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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2024/1348 as regards the application of the 'safe third country' concept
- Outcome of the European Parliament's first reading
(Strasbourg, 9 to 12 February 2026)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this proposal at first reading.

¹ OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) Javier ZARZALEJOS (EPP, ES) presented on behalf of LIBE a compromise amendment (amendment number 13) to the abovementioned proposal for a Regulation, for which the rapporteur Lena DÜPONT (EPP, DE) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. In addition, “The Left”, “S&D” and “Greens/EFA” political groups tabled proposals to reject the Commission proposal (amendments number 14, 15 and 16 respectively).

II. VOTE

When it voted on 10 February 2026, the plenary adopted the compromise amendment (amendment number 13) to the abovementioned proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

P10_TA(2026)0026

Application of the ‘safe third country’ concept

European Parliament legislative resolution of 10 February 2026 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2024/1348 as regards the application of the ‘safe third country’ concept (COM(2025)0259 – C10-0088/2025 – 2025/0132(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2025)0259),
 - having regard to Article 294(2) and Article 78(2), point (d), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C10-0088/2025),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 23 October 2025¹,
 - having regard to the provisional agreement approved by the committee responsible under Rule 75(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 19 December 2025 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 60 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A10-0255/2025),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

Position of the European Parliament adopted at first reading on 10 February 2026 with a view to the adoption of Regulation (EU) 2026/... of the European Parliament and of the Council amending Regulation (EU) 2024/1348 as regards the application of the concept of safe third country

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2), point (d), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

¹ Opinion of 23 October 2025 (not yet published in the Official Journal).

² Position of the European Parliament of 10 February 2026.

Whereas:

- (1) Regulation (EU) 2024/1348 of the European Parliament and of the Council³ *establishes* a common procedure for granting and withdrawing international protection in the Union. The Commission has reviewed the various elements of the concept of safe third country, including criteria of safety, due process, the connection criterion and the provisions on effective remedy. That review led to the conclusion that there was scope for improving the applicability of the concept of safe third country while preserving the legal safeguards for applicants and ensuring the respect for fundamental rights.

³ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L, 2024/1348, 22.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1348/oj>).

- (2) ***When applying the concept of safe third country as a ground for inadmissibility, Regulation (EU) 2024/1348 requires the existence of a connection between the applicant and the third country on the basis of which it would be reasonable for the applicant to go to that third country. However,*** the existence of a connection between the applicant and the safe third country is not required by international refugee law, in particular the Geneva Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol relating to the Status of Refugees of 31 January 1967, or international human rights law, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms. Therefore, Member States should have the possibility to apply the concept of safe third country where no connection can be established between the applicant and the safe third country concerned, ***under the conditions provided for in Regulation (EU) 2024/1348 as amended by this Regulation.***

- (3) Member States should **retain** the possibility to apply the concept of safe third country on the basis of a connection between the applicant and the third country concerned on the basis of which it would be reasonable for the applicant to go to that third country. ***Member States should, while fully respecting the parameters set out in the case law of the Court of Justice of the European Union, be able to apply the concept of safe third country on the basis of a connection as defined in conformity with national law or practice, in so far as specifically defined therein. The connection between the applicant and the third country could be considered established in particular where members of the applicant's family are present in that third country, where the applicant has settled or stayed in that third country, or where the applicant has linguistic, cultural or other similar ties with that third country.***

- (4) Member States should also have the possibility to apply the concept of safe third country to applicants who transited through the territory of a third country before entering the Union, as it is reasonable to expect that a person seeking international protection could have *requested effective* protection in a safe third country through which that person transited. Previous transit through a safe third country provides an objective link between the applicant and the third country concerned. *For the purposes of this Regulation, transit through a third country could include a situation where an applicant has passed through or stayed on the territory of a third country on the way to the Union, or where the applicant has been at the border or in a transit zone of a third country, where that applicant has had the possibility to request effective protection from the authorities of the third country concerned.*

- (5) *Due to a need to strengthen cooperation with third countries on addressing irregular migration to the Union, Member States should also have the possibility to apply the concept of safe third country on the basis of an agreement or an arrangement, regardless of its formal designation, concluded by the Union or by the Member States with the third country concerned in a manner conducive to legal certainty and transparency, provided that the agreement or arrangement concerned contains provisions requiring the examination of the merits of any requests for effective protection made in that third country by applicants covered by that agreement or arrangement. The examinations by the competent authorities of the third country with which the Union or the Member States have concluded an agreement or arrangement could, solely for the purposes of granting effective protection, include different types of procedures for processing cases, such as simplified, group or prima facie procedures.*

- (6) *With a view to ensuring closer Union-wide coordination and increasing leverage and cooperation in dialogues with third countries Member States should be able to apply the concept of safe third country to applicants under agreements or arrangements to which the Union, one or more of its Member States or one or more Member States and third countries, on the one hand, and a safe third country, on the other hand, are parties. In the interest of effectiveness and avoiding incompatibilities, as the subject matter of agreements falling within the scope of this Regulation may fall within the shared competence of the Union and of the Member States, the Commission and the Member States should cooperate closely when concluding such agreements, with a view to ensuring unity in the international representation of the Union and its Member States. In particular, in addition to, and without prejudice to, the procedure set out in Article 218 of the Treaty on the Functioning of the European Union (TFEU), the Commission should, during the negotiations of an agreement with a third country ('Union-level agreement'), take due account of any existing bilateral or multilateral agreements between a Member State and the same third country and take due account of the consequences of the Union-level agreement for those bilateral or multilateral agreements and for the cooperation and overall relations of the Member State with that third country in the field of migration, including as regards the political and economic matters at stake.*

- (7) *Agreements or arrangements may be concluded by the Union with third countries, without prejudice to the division of competences between the Member States and the Union. Such Union-level instruments can contribute towards providing a common Union legal and procedural framework for cooperation on asylum and migration, ensuring consistent implementation of Union law and standards, and reinforcing mutual trust between Member States in the application of the concept of safe third country.*
- (8) In view of the situation of vulnerability of unaccompanied minors and of the need for targeted support, the concept of safe third country should be applied to unaccompanied minors only where a connection with, or transit through, the third country concerned can be established ■ and the conditions set out in Article 59(6) of Regulation (EU) 2024/1348 are fulfilled. Member States should ensure that the best interests of the child are a primary consideration in all decisions concerning minors. *Member States should also take due account of the principle of family unity when applying the concept of safe third country.*

- (9) It is necessary to enhance transparency regarding the conclusion by Member States of agreements and arrangements with safe third countries to support Member States and the Commission in establishing a comprehensive approach on the external dimension of migration and in coordinating their efforts towards third countries for applying the concept of safe third country. That would also allow for monitoring whether agreements or arrangements with third countries fulfil the conditions set out in **Regulation (EU) 2024/1348 as amended by** this Regulation. It should also enable a more consistent and coherent application of the concept of safe third country across the Union and contribute to the overall proper functioning of the Common European Asylum System. To this end, **upon the conclusion of an agreement or arrangement with a third country**, Member States should be required to inform the Commission and other Member States **of that** agreement or arrangement **before it is provisionally applied, or before it enters into force, whichever occurs first**.
- (10) ***In accordance with the applicable rules of the Treaties, the European Parliament and the Council should be provided with relevant information on agreements or arrangements between the Union and third countries related to the concept of safe third country.***

(11) *In order to ensure that the legitimate interests linked to the management of the external borders and the internal security of the Member States concerned are sufficiently protected, in circumstances where a Member State negotiates an agreement or arrangement for the purposes of Regulation (EU) 2024/1348 as amended by this Regulation with one of the Union's neighbouring third countries, the Member States that share a common border with that third country should, at an appropriate time before the conclusion of the agreement or arrangement concerned, be informed of those negotiations, in full respect of the principle of sincere cooperation laid down in Article 4(3) of the Treaty on European Union (TEU). In addition, to avoid any non-compliance with Union law and to further enhance transparency with regard to agreements or arrangements between Member States and third countries, Member States should endeavour to keep the Commission and other Member States informed of the progress of negotiations with a third country relating to agreements or arrangements authorised under this Regulation, before final agreement has been reached by the parties, including with a view to seeking the Commission's assessment of the compatibility with Union law of the envisaged agreement or arrangement under negotiation.*

- (12) Member States should be able to take *all* the necessary measures to *prevent* the risk of applicants to whom the concept of safe third country is being applied **█** absconding, including by restricting freedom of movement pursuant to Article 9 of Directive (EU) 2024/1346 of the European Parliament and of the Council⁴, or by detaining the applicant concerned in accordance with Article 10 of that Directive, in order to assess the admissibility of applications.

⁴ Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection (OJ L, 2024/1346, 22.5.2024, ELI: <http://data.europa.eu/eli/dir/2024/1346/oj>).

(13) *Regulation (EU) 2024/1348 provides that, where an application is rejected as inadmissible on the basis of the concept of safe third country, the determining authority should provide the applicant with a document informing the authorities of the third country that the application has not been examined in substance in the Union as a consequence of the application of the concept of safe third country. The Union and its Member States might conclude such agreements or arrangements as authorised under this Regulation, which might include provisions on procedures that are different to the procedure provided for in Regulation (EU) 2024/1348, for informing the authorities of the third country concerned of the transfer of applicants from the territory of the Member States to that third country. Consequently, where the concept of safe third country is being applied with regard to a third country with which the Union or a Member State has concluded such an agreement or arrangement, the procedure laid down in Regulation (EU) 2024/1348 should apply without prejudice to any procedure for informing the authorities of the third country set out in the relevant provisions of that agreement or arrangement.*

- (14) To enhance procedural efficiency, the applicant should not have an automatic right to remain on the territory of a Member State for the purpose of an appeal procedure against a decision on inadmissibility taken on the basis of the concept of safe third country. ***In addition, the applicant should not have an automatic right to remain on the territory of a Member State for the purpose of an appeal procedure against a decision on inadmissibility taken on the basis that a Member State other than the Member State in which the appeal is lodged has granted the applicant international protection.***

Nonetheless, the enforcement of the corresponding return decision should be suspended during the time limit within which the applicant concerned can exercise his or her right to an effective remedy before a court of first instance and, when such an appeal is lodged, where there is a risk of a breach of the principle of non-refoulement.

- (15) Since the objective of this Regulation, namely the revision of the conditions for the application of the concept of safe third country, cannot be achieved by the Member States and can only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (16) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified, by letter of **22 July 2025**, its wish to take part in the adoption and application of this **Regulation**.
- (17) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (18) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (19) In light of the application of Regulation (EU) 2024/1348 from 12 June 2026 and in order to provide legal certainty as soon as possible, this Regulation should enter into force on the day following that of its publication.
- (20) Regulation (EU) 2024/1348 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2024/1348 is amended as follows:

(1) Article 59 is amended as follows:

(a) *paragraph 5* is amended as follows:

(i) point (b) is replaced by the following:

‘(b) one of the following conditions is met:

- (i) there is a connection between the applicant and the third country concerned on the basis of which it would be reasonable for him or her to go to that country;
- (ii) the applicant has transited through the third country concerned *on the way to the Union; or*
- (iii) there is an agreement or an arrangement *concluded between the Union, one or more Member States or one or more Member States and third countries, on the one hand, and* the third country concerned, *on the other hand*, requiring the examination of the merits of *any* requests for effective protection made *in the third country concerned* by applicants *covered by* that agreement or arrangement.’;

- (ii) the following subparagraphs are added:

‘Where the Commission enters into negotiations for an agreement on behalf of the Union with a third country (‘Union-level agreement’) with a view to concluding an agreement as referred to in the first subparagraph, point (b)(iii), it shall take any existing bilateral or multilateral agreements between the Member States and the same third country into account in the course of the negotiations, including the potential impact of the Union-level agreement on those bilateral or multilateral agreements and on the Member States’ cooperation with that third country in the field of migration.

An agreement concluded by the Union and a third country falling within the scope of the first subparagraph, point (b)(iii), shall take precedence over any bilateral or multilateral agreements or arrangements concluded between individual Member States and the same third country, in so far as their provisions are incompatible with those of that Union-level agreement.

A Member State shall, at an appropriate time, inform the relevant Member States of negotiations on an agreement or arrangement as referred to in the first subparagraph, point (b)(iii), with a third country that shares a common border with those Member States.

Member States shall inform the Commission and the other Member States *of any bilateral or multilateral agreements or arrangements concluded in accordance with the first subparagraph, point (b)(iii), prior to their entry into force, or, where an agreement or arrangement is to be applied provisionally, before the beginning of its provisional application. The Commission and the other Member States shall also be informed of any subsequent changes to, or the termination of, such agreements or arrangements.*’;

(b) *in paragraph 6, the following sentence is added:*

‘Member States shall not apply paragraph 5, first subparagraph, point (b)(iii), where the applicant is an unaccompanied minor.’;

(c) *in paragraph 8, point (b) is replaced by the following:*

‘(b) provide him or her with a document informing the authorities of the third country in question, in the language of that country, that the application has not been examined in substance in the Union as a consequence of the application of the concept of safe third country, without prejudice to the application of different procedures for informing the authorities of the third country set out in agreements or arrangements already in place between the Union or that Member State and the third country concerned, as referred to in paragraph 5, first subparagraph, point (b)(iii).’;

(2) in Article 68(3), point (b) is replaced by the following:

‘(b) a decision which rejects an application as inadmissible pursuant to Article 38(1), point (a), (b), (c), (d) or (e), or Article 38(2), except where the applicant is an unaccompanied minor subject to the border procedure.’.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament

The President

For the Council

The President
