

International protection: Member State responsible for examining the application of unaccompanied minors

2014/0202(COD) - 18/05/2015 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Cecilia WIKSTRÖM (ADLE, SE) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 604/2013 as regards determining the Member State responsible for examining the application for international protection of unaccompanied minors with no family member, sibling or relative legally present in a Member State.

The committee recommended that the European Parliament's position adopted at first reading of the ordinary legislative procedure should amend the Commission proposal as follows:

Background: during the negotiations on the recast of the [Dublin II Regulation](#), which was formally adopted in June 2013 as part of the Common European Asylum System, the co-legislators could not agree on a final text for Article 8(4). Parliament was convinced that, in case an unaccompanied minor without family in the Union lodges an application in a Member State, the Member State where the minor is present should be the Member State responsible for examining his/her application for international protection, in order to, **in the best interests of the child**, avoid unnecessary transfers of this minor. This was equally suggested in the Commission proposal contrary to the Council's position. Council was convinced that the unaccompanied minor should be sent back to the Member State where he/she made the first application for asylum.

The final political agreement at that time kept Article 8(4) unchanged as compared to the former version of the Dublin Regulation, except that Parliament managed to have the new Article 8(4) completed with the addition "provided that it is in the best interests of the minor".

Court of Justice ruling: with regard to Court case C-648/11 which was pending with the Court of Justice and given that the outcome of that case would contain the guiding principle for shaping the rule of Article 8(4), the Court's judgement clarified that efficient application of the best interest of the child, should result in **no unnecessary transfers and no unnecessary prolongation of the procedure for determining the Member State responsible** and guarantee for immediate access to the refugee determination procedure.

The final conclusion of the Court is that when an unaccompanied minor without legally present family in the Union has lodged asylum applications in more than one Member State, **the Member State where the minor is present after having lodged his/ her application is responsible for the examination of the determination procedure.**

Objective of the Regulation: in line with the Court of Justice's guiding principle, Members stated that the objective of this Regulation is to guarantee effective access to assessment of the applicant's international protection status. As unaccompanied minors form a category of particularly vulnerable applicants, the procedure for determining the Member State responsible should not be prolonged more than is strictly necessary and, therefore, considering primarily the best interests of the child, unaccompanied minors should not, as a rule, be transferred among Member States and **their application should be examined by the Member State where the unaccompanied minor is present after having lodged an application.**

Taking account of each individual situation: a new recital stipulated that the assessment of the best interests of the child in the context of a decision on the determination of the Member State responsible for examining an application for international protection should always be carried out on an **individual basis and before the decision on the Member State responsible is taken.**

Information from other Member States: lastly, it is stated that the Member State, which is responsible for the application for an unaccompanied minor, shall inform the following Member States, as applicable, thereof.