

Asylum Procedure Regulation

2016/0224A(COD) - 22/05/2024 - Final act

PURPOSE: to streamline, simplify and harmonise the procedural arrangements of the Member States by establishing a common procedure for international protection in the Union.

LEGISLATIVE ACT: Regulation (EU) 2024/1348 of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

CONTENT: this Regulation is a pillar of the Pact on Asylum and Migration. It establishes a **common procedure for granting and withdrawing international protection**. It applies to all applications for international protection lodged on the territory of the Member States, including at the external border, in the territorial sea or in transit zones, and to the withdrawal of international protection.

Basic principles and guarantees

The Regulation establishes a common procedure to be followed by Member States when persons apply for international protection. It streamlines procedural arrangements and sets standards for the rights of asylum seekers, including the right to free legal advice during the administrative procedure.

The determining authority will inform applicants, in a language which they understand or are reasonably supposed to understand, of the following: (a) the right to lodge an individual application; (b) the time limits and stages of the procedure to be followed; (c) their rights and obligations during the procedure; (d) the right to free legal counselling for the lodging of the individual application and to legal assistance and representation at all stages of the procedure.

Applicants' rights and obligations

The Regulation also sets out clear obligations for applicants to **cooperate** with the authorities throughout the procedure. Applicants will have the right to remain on the territory of the Member State where they are required to be present until the determining authority has taken a decision on the application. Applicants must be given the opportunity to have a **personal interview** on the admissibility and substance of their application before the determining authority decides on the merits of an application for international protection.

An **interpreter** who is able to ensure appropriate communication between the applicant and the person conducting the interview will be provided for the personal interviews.

The personal interview of a minor will be conducted by a person who has the necessary knowledge of the rights and special needs of minors. It will be conducted in a child-sensitive and context-appropriate manner, taking into consideration the age and maturity of the child.

Special guarantees

Competent authorities will **assess on an individual basis** whether the applicant needs special procedural guarantees that may be necessary for certain applicants because of, *inter alia*, their age, gender, sexual orientation, gender identity, disability, illness or serious physical or mental disorder. The competent authority may refer the applicant, subject to his or her prior consent, to the appropriate **medical practitioner or psychologist** or to another professional for advice on the applicant's need for special

procedural guarantees, prioritising cases where there are indications that applicants might have been victims of torture, rape or another serious form of psychological, physical, sexual or gender-based violence.

To ensure that applications for international protection are processed with due respect for the **rights of the child**, specific procedural guarantees adapted to children and special reception conditions will have to be provided for minors and unaccompanied minors. In all cases, **age assessments** should be carried out in a manner that gives primary consideration to the best interests of the child throughout the procedure.

Border procedure

The Regulation introduces a mandatory border procedure, with the aim of rapidly assessing, at the EU's external borders, **whether asylum applications are unfounded or inadmissible**. This is a type of accelerated asylum procedure. Persons subject to the asylum procedure at the border will **not be authorised** to enter the territory of the Member State. They will also have to reside at or near the external border or in transit zones or other designated places on the territory of a country (in compliance with the guarantees and conditions laid down in the Reception Conditions Directive).

The border procedure will apply when an asylum seeker makes an application at an external border crossing point, following arrest in connection with an illegal border crossing and following disembarkation following search and rescue operations at sea. Member States will assess applications in a border procedure: (i) where the applicant is a **danger to national security** or public order, (ii) where the applicant is considered to have intentionally misled the authorities by presenting **false information** or documents or by withholding relevant information; (iii) where it is likely that the application is unfounded because the applicant is of a nationality for whom the proportion of decisions granting international protection is **20% or lower** of the total number of decisions for that third country.

Unaccompanied minors will be exempt from the border procedure unless they pose a security threat.

Priority should be given to applications from minors and family members.

The duration of the border procedure for examining applications for international protection may **not exceed 12 weeks**. This period may be extended to 16 weeks if the applicant is being relocated to another Member State. In the absence of a decision within this 12 to 16 week period, applicants will be redirected to the normal asylum procedure and authorised to enter the territory of the Member State.

Detention may be used in border procedures, but only where necessary and proportionate on the basis of an individual assessment, as a measure of last resort where less coercive measures are not possible, and subject to judicial scrutiny. As a general rule, minors should not be detained.

Safe third country concept

Determining authorities responsible for examining applications for international protection may reject an application as inadmissible if the safe third country concept applies. The concept of safe third country may only be applied provided that: (a) the applicant cannot provide elements justifying why the concept of safe third country is not applicable to him or her, in the framework of an individual assessment; (b) there is a **connection** between the applicant and the third country in question on the basis of which it would be reasonable for him or her to go to that country.

Adequate capacity

Member States will put in place adequate capacity, in terms of reception facilities and human resources, which will enable them, at any given time, to carry out the border procedure and enforce return decisions for a given number of applications. At EU level, this adequate capacity is **30 000**.

ENTRY INTO FORCE: 11.6.2024.

APPLICATION: from 12.6.2026.