



**COUNCIL OF
THE EUROPEAN UNION**



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**Asylum Procedures Directive: more protective and more
harmonised standards for granting and withdrawing
international protection in the EU**

The Council adopted its position at first reading on the proposal for an amended directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (Recast) ([8260/1/13](#)).

The asylum procedures directive sets common standards on procedures that member states must apply for granting and withdrawing refugee status so as to ensure that applications for international protection are treated alike, irrespective in which member state they are examined. The objective of the recast of the directive is to make these EU standards more protective for applicants for international protection and to achieve more harmonisation of national asylum procedures. Furthermore, these standards should better enable member states to operate asylum procedures that are cost-effective and capable of tackling potential abusive claims while taking into account the differences amongst the national legal systems. Particular attention is given to more frontloading of services, advice and expertise so as to achieve an efficient and high-quality examination process that results in robust first instance decisions.

Given the agreement reached in the trilogue meetings between both co-legislators, the European Parliament is expected to approve at the next plenary session (10-13 June) the Council's positions at first reading without amendments ("early second reading agreement"). The legal act will be then formally adopted and member states will need to transpose the new provisions into national law within two years.

Denmark, Ireland and the United Kingdom are not taking part in the amended directive.

P R E S S

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What's new?

- More extensive **training** requirements for personnel of authorities that examine applications for international protection and for personnel of other authorities that can come into contact with applicants for international protection.
- Specific rules for ensuring adequate **access to the asylum procedure** such as time limits for the registration of an application for international protection.
- Rules concerning **medical examinations** so as to ensure that signs that might result from past persecution or serious harm are included in the assessment of the asylum application. These rules include *inter alia* provisions indicating when the medical examination is to be paid out of public funds or when they are at the cost of the applicant.
- Clear **time limits for concluding the examination procedure** of an application for international protection, whereby, as a rule, an asylum examination must be concluded within 6 months after the application was lodged. In case of an uncertain situation in the country of origin which is expected to be temporary, member states may, under certain conditions, postpone concluding the procedure up to maximum 21 months.
- A reduced number of grounds for both **acceleration** of the asylum procedure and examinations in a **border procedure** compared to the directive currently in force.
- In case member states, as a consequence of a **large number of persons applying simultaneously**, derogate from the time limits for registration of the application and for conclusion of the examination of the application or allow other authorities than the determining authority to conduct asylum interviews, they must **inform the Commission** about this as soon as the reasons for applying these exceptional measures have ceased to exist and at least on an annual basis.
- Member states must reflect the asylum interview in a **report** containing all substantial elements or in a transcript, inform the applicant on the content thereof and allow him, under certain conditions, to make comments. Member States may also provide for an audio or audio visual recording of the interview. The applicants and their legal advisor or counsellor are, under certain conditions, entitled to have access to the report, the transcript and the recording.
- Member States must ensure that applicants, on request and under certain conditions, are provided with **legal and procedural information free of charge** in procedures at first instance. Furthermore, member states must ensure that, under certain conditions, **free legal assistance and representation** is granted on request in appeals procedures.
- With a view to ensuring effective access to asylum procedures and the right conditions for substantiating the application, member states must make an **assessment whether the applicant is in need of special procedural guarantees**.

- **Minors** are entitled to special guarantees. The directive provides for specific procedures for examining applications for international protection of unaccompanied minors by defining the conditions under which member states may examine such applications in an accelerated procedure, which has shorter time limits than a normal procedure, or in a border procedure, which has shorter time limits and implies retaining the applicant temporarily at the border. Furthermore, special safeguards, such as interpretation and legal assistance, apply for unaccompanied minors if they make a request to remain on the territory of a member state pending an appeal against the negative decision on their asylum application.

Member states must also ensure that interviews with minors are conducted in a child appropriate manner. Furthermore, unaccompanied minors need to be represented by a representative and are entitled to receive, free of charge, legal and procedural information also for the procedures for the withdrawal of international protection.

- The directive provides for special procedures for applicants for international protection that member states identify as **victims of torture, rape or other serious forms of psychological, physical or sexual violence**. Applications for international protection of these applicants can only be examined in accelerated or border procedures if they can be provided with adequate support in such procedures. Furthermore, special safeguards, such as interpretation and legal assistance, apply for these applicants if they make a request to remain on the territory of a member state pending an appeal against the negative decision on their asylum application.
- A set of rules on the right to remain on the territory pending an appeal that is based on the notion of an **effective remedy** while acknowledging the need to have effective and efficient asylum systems capable of preventing misuse. Against that background, as a rule, member states must automatically **allow applicants to remain in the territory pending an appeal**
- In a limited number and provided that certain conditions are fulfilled, a member state may provide **cases in which an appeal does not have automatic suspensive effect** leaving it to a court or tribunal to rule whether or not the applicant may remain on the territory, either upon request of the applicant or acting on its own motion. In these cases, the applicant is allowed to remain on the territory pending the outcome of the procedure to rule whether or not the applicant may remain on the territory. Furthermore, in all cases, the principle of *non refoulement* - a person is not sent back to a country where he is in danger- applies.
- Rules on **subsequent applications** that enable member states to distinct better between persons who make a subsequent application because, after the previous application, protection needs have arisen *sur place* and persons without protection needs that make a subsequent application only to delay removal from the territory. Persons making a subsequent application without protection needs will have fewer possibilities to delay removal from the territory.

- Rules that give member states more possibilities to **remove from the territory** an applicant for international protection who reports again to the authorities after having avoided contact for more than 9 months.
 - **A more coordinated application by member states which third countries they consider safe.** Furthermore, member states must allow applicants to challenge the application of the European safe third country concept on the grounds that the country is not safe in their particular circumstances.
 - In case of **national security considerations** and with a view to ensuring equality of arms, member states must provide access to the information or sources in question available to the courts and tribunals in appeal and establish in national law procedures guaranteeing respect of the applicant's rights of defence.
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