

Standards for the reception of applicants for international protection. Recast

2008/0244(COD) - 26/06/2013 - Final act

PURPOSE: to recast [Council Directive 2003/9/EC](#) laying down minimum standards for the reception of asylum seekers in the Member States

LEGISLATIVE ACT: Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

CONTENT: the European Parliament and the Council adopted a Directive recasting the 2003 Directive on the standards for the reception of asylum seekers.

The new Directive will provide better and more harmonised standards of living to applicants for international protection throughout the European Union, irrespective in which member state the application has been made thus contributing to the establishment of a **common European asylum procedure**.

It falls within the context of the revision of texts relating to asylum and the setting in place of a [Common European Asylum System](#).

The main aspects of this revision may be summarised as follows:

Definition of “family members”: the revised Directive amends the definition of “family members” in line with the provisions of the [Directive on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection](#). Compared with the definition in the previous Directive (2003/9/EC), which covers the asylum seeker’s spouse, or his/her non-married partner, and children who are minors and unmarried, **the definition is expanded to include the father, the mother or the adult responsible for the applicant, when the latter is an unmarried minor.**

Reception conditions: besides the existing standards, the revised Directive introduces the following changes:

- **detention:** the revised Directive introduces a broad legislative framework governing the placing in detention of asylum seekers:

- **reasons for placing in detention:** a list of reasons for detention was drawn up mainly to counter abuses of the system and in liaison with a **return procedure** in the context of the [“Return” Directive](#), to prepare the return and/or carry out the removal process. The principle is that the applicant is only placed in detention if other less coercive measures cannot be effectively applied. Among other things, a Member State may place an applicant in detention if it has reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;
- **guarantees for detained applicants:** an applicant shall be detained only for as short a period as possible; a provision was introduced according to which the Member State concerned shall provide for a speedy judicial review of the lawfulness of detention to be conducted *ex officio* and/or at the request of the applicant, and as rapidly as possible. To respect the right to effective remedy, asylum

applicants placed in detention **must be informed immediately in writing in a language they understand of the reasons for this detention** and the appeals procedures, as well as the possibility to request free legal assistance and representation;

- **conditions of detention:** detention of applicants shall take place, as a rule, in **specialised detention facilities**. Detained applicants shall be kept separately from other third-country nationals. Where a Member State cannot provide accommodation in a specialised detention facility and is obliged to resort to prison accommodation, the detained applicant shall be kept separately from ordinary prisoners. Independently of their detention conditions, asylum seekers shall keep their rights to privacy in the context of their communications with family representatives or members;
- **detention of vulnerable persons or those with special needs:** the health, including mental health, of applicants in detention who are vulnerable persons shall be of **primary concern** to national authorities. Where vulnerable persons are detained, Member States shall ensure regular monitoring and adequate support taking into account their particular situation, including their health. It is stipulated that **minors shall be detained only as a measure of last resort** and that **unaccompanied minors** may only be placed in detention in certain exceptional circumstances and must **never be detained in prison accommodation**. The minor's best interests shall be a primary consideration for Member States.

Employment: the Directive reduces from 12 to **9 months** the period applicants have to wait to gain access to the labour market. However, for reasons of labour market policies, Member States may give priority to Union citizens and nationals of States parties to the Agreement on the European Economic Area, and to legally resident third-country nationals.

Other rules on material reception conditions: throughout the length of the procedure, the minor children of asylum applicants may access the education system, as well as vocational training. Provision is made for the following:

- where Member States provide material reception conditions in the form of financial allowances or vouchers, the amount thereof shall be determined on the basis of the level(s) established by the Member State concerned either by law or by the practice to ensure adequate standards of living for nationals. Moreover, it is stipulated that **Member States may grant less favourable treatment to applicants compared with nationals in this respect**;
- the introduction of an appropriate system to limit or withdraw material reception conditions, while guaranteeing asylum seekers **a dignified standard of living**. Member States may reduce or, in exceptional and duly justified cases, withdraw material reception conditions where an applicant abandons their place of residence, does not comply with reporting duties or has lodged a subsequent application. Moreover, a Member State may limit material reception conditions where an applicant has delayed in making his/her application or where an applicant has concealed financial resources.

Vulnerable persons with special reception needs: the Directive includes special provisions for the protection of victims of **female genital mutilation**. The needs of minors and unaccompanied minors are also taken into account on the basis of an assessment.

Member States shall ensure that persons who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care. Those working with victims of torture, rape or other serious acts of violence shall have had and shall continue to receive appropriate training concerning their needs, and shall be bound by confidentiality rules.

Access to healthcare: Member States shall ensure that applicants receive the necessary health care which shall include, at least, **emergency care and essential treatment of illnesses and of serious mental disorders** (especially for those applicants with special needs).

Appeals: asylum seekers shall have the right of access to effective remedy to appeal against decisions relating to the granting, withdrawal or limitation of benefits and decisions relating to residence and freedom of movement. In such cases, the conditions for granting free legal assistance and representation are the same as in the case of the verification of a detention decision, except if the appeal has no tangible prospect of success.

Other technical provisions:

- 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;
- Member States shall start tracing **the members of the unaccompanied minor's family**, where necessary with the assistance of international or other relevant organisations, as soon as possible after an application for international protection is made, whilst protecting his or her best interests.

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

Report: by 20 July 2017 at the latest, the Commission shall report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary.

Territorial provisions: Denmark, Ireland and the UK do not take part either in the adoption of this Regulation or in its application, in accordance with the relevant provisions of the Treaty.

ENTRY INTO FORCE: 19 July 2013.

TRANSPOSITION: most of the provisions have to be transposed by 20 July 2015.

Directive 2003/9/EC is repealed for the countries bound by this Directive, with effect from 21 July 2015.