

Reception Conditions Directive

2016/0222(COD) - 13/07/2016 - Legislative proposal

PURPOSE: to recast the Directive laying down standards for the reception of applicants for international protection (recast).

PROPOSE ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Common European Asylum System is based on rules determining the **Member State responsible for applicants for international protection**, common standards for asylum procedures, reception conditions, the recognition and protection of beneficiaries of international protection.

Notwithstanding the significant progress that has been made in the development of the Common European Asylum System (CEAS), there are still notable differences between the Member States in 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 contribute to secondary movements and asylum shopping, create pull factors, and ultimately lead to an uneven distribution among the Member States of the responsibility to offer protection to those in need.

Recent large scale arrivals have shown that Europe needs an effective and efficient asylum system able to assure a fair and sustainable sharing of responsibility between Member States and to ensure the quality of the decisions made.

Against this backdrop, the Commission presented a first set of proposals to **reform the Common European Asylum System** delivering on three priorities identified in its Communication:

- [establishing a sustainable and fair Dublin system](#) for determining the Member State responsible for examining asylum applications,
- [reinforcing the Eurodac system](#) to better monitor secondary movements and facilitate the fight against irregular migration,
- establishing a genuine [European Union Agency for Asylum](#) to ensure the well-functioning of the European asylum system.

With the second package, the Commission is completing the reform of the Common European Asylum System by adopting four additional proposals:

1. a [proposal replacing the Asylum Procedures Directive with a Regulation](#), harmonising the current disparate procedural arrangements in all Member States and creating a genuine common procedure;
2. a [proposal replacing the Qualification Directive with a Regulation](#), setting uniform standards for the recognition of persons in need of protection and the rights granted to beneficiaries of international protection;
3. this proposal revising the Reception Conditions Directive;
4. [a structured Union resettlement framework](#), moving towards a more managed approach to international protection within the EU.

CONTENT: the proposed Reception Conditions Directive provides for minimum harmonisation of standards for the reception of applicants for international protection in the EU. Reception conditions

however 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.

This has contributed to secondary movements and has put pressure on certain Member States in particular.

In view of this, this proposal aims to:

1. Further harmonisation of reception conditions in the EU: This will both ensure that the treatment of applicants is dignified across the EU, in accordance with fundamental rights and rights of the child, and to reduce secondary movements of migrants.

The main amendments of the new measure concern:

- **scope:** the Reception Conditions Directive continues to apply to all third-country nationals and stateless persons who make an application for international protection on the territory of any of the Member States, as long as they are allowed to remain on the territory as applicants and as soon as the application is made. An exception is introduced for cases where an applicant is irregularly present in another Member State than the one in which he or she is required to be present. In this situation, he or she is not entitled to material reception conditions, schooling and education of minors as well as employment and vocational training. The proposal clarifies that **applicants will however always be entitled to health care and to a dignified standard of living, in accordance with fundamental rights**, to cover the applicant's subsistence and basic needs both in terms of physical safety, dignity and interpersonal relationships. However, in order to ensure respect for the fundamental rights of the child, Member States should provide minors with access to suitable educational activities pending the transfer to the Member State responsible.
- The proposal makes it clear that the right to a dignified treatment applies also in cases where a Member State, in duly justified cases, is **exceptionally applying different standards** of material reception conditions from the one required by the Reception Conditions Directive.
- **the definition of family members:** this is extended by including family relations which were formed after leaving the country of origin but before arrival on the territory of the Member State. This reflects the reality of migration today where applicants often stay for long periods of time outside their country of origin before reaching the EU, such as in refugee camps;
- **indicators:** the proposal requires Member States to take into account **operational standards and indicators on reception conditions** currently being developed by European Asylum Support Office;
- **urgent situations:** the proposal obliges Member States to draw up, and regularly update, **contingency plans** setting out the measures foreseen to be taken to ensure adequate reception of applicants in cases where the Member State is confronted with a disproportionate number of applicants. The proposal also requires the Member States to inform the Commission and the European Union Agency for Asylum whenever their contingency plan is activated;
- **particular needs of certain applicants:** the proposal clarifies that persons with special reception needs are persons who are in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in the Reception Conditions Directive, regardless of whether these persons are considered vulnerable. The proposal also includes more detailed rules for assessing, determining, documenting and addressing applicants' special reception needs as soon as possible and throughout the reception period (e.g. a doctor or a psychologists);
- **provisions concerning the guardian of unaccompanied minors:** the proposal introduces stricter time limits, within five working days from the moment the application was made, for the Member States to assign a guardian to represent and assist an unaccompanied minor.

2. Reducing reception-related incentives for secondary movements within the EU: to ensure an orderly management of migration flows, facilitate the determination of the Member State responsible and to prevent secondary movements, it is essential that the applicants remain in the Member State which is

responsible for them and do not abscond. The introduction of **more targeted restrictions to the applicants' freedom of movement** and strict consequences when such restrictions are not complied with will contribute to more effective monitoring of the **applicants' whereabouts**.

Further harmonisation of possibilities to assign a specific place of residence to applicants, to impose reporting obligations and to provide material reception conditions only in kind is also necessary to create a more predictable situation for applicants, to ensure that they are accounted for regardless of which Member State they are present in and to deter them from absconding.

This applies in particular in three situations namely where:

- the applicant did not make an application for international protection in the Member State of first irregular entry or legal entry;
- the applicant has absconded from the Member State in which he or she is required to be present
- 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.

The proposal requires Member States to inform applicants, using a **common template**, as soon as possible and at the latest when they lodge their application, of any benefits and obligations, which applicants must comply with in relation to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted (for example, if they abscond).

The proposal underlines that:

- all decisions restricting an applicant's freedom of movement need to be based on the particular situation of the person concerned, taking into account any special reception needs of applicants and the principle of proportionality;
- Member States should only provide applicants with a travel document when serious humanitarian reasons arise. Travel documents should not be issued outside of these exceptional circumstances.

Other measures are included such as:

- enlarging material reception conditions to include sanitary items;
- limit daily allowances in certain circumstances;
- altering the form of material reception conditions. These may be scaled back or altered where the applicant has: seriously breached the rules of the accommodation centre or behaved in a seriously violent way; not complied with the obligation to apply for international protection in the Member State of first irregular entry or of legal entry;
- in case an applicant has been assigned a specific place of residence but has not complied with this obligation, and where there is a continued risk that the applicant may abscond, the applicant may be detained in order to ensure the fulfilment of the obligation to reside in a specific place. All the guarantees already provided for in the current Reception Conditions Directive regarding detention remain unchanged.

3. Increase applicants' self-reliance and possible integration prospects: except for those whose applications are likely to be rejected, applicants should, as quickly as possible, be allowed to work and earn their own money, even whilst their applications are being processed. The time-limit for access to the labour market should therefore be reduced from no later than nine months to **no later than six months** from the lodging of the application.

Further limiting the current wide discrepancies between Member States' rules on access to the labour market is also essential in order to reduce employment-related asylum-shopping and incentives for secondary movements.

It is proposed that, once granted access to the labour market, applicants should be entitled to a **common set of rights based on equal treatment with nationals of the Member State** similarly as other third-country nationals who are working in the Union. It has been specifically stated that the right to equal treatment does not give rise to a right to reside in cases where the applicants' application for international protection has been rejected.

Working conditions referred to in the proposal cover at least pay and dismissal, health and safety requirements at the workplace, working time and leave, taking into account collective agreements in force.

The proposal makes it possible to limit equal treatment concerning **education and vocational training** to such education and training directly linked to a specific employment activity. The proposal also makes it possible to limit applicants' equal treatment with regard to **family benefits and unemployment benefits**.

Implementation and monitoring: the Commission shall report on the application of this Directive to the European Parliament and to the Council within three years from its entry into force and every five years after that.

Territorial provisions: the participation of the United Kingdom and Ireland will be determined in the course of the negotiations and in accordance with 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 Treaty on European Union (TEU) and the TFEU.

Denmark shall not be subject to its application.