification

If we want asylum seekers to operate within the official Common European Asylum System and not engage in secondary movements it is crucial that they are provided with accurate and adapted information about the procedures that they are expected to follow. Providing oral information as well as a possibility to ask questions about procedures could greatly improve the understanding of the procedures for the individual applicant and this improve their cooperation with the authorities and reduce absconding and secondary movements.

Amendment 43

Proposal for a regulation
Article 6 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The ***Commission*** shall, ***by means of implementing acts***, draw up ***a*** common ***leaflet, as well as a specific leaflet for unaccompanied minors,*** containing at least the information referred to in paragraph 1 of this Article. ***This*** common ***leaflet*** shall also include information regarding the application of Regulation (EU) [Proposal for a Regulation recasting Regulation No 603/2013] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common ***leaflet*** shall be established in such a manner as to enable Member States to complete it with additional Member State-specific information. ***Those implementing acts*** shall ***be adopted in accordance with the examination procedure referred to in Article 56(2) of*** this Regulation.	3. The ***European Union Agency for Asylum*** shall, ***in close cooperation with the responsible national agencies***, draw up common ***information material*** containing at least the information referred to in paragraph 1 of this Article. ***That*** common ***information material*** shall also include information regarding the application of Regulation (EU) [Proposal for a Regulation recasting Regulation No 603/2013] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common ***information material*** shall be established in such a manner as to enable Member States to complete it with additional Member State-specific information. ***The European Union Agency for Asylum*** shall ***create specific information material intended particularly for the following target groups:*** ***(a) adult applicants;*** ***(b) unaccompanied minors;*** ***(c) accompanied minors.*** ***Specific information material should be developed for cases where the corrective allocation mechanism applies and when the ordinary procedures under*** this Regulation ***apply***.

Or. en

Justification

If we want asylum seekers to operate within the official Common European Asylum System and not engage in secondary movements it is crucial that they are provided with accurate and adapted information about the procedures that they are expected to follow. It would seem reasonable that the European Asylum Agency as the expert agency in this field be given the task to create these information materials. By asking the agency to cooperate with national

authorities which are responsible for the reception of asylum seekers on the ground it is hoped that the practical usefulness of the materials can be improved. It would also seem reasonable to specify that the information shall be translated and made available in at least the major languages spoken by asylum seekers arriving in Europe as the usefulness of handing out information in Greek or Italian to Syrian or Afghan applicants is mostly not very high.

Amendment 44

Proposal for a regulation
Article 6 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. The European Union Agency for Asylum shall provide a dedicated website with information about the CEAS, and in particular the functioning of this Regulation, targeting applicants for international protection as well as potential applicants. The information on the website shall be comprehensive and up to date and be provided in a concise, transparent, intelligible and easily accessible form, using clear and plain language and available in all the major languages spoken by applicants for international protection arriving in Europe.

Or. en

Justification

By providing a dedicated website on the practical functioning of the CEAS targeting asylum seekers and potential asylum seekers in Europe we would be able to both offer quick and easy access to information for people that have already applied for international protection in Europe as well as dispel myths and disinformation by smugglers and others so that people that are unlikely of qualifying for international protection do not unnecessarily undertake dangerous and expensive trips across the Mediterranean in order to apply for international protection in Europe.

Amendment 45

Proposal for a regulation
Article 6 – paragraph 3 b (new)

Text proposed by the Commission	*Amendment*
	3b. The competent authorities of the Member States shall keep the applicants informed on the progress of the procedures carried out under this Regulation with regard to their application. Such information shall be provided in writing at regular intervals. In the case of minors, the competent authorities shall inform both the minor and the guardian with the same modalities. The Commission shall be empowered to adopt implementing acts to establish the modalities for the provision of such information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Or. en

Justification

It is essential that the applicants are kept informed about the progress of their application in order to secure the trust in the asylum system.

Amendment 46

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission	*Amendment*
1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant ***, unless the applicant has absconded or the information provided by the applicant pursuant to Article 4(2) is sufficient for determining*** the Member State responsible . The interview shall also allow the proper understanding of the information supplied to the applicant in ***accordance with*** Article 6.	1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant***. The determining Member State shall proactively ask questions on all aspects of the claim that would allow for the determination of*** the Member State responsible. The interview shall also allow the proper understanding of the information supplied to the applicant in Article 6.

Or. en

Justification

This amendment should be read together with 7(1a)new since it moves certain elements to this AM for clarity of structure. Your rapporteurs view is that it would make sense to introduce an obligation on the Member State carrying out the interview to proactively attempt to gather as much information as possible that can help in establishing correctly the responsible Member State. It is for example important that the person conducting the interview asks questions on the presence of family and other things even if the applicant does not provide this information automatically. Your rapporteur suggests keeping the proposal from the commission to allow Member State to omit the interview in cases where the applicant has absconded or where the information provided is sufficient for a determination. In these cases the applicant should however have the right to provide additional information.

Amendment 47

Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. The Member State may dispense with the personal interview where the applicant has absconded or the information provided by the applicant pursuant to Article 4(2) is sufficient for determining the Member State responsible. Where a Member State dispenses with the interview, it shall give the applicant the opportunity to present all further information which is relevant for correctly determining the Member State responsible before a final decision is taken to transfer the applicant to the Member State responsible pursuant to Article 30(1).

Or. en

Justification

This amendment should be read together with 7(1) since it moves certain elements to this AM for clarity of structure. Your rapporteurs view is that it would make sense to introduce an obligation on the Member State carrying out the interview to proactively attempt to gather as much information as possible that can help in establishing correctly the responsible Member State. Your rapporteur suggests keeping the proposal from the commission to allow Member

State to omit the interview in cases where the applicant has absconded or where the information provided is sufficient for a determination. In these cases the applicant should however have the right to provide additional information.

Amendment 48

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The personal interview shall be conducted in a language that the applicant understands ***or is reasonably supposed to understand*** and in which he or she is able to communicate. Where necessary, Member States shall have recourse to ***an*** interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.	3. The personal interview shall be conducted in a language that the applicant understands and in which he or she is able to communicate. ***Interviews with minors shall be conducted in a child-friendly manner in the presence of the guardian and, where applicable, the legal advisor or counsellor.*** Where necessary, Member States shall have recourse to ***a qualified*** interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.

Or. en

Justification

It is important that interviews of children, whether they are accompanied or unaccompanied be carried out in a child friendly manner together with the guardian. The amendment also includes a modification to clarify that the interview always has to be carried out in a language understood by the applicant and that the interpreter needs to be qualified.

Amendment 49

Proposal for a regulation
Article 7 – paragraph 5

Text proposed by the Commission	*Amendment*
5. The Member State conducting the personal interview shall make a written summary thereof which shall contain at least the main information supplied by the applicant at the interview. This summary may either take the form of a report or a	5. The Member State conducting the personal interview shall make a written summary thereof which shall contain at least the main information supplied by the applicant at the interview. This summary may either take the form of a report or a

standard form. The Member State shall ensure that the applicant and/or the legal advisor or ***other*** counsellor who is representing the applicant have ***timely*** access to the summary.	standard form. The Member State shall ensure that the applicant and/or the ***guardian, the*** legal advisor or counsellor who is representing the applicant have access to the summary ***as soon as possible after the interview, and in any case before a transfer decision is taken***.

Or. en

Justification

Relates to the overall effort to introduce the concept of guardians instead of "representatives" for unaccompanied minors (aligning with APR and RCD) and adds the element that the applicant needs access to the summer as soon as possible or at least before a transfer decision is taken. Any additional work caused by this rule for the administration of the Member States should be compensated if it contributes to improving the quality of first instance decisions and thereby reducing the need for costly and time consuming appeals and/or secondary transfers.

Amendment 50

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The best interests of the child shall be ***a*** primary consideration for Member States with respect to all procedures provided for in this Regulation.	1. The best interests of the child shall be ***the*** primary consideration for Member States with respect to all procedures provided for in this Regulation.

Or. en

Justification

It should be clarified that the best interest of the child should be the primary concern and not one concern amongst others to take into account.

Amendment 51

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission	*Amendment*
Each Member State where an unaccompanied minor is ***obliged to be*** present shall ensure that a ***representative*** represents and/or assists the unaccompanied minor with respect to ***the relevant*** procedures provided for in this Regulation. The ***representative*** shall have the qualifications and expertise to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such ***representative*** shall have access to the content of the relevant documents in the applicant's file including the specific ***leaflet*** for unaccompanied minors.	Each Member State where an unaccompanied minor is present shall ensure that a ***guardian*** represents and/or assists the unaccompanied minor with respect to ***all*** procedures provided for in this Regulation. The ***guardian*** shall have the qualifications and expertise to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such ***a guardian*** shall have access to the content of the relevant documents in the applicant's file including the specific ***information material*** for unaccompanied minors. ***The guardian shall be appointed as soon as possible, but at the latest within five days from the date of the making of the application.***

Or. en

Justification

The revised Asylum Procedures Regulation and Reception Conditions Directive refer to the terminology of "guardians" rather than "representatives" and in order to ensure coherence between the different CEAS instruments the same terminology should be applied also in the Dublin regulation. The current Dublin III regulation states that the guardian should assist the unaccompanied minor in all procedures which is an important safeguard. Your rapporteur therefor suggests removing the limitation introduced by the commission to "the relevant" procedures and stay with the present wording. Your rapporteur suggests clarifying that the appointment of a guardian should be done as soon as possible, but at least within five days.

Amendment 52

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	The guardian shall be involved in the process of establishing Member State responsibility under this Regulation to the greatest extent possible. To that end, the guardian shall support the minor to

	provide information relevant to the assessment of their best interests in accordance with paragraph 3, including exercising their right to be heard, and shall support the minor's engagement with other actors, such as family tracing organisations, where appropriate for this purpose, and with due regard to confidentiality obligations to the child.

Or. en

Justification

This provision is contained today in the implementing regulation but given its importance should be included in the regulation itself.

Amendment 53

Proposal for a regulation
Article 8 – paragraph 3 – point b

Text proposed by the Commission	*Amendment*
(b) the minor's well-being and social development;	(b) the minor's well-being and social development***, taking into particular consideration his or her ethnic, religious, cultural and linguistic background and the need for stability and continuity in the minor's care and custodial arrangements and access to health and education services***;

Or. en

Justification

Your rapporteur considers these valuable additions that should be considered in the best interest assessments of the child.

Amendment 54

Proposal for a regulation
Article 8 – paragraph 3 – point c

Text proposed by the Commission	*Amendment*
(c) safety and security considerations, in particular where there is a risk of the minor being a victim of ***human*** trafficking;	(c) safety and security considerations, in particular where there is a risk of the minor being a victim of ***any form of violence and exploitation, including*** trafficking ***in human beings***;

Or. en

Justification

The point should be extended to cover not only trafficking but also other forms of violence and exploitation.

Amendment 55

Proposal for a regulation
Article 8 – paragraph 3 – point d a (new)

Text proposed by the Commission	*Amendment*
	(d a) the guarantee of a handover to a designated guardian in the receiving Member State;

Or. en

Justification

The Member States should ensure, prior to a transfer decision, that there is a guarantee that the minor will receive a guardian in the receiving Member State. This guardian should be identified and involved in the transfer procedure prior to the transfer. It should further be noted that this mirrors an existing provision in the returns directive (2008/115(EC)) in Article 10(2) which states that before a transfer can occur the receiving state needs to have appointed a guardian.

Amendment 56

Proposal for a regulation
Article 8 – paragraph 3 – point d b (new)

Text proposed by the Commission	*Amendment*
	(d b) the information provided by the guardian in the Member State where the minor is present.

Or. en

Justification

The information provided by the guardian should form a natural part of the best interest assessment

Amendment 57

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Before transferring an unaccompanied minor to the Member State responsible or, where applicable, to the Member State of allocation, the transferring Member State shall make sure that the Member State responsible or the Member State of allocation takes the measures referred to in Articles 14 and 24 of Directive 2013/33/EU and Article 25 of Directive 2013/32/EU without delay. Any decision to transfer an unaccompanied minor shall be preceded by an assessment of his/her best interests. The assessment shall be based on the factors listed in paragraph 3. The assessment shall be done swiftly by ***staff*** with the qualifications and expertise to ensure that the best interests of the minor are taken into consideration.	4. Before transferring an unaccompanied minor to the Member State responsible or, where applicable, to the Member State of allocation, the transferring Member State shall make sure that the Member State responsible or the Member State of allocation takes the measures referred to in Articles 14 and 24 of Directive 2013/33/EU and Article 25 of Directive 2013/32/EU without delay. Any decision to transfer an unaccompanied minor shall be preceded by an assessment of his/her best interests. The assessment shall be based on the factors listed in paragraph 3 ***and the conclusions of the assessment on each of the factors shall be clearly stated in the transfer decision***. The assessment shall be done swiftly by ***a multidisciplinary team*** with the qualifications and expertise to ensure that the best interests of the minor are taken into consideration. ***The multidisciplinary assessment shall involve competent staff with expertise in rights of the child and child psychology and development and shall also include the guardian of the***

minor.

Or. en

Justification

An appropriate best interest assessment requires a wide range of competences and should therefor not be carried out by one individual staff member but rather by a multidisciplinary team of adults that can appropriately assess the best interests of the child.

Amendment 58

Proposal for a regulation
Article 8 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. Before the transfer of an unaccompanied minor the authorities shall ensure the appointment of a guardian in the receiving Member State. The authorities shall communicate the information regarding the guardian appointed by the receiving Member State to the current guardian together with the modalities for the transfer.

Or. en

Justification

Ensuring the proper handover from one guardian to the other in cases of transfers of unaccompanied minors could also prove to be an efficient way to ensure that relevant information is transferred from one guardian to the other, that the child is well received in the new Member State and that risks of children disappearing are reduced. It should further be noted that this mirrors an existing provision in the returns directive (2008/115(EC)) in Article 10(2) which states that before a transfer can occur the receiving state needs to have appointed a guardian.

Amendment 59

Proposal for a regulation
Article 8 – paragraph 6 a (new)

Text proposed by the Commission	*Amendment*
	6a. The Commission shall adopt delegated acts in accordance with Article 57, supplementing this Regulation by laying down, in accordance with this Article, the rules and procedures with regard to transnational cooperation for assessments regarding the best interests of the child.

Or. en

Justification

Having a delegated act on best interest assessments would ensure a more harmonised approach to this across Member States.

Amendment 60

Proposal for a regulation
Article 10 – paragraph 5

Text proposed by the Commission	*Amendment*
5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be ***that where the unaccompanied minor first has lodged his or her application for international protection***, unless it is ***demonstrated*** that this is not in the best ***interests*** of the ***minor***.	5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be ***determined by the Member State in which the applicant is present pursuant to the procedure in Article 15(1) or (1a)***, unless it is ***determined*** that this is not in the best ***interests*** of the minor. ***Prior to such a determination the applicant shall be allowed to avail him or herself of the procedures referred to in Article 19.***

Or. en

Justification

In cases where the responsible Member State cannot be determined through criteria of family reunification there is a need for a system that would ensure that the applicant is given quick access to the asylum procedure and a stable environment where his or her rights can be fully respected. It is also important to ensure that unaccompanied minors are not incentivised to "go under the radar" but receive appropriate care from the authorities. Furthermore it is

crucial to establish a fair sharing of the responsibilities between Member States also when it comes to unaccompanied minors. Your rapporteur suggests a system where the Member State where the child is present would make the determination. If the child has entered this Member State directly from a third country the Member State becomes responsible (unless under collective allocation, where the rules in chapter VII apply). If the child has entered the Member State by passing through other Member States without registering it will be almost impossible to ascertain which was the Member State of first entry and responsibility should instead be determined randomly among the remaining Member States. This proposal effectively breaks the link between the registration of an unaccompanied minor and this Member State becoming responsible for the minor which will remove the main reason both for applicants to engage in secondary movements and for Member States not to register applicants. At the same time it provides a speedy method for determining a responsible Member State ensuring quick access to the asylum procedure.

Amendment 61

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission	*Amendment*
Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 25(4) of this Regulation, including the data referred to in Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013], that an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for international protection.	Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 25(4) of this Regulation, including the data referred to in Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013], that an applicant has irregularly crossed the border into a Member State by land, sea or air having come ***directly*** from a third country, the Member State thus entered shall be responsible for examining the application for international protection.

Or. en

Justification

This amendment is closely linked with the next one on 15(1a). The two amendments create a separate procedure if the applicant registers in the first Member State of irregular entry or if the applicant has travelled through other Member State(s) in order to reach the Member State where he or she finally applies. This first part is the "classic" first entry criteria that applies in cases where an applicant registers in the first Member State of irregular entry, as today. It is mitigated by the corrective allocation system in periods of high influx of applicants into a specific Member State.

Amendment 62

Proposal for a regulation
Article 15 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	Where an applicant has crossed the border into the Member State where the application was lodged having come through another Member State and where it is not possible on the basis of proof or circumstantial evidence in accordance with paragraph 1 to establish clearly the Member State of first irregular entry the Member State responsible for examining the application for international protection shall be determined in accordance with the procedure laid down in Article 24a.

Or. en

Justification

This amendment is closely linked with the previous one on 15(1). The two amendments create a separate procedure if the applicant registers in the first Member State of irregular entry or if the applicant has travelled through other Member State(s) in order to reach the Member State where he or she finally applies. The second part of the proposal, in this amendment, constitutes a major novelty in the Dublin regulation. In cases where an applicant has not registered in the Member State of first irregular entry, or any other Member State, it has until now been practically impossible for the determining Member State to return the applicant as it is impossible to conclusively determine the responsible Member State. In practice the result has often been that the Member State to which the applicant has moved irregularly would de facto have no choice but to assume responsibility for the application. In practice this has implied that applicants that manage to evade registration by Member States achieve de facto a free choice of destination country. It has also implied that Member States have known that registering an applicant would likely imply that they would have to assume responsibility for the applicant which has promoted wave-through policies amongst Member States for applicants wishing to continue traveling towards other Member States. The provision in this amendment implies that any applicant registered in a state they could not have entered directly into from a third country would be automatically relocated to another Member State. This effectively removes the primary driver of secondary movements and incentivises Member States to register all applicants as soon as possible.

Amendment 63

Proposal for a regulation
Article 18 – paragraph 1

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

Or. en

Justification

This amendments principally seeks to align the definition of family ties to the proposal on the Commission in Article 2(g) in order to incorporate also families that have formed on the way to Europe, but not in the country of origin. A small adjustment has also been made to incorporate severe trauma into the list of dependency criteria.

Amendment 64

Proposal for a regulation
Article 19 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*Amendment*
By way of derogation from Article 3(1) ***and only as long as no Member State has been determined as responsible*** , each Member State may decide to examine an application for international protection	By way of derogation from Article 3(1), each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person, even if such

lodged with it by a third-country national or a stateless person ***based on family grounds in relation to wider family not covered by Article 2(g)*** , even if such examination is not its responsibility under the criteria laid down in this Regulation.	examination is not its responsibility under the criteria laid down in this Regulation.

Or. en

Justification

The discretionary clause, whilst being used only by a handful of Member States, has provided a flexible and progressive tool in order to ensure proper considerations of humanitarian grounds in individual cases and has thus been an appreciated tool both among Member States and NGOs working with asylum seekers. Your rapporteur therefor would like to further the use of the procedure rather than limit it. The amendments in Article 19 restore the wordings of the current Dublin III regulation.

Amendment 65

Proposal for a regulation
Article 19 – paragraph 1 – subparagraph 2

Text proposed by the Commission	*Amendment*
The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. Where applicable, it shall inform the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of the applicant.	The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. Where applicable, it shall inform ***using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003,*** the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of the applicant.

Or. en

Justification

The discretionary clause, whilst being used only by a handful of Member States, has provided

a flexible and progressive tool in order to ensure proper considerations of humanitarian grounds in individual cases and has thus been an appreciated tool both among Member States and NGOs working with asylum seekers. Your rapporteur therefor would like to further the use of the procedure rather than limit it. The amendments in Article 19 restore the wordings of the current Dublin III regulation.

Amendment 66

Proposal for a regulation
Article 19 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission	*Amendment*
	An applicant for international protection may request the Member State in which the application was lodged to apply paragraph 1. Such a request shall be written and duly motivated.

Or. en

Justification

Your rapporteur suggests that the applicant may request the Member State where he or she has lodged their application to avail itself of the right to use the discretionary clause in 19(1). The member state would then examine if it wishes to exercise its rights under the discretionary clause or not. Under the current rules Member States may use the procedure in 19(1) but there is no way for the applicant to formally request them to do it.

Amendment 67

Proposal for a regulation
Article 19 – paragraph 2 – subparagraph 1

Text proposed by the Commission	*Amendment*
The Member State in which an application for international protection is ***made*** and which is carrying out the process of determining the Member State responsible may, at any time before a ***Member State responsible has been determined***, request another Member State to take charge of an applicant in order to bring together any family relations , even where that other Member State is not responsible under the criteria laid down in Articles 10 to 13 and	The Member State in which an application for international protection is ***lodged*** and which is carrying out the process of determining the Member State responsible***, or the Member State responsible,*** may, at any time before a ***first decision regarding substance is taken***, request another Member State to take charge of an applicant in order to bring together any family relations***, on humanitarian grounds based in particular on family, cultural or***

18. The persons concerned must express their consent in writing.	***social ties or language skills which would facilitate his or her integration into that other Member State***, even where that other Member State is not responsible under the criteria laid down in Articles 10 to 13 and 18. The persons concerned must express their consent in writing.

Or. en

Justification

The discretionary clause, whilst being used only by a handful of Member States, has provided a flexible and progressive tool in order to ensure proper considerations of humanitarian grounds in individual cases and has thus been an appreciated tool both among Member States and NGOs working with asylum seekers. Your rapporteur therefor would like to further the use of the procedure rather than limit it. The amendments in Article 19 restore the wordings of the current Dublin III regulation but also add a small extension to broaden the scope somewhat in order to allow for broader discretionary rights in the context of the possibility to apply for application of the discretionary clause in 19(2a).

Amendment 68

Proposal for a regulation
Article 19 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. An applicant for international protection may request a Member State in which the application was lodged to apply paragraph 2. Such a request shall be written and duly motivated and addressed to the authorities responsible where the application is lodged. Those authorities shall ensure that the request is forwarded to the authorities responsible in the Member State requested by the applicant through the DubliNet electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003.
	The Member State which receives a request pursuant to the first subparagraph shall respond within two weeks whether it wishes to assume responsibility for the application. The requested Member State

may extend the deadline by two additional weeks if this is notified to the Member State where the application was lodged in writing through the DubliNet electronic communication network. If a reply has not been received within that deadline the request shall be considered to have been rejected. Without prejudice to paragraphs 1 and 2, applicants for international protection shall not be entitled to avail themselves of this procedure more than once.

Or. en

Justification

An applicant should be able to avail him- or herself of the right to apply for the application of Article 19(2) in any Member State from any other Member State. Such a possibility removes the incentives to abscond in order to travel to this Member State and instead incentivizes asylum seekers to apply for asylum in the Member State of first entry. Especially under the context of corrective allocation this would create a sort of flexible matching tool between applicants and Member States. Under corrective allocation the Member States will have a rough idea of the number of applicants that they will be expected to accommodate through relocation, this provision will allow Member States to accept applicants with a particular tie and desire to travel to their Member State rather than randomly allocated applicants. This should allow for the facilitation of integration measures, a reduction of secondary movements and more voluntary relocation transfers. The rapporteur wishes to stress that in order for such a system to be workable in practice it would have to be strictly based on the discretionary right of Member States to approve or reject an application in a streamlined process and with no right of appeal in case of rejections.

Amendment 69

Proposal for a regulation
Article 19 – paragraph 2 b (new)

Text proposed by the Commission	*Amendment*
	2b. Where the requested Member State accepts the request in accordance with paragraph 2a, responsibility for examining the application shall be transferred to it. The Member State where the application was lodged shall ensure that the applicant is transferred in accordance with Article 27.

Or. en

Justification

This paragraph also regards the new procedure to allow for applications of Article 19 from a different Member State. It simply clarifies the procedure with regards to transfers in a case where a Member State accepts responsibility under the new procedure.

Amendment 70

Proposal for a regulation
Article 19 – paragraph 2 c (new)

Text proposed by the Commission	*Amendment*
	2c. The Commission shall, by means of implementing acts, draw up a common form to be used for the purpose of the procedure referred to in paragraph 2a. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Or. en

Justification

In order to simplify procedures and reduce administrative workload it is suggested that the Commission develop an implementing act with the form to be used for the requests under the new procedure allowing for applications under Article 19 from a different Member State.

Amendment 71

Proposal for a regulation
Article 20 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) take charge, under the conditions laid down in Articles 24, 25 and 30, of an applicant who has lodged an application in a different Member State;	(a) take charge, under the conditions laid down in Articles 24, ***24a,*** 25 and 30, of an applicant who has lodged an application in a different Member State;

Or. en

Justification

This is a technical amendment to align the provision with the new procedure proposed in Article 24a (take charge notification)

Amendment 72

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission	*Amendment*
2. In a situation referred to in point (a) of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection.	2. In a situation referred to in point (a) ***or (b)*** of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection.

Or. en

Justification

Accelerated procedures are an important tool to maintain efficiency in the system by fast-tracking applications that are relatively "easy" to reach a decision on. Your rapporteur does not support the use of accelerated procedures as a form of punishment for absconding, primarily because it is not particularly efficient, it could even imply that absconding is incentivised for applicants with a high chance of receiving a positive decision on their asylum application.

Amendment 73

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission	*Amendment*
3. In a situation referred to in point (b) of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection in an accelerated procedure in accordance with Article 31 paragraph 8 of Directive 2013/32/EU.	***deleted***

Or. en

Justification

Accelerated procedures are an important tool to maintain efficiency in the system by fast-tracking applications that are relatively "easy" to reach a decision on. Your rapporteur does not support the use of accelerated procedures as a form of punishment for absconding, primarily because it is not particularly efficient, it could even imply that absconding is incentivised for applicants with a high chance of receiving a positive decision on their asylum application.

Amendment 74

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission	*Amendment*
4. In a situation referred to in point (c) of paragraph 1, the Member State responsible shall ***treat any further representations or*** a new application ***by the applicant as*** subsequent application ***in accordance with*** Directive 2013/32/EU.	4. In a situation referred to in point (c) of paragraph 1, ***when*** the Member State responsible ***had discontinued the examination of an application following its withdrawal by the applicant before a decision on the substance has been taken at first instance, that Member State*** shall ***ensure that the applicant is entitled to request that the examination of his or her application be completed or to lodge*** a new application ***for international protection, which shall not be treated as a*** subsequent application ***as provided for in*** Directive 2013/32/EU. ***In such a case, Member States shall ensure that the examination of the application is completed.***

Or. en

Justification

Enforcing the mandatory application of viewing all further representations as new or subsequent has significant procedural effects for the applicant (governed also in part by the Asylum Procedure Regulation). Your rapporteur suggests reverting back to the wording in the Dublin III regulation on this point.

Amendment 75

Proposal for a regulation
Article 20 – paragraph 5

Text proposed by the Commission	*Amendment*
5. In a situation referred to in point (d) of paragraph 1, ***the decision taken by the responsible authority of*** the Member State responsible ***to reject the application shall no longer be subject to a remedy within the framework of Chapter V*** of Directive 2013/32/EU.	5. In a situation referred to in point (d) of paragraph 1, ***where the application has been rejected at first instance only,*** the Member State responsible ***shall ensure that the person concerned has or has had the opportunity to seek an effective remedy pursuant to Article 46*** of Directive 2013/32/EU.

Or. en

Justification

Removing the right of an effective remedy to a substantive decision on an asylum application would likely go against the rights accorded by Article 47 of the Charter on the right to an effective remedy. Your rapporteur agrees that the applicant in this case should be taken back by the responsible Member State (paragraph 1(d)) but they should remain able to exercise their rights to challenge the decision on their application. It is therefor suggested to revert back to the wording present in the Dublin III regulation.

Amendment 76

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The process of determining the Member State responsible shall start as soon as an application for international protection is first lodged with a Member State , provided that the Member State of first application is not already the Member State responsible pursuant to Article ***3(4) or (5)*** .	1. The process of determining the Member State responsible shall start as soon as an application for international protection is first lodged with a Member State, provided that the Member State of first application is not already the Member State responsible pursuant to Article ***3(5)***.

Or. en

Justification

This change relates to the deletion of the article 3(3) and 3(4)

Amendment 77

Proposal for a regulation
Article 22 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) where applicable, links to the applications of family members ***or relatives*** travelling together;	(b) where applicable, links to the applications of family members***, relatives or groups of applicants requesting to be registered as*** travelling together;

Or. en

Justification

This amendment relates to the modifications proposed in the relocation scheme where your rapporteur suggests that applicants should be able to register not only family links but also wider connections with whom they would like to be registered together. The intention is not to expand the scope of the family definition beyond the proposal of the Commission but to enable to relocation (through the corrective allocation mechanism) of groups of applicants rather than only individual applicants. This should make it easier to avoid secondary movements whilst respecting core wishes of applicants traveling together without creating a system where the applicant would be allowed to choose the country responsible for the application. The system implies a right for the group to be transferred as group to a country determined by the corrective allocation system, not to travel to a specific country of their choice. For Member States it would imply facilitated logistical operations as groups of arriving applicants will likely require similar support with regards to interpretation etc. which will reduce the administrative burdens on the Member States.

Amendment 78

Proposal for a regulation
Article 23 – paragraph 2 – point h

Text proposed by the Commission	*Amendment*
(h) where the allocation mechanism under Chapter VII applies, the information referred to in Article ***36(4)*** and point (h) of Article 39.	(h) where the allocation mechanism under Chapter VII applies, the information referred to in Article ***36a(3)*** and point (h) of Article 39.

Or. en

Justification

This is a technical modification due to the deletion of 36(4) and the move of some aspects of it

to article 36a

Amendment 79

Proposal for a regulation
Article 24 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*Amendment*
Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it shall, as quickly as possible and in any event within ***one month*** of the date on which the application was lodged within the meaning of Article 21(2), request that other Member State to take charge of the applicant.	Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it shall, as quickly as possible and in any event within ***two months*** of the date on which the application was lodged within the meaning of Article 21(2), request that other Member State to take charge of the applicant.

Or. en

Justification

There have been numerous comments by Member States that the new proposed time limits (down from three to one month here in the commission proposal compared to Dublin III) is unrealistic. Your rapporteur shares the view that it is important to shorten the time of Dublin procedures but at the same time Member States need to be given a reasonable amount of time to carry out all the foreseen procedures in this regulation.

Amendment 80

Proposal for a regulation
Article 24 – paragraph 1 – subparagraph 2

Text proposed by the Commission	*Amendment*
Notwithstanding the first subparagraph, in the case of a Eurodac hit with data recorded pursuant to Article 13 of Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013] or of a VIS hit with data recorded pursuant to Article 21(2) of Regulation (EU) 767/2008, the request shall be sent within ***two weeks*** of receiving that hit.	Notwithstanding the first subparagraph, in the case of a Eurodac hit with data recorded pursuant to Article 13 of Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013] or of a VIS hit with data recorded pursuant to Article 21(2) of Regulation (EU) 767/2008, the request shall be sent within ***one month*** of receiving that hit.

Or. en

Justification

There have been numerous comments by Member States that the new proposed time limits (down from two months to two weeks here in the commission proposal compared to Dublin III) is unrealistic. Your rapporteur shares the view that it is important to shorten the time of Dublin procedures but at the same time Member States need to be given a reasonable amount of time to carry out all the foreseen procedures in this regulation.

Amendment 81

Proposal for a regulation
Article 24 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission	*Amendment*
	With regard to minors, for the purpose of calculating the deadlines referred to in the first and second subparagraphs of this paragraph, time shall start to run when a guardian has been appointed and when the best interests assessment pursuant to Article 8(3) has been concluded.

Or. en

Justification

In order to ensure appropriate time for the procedures of minors, and that the minor is supported during the full duration of the procedure, your rapporteur suggests to start the formal deadlines only once a guardian has been appointed and the BIA has been completed.

Amendment 82

Proposal for a regulation
Article 24 a (new)

Text proposed by the Commission	*Amendment*
	Article 24 a
	Submitting a take charge notification
	1. Where an applicant is to be transferred to another Member State pursuant to Article 15(1a) or Article 36b

(4) the Member State of allocation shall be determined randomly by the automated system referred to in Article 44 amongst the Member States not currently benefitting from the corrective allocation mechanism referred to in Article 34.

2. Once the Member State of allocation has been determined pursuant to paragraph 1, information to that effect shall be automatically entered into Eurodac and the Member State of allocation shall be informed by way of an automatic notification.

3. The Member State where the applicant is present shall inform the applicant of the determination pursuant to paragraph 2 and, in cooperation with the European Union Agency for Asylum, of the modalities for the transfer.

4. The European Union Agency for Asylum shall ensure the swift transfer of the applicant from the Member State where he or she is present to the Member State responsible.

5. The obligations set out in Articles 39, 40, 41 and 42 shall apply mutatis mutandis.

Or. en

Justification

This new procedure applies in two specific cases designed as a deterrent for applicants to work against the system. It should be applied in cases where the applicant has not registered in the first member state of arrival but moved irregularly within Europe before registering (15 1a) or where the applicant has falsely declared having family in a specific member state (36b(4)) in order to benefit from the family reunification procedure. In the first instance the applicant will be deterred from irregularly moving onwards from the first Member State of arrival since he or she would not be able to make a specific Member State of choice de facto responsible for his or her application. Instead the applicant would, upon applying in a Member State that is not that of the first entry be automatically relocated to another (randomly decided) Member State. This removes the need for the procedure to return the applicant to a specific first Member State of arrival in cases where there are no registrations as it has proven impossible to prove which Member State the applicant entered through. In the second case it acts like a deterrence for the newly introduced lighter model of family reunification where an applicant would be relocated if he or she has claimed to have a family

link with a specific Member State that would not prove to be legitimate on further scrutiny.

Amendment 83

Proposal for a regulation
Article 28 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall provide for a period ***of 7 days*** after the notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.	2. Member States shall provide for a ***reasonable*** period***, of no less than 15 days,*** after the notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.

Or. en

Justification

In order to ensure that a remedy is effective it is crucial that the person has enough time to avail themselves of the right. A seven day deadline is simply too short. The applicant should be guaranteed to have at least 15 days to make the appeal in order to ensure that the system gives appropriate safeguards but Member States should be free to have a longer period if the so wish.

Amendment 84

Proposal for a regulation
Article 28 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The scope of the effective remedy laid down in paragraph 1 shall be limited to an assessment of whether Articles 3(2) in relation to the existence of a risk of inhuman or degrading treatment or Articles 10 to 13 and 18 are infringed upon.	***deleted***

Or. en

Justification

Your rapporteur does not consider it possible to limit the rights of appeal to certain aspects of

the charter without entering into immediate issues with the right to an effective remedy as prescribed by Article 47 of the Charter.

Amendment 85

Proposal for a regulation
Article 28 – paragraph 5

Text proposed by the Commission	*Amendment*
5. Where no transfer decision referred to in paragraph 1 is taken, Member States shall provide for an effective remedy before a court or tribunal, where the applicant claims that ***a family member or, in the case of unaccompanied minors, a relative is legally present in a*** Member State ***other than the one which is examining his or her application for international protection, and considers therefore that other Member State as Member State*** responsible for examining the application.	5. Where no transfer decision referred to in paragraph 1 is taken, Member States shall provide for an effective remedy before a court or tribunal, where the applicant claims that ***another*** Member State ***is*** responsible for examining the application.

Or. en

Justification

The new proposal by the commission to allow for a right to a remedy in cases where family reunification is blocked because of the lack of a transfer to the Member State where the family is present is welcomed. It would however make sense, not least in the light of the CJEU's ruling in the Ghezelbash case, to enlarge the scope of this right to all perceived misapplications of the Dublin criteria.

Amendment 86

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The costs necessary to transfer an applicant or another person as referred to in Article 20(1)(c), (d) or (e) to the Member State responsible shall be met by the ***transferring Member State***.	1. The costs necessary to transfer an applicant or another person as referred to in Article 20(1)(c), (d) or (e) to the Member State responsible shall be met by the ***general budget of the Union***.

Or. en

Justification

As a further measure to improve incentives for every Member State to register all asylum applicants present on their territory without any delay and in order to ensure that Member States are not put in a position of additional financial costs for following the provisions of the regulation any transfer under this regulation shall be covered by the budget of the European Union.

Amendment 87

Proposal for a regulation
Article 34 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) ***or (3)***, 18 and 19 , in addition to the number of persons effectively resettled, is higher than ***150%*** of the reference number for that Member State as determined by the key referred to in Article 35.	2. Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2), 18 and 19 , in addition to the number of persons effectively resettled, is higher than ***100 %*** of the reference number for that Member State as determined by the key referred to in Article 35.

Or. en

Justification

The corrective allocation system should be triggered before the benefitting Member State is overwhelmed by the inflow of asylum seekers. Therefor the triggering percentage has been lowered from 150% to 100% of the reference key. Your rapporteur is also of the opinion that also applications falling under the criteria in article 3(1) should count towards the reference value.

Amendment 88

Proposal for a regulation
Article 36 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Applicants who lodged their application in the benefitting Member State after notification of allocation referred to in Article 34(5) shall be allocated to the Member States referred to in paragraph 1, and these Member States shall determine the Member State responsible;	2. Applicants who lodged their application in the benefitting Member State after notification of allocation referred to in Article 34(5) shall***, if a responsible Member State could not be established pursuant to Article 19(2a) or Article 36b,*** be allocated to the Member States referred to in paragraph 1, and these Member States shall determine the Member State responsible;

Or. en

Justification

This implies that the light procedure of family reunification and the possibility of requesting the application of the discretionary clause should be allowed prior to an applicant being relocated using the corrective allocation system.

Amendment 89

Proposal for a regulation
Article 36 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Applications declared inadmissible or examined in accelerated procedure in accordance with Article 3(3) shall not be subject to allocation.	***deleted***

Or. en

Justification

This deletion is done in consequence of the deletion of article 3(3) on admissibility procedures prior to the determination of the responsible Member State. It should be noted that all Member States, once responsibility has been determined, are free to apply the admissibility test according with the provisions in the Asylum Procedures Regulation.

Amendment 90

Proposal for a regulation
Article 36 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. The benefitting Member State shall ensure that applicants who lodged their application in the benefitting Member State after notification of allocation referred to in Article 34 shall have access to the procedure referred to in Article 19(2a) and Article 36b.

Or. en

Justification

The procedure referred to in 19(2a) is the new possibility to request the application of the discretionary clause directly from the Member State of first entry which would remove the incentives for applicants to attempt avoiding registration in order to be able to avail themselves of this possibility. It would leave decision on acceptance of the request with the Member State concerned but would at the same time allow for the expression of a preference by the asylum seeker that would thus gain in agency through the proposal and would likely become more willing to participate in the system. The rule relative to the procedure in 36b refers to the new light procedure on family reunification which would allow applicants with family to quickly reunite with them.

Amendment 91

Proposal for a regulation
Article 36 – paragraph 4

Text proposed by the Commission	*Amendment*
4. On the basis of the application of the reference key pursuant to paragraph 1, the automated system referred to in Article 44(1) shall indicate the Member State of allocation and communicate this information not later than 72 hours after the registration referred to in Article 22(1) to the benefitting Member State and to the Member State of allocation, and add the Member State of allocation in the electronic file referred to in Article 23(2).	***deleted***

Or. en

Justification

This article is removed as a new system for determining the Member State of allocation has been suggested in article 36a

Amendment 92

Proposal for a regulation
Article 36 a (new)

Text proposed by the Commission	*Amendment*
	Article 36 a
	Determination of the Member State of allocation
	1. On the basis of the reference key referred to in Article 35, the automated system referred to in Article 44(1) shall indicate the six Member States with the lowest number of applicants relative to their share of the fair distribution.
	2. The automated system shall open a transfer list of 30 slots for each of those six Member States. The European Union Agency for Asylum shall ensure that applicants are attributed to any of the open transfer lists in accordance with Article 41.
	3. Whenever all the available slots on a transfer list are filled pursuant to paragraph 2 the automatic system shall communicate that information to the benefitting Member State and to the Member State of allocation, and add the Member State of allocation in the electronic file referred to in Article 23(2).
	4. When a transfer list is full in accordance with paragraph 3 a new transfer list shall be opened by the automated system for the Member State with the lowest number of applicants relative to their share of the fair distribution for which a list has not yet

been opened.

Or. en

Justification

This would create a new system for the corrective allocation of applicants that would allow for the relocation both of individual applicants and groups of applicants. It would maintain the automated nature of the system and would not introduce any element of choice of destination for the applicants but it would enable groups of applicants that have declared themselves being a group to be relocated together rather than being split up between a large number of Member States. Your rapporteur believes that this would have a positive effect on integration, work to reduce secondary movements and reduce administrative burdens on Member States.

Amendment 93

Proposal for a regulation
Article 36 b (new)

Text proposed by the Commission	*Amendment*
	Article 36b
	Family reunification procedure in the case of corrective allocation
	1. A Member State benefitting from the corrective allocation mechanism in accordance with Article 34 shall be responsible for conducting a special family reunification procedure for the applicant in order to ensure swift family reunification and access to the asylum procedures for applicants where there are, prima facie, sufficient indications that they are likely to have the right to family reunification in accordance with Article 10, 11, 12 or 13.
	2. In establishing whether there are sufficient indications that the applicant has family in the Member State he or she claims the determining Member State shall ensure that the applicant has understood the applicable definition of family members and/or relatives and ensure that the applicant is certain that the alleged family members and/or

relatives are not present in another Member State. The determining Member State shall also ensure that the applicant understands that he or she will not be allowed to stay in the Member State where he or she claims to have family members and/or relatives unless such a claim can be verified by that Member State. If the information provided by the applicant does not give manifest reasons to doubt the presence of family members and/or relatives in the Member State indicated by the applicant it shall be concluded that, prima facie, there are sufficient indications that the applicant has family members and/or relatives in that Member State in order to meet the requirements of paragraph 1.

3. If it is determined pursuant to paragraph 1 and 2 that an applicant likely has, prima facie, the right of family reunification in accordance with Article 10, 11, 12 or 13 the benefitting Member State shall notify the Member State concerned thereof and the applicant shall be transferred to that Member State.

4. The Member State receiving an applicant in accordance with the procedure referred to in paragraph 3 shall make the determination of whether the conditions for family reunifications in accordance with Article 10, 11, 12 or 13 are met. If it is determined that the conditions for family reunification are not met the receiving Member State shall ensure that the applicant is relocated to another Member State in accordance with the procedure laid down in Article 24a.

5. The authorities responsible of the Member State where the applicant claims to have family members and/or relatives present shall assist the authorities responsible of the determining Member State with answering any questions aimed at clarifying whether the alleged family links are correct.

Justification

This new procedure creates a light family reunification procedure which would allow a quick access to the asylum procedure for all applicants with family somewhere in Europe. It would operate on the basis that the Member State where the applicant first applies does a light check to determine whether it is likely that the applicant has family somewhere else in the European Union. If this is the case the applicant is transferred to this member state that has to make the full formal determination of whether the conditions for family reunification are fulfilled or not. If they are not fulfilled the applicant would be automatically relocated to another Member State in order to prevent abusive claims of family ties.

Amendment 94

Proposal for a regulation
Article 37

Text proposed by the Commission	*Amendment*
Article 37	***deleted***
Financial solidarity	
1. A Member State may, at the end of the three-month period after the entry into force of this Regulation and at the end of each twelve-month period thereafter, enter in the automated system that it will temporarily not take part in the corrective allocation mechanism set out in Chapter VII of this Regulation as a Member State of allocation and notify this to the Member States, the Commission and the European Union Agency for Asylum.	
2. The automated system referred to in Article 44(1) shall in that case apply the reference key during this twelve-month period to those Member States with a number of applications for which they are the Member States responsible below their share pursuant to Article 35(1), with the exception of the Member State which entered the information, as well as the benefitting Member State. The automated system referred to in Article 44(1) shall count each application which would have otherwise been allocated to the Member	

State which entered the information pursuant to Article 36(4) for the share of that Member State.

3. At the end of the twelve-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. That Member State shall thereafter make a solidarity contribution of EUR 250,000 per each applicant who would have otherwise been allocated to that Member State during the respective twelve-month period. The solidarity contribution shall be paid to the Member State determined as responsible for examining the respective applications.

4. The Commission shall, by means of implementing acts, adopt a decision in accordance with the examination procedure referred to in Article 56, lay down the modalities for the implementation of paragraph 3.

5. The European Union Agency for Asylum shall monitor and report to the Commission on a yearly basis on the application of the financial solidarity mechanism.

Or. en

Justification

The corrective allocation system is intended to balance the unfair sharing of responsibilities under a system that places a lot of efforts on frontline Member States. Allowing other Member States to buy themselves out from the system would not be fair to frontline Member States and for such a system to work the cost of the opt out would have to be so dissuasively high that it would become fundamentally unfair also to less economically strong Member States. Finally your rapporteur does not agree with the concept of Member States paying for avoiding a responsibility to assist people in need of international protection.

Amendment 95

Proposal for a regulation
Article 38 – point c

Text proposed by the Commission	*Amendment*
(c) transfer the applicant to the Member State of allocation, at the latest within four weeks from the final transfer decision.	(c) ***provide the necessary assistance in order to ensure that the European Union Agency for Asylum is able to*** transfer the applicant to the Member State of allocation, at the latest within four weeks from the final transfer decision.

Or. en

Justification

The amendment is related to the suggested shift of responsibility for transfers to the European Asylum Agency

Amendment 96

Proposal for a regulation
Article 40 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Where the outcome of the security verification confirms that the applicant may for serious reasons be considered a danger to the national security or public order, the benefitting Member State of application shall be the Member State responsible and ***shall*** examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU.	3. Where the outcome of the security verification confirms that the applicant may for serious reasons be considered a danger to the national security or public order, the benefitting Member State of application shall be the Member State responsible and ***may*** examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU.

Or. en

Justification

The Dublin regulation should set out clear rules for the determination of responsibility between Member States for applications. A Member State should retain the right to evaluate the best procedure, within the context of the APR, for the examination of the application. If this is best achieved under an accelerated procedure it should be possible but not mandatory.

Amendment 97

Proposal for a regulation
Article 41 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Applicants having registered themselves as travelling together as referred to in point (b) of Article 22(1) to whom the procedure for allocation applies but who are not each other's family members shall, to the extent possible, be allocated to the same Member State.

Or. en

Justification

In the revised relocation model proposed by your rapporteur applicants would be able to be relocated in groups to Member States rather than only individually, this would however not entail a right of choice of destination and shall only be possible to the extent possible, in contrast with family members that shall always be transferred to the same Member State.

Amendment 98

Proposal for a regulation
Article 42 – paragraph 1

Text proposed by the Commission	*Amendment*
For the costs to transfer an applicant to the Member State of allocation***, the benefitting Member State*** shall be refunded by a lump sum of EUR ***500*** for each person transferred pursuant to Article 38(c). ***This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.***	The costs to transfer an applicant to the Member State of allocation ***by the European Union Agency for Asylum*** shall be ***met by the general budget of the Union and be*** refunded by a lump sum of EUR ***300*** for each person transferred pursuant to Article 38(c).

Or. en

Justification

Your rapporteur would suggest to move the responsibility for transfers under the Dublin regulation from Member States to the European Asylum Agency. The lowering of the 500€ compensation to 300€ would create important savings which should in the view of the rapporteur be invested in support for the system.

Amendment 99

Proposal for a regulation
Article 43 – paragraph 1

Text proposed by the Commission	*Amendment*
The automated system shall notify the Member States and the Commission as soon as the number of applications in the benefitting Member State for which it is the Member State responsible under this Regulation is below ***150*** % of its share pursuant to Article 35(1).	The automated system shall notify the Member States and the Commission as soon as the number of applications in the benefitting Member State for which it is the Member State responsible under this Regulation is below ***75*** % of its share pursuant to Article 35(1).

Or. en

Justification

It is proposed that corrective allocation commences once the quota of a Member State has been fulfilled (at 100%). Your rapporteur suggests lowering the point at which corrective allocation ceases to 75% of the quota in order to avoid situations where a Member State continuously close to this level of capacity in relation to arrivals would be going in and out of the corrective allocation mechanism. Once the arrivals have diminished to 75% of the national quota it could reasonably be argued that the risk that the Member State would shortly once again need the support of the corrective allocation mechanism would be much smaller. This will increase the predictability and stability of the system.

Amendment 100

Proposal for a regulation
Chapter VII a (new)

Text proposed by the Commission	*Amendment*
	Chapter VIIa
	Reciprocal solidarity

Or. en

Amendment 101

Proposal for a regulation
Article 43 a (new)

Text proposed by the Commission	*Amendment*
	Article 43 a
	Suspension of the corrective allocation mechanism
	If a Member State is subject to a decision referred to in Article 19(1) of Regulation (EU) 2016/1624 following a failure to properly fulfil its obligations to manage its part of the external border the Council, on the basis of a proposal from the Commission, may adopt without delay a decision by means of an implementing act suspending the application of the corrective allocation mechanism referred to in Article 34 of this Regulation for that Member State. A decision to suspend the corrective allocation mechanism shall be valid for a specified period of no more than one year and may be renewed. When preparing and drawing up the implementing act, the Commission shall ensure a timely and simultaneous transmission of all documents, including the draft act, to the European Parliament and the Council. The European Parliament shall be informed without delay of all subsequent measures and decisions taken.

Or. en

Justification

It is necessary to ensure that all Member States exercise an appropriate control and management of their part of the external border of the European Union. In order to ensure that Member States are properly incentivised to do so, and as a measure of last resort should there be a major problem, there should be an option to suspend the application of the corrective allocation mechanism for a determined period until any issues are remedied by the benefitting Member State. The pre-requisite for such an action should in your rapporteurs

view be that there already exists an active decision under the existing provisions of the European Border and Coast Guards Regulation (EBCGR). The commission would then, if it deems that the situation requires it, present an implementing act for the adoption by the Council (by qualified majority). Your rapporteur considered using a delegated act in this context in order to also give the European Parliament a say in the procedure but due to the way this instrument works it would have implied that council would automatically accept the proposal from the European Commission unless there was a qualified majority -against- the proposal to suspend the corrective allocation system. The procedure in the EBCGR also foresees an implementing act with similar safeguards with regards to the information to the European Parliament.

Amendment 102

Proposal for a regulation
Article 43 b (new)

Text proposed by the Commission	*Amendment*
	Article 43 b
	Coercive measures
	If a Member State does not fulfil its obligations under Chapter VII, the procedure as provided for by Article XXX of Regulation (EU) n° 1303/2013 as modified by Regulation (EU) n° XXXX, will apply.

Or. en

Justification

Your rapporteur is of the view that there should be clear consequences if a Member State would not respect its obligations with respect to the solidarity measures under this regulation. Normally your rapporteur would assume that every Member State would to the best of their ability faithfully apply the Union law, unfortunately recent statements by various national leaders give reason to doubt this. With this background the rapporteur favours introducing a system of conditionality in Regulation 1303/2013 governing the use of the European Structural and Investment Funds between the complete participation by Member States in the solidarity aspects of this regulation and the national envelopes for the European Structural and Investment Funds. Your rapporteur notes that Regulation 1303/2013 is currently under review and that the substantive measures should be introduced directly into the modified proposal of regulation 1303/2013, and not in this regulation. It should also be noted that the commission has proposed that the area of migration and asylum should be covered as a priority area for the cohesion policy. The structural and investment funds are based on the principle of solidarity between Member States. It would seem, in the view of the rapporteur, illogical that Member States would be able to benefit from the solidarity of other Member

States through these funds whilst at the same time not abiding by key provisions of solidarity within the framework of the Common European Asylum Policy, especially as this is suggested as a key policy area for European cohesion policy.

Amendment 103

Proposal for a regulation
Article 44 – paragraph 1

Text proposed by the Commission	*Amendment*
1. For the purposes of the registration and monitoring the share of applications for international protection pursuant to ***Article*** 22 and of the application of the allocation mechanism set out in Chapter VII an automated system shall be established.	1. For the purposes of the registration and monitoring the share of applications for international protection pursuant to **Articles** 22 ***and 24a*** and of the application of the allocation mechanism set out in Chapter VII an automated system shall be established.

Or. en

Justification

The automated system should not only be able to support corrective allocation but also the allocation model envisaged in the new article 24a

Amendment 104

Proposal for a regulation
Article 45 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The ***European Union*** Agency for Asylum shall have access to the automated system for entering and adapting the reference key pursuant to Article 35(4) ***and*** for entering the information referred to in Article 22(3).	2. The European Union Agency for Asylum shall have access to the automated system for entering and adapting the reference key pursuant to Article 35(4)**,** for entering the information referred to in Article 22(3) ***and for carrying out its obligations under Article 36a***.

Or. en

Justification

In the new Article 36a it is proposed that the EUAA is made responsible to "fill" the lists of

applicants from states under corrective allocation, this amendment ensures that they have access to the electronic system in order to do so.

Amendment 105

Proposal for a regulation
Article 53 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	By way of derogation from Article 35 the reference key for the corrective allocation shall be calculated using the formula in Annex Ia during the first five years following ... [date of entry into force of this Regulation].

Or. en

Justification

This adds practical arrangements for the transitional measures related to the corrective allocation (in an Annex). The political idea is to ensure that Member States that do not have as much experience with receiving applicants for international protection should be given the time to gradually build up their reception capacity and administrative systems. This will imply a continued higher burden on Member States which have historically received many applicants in the initial years of the system but they would be guaranteed a transition towards a more equitable sharing of responsibilities.The transitional system envisages to create a baseline key for each Member State where their relative responsibility for reception of applicants would be based upon how many applicants have historically lodged their applications in the respective Member States. This baseline would constitute the reference key in Article 35 for the first year of the application of the legislation with respect to the corrective allocation model. The reference key would then be updated annually adding 20% of the effect from the Reference key in Article 35, and removing 20% from the baseline each year until the Reference key is fully based on the criteria (GDP and Population) established in Article 35.The system will only change the relative share of Member States in relation to the reference key in Article 35 during the transitional period and not the overall functioning of the system. It will thus be possible for the corrective allocation system to enter fully into force from day 1, with the shares of responsibility of Member States shifting gradually from historical applications to a fair system.

Amendment 106

Proposal for a regulation
Article 53 – paragraph 2 b (new)

Text proposed by the Commission	*Amendment*
	By way of derogation from point (c) of Article 38 the Member State benefitting from corrective allocation shall ensure the transfer of the applicant to the Member State of allocation, at the latest within four weeks from the final transfer decision during the first five years following ... [date of entry into force of this Regulation].
	By way of derogation from Article 42(1), for the costs to transfer an applicant to the Member State of allocation, the benefitting Member State shall be refunded by a lump sum of EUR 300 for each person transferred pursuant to Article 53. Such financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.

Or. en

Justification

This amendment creates a five year period where Member States will retain the responsibility for transfers under the corrective allocation scheme, thereby derogating from article 38(c), in order to give the EUAA enough time to build up the expertise and organisation required for assuming this responsibility. The EUAA will receive many additional tasks under the new CEAS regulations and it is imperative that the agency is allowed to focus on the most key aspects of the system first in order to be able to continue to deliver high quality services.

Amendment 107

Proposal for a regulation
Article 58 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	The European Union Agency for Asylum shall conduct a stocktaking of the capacity for the reception of unaccompanied minors in all Member States during the transitional period referred to in Article 53(2a) in order to

	identify deficiencies and offer assistance to Member States in order to address those deficiencies.

Or. en

Justification

It is of particular importance that unaccompanied minors transferred under the corrective allocation model receive appropriate care in every Member State of the European union. It would therefor seem appropriate that the EUAA is given the mandate to evaluate the national capacities for the reception of unaccompanied minors with a view to providing assistance to those Member States that need to improve their capacity.

Amendment 108

Proposal for a regulation
Article 60 – paragraph 1

Text proposed by the Commission	*Amendment*
Regulation (EU) No 604/2013 is repealed ***for the Member States bound by this Regulation as concerns their obligations in their relations between themselves***.	Regulation (EU) No 604/2013 is repealed.

Or. en

Justification

The rapporteur is of the view that Member States with opt-outs should have a clear choice of either being within the Dublin-system or not, it would create unnecessary complications to let some Member States have the option of remaining in the Dublin III regulation when everyone else had moved on to Dublin IV.

Amendment 109

Proposal for a regulation
Annex I a (new)

Text proposed by the Commission	*Amendment*
	Annex Ia
	Transitional arrangements for the calculation of the reference key in Article

35

1. For the purpose of the corrective allocation mechanism, the reference number for each Member State shall, during a transitional period as defined in this Annex, be determined by a combination of a baseline key and the reference key referred to in Article 35. This temporary reference key shall be referred to as the transitional reference key and shall apply instead of the reference key referred to in Article 35 during the transitional period.

2. The baseline reference key referred to in paragraph 1 shall be calculated by adding the lodged applications, using Eurostat figures, in Member States for the years 2011, 2012, 2013, 2014 and 2016, divided by the total amount of lodged applications within all Member States during that period.

3. The European Union Agency for Asylum shall establish the baseline reference key as well as the reference key in article 35.

4. The transitional reference key shall be calculated as follows:

(a) from the entry into force until the end of the first calendar year following the entry into force ('year X') the transitional reference key shall be the same as the baseline reference key;

(b) in year X+1 the transitional reference key shall be composed of 80 % of the baseline reference key and 20 % of the reference key referred to in Article 35 of this Regulation;

(c) in year X+2 the transitional reference key shall be composed of 60 % of the baseline reference key and 40 % of the reference key referred to in Article 35 of this Regulation;

(d) in year X+3 the transitional reference key shall be composed of 40 % of the baseline reference key and 60 % of

the reference key referred to in Article 35 of this Regulation;

(e) in year X+4 the transitional reference key shall be composed of 20 % of the baseline reference key and 80 % of the reference key referred to in Article 35 of this Regulation.

5. Following the expiration of the period mentioned in point (e) of paragraph 4 the reference key shall be calculated in accordance with Article 35.

Or. en

Justification

This adds practical arrangements for the transitional measures related to the corrective allocation. Due to technical limitations in the EP amendment tools the rapporteur has opted for a written rule, this could potentially be simplified by use of mathematical formulas in the final version of the text. The political idea is to ensure that Member States that do not have as much experience with receiving applicants for international protection should be given the time to gradually build up their reception capacity and administrative systems. This will imply a continued higher burden on Member States which have historically received many applicants in the initial years of the system but they would be guaranteed a transition towards a more equitable sharing of responsibilities.The transitional system envisages to create a baseline key for each Member State where their relative responsibility for reception of applicants would be based upon how many applicants have historically lodged their applications in the respective Member States. This baseline would constitute the reference key in Article 35 for the first year of the application of the legislation with respect to the corrective allocation model. The reference key would then be updated annually adding 20% of the effect from the Reference key in Article 35, and removing 20% from the baseline each year until the Reference key is fully based on the criteria (GDP and Population) established in Article 35.The system will only change the relative share of Member States in relation to the reference key in Article 35 during the transitional period and not the overall functioning of the system. It will thus be possible for the corrective allocation system to enter fully into force from day 1, with the shares of responsibility of Member States shifting gradually from historical applications to a fair system.

EXPLANATORY STATEMENT

A well functioning asylum system based on solidarity is possible!

The current Dublin regulation, which determines the country responsible for a refugee's asylum application, is now unfit for purpose. This became obvious in 2015, when more than one million people fled war, conflicts and persecution and applied for international protection in the EU, resulting in the total collapse of the Dublin system.

In response to this, the European Commission presented a proposal for a revised Dublin regulation in May 2016. Since being appointed the rapporteur in the European Parliament for this revision, I have analysed the proposal and started my task of forming the European Parliament's position and I am now ready to present my draft report.

The EU finds itself at a crossroads. We can no longer continue with watered down compromises and urgent ad hoc responses to crisis situations that we all know in advance will be implemented too late or not implemented at all. Indeed, we need to think innovatively and creatively. My conclusion is that the current Dublin regulation needs to be fundamentally changed and the new regulation must ensure:

- That all countries share responsibility for asylum seekers.
- That member states with external borders, the first place of arrival in Europe for most refugees, take their responsibility in registering all arriving people, as well as protecting and maintaining the external borders of the EU.
- That the people in need of international protection get it much faster than today, while those who are proven to not have the right to asylum are returned to their home countries in a swift and dignified manner.

It is time to stop supporting a system in which refugees are forced into the hands of unscrupulous human traffickers who smuggle them through Europe. Instead, we must build a system that creates incentives for all refugees to immediately register when arriving in the EU.

Asylum seekers should be able to feel confident that they will receive a legally correct asylum process no matter which European member state their application is filed in. They should also know that they have no right to decide for themselves in which EU member state they will be seeking asylum, but that it is the European Union that will examine their asylum claim and eventually grant them international protection.

The new Dublin regulation must be simple, based on sound principles, and feasible in practice. I believe that I have succeeded in laying the ground for this in my draft report. It implies full and equal participation of all member states. Fully implemented, it will mean shared responsibilities and true solidarity.

A workable permanent relocation system is needed

The ad hoc relocation of 160.000 asylum seekers from Italy to Greece has largely been a failure. We need to learn from the experiences of this system in order to build a resilient and practically functioning relocation system in the Dublin regulation.

The most important lesson to learn from the temporary relocation scheme, introduced in the middle of an ongoing crisis, shows that crisis mechanisms and contingencies must exist before the crisis happens. European decision-making processes are simply not responsive enough to properly address such a complex issue in a timely manner in the midst of an ongoing crisis.

Existing measures such as the early warning mechanism in the Dublin regulation, or the Temporary Protection Directive, intended to be used in an emergency but requiring a vote in the council to start, have never been triggered, regardless of the magnitude of the crisis. It would therefore be unwise to base a relocation system on anything other than an automatic system.

Changes to the corrective allocation model proposed by the Commission

The following changes have been proposed in order to improve the corrective allocation model proposed by the Commission

No pre-Dublin admissibility checks
The proposal to impose a requirement to establish whether an application is admissible before the determination of a responsible Member State would create an insurmountable administrative burden for frontline Member States.

Introducing a light family procedure
The Commission proposal envisaged doing all family reunification from a second Member State of allocation, which would imply costly double transfers. The other main alternative has been to let the frontline Member States do the family reunification, which adds to much administrative burdens and prolongs procedures. I propose a middle way where the applicant is transferred to the Member State where he/she claims to have family and where this state does the evaluation. If an applicant claims to have, family in a Member State where this is not the case he or she will be transferred onwards to a Member State chosen by the corrective allocation mechanism.

Applying for the use of the discretionary clause
Applicants should have a possibility to ask a Member State to make use of its discretionary rights to assume responsibility also for cases where it is not strictly required to do so. Voluntarily accepting certain applicants would count towards the quota of that member state. Accepting applicants with better prospects of integrating in their respective member state under this system could thus be an interesting proposition for member states, and offer incentives for applicants to work within the system.

Allocation of groups
Instead of relocating applicants based on a one person at a time system, the relocation should be done in groups of up to 30 applicants at a time. In connection with this change, I suggest allowing applicants to have the option to register as a group upon arrival in Europe. Such a group registration would not imply a right to be transferred to a particular member state, but a right to be transferred together with the other members of the group to a member state determined by the corrective allocation system.

Link between corrective allocation and border protection
If a member state benefitting from the corrective allocation mechanism does not respect its obligations towards the other member states, by managing its external borders and registering applicants, it should be possible to suspend the corrective allocation system for that member state, through a decision in Council.

Thresholds for the triggering of the corrective allocation
The Commission proposal requires that a member state take on 150 percent of their fair share of asylum applications before receiving assistance from the corrective allocation system. I suggest that this threshold should be lowered to 100 percent. I also suggest that corrective allocation should stop once the relative share of a member state under corrective allocation has dropped to 75 percent of total allocations, in order to ensure that member states do not fluctuate in and out of corrective allocation.

Coercive measures & the financial solidarity "opt out"
The Commission suggested introducing an "opt-out" from the corrective allocation system, which would have allowed member states to buy themselves out of the corrective allocation by paying 250 000 euros per applicant. I find it unacceptable to put such a price tag on human beings, and I therefore suggest deleting the provision.

Every member state in the European Union has to respect the legislation that has been democratically agreed between the co-legislators. In this context, I am concerned by the comments of several leading politicians stating that they would ignore democratic decisions by the EU if these were not in line with their national preferences. In view of these comments, I have suggested introducing a conditionality between the proper participation in the corrective allocation mechanism, and the European Structural and Investment Funds. It would not seem logical to allow member states to benefit from the solidarity of others whilst ignoring their own commitments under our commonly agreed rules.

The gradual introduction of the corrective allocation model
I propose a transitional period over five years for the distribution key, determining the quotas for each member state. In the beginning of the transition period, the key must be based on an average proportion of the number of historically lodged applications for international protection in the different member states. For each year, twenty percent of the historical key would be removed, and twenty percent of the key suggested by the European Commission, based on GDP and population, would be added.

Through such a system, member states that have previously received many asylum applicants will be assured that their shares of the responsibility will be gradually reduced. At the same time member states without the same experience will be given the time to build up their reception systems, preferably with assistance from the Asylum, Migration and Integration fund, AMIF, and with the support from the European Union Asylum Agency.

Proper care for children with a special focus on unaccompanied minors
When it comes to unaccompanied minors, the quick appointment of guardians (within five days), improved best interest assessments, as well as the use of multidisciplinary teams for assessments, will allow authorities to build trust with the minors, as well as break the negative influence of smugglers and traffickers. This will greatly improve the chances that minors will trust and work within the system. We cannot go on with a system that causes thousands of

children to go missing, as is unfortunately the case today. Together with greatly improved family reunification procedures and the procedure to request, the application of the discretionary clause minors will get a quicker access to the procedures and a stable environment.

Investing in information and appropriate care, notably for unaccompanied minors, as soon as they enter the union, will allow for significant savings in other parts of the Dublin system, as it will reduce the needs for multiple transfers, protracted appeals and so on.

A system to fundamentally break the underlying reason for secondary movement
Breaking the link between the registration of an application and that member state becoming responsible is essential in order to ensure the functioning of the Dublin regulation. One element in this is ensuring that the procedures in the regulation are enforceable and practical.

I fully support the Commission in its ambitions to remove the loopholes that allowed for shifts of responsibility and support the ambition to ensure that procedures are speeded up. This however only addresses one part of the problem. In theory, the principle is that if no other criteria in the regulation gives responsibility to a specific country, responsibility falls on the first country of entry in the EU. In practice however, this is more or less impossible to establish unless there is a registration in the Eurodac database, which today is often not the case.

After months of useless bureaucracy, the member state where the applicant is present will usually end up having to assume responsibility. This implies delays in the procedures, with all associated costs, uncertainty for the applicant, and most importantly, that moving to a specific country actually often works for applicants who wish to apply in a specific member state. It encourages secondary movement.

In order to break this vicious circle and ensure a simple rule for allocation I suggest modifying the irregular entry criteria. If an applicant lodges an application in a frontline member state that is not under the corrective allocation, this member state should be responsible for the application, just as today. This is crucial in order to ensure the link between the proper management of the external borders and the Dublin system. Under the new system, the frontline member state will also be assisted through the corrective allocation system, as soon as they have taken their share of the collective responsibility.

If an asylum seeker moves on from the first country of entry without registering into another member state and applies for asylum there, this member state shall not be responsible for the application. Instead of the complex and non-functioning system where we pretend that we can send people back to the first country of arrival, the applicant would be allocated by the corrective mechanism to a responsible member state and transferred there.

This system ensures that asylum seekers will know that moving to a specific member state will imply that they will be automatically removed from that country. The criteria would be easy to apply and should prove dissuasive to applicants, since the underlying reasons not to apply in the first country of entry into the EU, would in fact be removed. The system also removes all incentives for member states to avoid registering potential asylum seekers on their territory.

It must be crystal clear to asylum seekers that they do not have a choice of which country is to be responsible for their application, and that the only pathway to obtaining legal status in Europe is to remain within the official system.

A Dublin regulation that can gain the understanding and acceptance of applicants
Breaking the incentives for secondary movements, and moving towards a model that ensures all applicants register immediately upon arrival, provides an opportunity to invest in information to applicants, as well as special protection to minors. By ensuring that applicants are given appropriate information and given the chance to ask questions about how the system works, we can build trust in the system and ensure smoother processes.

The current regulation ensures that only a few common leaflets providing information are produced by the Commission. This is inadequate given the needs of applicants. I therefore suggest that the European Union Asylum Agency, in close cooperation with national agencies, is tasked with developing a range of information products. Legislators should not decide on their format and content, but rather encourage the agency itself to find the most useful formats, using modern IT-tools, in order to ensure that the information can meet every day needs at reception centres, hotspots etc.

The survival of free movement in Europe depends on the Dublin reforms
During 2015, we could see how member state after member state reintroduced internal EU border controls, as a direct result of the so-called refugee crisis. If we do not fundamentally reform the European asylum system with the Dublin regulation at its core, and leave the system in its dysfunctional state, it could very well be the beginning of the end for the Schengen system ensuring free movement of people in Europe.

This is a fact that every responsible politician in Europe needs to understand, no matter what their position is on the issue of asylum law. The reformed asylum system needs to work on the ground, in practice, and unlike today's system, it needs to ensure that everyone is incentivised to play by the rules.

ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

Ref. D(2016)51537

Claude Moraes
Chair, Committee on Civil Liberties, Justice and Home Affairs
ASP 13G205
Brussels

***Subject*:** **Proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)**
(COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))

Dear Chair,

The Committee on Legal Affairs has examined the proposal referred to above, pursuant to Rule 104 on Recasting, as introduced into the Parliament's Rules of Procedure.

Paragraph 3 of that Rule reads as follows:

"If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible.

In such a case, over and above the conditions laid down in Rules 169 and 170, amendments shall be admissible within the committee responsible only if they concern those parts of the proposal which contain changes.

However, if in accordance with point 8 of the Interinstitutional Agreement, the committee responsible intends also to submit amendments to the codified parts of the proposal, it shall immediately notify its intention to the Council and to the Commission, and the latter should inform the committee, prior to the vote pursuant to Rule 58, of its position on the amendments and whether or not it intends to withdraw the recast proposal."

Following the opinion of the Legal Service, whose representatives participated in the meetings of the Consultative Working Party examining the recast proposal, and in keeping with the recommendations of the draftsperson, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal and that, as regards the codification of the unchanged provisions of the

earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance.

In conclusion, at its meeting of 29 November 2016, the Committee on Legal Affairs decided by 12 votes in favour and 2 votes against and 1 abstention[1] to recommend that the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, proceed to examine the above proposal in accordance with Rule 104.

Yours sincerely,

Pavel Svoboda

Encl.: Opinion of the Consultative Working Party.

[1] The following Members were present: Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Daniel Buda, Jean-Marie Cavada, Kostas Chrysogonos, Therese Comodini Cachia, Mady Delvaux, Angel Dzhambazki, Rosa Estaràs Ferragut, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Dietmar Köster, António Marinho e Pinto, Angelika Niebler, Emil Radev, Julia Reda, Evelyn Regner, Virginie Rozière, Pavel Svoboda, Axel Voss, Kosma Zlotowski, Tadeusz Zwiefka.

ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION

CONSULTATIVE WORKING PARTY
OF THE LEGAL SERVICES

Brussels, 6 October 2016

OPINION

FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION

Proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.
COM(2016)0270 of 4.5.2016 – 2016/0133(COD)

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 25 May and 7 July 2016 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At those meetings , an examination of the proposal for a Regulation of the European Parliament and of the Council recasting Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person resulted in the Consultative Working Party's establishing, by common accord, that the following should have been marked with the grey-shaded type generally used for identifying substantive changes:

- in Article 1, the proposed adding of the word 'single';

- in paragraphs 5 and 6 of Article 8, the proposed deletion of the word 'siblings';

- in Article 10(1), the word 'only';

- in Article 10(2), the proposed deletion of the words 'or a sibling';

- in Article 13, introductory wording, the proposed deletion of the words 'and/or minor

unmarried siblings';

- the entire text of Annex I.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing legal text, without any change in its substance.

F. DREXLER	H. LEGAL	L. ROMERO REQUENA
Jurisconsult	Jurisconsult	Director General