



2016/0222(COD)

12.4.2017

OPINION

of the Committee on Employment and Social Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

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

Rapporteur: Brando Benifei

PA_Legam

SHORT JUSTIFICATION

The proposed reform of the Common European Asylum System aims at shaping a more sustainable, fairer and holistic EU migration policy, based on the principles of fair sharing of responsibility and solidarity among Member States.

The quality of reception standards is fundamental to the increase of the chances for asylum seekers and refugees, arriving in unprecedented numbers, to effectively integrate and therefore reduce their dependency on the host country. However, the sustainability of the whole process depends upon a series of essential elements, such as a well-functioning legislative framework and efficient administrations; a decisive political commitment by national and European political and institutional actors; social cohesion, inclusiveness and the socio-economic well-being of our countries.

With a view to this, all new rules on reception must be future-proof, meaning designed to work outside the emergency logic which has been defining the response to the refugee crisis up until now. This is necessary in order to create the conditions for turning the challenge of integration into an opportunity and a resource for society in the long term. At the same time, reforms must also be realistic, present-proof, meaning capable of taking into due consideration the macroeconomic situation of our continent after years of protracted crisis.

In the view of the rapporteur, the goal of this EMPL opinion should be to present an overall assessment on whether the above-mentioned conditions are properly balanced in the legislative proposal under scrutiny and offer some adjustments accordingly. Such assessment is only partially positive.

The rapporteur welcomes the ambitious set of proposals with regards access to employment put forward by the Commission. Lowering the threshold for accessing the labour market to applicants of international protection to six months is a substantial improvement to current rules, and is coherent with the position of the European Parliament as expressed in its resolution on the social inclusion and integration of refugees into the labour market. He also supports encouraging Member States to accelerate further such access whereby applicants have good prospects of integration. By contrast, he is not in favour of the possibility to deny access when they fall under accelerated procedure and, therefore, under the assumption of an unfounded claim. Such a provision would constitute, in his opinion, a violation of article 3 of the Geneva Convention and its spirit. The rapporteur also welcomes the clarifications on the need to ensure that such access is effective, and proposes additions to the text by mentioning some of the main examples of restrictive conditions observed in the Member States, namely sectoral and working time restrictions and excessive administrative formalities.

New provisions for applicants with special reception needs are a very significant improvement to the current situation, and the rapporteur fully endorses all proposals aimed at ensuring that Member States systematically assess whether an applicant has special reception needs.

On a negative note, the rapporteur strongly disagrees with the measures aimed at reducing secondary movements by denying material reception conditions to applicants of international protection if they are not in the Member State responsible for their application under currently

revised asylum rules. In his opinion, this represents an unacceptable reduction of refugees' rights compared to the present, clearly contrary to the jurisprudence of European Court of Justice. Besides, this seems to suggest that secondary movements are mostly driven by the different quality of reception standards among Member States. Indeed, reception standards shall be improved throughout the EU. However, the strong correlation between, on the one hand, the socio-economic situation of the Member States, the employment prospects they may offer and the overall quality of their services and, on the other, the refugees' individual asylum preferences, seems the predominant factor determining such secondary movements. Some countries have been disproportionately exposed to the arrivals for geographical reasons, while also bearing - again disproportionately - the effects of the economic crisis, which has resulted in the shrinking of available public resources for reception measures. High unemployment and dire socioeconomic conditions in a Member State represent an impediment to the very objective of the reform, as they reduce the integration prospects of applicants. It also risks increasing competition within the labour market *vis-à-vis* nationals and EU citizens, which might lead to a further rise of anti-immigrant sentiments. The attempt of blocking secondary movements with a punitive approach against asylum seekers, instead of ensuring an orderly management of migration flows, would only exacerbate already difficult situations. Such an approach, rather than a rational and functional answer to a very complex problem, seems to denote a continued lack of mutual trust and the unwillingness to establish a truly fair, genuinely European, asylum system.

Although outside the recast exercise, the rapporteur proposes a modification to the rules on detention: minors and unaccompanied minors shall never be detained

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Recital 3

Text proposed by the Commission

(3) The Common European Asylum System (CEAS) is based on a system for determining the Member State responsible for applicants for international protection and common standards for asylum procedures, reception conditions and procedures and rights of beneficiaries of international protection. Notwithstanding the significant progress that has been made in the development of the CEAS, there are still notable differences between the

Amendment

(3) The Common European Asylum System (CEAS) is based on a system for determining the Member State responsible for applicants for international protection and common standards for asylum procedures, reception conditions and procedures and rights of beneficiaries of international protection. Notwithstanding the significant progress that has been made in the development of the CEAS, there are still notable differences between the

Member States with regard to the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection. These divergences *are important drivers of secondary movement and* undermine the objective of ensuring *that* all applicants *are equally treated* wherever they apply in the Union.

Member States with regard to the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection. These divergences, *together with the fact that there are very different macroeconomic and labour market situations in the Member States,* undermine the objective of ensuring *standardised reception conditions for* all applicants wherever they apply in the Union.

Amendment 2

Proposal for a directive

Recital 5

Text proposed by the Commission

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

Amendment

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for a dignified treatment of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to reduce their standards. *At the same time, frontline Member States are disproportionately facing the weight of large arrivals of migrants and asylum seekers, putting their reception means under heavy pressure and risking a further deterioration in the quality of the standards offered.* More *harmonised* reception standards set at an appropriate level across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the EU.

Amendment 3

Proposal for a directive Recital 8

Text proposed by the Commission

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

Amendment

deleted

Amendment 4

Proposal for a directive Recital 11

Text proposed by the Commission

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

Amendment

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, as soon as possible and at the latest when they lodge their application, of all the obligations with which applicants must comply relating to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted and of any benefits. ***Member States should provide this information through appropriate interpretation and translation wherever necessary so that applicants fully understand and are aware of their rights and of the legal requirements that they must abide by.***

Amendment 5

Proposal for a directive Recital 12

Text proposed by the Commission

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

Amendment 6

Proposal for a directive Recital 13

Text proposed by the Commission

(13) ***Applicants do not have the right to choose the Member State of application.*** An applicant ***must apply*** for international protection in the Member State either of first entry or, in case of legal presence, in the Member State of legal stay or residence. ***An applicant who has not complied with this obligation*** is less likely, ***following a determination of the Member State responsible under Regulation (EU) No XXX/XXX [Dublin Regulation],*** to be

Amendment

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

Amendment

(13) An applicant ***who has deliberately not applied*** for international protection in the Member State either of first entry or, in case of legal presence, in the Member State of legal stay or residence, is less likely to be allowed to stay in the Member State where the application was made.

allowed to stay in the Member State where the application was made *and consequently more likely to abscond. His or her whereabouts should therefore be closely monitored.*

Amendment 7

Proposal for a directive Recital 15

Text proposed by the Commission

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

Amendment

deleted

Amendment 8

Proposal for a directive Recital 16

Text proposed by the Commission

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

Amendment

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

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

Amendment 9

Proposal for a directive Recital 18

Text proposed by the Commission

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

Amendment

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

Amendment 10

Proposal for a directive Recital 19

Text proposed by the Commission

(19) In view of the serious consequences

Amendment

(19) In view of the serious consequences

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

Amendment 11

Proposal for a directive

Recital 30

Text proposed by the Commission

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

Amendment 12

Proposal for a directive

Recital 30 a (new)

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

Amendment

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

Text proposed by the Commission

Amendment

(30a) *Unaccompanied minors should be adequately protected whilst in the Union, in particular by means of identifying unaccompanied children upon disembarkation, registering them, carrying out a preliminary risk assessment and ensuring referral to relevant child protection services.*

Amendment 13

Proposal for a directive Recital 31

Text proposed by the Commission

Amendment

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

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

Amendment 14

Proposal for a directive

Recital 32

Text proposed by the Commission

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

Amendment

(32) Member States should in all circumstances ensure access to health care and a dignified standard of living for applicants in line with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker. Due regard must also be given to applicants with special reception needs. The specific needs of children, in particular with regard to respect for the child's right ***and access*** to education, ***as well as*** access to healthcare ***and childcare***, have to be taken into account ***by the Member States***. The specific needs of women applicants who have experienced gender-based harm should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care. ***Consideration should be given to the fact that any applicant for asylum may have experienced physical violence, including sexual violence, and /or mental trauma and will therefore need appropriate care.***

Amendment 15

Proposal for a directive Recital 34

Text proposed by the Commission

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

Amendment

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions, ***including sector restrictions, working time restrictions and unduly strict administrative formalities***, that effectively hinder an applicant from seeking employment. ***Member States should also take effective steps to ensure that the entry of applicants for international protection into the labour market is not achieved through a lowering of applicable salaries, which could then lead to wage dumping practices. In order to increase integration prospects and self-sufficiency of applicants, immediate access to the labour market and to language courses should be encouraged from the date when the application for international protection was lodged.*** Labour market tests used to give priority to nationals or to other Union citizens or to third-country nationals legally resident in the Member State concerned should not hinder effective access for applicants to the labour market and should be implemented without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession.

Amendment 16

Proposal for a directive Recital 35

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

deleted

Amendment 17

Proposal for a directive

Recital 36

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

(36) Once applicants are granted access to the labour market, they should **enjoy** equal treatment with nationals **as regards** working conditions, **including** pay and dismissal, health and safety requirements at the workplace, working time and leave, taking into account collective agreements in force. Applicants should also enjoy equal treatment as regards freedom of association and affiliation, education and **employment-related education opportunities for adults, including**

professional qualifications and social security.

language learning and training courses for upgrading skills and practical workplace experience, advice services afforded by employment offices, vocational training, the recognition of professional qualifications and social security.

Amendment 18

Proposal for a directive Recital 39

Text proposed by the Commission

Amendment

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

deleted

Justification

Basing restrictions on the “possible temporary nature of the stay of applicants” fails to afford asylum seekers - who are presumptive refugees throughout the examination of their claim - “the most favourable treatment accorded to nations of a foreign country in the same circumstances”, which contravenes Article 17 of the Refugee Convention.

Amendment 19

Proposal for a directive Article 2 – paragraph 1 – point 10

Text proposed by the Commission

Amendment

(10) ‘absconding’: means the action by

(10) ‘absconding’: means the *deliberate*

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

³² OJ C [...], [...], p. [...].

action by an applicant to avoid *the* asylum procedures *and not to remain* available to the competent authorities or to the court or tribunal;

³² OJ C [...], [...], p. [...].

Amendment 20

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

Text proposed by the Commission

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

Amendment

(11) ‘risk of absconding’: means the existence of *specific* reasons in an individual case, which are based on objective *and specific* criteria defined by national law *in accordance with guidelines of the European Union Agency for Asylum*, to believe that an applicant may abscond;

Amendment 21

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

Text proposed by the Commission

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

Amendment

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

torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation .

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

Amendment 22

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

Text proposed by the Commission

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

Amendment

Member States shall inform applicants, as soon as possible and at the latest when they are lodging their application for international protection, *at least* of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall *also* point out *to applicants all relevant information concerning the possible replacement, reduction or withdrawal of material* reception conditions *as* set out in *Article 19* of this Directive.

Amendment 23

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

Member States shall provide applicants with a travel document *without delay, when the presence of the applicant is required in another Member State, in particular for* reasons *such as when an applicant needs to travel to* another State *for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend the marriages or funerals of close relatives. Other such reasons include situations where applicants who have*

been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families. The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued.

Amendment 24

Proposal for a directive

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall not impose unnecessary or disproportionate documentation or other administrative requirements on applicants before granting them the rights to which they are entitled under this Directive for the sole reason that they are applicants for international protection.

Amendment 25

Proposal for a directive

Article 7 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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

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

Amendment 26

Proposal for a directive

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

Text proposed by the Commission

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

Amendment

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

Amendment 27

Proposal for a directive

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

Text proposed by the Commission

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

Amendment

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

Amendment 28

Proposal for a directive

Article 15 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

Member States shall ensure that applicants have access to the labour market no later than 6 months from the date when the application for international protection was lodged.

Amendment 29

Proposal for a directive Article 15 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Where the Member State has accelerated the examination on the merits of an application for international protection in accordance with points [(a) to (f)] of Article [40(1)] of Regulation (EU) No XXX/XXX [Procedures Regulation], access to the labour market shall not be granted.

deleted

Amendment 30

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

Text proposed by the Commission

Amendment

1a. Member States shall provide applicants effective access to language courses from the date when the application for international protection was lodged, in order to integrate them and enable them to capitalise fully on their formal qualification and thus contribute to society.

Amendment 31

Proposal for a directive Article 15 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States are encouraged to provide adequate training on employment legislation and non-discrimination to applicants and to authorities, in order to avoid exploitation in the workplace by means of undeclared work practices and other forms of severe labour exploitation,

and to avoid discrimination from the date when the application for international protection was lodged.

Amendment 32

Proposal for a directive

Article 15 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

(b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;

Amendment

(b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the ***rights and*** benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;

Amendment 33

Proposal for a directive

Article 15 – paragraph 3 – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) education and employment-related education opportunities for adults, including training courses for upgrading skills and practical workplace experience;

Amendment 34

Proposal for a directive

Article 15 – paragraph 3 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) access to educational and vocational guidance services afforded by employment services;

Amendment 35

Proposal for a directive

Article 15 – paragraph 3 – subparagraph 2 – point ii

Text proposed by the Commission

Amendment

(ii) *pursuant to point (c) of this paragraph, to education and vocational training which is directly linked to a specific employment activity;* **deleted**

Amendment 36

Proposal for a directive

Article 15 – paragraph 3 – subparagraph 2 – point iii

Text proposed by the Commission

Amendment

(iii) *pursuant to point (e) of this paragraph by excluding family benefits and unemployment benefits, without prejudice to Regulation (EU) No 1231/2010.* **deleted**

Amendment 37

Proposal for a directive

Article 15 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The restrictions to equal treatment referred to in points (ii) and (iii) shall not be applied to minors, parents of minor children and legal or customary primary caregivers.

Justification

Applying the restrictions set out in paragraph 3, points (ii) and (iii) of art. 15 to minors (or parents of minors and legal or customary primary caregivers, with a subsequent impact on minors) would amount to discrimination under the UN Convention on the Rights of the Child (art. 2(1) [non-discrimination] combined with articles 26(1) and (2) [right to social security] and 28(1)(b) [right to equal access to vocational education]. "Article 2 1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her

parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. "Article 26 1. States Parties shall recognise the right for every child to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law. 2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child..." "Article 28 1. States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;"

Amendment 38

Proposal for a directive Article 15 – paragraph 5

Text proposed by the Commission

Amendment

5. Where applicants have been granted access to the labour market in accordance with paragraph 1, Member States shall ensure that the applicant's document as referred to in Article [29] of Regulation (EU) No XXX/XXX [Procedures Regulation] state that the applicant has permission to take up gainful employment.

deleted

Amendment 39

Proposal for a directive Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Where access to the labour market has been granted in accordance with paragraph 1, Member States shall also ensure that applicants are informed in writing, in a language they understand, of their employment rights in accordance with national law.

Amendment 40

Proposal for a directive Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For minors and families with minor children, material reception conditions shall also ensure a standard of living adequate for the child's physical, mental, spiritual, moral and social development. In line with the principle of non-discrimination, minors and families with minor children falling within the scope of this Directive shall be entitled to access the same family services as national children and national families with children.

Justification

Children cannot only be provided with a standard of living that guarantees their subsistence and protects their health: they are entitled to a standard of living that promotes their development (physical, mental, spiritual etc.), thereby allowing them to plan for their future [article 27, UNCRC].

Amendment 41

Proposal for a directive Article 16 – paragraph 5

Text proposed by the Commission

Amendment

5. When assessing the resources of an applicant, when requiring an applicant to cover or contribute to the cost of the material reception conditions or when asking an applicant for a refund in accordance with paragraph 4, Member States shall observe the principle of proportionality. ***Member States shall also*** take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs. Member States shall in all circumstances ensure that the applicant is

5. When asking an applicant for a refund in accordance with paragraph 4, Member States shall observe the principle of proportionality ***and*** take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs. Member States shall in all circumstances ensure that the applicant is provided with a standard of living which guarantees his or her subsistence and protects his or her physical and mental health.

provided with a standard of living which guarantees his or her subsistence and protects his or her physical and mental health.

Amendment 42

Proposal for a directive Article 17 – paragraph 9 – subparagraph 2

Text proposed by the Commission

Such different conditions shall in any circumstances ensure access to health care in accordance with Article 18 and *a dignified* standard of living for all applicants .

Amendment

Such different conditions shall in any circumstances ensure access to health care in accordance with Article 18 and *an adequate* standard of living for all applicants.

Amendment 43

Proposal for a directive Article 17 a

Text proposed by the Commission

Article 17a

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

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

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

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

Amendment

deleted

Amendment 44

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that applicants, ***irrespective of where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]***, receive the necessary health care which shall include, at ***least***, emergency care and essential treatment of illnesses, including of serious mental disorders.

Amendment

1. Member States shall ensure that applicants receive the necessary ***physical and mental*** health care which shall include, at ***a minimum***, emergency care and essential treatment of illnesses, including of serious mental disorders.

Amendment 45

Proposal for a directive Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

1. ***On the basis of a decision by a competent authority***, Member States may, in the situations described in paragraph 2:

Amendment 46

Proposal for a directive Article 19 – paragraph 2 – point g

Text proposed by the Commission

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

Amendment

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

there; or

Amendment 47

Proposal for a directive

Article 19 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) has seriously breached the law of the Member State to which he or she has made an application for international protection;

Amendment 48

Proposal for a directive

Article 19 – paragraph 2 – point h

Text proposed by the Commission

Amendment

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

(h) has been sent back after having absconded.

Amendment 49

Proposal for a directive

Article 23 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall as soon as **possible and no later than five working days from the moment when** an unaccompanied minor makes an application for international protection take measures to ensure that a guardian represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive. The guardian appointed in accordance with Article [22] of Regulation (EU) No XXX/XXX [Procedures Regulation] may perform those tasks. The unaccompanied minor shall be informed

Member States shall as soon as an unaccompanied minor makes an application for international protection take measures to ensure that a guardian represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive. The guardian appointed in accordance with Article [22] of Regulation (EU) No XXX/XXX [Procedures Regulation] may perform those tasks. The unaccompanied minor shall be informed immediately of the appointment of the guardian. Where an

immediately of the appointment of the guardian. Where an organisation is appointed as guardian, it shall designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Directive. The guardian shall perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 22 (2), shall have the necessary expertise to that end and shall not have a verified record of child-related crimes or offences. In order to ensure the minor's well-being and social development referred to in Article 22 (2)(b), the person acting as guardian shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardians.

organisation is appointed as guardian, it shall designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Directive. The guardian shall perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 22 (2), shall have the necessary expertise ***and receive continuous and appropriate training*** to that end, and shall not have a verified ***criminal*** record, ***with particular regard to any*** of child-related crimes or offences. ***After his or her appointment, the guardian's criminal record shall be regularly reviewed by the competent authorities to identify potential incompatibilities with his or her role.*** In order to ensure the minor's well-being and social development referred to in Article 22 (2)(b), the person acting as guardian shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardians.

Amendment 50

Proposal for a directive

Article 23 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In order to protect unaccompanied minors from exploitation and trafficking, Member States shall identify unaccompanied children upon disembarkation, register them, carry out a preliminary risk assessment and ensure referral to relevant child protection services.

Amendment 51

Proposal for a directive

Article 23 – paragraph 1 – subparagraph 2

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Text proposed by the Commission

Member States shall ensure that a guardian is *not* placed in charge of a *disproportionate* number of unaccompanied minors at the same time *that would render him or her unable* to perform his or her tasks effectively. Member States shall appoint entities or persons responsible for monitoring at regular intervals that guardians perform their tasks in a satisfactory manner. Those entities or persons shall also have the competence to review complaints lodged by unaccompanied minors against their guardian.

Amendment

Member States shall ensure that ***guardians are*** placed in charge of ***an adequate and limited*** number of unaccompanied minors at the same time ***to allow them to be able*** to perform ***their*** tasks effectively. Member States shall appoint entities or persons responsible for monitoring at regular intervals that guardians perform their tasks in a satisfactory manner. Those entities or persons shall also have the competence to review complaints lodged by unaccompanied minors against their guardian. ***To this end, unaccompanied minors shall be given information, in a child-friendly manner and in a language they understand, about who these entities or persons are and how to report complaints against their guardians in confidence and safety.***

Justification

When mentioning the necessary expertise the guardian should have, it is important to specify, as the Reception Directive does, that such expertise be aimed at enabling the guardian to perform his or her duties in the best interests of the child. Such expertise needs to be combined with appropriate and continuous training provided by the competent authorities. That the candidate to a position of guardianship hasn't a verified record of child-related crimes or offences is not enough. Other crimes or offences should also lead to discard a candidate, as the guardian is responsible for the overall well-being of the unaccompanied minor and should thus be a person of unblemished integrity. Even after appointment, regular checks of his/her criminal record are made necessary by the sensitive nature of the role. The expression "a disproportionate number" leaves too much room for interpretation, which may lead to misuses. Need to be more prescriptive: the expression "adequate and limited number of unaccompanied minors" has this objective. The addition at the end of the subparagraph of paragraph 1 aims at encouraging and enabling children to participate in and contribute to the monitoring of guardianship systems.

Amendment 52

Proposal for a directive
Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall provide

appropriate training and support for staff likely to encounter the physical and mental health needs of applicants entering the labour market.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Standards for the reception of applicants for international protection (recast)
References	COM(2016)0465 – C8-0323/2016 – 2016/0222(COD)
Committee responsible Date announced in plenary	LIBE 15.9.2016
Opinion by Date announced in plenary	EMPL 15.9.2016
Rapporteur Date appointed	Brando Benifei 9.9.2016
Discussed in committee	28.2.2017 22.3.2017
Date adopted	11.4.2017
Result of final vote	+: 37 -: 9 0: 4
Members present for the final vote	Laura Agea, Guillaume Balas, Brando Benifei, Mara Bizzotto, Enrique Calvet Chambon, David Casa, Martina Dlabajová, Lampros Fountoulis, Elena Gentile, Marian Harkin, Czesław Hoc, Agnes Jongerius, Jan Keller, Agnieszka Kozłowska-Rajewicz, Jean Lambert, Jérôme Lavrilleux, Jeroen Lenaers, Javi López, Thomas Mann, Dominique Martin, Anthea McIntyre, Joëlle Mélin, Elisabeth Morin-Chartier, Emilian Pavel, Sofia Ribeiro, Maria João Rodrigues, Claude Rolin, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Yana Toom, Ulrike Trebesius, Renate Weber, Tatjana Ždanoka
Substitutes present for the final vote	Maria Arena, Georges Bach, Deirdre Clune, Tania González Peñas, Paloma López Bermejo, Csaba Sógor, Helga Stevens, Neoklis Sylikiotis, Anders Primdahl Vistisen, Flavio Zanonato, Gabriele Zimmer
Substitutes under Rule 200(2) present for the final vote	Pilar Ayuso, Sergio Gaetano Cofferati, Andrejs Mamikins

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

37	+
ALDE	Enrique Calvet Chambon, Marian Harkin, Yana Toom, Renate Weber
GUE/NGL	Tania González Peñas, Paloma López Bermejo, Neoklis Sylikiotis, Gabriele Zimmer
PPE	Pilar Ayuso, Georges Bach, Deirdre Clune, Agnieszka Kozłowska-Rajewicz, Jérôme Lavrilleux, Jeroen Lenaers, Thomas Mann, Elisabeth Morin-Chartier, Sofia Ribeiro, Claude Rolin, Anne Sander, Sven Schulze, Csaba Sógor
S&D	Maria Arena, Guillaume Balas, Brando Benifei, Sergio Gaetano Cofferati, Elena Gentile, Agnes Jongerius, Jan Keller, Javi López, Andrejs Mamikins, Emilian Pavel, Maria João Rodrigues, Siôn Simon, Jutta Steinruck, Flavio Zanonato
VERTS/ALE	Jean Lambert, Tatjana Ždanoka

9	-
ECR	Czesław Hoc, Anthea McIntyre, Helga Stevens, Ulrike Trebesius, Anders Primdahl Vistisen
ENF	Mara Bizzotto, Dominique Martin, Joëlle Mélin
NI	Lampros Fountoulis

4	0
ALDE	Martina Dlabajová
EFDD	Laura Agea
PPE	David Casa, Romana Tomc

Key to symbols:

+ : in favour

- : against

0 : abstention