Criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person. Recast

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Cecilia WIKSTRÖM (ALDE, SE) on the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast of the Dublin III Regulation).

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

Access to the procedures for granting an application for international protection: Member States shall ensure that any third-country national or stateless person on their territory, including at the external border, in the territorial sea or in their transit zones or at border crossing points, including transit zones at external borders, who can reasonably be expected to apply for international protection in a Member State are given the **effective possibility to be registered**.

If no Member State responsible for examining the application can be designated on the basis of the criteria laid down in the Regulation, the Member State responsible shall be determined **in accordance with the corrective allocation mechanism** provided for in the Regulation.

Security verification: all applicants would be subject to mandatory security checks including checks against relevant national and European databases.

If necessary, Member State shall carry out a **personal security interview** in order to establish whether the applicant can, for serious reasons, be considered to be a danger to national security or public order of that Member State. Applicants that pose a security risk will not be transferred to other countries.

Right to information: The applicant shall be informed of his rights and obligations with regard to the **registration of the application** for international protection. Once the application has been registered, the applicant shall obtain information on:

- the provisions on **family reunification** and the need to provide information as soon as possible to help establish the whereabouts of family members or relatives in other Member States;
- the possibility of **choosing one of the four Member States** with the lowest number of applicants in relation to their fair share in accordance with the reference key for the purposes of the corrective mechanism;
- the possibility of **challenging a transfer decision**, and the arrangements for doing so, as well as the existence of the right to an effective remedy before a court, including in a situation where no transfer decision is taken;

- in the case of an **unaccompanied minor**, the role and responsibilities of the guardian and the procedure to be followed to file, in confidence and security, any complaint against a guardian;
- the right to request free **legal assistance** and representation at all stages of the proceedings.

Safeguards granted to minors: Members proposed securing strong safeguards for minors, both accompanied and unaccompanied. Among the main provisions are strengthened rules on best interest assessments, strict requirements on the provision of guardians and the provision of **adapted information to children**. No transfers of unaccompanied minors will be made without a best-interest assessment by a **multidisciplinary team** and the presence of a guardian in the receiving Member State. In assessing the best interests of the minor, the minor's right to be heard must be guaranteed.

Moreover, **minors shall not be detained**. Member States shall accommodate minors and families with minors in non-custodial, community-based placements while their application is processed.

Costs of reception: Members are of the opinion that the reception costs of an applicant met by a determining Member State, from the time when the application for international protection was registered until the transfer of the applicant to the Member State responsible, or until the determining Member State assumes responsibility for the applicant, **shall be refunded from the general budget of the Union**.

The **Asylum Agency** shall become responsible for the transfer of applicants for, or beneficiaries of, international protection in all cases provided for under this Regulation.

Academic or professional diplomas: where the applicant has a diploma or other qualification issued by an educational institution established in a Member State, that Member State shall be responsible for examining the application for international protection.

Sponsorship: a Member State may provide for organisations that have been approved by that Member State in accordance with specific requirements preventing abuse and trafficking in human beings provided for in national law to have the possibility to become the sponsor of an applicant who has lodged an application for international protection in the Union.

Family reunification procedure: Members introduced indicators for the conducting a **special family reunification procedure** for the applicant to ensure swift family reunification and access to asylum procedures for applicants for whom there are sufficient evidence that they are likely to be eligible for family reunification.

Members also plan to introduce a **light procedure** when there is sufficient indicators showing that an applicant has meaningful links with a given Member State.

Placement in detention for the purposes of transfer: detention of applicants shall be ordered in writing by judicial authorities. The detention order shall state the reasons in fact and in law on which it is based and shall contain a reference to the consideration of the available alternatives and the reasons as to why they could not be applied effectively. The costs necessary to transfer an applicant to the Member State responsible shall be met by the general budget of the Union.

Corrective allocation mechanism: the allocation mechanism shall be **applied to all applications for which a responsible Member State cannot be determined** on the basis of the criteria set out in the Regulation. For the purposes of the corrective mechanism, the reference key assigned to each Member State would be determined using a reference formulae.

On the basis of the reference key, a **short list of four Member States** with the lowest number of applicants relative to their share pursuant to that reference key shall be determined by means of the automated system.

Within five days of that communication the applicant shall be given the **opportunity to select a Member State of allocation among the four Member States included in the short list**. If the applicant does not select a Member State, the determining Member State shall allocate the applicant to the Member State on the short list with the lowest number of applicants relative to their share pursuant to the reference key.

Members proposed that applicants will also be allowed to register as **groups of maximum 30 people**. Registering as a group does not give applicants a right to seek protection in a specific country, as in the case for example of family ties, but it gives applicants that have formed close bonds either before leaving their home country or during the journey to remain together and be transferred to the same Member State. This should also reduce risks of secondary movements.

Financial solidarity: Members **deleted** these provisions from the proposal. They considered that the corrective allocation mechanism is intended to balance the unfair sharing of responsibilities under a system that places a lot of efforts on frontline Member States. Members are opposed to the concept of Member States paying for avoiding a responsibility to assist people in need of international protection.

Reciprocal solidarity: Members have provided for **coercive measures** for those Member States that do not comply with the rules. Where front-line Member States systematically refuse to register applicants, the relocation of applicants from their territory would be terminated.

Member States refusing to accept relocation of applicants to their territory would face **limits on their access to EU-funds** and would not be able to use EU-funds for returns of applicants that had their asylum claims rejected.

Transitional arrangements: Members have included a **three-year transition period**, during which Member States that have historically received many asylum-seekers will continue to shoulder a greater responsibility and where member states with a more limited experience of welcoming asylum seekers would start with a lower share of the responsibility.