



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

**Brussels, 26 April 2024
(OR. en)**

2016/0222(COD)

PE-CONS 69/23

**ASILE 119
CODEC 2256**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
laying down standards for the reception of applicants for international
protection (recast)

DIRECTIVE (EU) 2024/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

laying down standards for the reception of applicants for international protection
(recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2)(f) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 75, 10.3.2017, p. 97.

² OJ C 207, 30.6.2017, p. 67.

³ Position of the European Parliament of 10 April 2024 (not yet published in the Official Journal) and decision of the Council of ...

Whereas:

- (1) A number of amendments are to be made to Directive 2013/33/EU of the European Parliament and of the Council⁴. In the interests of clarity, that Directive should be recast.
- (2) A common policy on asylum based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967 (the ‘Geneva Convention’), is a constituent part of the Union’s objective of establishing progressively an area of freedom, security and justice open to third-country nationals and stateless persons who seek protection in the Union, thus affirming the principle of non-refoulement. Such a policy should be governed by the principle of solidarity and fair sharing of responsibility.
- (3) The Common European Asylum System (CEAS) establishes a system for determining the Member State responsible for examining an application for international protection, common standards for asylum procedures, reception conditions and procedures and rights of beneficiaries of international protection. Notwithstanding the progress that has been made in the development of the CEAS, there are still notable differences between the Member States with regard to procedures used, reception conditions provided to applicants, recognition rates and type of protection granted to beneficiaries of international protection. Those differences are important drivers of secondary movement and undermine the objective of ensuring that all applicants are equally treated wherever they apply for international protection in the Union.

⁴ 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 (OJ L 180, 29.6.2013, p. 96).

- (4) In its communication of 6 April 2016 ‘Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe’, the Commission underlined the need for strengthening and harmonising further the CEAS. It also set out priority areas where the CEAS should be structurally improved, namely the establishment of a sustainable and fair system for determining the Member State responsible for examining an application for international protection, the reinforcement of the Eurodac system, the achievement of greater convergence in the Union asylum system, the prevention of secondary movements within the Union and an enhanced mandate for the European Union Agency for Asylum established by Regulation (EU) 2021/2303 of the European Parliament and of the Council⁵ (the ‘Asylum Agency’). That communication replies to calls by the European Council on 18-19 February 2016 and on 17-18 March 2016 to make progress in reforming the Union’s existing framework so as to ensure a humane, fair and efficient asylum policy. That communication also proposes a way forward in line with the holistic approach to migration set out by the European Parliament in its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration.
- (5) Reception conditions continue to vary considerably between Member States in particular with regard to the reception standards provided to applicants. More harmonised reception standards set out at an adequate level across all Member States will contribute to more equal treatment and the fairer distribution of applicants across the Union.

⁵ Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021, p. 1).

- (6) The resources of the Asylum, Migration and Integration Fund, established by Regulation (EU) 2021/1147 of the European Parliament and of the Council⁶, and of the Asylum Agency should be mobilised in order to provide adequate support to Member States in implementing the reception standards set out in this Directive, including to Member States which are faced with specific and disproportionate pressures on their asylum systems, due in particular to their geographical or demographic situation.
- (7) In order to ensure the equal treatment of applicants throughout the Union, this Directive should apply during all stages and types of procedures for international protection, in all locations and facilities housing applicants and for as long as they are allowed to remain on the territory of the Member States as applicants. It is necessary to clarify that material reception conditions should be available to applicants from the moment they express their wish to apply for international protection to officials of the competent authorities in accordance with Regulation (EU) .../... of the European Parliament and of the Council⁷⁺.
- (8) A daily expenses allowance should be provided to applicants in all cases as part of the material reception conditions in order for applicants to enjoy a minimum degree of autonomy in their daily life. It should be possible to provide the daily expenses allowance as a monetary amount, in vouchers, in kind, such as in products, or as a combination thereof provided that such an allowance includes a monetary amount.

⁶ Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund (OJ L 251, 15.7.2021, p. 1).

⁷ Regulation (EU) .../... of the European Parliament and of the Council of ... establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L, ..., ELI: ...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A (COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

- (9) Where an applicant is present in a Member State other than the one in which he or she is required to be present in accordance with Regulation (EU) .../... of the European Parliament and of the Council⁸⁺, the applicant should not be entitled to material reception conditions, access to the labour market, language courses or vocational training in accordance with this Directive from the moment the applicant has been notified of a decision to transfer him or her to the Member State responsible. Unless a separate decision has been issued to this effect, the transfer decision should state that the relevant reception conditions have been withdrawn. In all circumstances, Member States should ensure access to health care and a standard of living for applicants which is in accordance with Union law, including the Charter of Fundamental Rights of the European Union (the ‘Charter’), and other international obligations.
- (10) With respect to the treatment of persons falling within the scope of this Directive, Member States are bound by obligations under instruments of international law to which they are party.
- (11) Standard conditions for the reception of applicants sufficient to ensure them an adequate standard of living and comparable living conditions in all Member States should be laid down. The harmonisation of reception conditions for applicants should help to limit the secondary movements of applicants influenced by the variety of conditions for their reception.

⁸ Regulation (EU) .../... of the European Parliament and of the Council of ... on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013 (OJ L, ..., ELI: ...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

- (12) In order to ensure that applicants are aware of their rights and obligations, Member States should provide them in writing, or, where necessary, orally, or, where appropriate, in a visual form, with information relating to the reception conditions set out in this Directive. Such information should be provided as soon as possible, and in good time, and should include the reception conditions to which applicants, including applicants with special reception needs, are entitled, employment rights and obligations, the circumstances under which the granting of material reception conditions may be restricted to a geographical area or limited to a specific place and the consequences of not complying with such restrictions or limitations and of absconding, as well as the situations in which it is possible to order detention, possibilities for appeal and review and possibilities for the provision of legal assistance and representation. Member States should, in particular, inform applicants of the reception conditions to which they are not entitled in a Member State other than the one in which they are required to be present. A Member State should no longer be obliged to provide that information where it is no longer necessary to effectively enable the applicant to benefit from the rights, and comply with the obligations, provided for in this Directive, or where the applicant is not available to the competent authorities or has absconded from the territory of that Member State. The Asylum Agency should develop a template with standard information relating to reception conditions to be provided by Member States to applicants as soon as possible and no later than three days from the making of the application or within the timeframe for its registration.

- (13) Harmonised Union rules on the documents to be issued to applicants should contribute to making it more difficult for applicants to move in an unauthorised manner within the Union. Member States should be able to provide applicants with a travel document only where duly justified serious humanitarian reasons or other imperative reasons arise. The validity of travel documents should be limited to the purpose and duration necessary for the reason for which they are issued. Serious humanitarian reasons could be considered to arise where, for example, an applicant needs to travel to another State for necessary medical treatment which is not available within the Member State in which the applicant is required to be present, to visit relatives in particular cases such as where close relatives are seriously ill or to attend funerals of close relatives. Other imperative reasons could include situations such as attending marriages of close relatives, or travelling as part of a study curriculum or with foster families. The issuance and use of such a travel document does not affect the Member States' responsibilities under Regulation (EU) .../...⁺. Member States retain the right to assess applicants' rights to stay on their territory.
- (14) Applicants do not have the right to choose the Member State of application. An applicant is to apply for international protection in accordance with Regulation (EU) .../...⁺.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

- (15) Applicants are required to remain available to the competent authorities of the Member States. Appropriate measures should be taken to prevent applicants from absconding. Where the applicant has absconded and has travelled to another Member State without permission, it is vital, for the purpose of ensuring a well-functioning CEAS, that the applicant is swiftly transferred to the Member State where he or she is required to be present. Until such a transfer has taken place, there is a risk that the applicant may abscond and his or her whereabouts should therefore be closely monitored.
- (16) The fact that an applicant has previously absconded to another Member State is an important factor when assessing the risk that the applicant may abscond. Member States should take appropriate measures to prevent the applicant from absconding again and to ensure that he or she remains available to the competent authorities, once the applicant has been transferred to the Member State where he or she is required to be present. His or her whereabouts should therefore continue to be closely monitored.
- (17) Member States should be able to freely organise their reception systems. As part of that organisation, Member States should be able to allocate applicants to accommodation within their territory in order to manage their asylum and reception systems. Member States should also be able to put in place mechanisms for assessing and addressing the needs of their reception systems, including mechanisms for verifying applicants' actual presence in the accommodation. Such mechanisms should not restrict the applicants' freedom of movement within the territory of the Member State concerned. Member States should not be required to take an administrative decision for that purpose.

- (18) Where applicants are able to move freely only within a geographical area of the Member States' territory, Member States should guarantee the applicants' effective access to their rights under this Directive and to the procedural guarantees in the procedure for international protection within that geographical area. The possibility to temporarily leave that geographical area should be assessed individually, objectively and impartially. Where applicants have not been granted effective access to those rights and procedural guarantees in that geographical area, the allocation to that area should no longer apply.
- (19) For reasons of public order or in order to effectively prevent the applicant from absconding, Member States should be able to decide that the applicant is allowed to reside only in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. Such decision should not result in the detention of the applicant. Such decision could be necessary in cases where the applicant has not complied with the obligations to remain in the Member State where he or she is required to be present, or in cases where the applicant has been transferred to the Member State where he or she is required to be present after having absconded to another Member State. Where the applicant is entitled to material reception conditions, such material reception conditions should be provided subject to the applicant residing in that specific place.

- (20) Where there is a risk that an applicant may abscond or where it is necessary to ensure that restrictions to an applicant's freedom of movement are respected, Member States could require applicants to report to the competent authorities at a specified time or at reasonable intervals, without disproportionately affecting the rights of applicants under this Directive.
- (21) All decisions restricting an applicant's freedom of movement should take into account relevant aspects of the individual situation of the applicant, including the special reception needs of that applicant, and the principles of necessity and proportionality. Applicants should be duly informed of such decisions, of the procedures for challenging them and of the consequences of non-compliance.
- (22) All provisions under this Directive relating to detention, residence and reporting obligations as well as the reduction and withdrawal of rights or benefits should be applied with due regard to the principle of proportionality, ensuring at all times effective access to the applicable reception conditions in accordance with this Directive, in particular with regard to health care, education, family unity and access to the labour market. Particular attention is to be paid to the possible cumulative effect of measures.

- (23) In view of the serious consequences for applicants who have absconded or who are considered to be at risk of absconding, the meaning of absconding should be defined in view of encompassing both a deliberate action and the factual circumstance, which is not beyond the applicant's control, of not remaining available to the competent administrative or judicial authorities, such as by leaving the territory of the Member State where the applicant is required to be present. Member States should be able to consider that an applicant has absconded even if the applicant has previously not been considered to be at risk of absconding.
- (24) Where Member States define in national law the objective criteria that are relevant for determining a risk of absconding under this Directive, they could consider factors such as: the applicant's cooperation with competent authorities or compliance with procedural requirements; the applicant's links in the Member State; and whether the application for international protection has been rejected as inadmissible or manifestly unfounded. In the overall assessment of the individual situation of an applicant, a combination of several factors frequently provides the basis for concluding that there is a risk of absconding.
- (25) An applicant should be considered as no longer being available to the competent authorities where that applicant fails to respond to requests relating to the procedures under Regulation (EU) .../...⁺ or the procedure under Regulation (EU) .../...⁺⁺ unless the applicant provides adequate reasons why he or she was unable to respond to those requests, for example medical or other unexpected reasons which are beyond his or her control.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

- (26) The detention of applicants should be applied in accordance with the underlying principle that persons should not be held in detention for the sole reason that they are seeking international protection, particularly in accordance with the international legal obligations of the Member States and in particular with Article 31 of the Geneva Convention. It should be possible for applicants to be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principles of necessity and proportionality with regard to both the manner and the purpose of such detention. The detention of applicants pursuant to this Directive should only be ordered in writing by judicial or administrative authorities stating the reasons on which it is based, including in cases where the person is already detained when making the application for international protection. Where an applicant is held in detention, that applicant should have effective access to the necessary procedural guarantees, such as judicial review and the right to free legal assistance and representation, where applicable under this Directive.
- (27) An acceptable maximum timeframe for the judicial review of detention should be determined in light of the circumstances of each case, taking into account the complexity of the procedure, as well as the diligence shown by the competent authorities, any delay caused by the detained person and any other factors causing delay for which the Member State cannot be held responsible.

- (28) Where an applicant has been allowed to reside only in a specific place but has not complied with that obligation, there still needs to be a risk that the applicant could abscond in order for the applicant to be detained. In all circumstances, special care should be taken to ensure that the length of the detention is proportionate and that it ends as soon as the obligation put on the applicant has been fulfilled or there are no longer reasons for believing that the applicant will not fulfil that obligation. The applicant should also have been made aware of the obligation in question and of the consequences of non-compliance.
- (29) With regard to administrative procedures relating to the grounds for detention, the notion of ‘due diligence’ at least requires that Member States take concrete and meaningful steps to ensure that the time needed to verify the grounds for detention is as short as possible, and that there is a real prospect that such verification can be carried out successfully in the shortest possible time. Detention should not exceed the time reasonably needed to complete the relevant administrative procedures.
- (30) The grounds for detention set out in this Directive are without prejudice to other grounds for detention, including detention grounds within the framework of criminal proceedings, which are applicable under national law and unrelated to the third-country national’s or stateless person’s application for international protection.
- (31) Applicants who are in detention should be treated with full respect for human dignity and their reception should be specifically designed to meet their needs in that situation. In particular, Member States should ensure that Article 24 of the Charter and Article 37 of the 1989 United Nations Convention on the Rights of the Child are applied.

- (32) There may be cases where it is not possible in practice to immediately ensure certain reception guarantees in detention, for example due to the geographical location or the specific structure of the detention facility. Any derogation from those guarantees should be temporary and should only be applied under the circumstances set out in this Directive. Derogations should only be applied in exceptional circumstances and should be duly justified, taking into consideration the circumstances of each case, including the level of severity of the derogation applied, its duration and its impact on the applicant concerned.
- (33) In order to better ensure the physical and psychological integrity of applicants, detention should be a measure of last resort and it should only be possible to detain applicants after all non-custodial alternative measures to detention have been duly examined. The obligation to examine those alternative measures should not prejudice the use of detention where such alternative measures, including residence and reporting obligations, cannot be applied effectively. Any decision imposing detention should state the reasons why other less coercive alternative measures could not be applied effectively. Any alternative measure to detention should respect the fundamental human rights of applicants.
- (34) In order to ensure compliance with the procedural guarantee of the opportunity to contact organisations or groups of persons that provide legal assistance, information should be provided on such organisations and groups of persons.
- (35) When deciding on housing arrangements, Member States should take into account the best interests of the child, as well as the particular circumstances of any applicant who is dependent on family members or close relatives such as unmarried minor siblings already present in the Member State.

- (36) Member States should be able to resort to temporary housing solutions of a lower standard where the normally available housing capacities are temporarily exhausted. Member States should also be able to resort to those temporary housing solutions where, due to a disproportionate number of persons to be accommodated or a man-made or natural disaster, the normally available housing capacities are temporarily unavailable. Member States should consider providing such temporary housing solutions in fixed building structures to the extent possible.
- (37) The reception of persons with special reception needs should be a primary concern for national authorities in order to ensure that such reception is specifically designed to meet their special reception needs. Member States should also ensure, as far as possible, the prevention of assault and violence, including violence committed with a sexual, gender, racist or religious motive, when providing housing. Violence with a religious motive also entails violence directed towards people who do not have a religious belief or who have renounced their religious faith.
- (38) In applying this Directive, Member States should seek to ensure full respect for the principles of the best interests of the child and of family unity, in accordance with the Charter, the 1989 United Nations Convention on the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedoms and, where applicable, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

- (39) Reception conditions need to be adapted to the specific situation of minors and their special reception needs, whether unaccompanied or within families, with due regard to their security, including security against sexual and gender-based violence, physical and emotional care and need to be provided in a manner that encourages their general development.
- (40) Minors should, as a rule, not be detained. They should be placed in suitable accommodation with special provisions for minors, including where appropriate in non-custodial, community-based placements. Given the negative impact of detention on minors, such detention should only be used, in accordance with Union law, exclusively in exceptional circumstances, where strictly necessary, as a measure of last resort and for the shortest possible period of time, after it has been established that other less coercive alternative measures cannot be applied effectively, and after detention is assessed to be in their best interests. Minors should never be detained in prison or another facility used for law enforcement purposes. Minors should not be separated from their parents or care-givers, and the principle of family unity should generally lead to the use of adequate alternatives to detention for families with minors, in accommodation suitable for them. Moreover, everything possible should be done to ensure that a viable range of adequate alternatives to the detention of minors is available and accessible. In this context, Member States are to take into account the New York Declaration for Refugees and Migrants of 19 September 2016, relevant authoritative guidance by the United Nations' treaty body on the 1989 United Nations Convention on the Rights of the Child and relevant case-law.

- (41) In its communication of 12 April 2017 ‘The protection of children in migration’, the Commission underlined that Member States must put in place appropriate safeguards to protect all children in migration present on their territory, including by the adoption of measures to ensure that children are provided with safe and appropriate accommodation as well as necessary support services to secure the child’s best interests and wellbeing, in accordance with the Member States’ obligations arising from national, Union and international law.
- (42) Representatives play a crucial role in guaranteeing access to the rights under this Directive and in safeguarding the best interests of all unaccompanied children. The early appointment of representatives is essential for tackling situations of migrant children going missing in the Union. Member States should ensure that representatives are appointed as early as possible, in line with the 1989 United Nations Convention on the Rights of the Child, to ensure that unaccompanied children benefit fully from their rights as applicants for international protection granted under this Directive.
- (43) The main role of a representative should be to guarantee the best interests of the child and represent, assist or act on behalf of an unaccompanied minor. The representative should be able to explain information provided to the unaccompanied minor, liaise with the competent authorities to ensure immediate access for the unaccompanied minor to material reception conditions and health care and represent, assist or, in accordance with national law, act on behalf of an unaccompanied minor to ensure that that minor can benefit from the rights and comply with the obligations provided for in this Directive. Representatives should be appointed in accordance with the procedure defined by national law.

- (44) Member States should appoint a representative where an application is made by a person who claims to be a minor and who is unaccompanied. A representative should also be appointed where the competent authorities have objective grounds to believe that the person is a minor in view of relevant visible signs, statements or behaviour. Where a Member State has assessed that a person who claims to be a minor is without any doubt above the age of 18 years, it need not appoint a representative.
- (45) Until the representative has been appointed, Member States should designate a person suitable to provisionally act as a representative under this Directive. That person might be for example an employee of an accommodation centre, of a child-care facility, of social services, or of another relevant organisation designated to carry out the tasks of a representative. Persons whose interests conflict or could potentially conflict with those of the unaccompanied minor should not be designated as a person suitable to provisionally act as a representative. It is also important that such person be immediately informed when an application for international protection is made by an unaccompanied minor.

- (46) Member States should ensure that applicants receive the necessary health care, whether provided by generalists or, where needed, specialist practitioners. The necessary health care should be of adequate quality and include, at least, emergency care and essential treatment of illnesses, including of serious mental disorders, and sexual and reproductive health care which is essential in addressing a serious physical condition. To respond to public health concerns with regard to disease prevention and safeguard the health of applicants, applicants' access to health care should also include preventive medical treatment, such as vaccinations. Member States should also be able to require medical screening for applicants on public health grounds. The results of medical screening should not influence the assessment of applications for international protection, which should always be carried out objectively, impartially and on an individual basis in accordance with Regulation (EU) .../...⁺.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

- (47) It should be possible for an applicant's entitlement to material reception conditions under this Directive to be curtailed in certain circumstances, such as where an applicant has absconded to another Member State from the Member State where that applicant is required to be present. However, Member States should in all circumstances ensure access to health care and a standard of living for applicants which is in accordance with Union law, including the Charter, and other international obligations, including the 1989 United Nations Convention on the Rights of the Child. Member States should in particular provide for the applicant's subsistence and basic needs, both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or care-giver. Due regard should also be given to applicants with special reception needs. The specific needs of applicants who have experienced sexual or gender-based violence, in particular women, should also be taken into account, including via ensuring access, at different stages of the procedure for international protection, to health care, legal assistance, and appropriate trauma counselling and psycho-social care.
- (48) The specific needs of minors, in particular with regard to respect for the child's right to education and access to health care should be taken into account. Minor children of applicants and applicants who are minors should be granted the same access to education as Member States' own nationals and under similar conditions. That access need not be provided during school holidays. Their education should, as a rule, be integrated with that of Member States' own nationals and be of the same quality. Member States should also ensure the continuity of the education of minors for so long as an expulsion measure against them or their parents is not enforced.

- (49) In view of the Charter, the European Convention for the Protection of Human Rights and Fundamental Freedoms and relevant case-law, and in order not to discriminate against family members on the basis of the place where the family was formed, the notion of family should also include families formed outside the country of origin of applicants, but before their arrival on the territory of the Member States.
- (50) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions that effectively hinder an applicant from seeking employment, not unduly restricting access to specific sectors of the labour market or working time of an applicant and not setting unreasonable administrative formalities. Applicants who have effective access to the labour market and have been allowed to reside only in a specific place should be able to seek employment within a reasonable distance from that place. Where required by an applicant's employment contract, Member States should be able to grant the applicant permission to leave their territory to carry out specific work tasks in another Member State in accordance with national law. Labour market tests used to give priority to nationals or to other Union citizens or to third-country nationals and stateless persons lawfully residing in the Member State concerned should not hinder effective access for applicants to the labour market and should be implemented without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession.

- (51) Access to the labour market should entitle the applicant to seek employment. It is possible for Member States to also allow applicants to be self-employed.
- (52) In order to increase integration prospects and self-sufficiency of applicants, earlier access to the labour market is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) .../...⁺. Member States should therefore consider reducing that time period as much as possible in cases where the application is likely to be well-founded. Access to the labour market should not be granted or, if already granted, should be withdrawn where an applicant's application for international protection is likely to be unfounded and for which an accelerated examination procedure is therefore applied, including where relevant information or documents relating to the identity of the applicant is withheld by that applicant.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

- (53) Once applicants are granted access to the labour market, they should be entitled to a common set of rights based on equal treatment with the nationals of the Member State concerned. Working conditions should cover at least pay and dismissal, health and safety requirements at the workplace, working hours, leave and holidays, taking into account collective agreements in force. Such applicants should also enjoy equal treatment as regards freedom of association and affiliation, education and vocational training, recognition of professional qualifications and, with regard to employed applicants, social security. It is possible for Member States to grant equal treatment also to applicants who are self-employed. Member States are to use their best endeavours to prevent the exploitation of applicants or any form of discrimination against them in the workplace by means of undeclared work practices and other forms of severe labour exploitation.
- (54) Once applicants are granted access to the labour market, a Member State should recognise professional qualifications acquired by an applicant in another Member State in the same way as those of citizens of the Union and should take into account qualifications acquired in a third country in accordance with Directive 2005/36/EC of the European Parliament and of the Council⁹. Measures should also be considered with a view to effectively addressing the practical difficulties encountered by applicants concerning the authentication of their foreign diplomas, certificates or other evidence of formal qualifications, in particular where applicants cannot provide documentary evidence and cannot meet the costs related to the recognition procedures.

⁹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

- (55) The branches of social security referred to in Article 3(1) and (2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council¹⁰ apply regarding applicants in employment.
- (56) Due to the possibly temporary nature of the stay of applicants and without prejudice to Regulation (EU) No 1231/2010 of the European Parliament and of the Council¹¹, Member States should be able to exclude social security benefits which are not dependent on periods of employment or on contributions from equal treatment between applicants and their own nationals. Member States should also be able to restrict the application of equal treatment in relation to education and vocational training and the recognition of formal qualifications. In addition, Member States should also be able to limit the right to freedom of association and affiliation by excluding applicants from taking part in the management of certain bodies and from holding a public office.
- (57) Union law does not limit the power of the Member States to organise their social security schemes. In the absence of harmonisation at Union level, it is for each Member State to lay down the conditions under which social security benefits are granted, as well as the amount of such benefits and the period for which they are granted. However, when exercising that power, Member States are to comply with Union law.

¹⁰ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

¹¹ Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ L 344, 29.12.2010, p. 1).

- (58) Language skills are important to ensure that applicants have an adequate standard of living. Those skills also constitute a deterrent against secondary movements. Member States should therefore ensure or facilitate access to language courses to the extent they consider such courses appropriate in order to help enhance an applicant's ability to act autonomously and interact with competent authorities.
- (59) The right to equal treatment should not give rise to rights in relation to situations which fall outside the scope of Union law.
- (60) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, which should include not only housing, food and clothing but also personal hygiene products. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers on the basis of relevant references applied to ensure adequate standard of living for nationals, such as, depending on the national context, minimum income benefits, minimum wages, minimum pensions, unemployment benefits and social assistance benefits. It is not, however, necessary for the amount granted to applicants to be the same as for nationals. Member States should be able to grant less favourable treatment to applicants than to nationals as specified in this Directive. Member States should also have the possibility to adapt the level of financial allowances or the vouchers granted to applicants in regions referred to in Article 349 of the Treaty on the Functioning of the European Union (TFEU), provided that the standard of reception conditions provided for in this Directive is ensured.

- (61) In order to restrict the possibility of abuse of the reception system, Member States should be able to provide material reception conditions only to the extent applicants do not have sufficient means to provide for themselves. Member States should be able to require applicants with sufficient means to cover, contribute to or refund the cost of the material reception conditions or health care received, including through financial guarantees. It is possible for applicants to be considered as having sufficient means to provide for themselves if, for example, they have been working for a reasonable period of time. When assessing the resources of an applicant and requiring an applicant to cover or contribute to the cost of the material reception conditions or health care received, Member States should respect the principle of proportionality and take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs. Applicants should not be required to cover or contribute to the costs of their necessary health care where the health care is provided free of charge to Member States' nationals. Applicants should not be required to take out loans to pay for reception conditions.

(62) The possible abuse of the reception system should also be prevented by specifying the circumstances in which material reception conditions can be reduced or withdrawn. Member States should be able to reduce or withdraw the daily expenses allowance or, where duly justified and proportionate, reduce other material reception conditions where certain conditions are met, including where the applicant does not cooperate with the competent authorities or does not comply with the procedural requirements established by them. Non-cooperation or non-compliance can be considered to occur in particular where: applicants fail to attend fixed appointments or comply with reporting obligations for reasons which are not beyond their control; applicants fail to lodge their applications for international protection in accordance with the requirements of Regulation (EU) .../...⁺ despite having had an effective opportunity to do so; or applicants fail to respect requests to provide information in order to facilitate their identification, including by refusing to provide biometric data or necessary contact information or by refusing to co-operate during medical screening procedures. Member States should also, where duly justified and proportionate, be able to withdraw other material reception conditions where the applicant has seriously or repeatedly breached the rules of the accommodation centre or has behaved in a violent or threatening manner in the accommodation centre. Member States should always ensure a standard of living for all applicants in accordance with Union law, including the Charter, and international obligations, taking into account applicants with special reception needs and the best interests of the child.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

- (63) It is possible for Member States to apply other penalties, including disciplinary measures in accordance with the rules of the accommodation centre, in as far as those penalties are not contrary to this Directive.
- (64) Member States should establish appropriate guidance, monitoring and control of their reception conditions. In order to ensure comparable reception conditions, Member States should be required to take into account, in their monitoring and control systems, available non-binding operational standards, indicators, guidelines and best practices regarding reception conditions developed by the Asylum Agency. Provided that the material reception conditions provide for an adequate standard of living, conditions in premises for housing applicants could be considered appropriate despite differing from one facility to another. The efficiency of national reception systems and cooperation among Member States in the field of reception of applicants should be secured, including through the Asylum Agency network of reception authorities.
- (65) Appropriate coordination should be encouraged between the competent authorities as regards the reception of applicants, and harmonious relationships between local communities and accommodation centres should therefore be promoted.

- (66) Experience shows that contingency planning is needed to ensure to the extent possible adequate reception of applicants in cases where Member States are confronted with a disproportionate number of applicants for international protection. Whether the measures envisaged in Member States' contingency plans are adequate should be monitored and assessed. Contingency planning is an integral part of the Member States' planning processes and cannot be seen as an exceptional activity.
- (67) The Asylum Agency should assist Member States to draw up and review their contingency plans, with the agreement of the Member State concerned. A contingency plan should consist of a comprehensive set of measures that are necessary in order to deal with a possible disproportionate pressure on the Member States' reception systems, and to enhance the efficiency of those systems. For the purpose of this Directive, a situation of disproportionate pressure may be characterised by a sudden and massive influx of third-country nationals and stateless persons to the extent that that influx places an extreme burden even on a well-prepared reception system. To achieve greater preparedness for such a situation, the template developed by the Asylum Agency should include guidance on how to identify possible scenarios, the impact of those scenarios, actions to be taken and resources available to respond to those scenarios.
- (68) 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.

- (69) Member States are invited to apply the provisions of this Directive in connection with procedures for deciding on applications for forms of protection other than those provided for under Regulation (EU) .../... of the European Parliament and of the Council¹²⁺.
- (70) The implementation of this Directive should be evaluated at regular intervals. Member States should provide the Commission with the necessary information in order for the Commission to be able to fulfil its reporting obligations under this Directive.
- (71) Since the objective of this Directive, namely to establish harmonised standards for the reception conditions of applicants in Member States, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

¹² Regulation (EU) .../... of the European Parliament and of the Council of ... on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC, and repealing Directive 2011/95/EU of the European Parliament and of the Council (OJ L, ..., ELI: ...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 70/23 (2016/0223(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

- (72) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹³, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (73) In accordance with Articles 1 and 2 of 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 TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (74) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (75) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter. In particular, this Directive seeks to ensure full respect for human dignity and to promote the application of Articles 1, 4, 6, 7, 18, 21, 24 and 47 of the Charter and has to be implemented accordingly.

¹³ OJ C 369, 17.12.2011, p. 14.

- (76) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.
- (77) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive set out in Annex I,

HAVE ADOPTED THIS DIRECTIVE:

Chapter I

Subject-matter, definitions and scope

Article 1 *Subject-matter*

This Directive lays down standards for the reception of applicants for international protection in Member States.

Article 2 *Definitions*

For the purposes of this Directive, the following definitions apply:

- (1) ‘application for international protection’ or ‘application’ means a request for protection from a Member State made by a third-country national or a stateless person who can be understood to be seeking refugee status or subsidiary protection status;
- (2) ‘applicant’ means a third-country national or stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

- (3) ‘family members’ means, in so far as the family already existed before the applicant arrived on the territory of the Member States, the following members of the applicant’s family who are present on the territory of the same Member State during the procedure for international protection:
- (a) the spouse of the applicant or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples as equivalent to married couples;
 - (b) the minor or adult dependent children of the couples, as referred to in point (a) or of the applicant, provided that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as provided for under national law; a minor is considered unmarried provided that, on the basis of an individual assessment, the minor’s marriage would not be in accordance with the relevant national law had it been contracted in the Member State concerned, having regard, in particular, to the legal age of marriage;
 - (c) where the applicant is minor and unmarried, the father, mother or another adult responsible for that applicant, including an adult sibling, whether by the law or practice of the Member State concerned; a minor is considered unmarried provided that, on the basis of an individual assessment, the minor’s marriage would not be in accordance with the relevant national law had it been contracted in the Member State concerned, having regard, in particular, to the legal age of marriage;

- (4) ‘minor’ means a third-country national or stateless person below the age of 18 years;
- (5) ‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by the law or practice of the Member State concerned, and for as long as that minor is not effectively taken into the care of such an adult, including a minor who is left unaccompanied after he or she has entered the territory of the Member States;
- (6) ‘reception conditions’ means the full set of measures that Member States grant to applicants in accordance with this Directive;
- (7) ‘material reception conditions’ means the reception conditions that include housing, food, clothing and personal hygiene products provided in kind, as financial allowances, in vouchers, or as a combination thereof, as well as a daily expenses allowance;
- (8) ‘daily expenses allowance’ means an allowance provided to applicants periodically to enable them to enjoy a minimum degree of autonomy in their daily life, provided as a monetary amount, in vouchers, in kind, or as a combination thereof provided that such an allowance includes a monetary amount;
- (9) ‘detention’ means the confinement of an applicant by a Member State within a particular place, where the applicant is deprived of his or her freedom of movement;
- (10) ‘accommodation centre’ means any place used for the collective housing of applicants;

- (11) ‘risk of absconding’ means the existence of specific reasons and circumstances in an individual case, which are based on objective criteria defined by national law, to believe that an applicant might abscond;
- (12) ‘absconding’ means the action by which an applicant does not remain available to the competent administrative or judicial authorities, such as by leaving the territory of the Member State without permission from the competent authorities, for reasons which are not beyond the applicant’s control;
- (13) ‘representative’ means a natural person or an organisation, including a public authority, appointed by the competent authorities, with the necessary skills and expertise, including with regard to the treatment and specific needs of minors, to represent, assist and act on behalf of an unaccompanied minor, as applicable, in order to safeguard the best interests and general well-being of that unaccompanied minor and so that the unaccompanied minor can benefit from the rights and comply with the obligations provided for in this Directive;
- (14) ‘applicant with special reception needs’ means an applicant who is in need of special conditions or guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive.

Article 3

Scope

1. This Directive applies to all third-country nationals and stateless persons who make an application for international protection on the territory, including at the external border, in the territorial sea or in the transit zones of the Member States, provided that those third-country nationals and stateless persons are allowed to remain on the territory as applicants. This Directive also applies to family members of an applicant provided that those family members are covered by such an application for international protection in accordance with national law.
2. This Directive does not apply to requests for diplomatic or territorial asylum submitted to representations of Member States.
3. Member States may decide to apply this Directive in connection with procedures for deciding on applications for forms of protection other than those under Regulation (EU) .../...⁺.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 70/23 (2016/0223(COD)).

Article 4
More favourable provisions

Member States may introduce or retain more favourable provisions as regards reception conditions for applicants as well as for family members and close relatives of applicants who are present in the same Member State provided that such family members and close relatives are dependent on the applicants, or for humanitarian reasons, insofar as those provisions are compatible with this Directive.

Chapter II
General provisions on reception conditions

Article 5
Information

1. Member States shall provide applicants with information relating to the reception conditions set out in this Directive, including information specific to their reception systems, as soon as possible and in good time in order to effectively enable applicants to benefit from the rights and comply with the obligations provided for in this Directive.

Member States shall in particular provide applicants with standard information relating to reception conditions set out in this Directive, using a template to be developed by the European Union Agency for Asylum (the ‘Asylum Agency’). That information shall be provided as soon as possible and no later than three days from the making of the application or within the timeframe for its registration in accordance with Regulation (EU) .../...⁺.

Member States shall ensure that applicants are provided with information on organisations or groups of persons that provide specific legal assistance and representation, including information on organisations or groups of persons that provide that legal assistance and representation free of charge, and organisations that might be able to help or inform them concerning the available reception conditions, including health care.

2. Member States shall ensure that the information referred to in paragraph 1 is provided in writing in a concise, transparent, intelligible and easily accessible form, using clear and plain language and in a language that the applicant understands or is reasonably supposed to understand. Where necessary, that information shall also be provided orally or, where appropriate, in a visual form such as by using videos or pictograms, and shall be adapted to the applicant’s needs.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

In the case of an unaccompanied minor, Member States shall provide the information referred to in paragraph 1 in an age-appropriate manner and in a manner that ensures that the unaccompanied minor understands it, by using information materials specifically adapted to minors where appropriate. That information shall be provided in the presence of the representative of the unaccompanied minor or of the person suitable to provisionally act as a representative until the representative is appointed.

In exceptional cases, a Member State may provide the information referred to in paragraph 1 to the applicant by means of an oral translation, or where appropriate in a visual form such as videos or pictograms, where:

- (a) it is not able to provide that information in writing within the time limit set out in that paragraph because the language that an applicant understands or is reasonably supposed to understand is a rare language; and
- (b) that applicant subsequently confirms that he or she understands the information provided.

In cases referred to in the third subparagraph, the Member State shall as soon as possible obtain a translation of the information referred to in paragraph 1 in writing and provide it to the applicant, except where it is clear that such a provision is no longer needed.

Article 6
Documentation

1. Member States shall ensure that the applicant is provided with the document referred to in Article 29(1) of Regulation (EU) .../...⁺.
2. Member States shall not require applicants, for the sole reason that they are applicants for international protection or on the sole basis of their nationality, to provide unnecessary or a disproportionate amount of documentation or impose other administrative requirements on applicants before granting them the rights to which they are entitled under this Directive.
3. Member States may provide applicants with a travel document only when serious humanitarian reasons or other imperative reasons arise that require their presence in another State. The validity of the travel document shall be limited to the purpose and duration necessary for the reason for which it is issued.

Article 7
Organisation of reception systems

1. Member States may freely organise their reception systems in accordance with this Directive. Applicants may move freely within the territory of the Member State concerned.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

2. Provided that all applicants benefit effectively from their rights under this Directive, Member States may allocate applicants to accommodation within their territory in order to manage their asylum and reception systems.
3. When allocating or re-allocating applicants to accommodation, Member States shall take into account objective factors, including family unity as referred to in Article 14 and applicants' special reception needs.
4. The provision of material reception conditions by Member States may be made subject to the actual residence by the applicants in the accommodation to which they have been allocated in accordance with paragraph 2.
5. Member States may also put in place mechanisms to assess and address the needs of their reception systems, including mechanisms for the purpose of verifying that the applicants are actually residing in the accommodation allocated to them in accordance with paragraph 2.
6. Member States shall require applicants to provide the competent authorities with their current address, a telephone number where they may be reached and, if available, an electronic mail address. Member States shall also require applicants to notify such competent authorities of any change of address, telephone number or electronic mail address as soon as possible.
7. Member States shall not be required to take administrative decisions for the purpose of this Article.

Article 8

Allocation of applicants to a geographical area

1. Member States may allocate applicants to a geographical area within their territory in which they are able to move freely, for the duration of the procedure for international protection in accordance with Regulation (EU) .../...⁺.
2. Member States may allocate applicants to a geographical area within their territory pursuant to paragraph 1 only for the purpose of ensuring the swift, efficient and effective processing of their applications in accordance with Regulation (EU) .../...⁺ or the geographic distribution of those applicants, taking into account the capacities of the geographical areas concerned.

Member States shall inform applicants in accordance with Article 5 of their allocation to a geographical area, including of the geographical boundaries of that area.

3. Member States shall ensure that applicants have effective access to their rights under this Directive and to the procedural guarantees in the procedure for international protection within the geographical area to which those applicants are allocated. That geographical area shall be sufficiently large, allow access to necessary public infrastructure and shall not affect the applicants' unalienable sphere of private life.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

4. Member States shall not be required to take administrative decisions for the purpose of paragraph 1.
5. Member States shall, upon the request of the applicant, grant that applicant permission to temporarily leave the geographical area for duly justified urgent and serious family reasons, or necessary medical treatment which is not available within the geographical area.

Where an applicant leaves the geographical area without permission, a Member State shall not apply penalties other than those provided for under this Directive.

The applicant shall not be required to request permission to attend appointments with authorities and courts if the attendance of that applicant is necessary. The applicant shall notify the competent authorities in advance of such appointments.

6. Where it has been established, including as a consequence of an applicant's request for appeal or review in accordance with Article 29, that an applicant has not been granted effective access to his or her rights under this Directive or to the procedural guarantees in the procedure for international protection within the geographical area, the allocation of that applicant to that geographical area shall no longer apply.
7. Before applying this Article, the Member State concerned shall lay down the conditions for the application of this Article in national law and inform the Commission and the Asylum Agency in accordance with Chapter 5 of Regulation (EU) 2021/2303.

Article 9
Restrictions of freedom of movement

1. Where necessary, Member States may decide that an applicant is allowed to reside only in a specific place that is adapted for housing applicants, for reasons of public order or to effectively prevent the applicant from absconding, where there is a risk of absconding, in particular with regard to:
 - (a) applicants who are required to be present in another Member State in accordance with Article 17(4) of Regulation (EU) .../...⁺; or
 - (b) applicants who have been transferred to the Member State where they are required to be present in accordance with Article 17(4) of Regulation (EU) .../...⁺ after having absconded to another Member State.

Where an applicant has been allowed to reside only in a specific place in accordance with this paragraph, the provision of material reception conditions shall be subject to the actual residence by the applicant in that specific place.

2. Member States may, where necessary, require applicants to report to the competent authorities at a specified time or at reasonable intervals, without disproportionately affecting the rights of the applicants under this Directive.

Such reporting requirements may be imposed to ensure that the decisions referred to in paragraph 1 are respected or to effectively prevent applicants from absconding.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

3. Upon the request of the applicant, Member States may grant that applicant permission to reside temporarily outside the specific place designated in accordance with paragraph 1. Decisions regarding such permission shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if such permission is not granted.

The applicant shall not be required to request permission to attend appointments with authorities and courts if the attendance of that applicant is necessary. The applicant shall notify the competent authorities of such appointments.

4. The decisions taken in accordance with paragraphs 1 and 2 shall be proportionate and take into account relevant aspects of the individual situation of the applicant, including the special reception needs of that applicant.
5. Member States shall state reasons in fact and, where relevant, in law for any decision taken in accordance with paragraphs 1 and 2 of this Article in that decision. Applicants shall be informed in writing of such a decision, as well as of the procedures for challenging the decision in accordance with Article 29 and of the consequences of non-compliance with the obligations imposed by the decision. Member States shall provide applicants with such information in a language that they understand or are reasonably supposed to understand and in a concise, transparent, intelligible and easily accessible form, using clear and plain language. Member States shall ensure that the decisions taken in accordance with this Article are reviewed by a judicial authority *ex officio* where those decisions have been applied for more than two months, or that those decisions may be appealed at the request of the applicant concerned in accordance with Article 29.

Article 10
Detention

1. Member States shall not hold a person in detention for the sole reason that that person is an applicant or on the basis of the nationality of that applicant. The detention shall be based only on one or more of the grounds for detention set out in paragraph 4. The detention shall not be punitive in nature.
2. Where necessary and on the basis of an individual assessment of each case, Member States may detain an applicant, if other less coercive alternative measures cannot be applied effectively.
3. When detaining an applicant, Member States shall take into account any visible signs, statements or behaviour indicating that the applicant has special reception needs. Where the assessment provided for in Article 25 has not yet been completed, it shall be completed without undue delay and its results shall be taken into account when deciding whether to continue detention or whether the detention conditions need to be adjusted.
4. An applicant may be detained only on the basis of one or more of the following grounds:
 - (a) to determine or verify his or her identity or nationality;
 - (b) to determine the elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular where there is a risk of absconding;

- (c) to ensure compliance with legal obligations imposed on the applicant through an individual decision in accordance with Article 9(1) in cases where the applicant has not complied with such obligations and there continues to be a risk of absconding;
- (d) to decide, in the context of a border procedure in accordance with Article 43 of Regulation (EU) .../...⁺, on the applicant's right to enter the territory;
- (e) when the applicant is detained subject to a return procedure under Directive 2008/115/EC of the European Parliament and of the Council¹⁴ in order to prepare the return, or carry out the removal process, and the Member State concerned can substantiate on the basis of objective criteria, including that the applicant already had the opportunity to access the procedure for international protection, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;
- (f) when protection of national security or public order so requires;
- (g) in accordance with Article 44 of Regulation (EU) .../...⁺⁺.

The grounds for detention referred to in the first subparagraph shall be laid down in national law.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

¹⁴ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

5. Member States shall ensure that the rules concerning alternatives to detention, such as regular reporting to the authorities, the deposit of a financial guarantee, or an obligation to stay at an assigned place, are laid down in national law.

Article 11

Guarantees for detained applicants

1. An applicant shall be detained only for as short a period as possible and shall be kept in detention only for as long as the grounds set out in Article 10(4) are applicable.

Administrative procedures relevant to the grounds for detention set out in Article 10(4) shall be executed with due diligence. Delays in administrative procedures that cannot be attributed to the applicant shall not justify a continuation of detention.

2. The detention of applicants shall be ordered in writing by judicial or administrative authorities. The detention order shall state the reasons in fact and in law on which it is based as well as why less coercive alternative measures cannot be applied effectively.

3. Where detention is ordered by administrative authorities, Member States shall provide for a speedy judicial review of the lawfulness of detention to be conducted *ex officio* or upon the request of the applicant, or both. When conducted *ex officio*, such review shall be concluded as speedily as possible, taking into account the circumstances of each case, and no later than 15 days or, in exceptional situations, no later than 21 days from the beginning of detention. When conducted upon the request of the applicant, such review shall be concluded as speedily as possible, taking into account the circumstances of each case, and no later than 15 days or, in exceptional situations, no later than 21 days from the launch of the relevant proceedings.

Where the judicial review referred to in the first subparagraph has, where conducted *ex officio*, not been concluded within 21 days from the beginning of detention or, where conducted upon the request of the applicant, not been concluded within 21 days from the launch of the relevant proceedings, the applicant concerned shall be released immediately.

4. Detained applicants shall immediately be informed in writing, in a language which they understand or are reasonably supposed to understand, of the reasons for detention and the procedures laid down in national law for challenging the detention order, as well as of the possibility to request free legal assistance and representation.
5. Detention shall be reviewed by a judicial authority at reasonable intervals of time, *ex officio* or upon the request of the applicant concerned, in particular whenever it is of a prolonged duration, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention.

Without prejudice to the first subparagraph, the detention of unaccompanied minors shall be reviewed *ex officio* at regular intervals.

Where, as a result of the judicial review, detention is held to be unlawful, the applicant concerned shall be released immediately.

6. In the event of judicial review of the detention order provided for in paragraphs 3 and 5 of this Article, Member States shall ensure that applicants have access to free legal assistance and representation under the conditions set out in Article 29.

Article 12

Conditions of detention

1. Detention of applicants shall take place, as a rule, in specialised detention facilities. 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 and the detention conditions provided for in this Directive shall apply.

As far as possible, detained applicants shall be kept separately from other third-country nationals who have not lodged an application for international protection.

Where applicants cannot be detained separately from other third-country nationals, the Member State concerned shall ensure that the detention conditions provided for in this Directive are applied.

2. Detained applicants shall have access to open-air spaces.
3. Member States shall ensure that persons representing the United Nations High Commissioner for Refugees (UNHCR) have the possibility to communicate with and visit applicants in conditions that respect privacy. That possibility shall also apply to an organisation which is working on the territory of the Member State concerned on behalf of UNHCR pursuant to an agreement with that Member State.
4. Member States shall ensure that family members, legal advisers or counsellors and persons representing relevant non-governmental organisations recognised by the Member State concerned have the possibility to communicate with and visit applicants in conditions that respect privacy. Limits to access to the detention facility may be imposed only where, by virtue of national law, they are objectively necessary for security, public order or the administrative management of the detention facility, provided that access is not thereby severely restricted or rendered impossible.
5. Member States shall ensure that applicants in detention are systematically provided with information which explains the rules applied in the facility and sets out the rights and obligations of those applicants in a language which they understand or are reasonably supposed to understand. In the event that an applicant is detained at a border post or in a transit zone, Member States may derogate from that obligation in duly justified cases and for a reasonable period of time which shall be as short as possible. This derogation shall not apply in cases referred to in Article 43 of Regulation (EU) .../...⁺.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

Article 13

Detention of applicants with special reception needs

1. The health, including the mental health, of applicants in detention who have special reception needs shall be of primary concern to national authorities.

Where the detention of applicants with special reception needs would put their physical and mental health at serious risk, those applicants shall not be detained.

Where applicants with special reception needs are detained, Member States shall ensure regular monitoring of, and the provision of timely and adequate support to, those applicants, taking into account their particular situation, including their physical and mental health.

2. Minors shall, as a rule, not be detained. They shall be placed in suitable accommodation in accordance with Articles 26 and 27.

Adequate alternatives to detention shall, as a rule, be used for families with minors in accordance with the principle of family unity. Such families shall be placed in accommodation suitable for them.

In exceptional circumstances, as a measure of last resort and after it has been established that other less coercive alternative measures cannot be applied effectively, and after detention is assessed to be in their best interests in accordance with Article 26, minors may be detained:

- (a) in the case of accompanied minors, where the minor's parent or primary care-giver is detained; or
- (b) in the case of unaccompanied minors, where detention safeguards the minor.

Such detention shall be for the shortest possible period of time. Minors shall never be detained in prison or another facility used for law enforcement purposes. All efforts shall be made to release minors from detention and place them in accommodation suitable for minors.

The best interests of the child, as referred to in Article 26, shall be a primary consideration for Member States.

Where minors are detained, they shall have the right to education in accordance with Article 16, unless the provision of education is of limited value to them due to the very short period of their detention. Those minors shall also have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age.

3. Where unaccompanied minors are detained, they shall be accommodated in facilities adapted to the housing of unaccompanied minors. Such facilities shall be provided with staff qualified to safeguard the rights of unaccompanied minors and attend to their needs.

Where unaccompanied minors are detained, Member States shall ensure that they are accommodated separately from adults.

4. Detained families shall be provided with separate accommodation that guarantees adequate privacy.

Detained families with minors shall be accommodated in detention facilities adapted to the needs of minors.

5. Member States shall ensure that detained male and female applicants are accommodated separately, unless those detained applicants are family members and all individuals concerned consent to be accommodated together.

Exceptions to the first subparagraph may also apply to the use of common spaces designed for recreational or social activities, including the provision of meals.

6. Where the applicant is detained at a border post or in a transit zone, with the exception of the cases referred to in Article 43 of Regulation (EU) .../...⁺, Member States may derogate from paragraph 3, first subparagraph, paragraph 4 and paragraph 5, first subparagraph, in duly justified cases and for a reasonable period of time, that shall be as short as possible. Member States shall have sufficient facilities and resources in place to ensure that they apply the derogations provided for in this paragraph only in exceptional situations. When applying those derogations, Member States shall inform the Commission and the Asylum Agency thereof.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

Article 14
Families

Where a Member State provides applicants with housing, it shall take appropriate measures to maintain, as far as possible, family unity present within its territory. Such measures shall be implemented with the applicant's consent.

Article 15
Medical screening

Member States may require medical screening for applicants on public health grounds.

Article 16
Schooling and education of minors

1. Member States shall grant to minor children of applicants and to applicants who are minors the same access to education as their own nationals and under similar conditions for so long as an expulsion measure against such minors or their parents is not actually enforced.

The specific needs of minors, in particular with regard to respect for the child's right to education and access to health care shall be taken into account. The education of minors shall, as a rule, be integrated with that of Member States' own nationals and be of the same quality. Member States shall make every effort to ensure the continuity of education of minors for so long as an expulsion measure against them or their parents is not actually enforced.

Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority.

2. Member States shall grant minors referred to in paragraph 1 access to an education system as soon as possible and shall not postpone the granting of that access for more than two months from the date on which the application for international protection was lodged taking into account school holidays. Member States shall provide education within the general education system. However, as a temporary measure and for a maximum period of one month, Member States may provide that education outside the general education system.

Preparatory classes, including language classes, shall be provided to minors where it is necessary to facilitate their access to and participation in the general education system.

3. Where access to the general education system is not possible due to the specific situation of the minor, the Member State concerned shall offer other education arrangements in accordance with its national law and practice.

Article 17

Employment

1. Member States shall ensure that applicants have access to the labour market no later than six months from the date on which the application for international protection was registered provided that an administrative decision by the competent authority has not been taken and the delay cannot be attributed to the applicant.

Where the Member State has accelerated the examination on the merits of an application for international protection in accordance with Article 42(1), points (a) to (f) of Regulation (EU) .../...⁺, access to the labour market shall not be granted or, if already granted, shall be withdrawn.

2. Member States shall ensure that applicants who have access to the labour market in accordance with paragraph 1 have effective access to the labour market in accordance with national law.

For reasons of labour market policies, including regarding youth unemployment levels, Member States may verify whether a specific vacancy that an employer is considering to fill with an applicant who has access to the labour market in accordance with paragraph 1 could be filled by nationals of the Member State concerned, by other Union citizens, or by third-country nationals and stateless persons lawfully residing in that Member State. If the Member State finds that the specific vacancy could be filled by such persons, the Member State or the employer may refuse the employment of the applicant for that vacancy.

3. Member States shall ensure that applicants who have access to the labour market in accordance with paragraph 1 enjoy equal treatment with their own nationals as regards:

- (a) terms of employment, the minimum working age and working conditions, including pay and dismissal, working hours, leave and holidays, as well as health and safety requirements at the workplace;

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

- (b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;
 - (c) education and vocational training, including training courses for improving skills, practical workplace experience and employment guidance services;
 - (d) recognition of diplomas, certificates and other evidence of formal qualifications in the context of existing procedures for recognition of foreign qualifications; and
 - (e) access to appropriate schemes for the assessment, validation and recognition of applicants' prior learning outcomes and experience.
4. Member States may restrict equal treatment of applicants who have access to the labour market in accordance with paragraph 1:
- (a) as regards paragraph 3, point (b), by excluding them from taking part in the management of bodies governed by public law and from holding an office governed by public law;

- (b) as regards paragraph 3, point (c), by excluding:
 - (i) grants and loans related to education and vocational training and the payment of fees in accordance with national law with regard to access to university or post-secondary education; and
 - (ii) education and vocational training which is not provided within the framework of an existing employment contract, including where provided for employment promotion purposes;
 - (c) as regards paragraph 3, point (d) or (e), by not granting equal treatment for at least three months from the date on which the application for international protection was registered.
5. Member States shall ensure that applicants who are employed or, based on previous employment, are entitled to social security benefits, enjoy equal treatment with their own nationals as regards branches of social security referred to in Article 3(1) and (2) of Regulation (EC) No 883/2004.
6. Without prejudice to Regulation (EU) No 1231/2010, Member States may restrict equal treatment under paragraph 5 of this Article by excluding social security benefits which are not dependent on periods of employment or on contributions.

7. The right to equal treatment pursuant to this Article shall not give rise to a right to reside in cases where a decision taken in accordance with Regulation (EU) .../...⁺ has terminated the applicant's right to remain.
8. For the purposes of paragraph 3, point (d), of this Article, and without prejudice to Articles 2(2) and 3(3) of Directive 2005/36/EC, Member States shall facilitate, to the extent possible, full access to existing procedures for the recognition of foreign qualifications for applicants who cannot provide documentary evidence of their qualifications.
9. Access to the labour market shall not be withdrawn during an appeal procedure where the applicant has the right to remain on the territory of the Member State during that procedure and until a negative decision on the appeal is notified.

Article 18

Language courses and vocational training

Member States shall ensure that applicants have access to language courses, civic education courses or vocational training courses that those Member States consider appropriate in order to help enhance applicants' ability to act autonomously, to interact with competent authorities or to find employment, or, depending on the national system, Member States shall facilitate access to such courses, irrespective of whether applicants have access to the labour market in accordance with Article 17.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

Where applicants have sufficient means, Member States may require them to cover or contribute to the cost of courses referred to in the first paragraph.

Article 19

General rules on material reception conditions and health care

1. Member States shall ensure that material reception conditions are available to applicants from the moment they make their application for international protection in accordance with Article 26 of Regulation (EU) .../...⁺.
2. Member States shall ensure that material reception conditions and health care received in accordance with Article 22 provide an adequate standard of living for applicants, which guarantees their subsistence, protects their physical and mental health and respects their rights under the Charter.

Member States shall ensure that the adequate standard of living referred to in the first subparagraph is met in the specific situation of applicants with special reception needs as well as in relation to the situation of persons who are in detention.

3. Member States may make the provision of all or some of the material reception conditions subject to the condition that applicants do not have sufficient means to have an adequate standard of living as referred to in paragraph 2.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

4. Without prejudice to paragraph 2, Member States may require applicants to cover or contribute to the cost of the material reception conditions where those applicants have sufficient means to do so, for example if they have been working for a reasonable period of time.

Without prejudice to paragraph 2, Member States may also require applicants to cover or contribute to the cost of the health care received, where those applicants have sufficient means to do so, except where the health care is provided free of charge to the nationals of those Member States.

5. If it transpires that an applicant had sufficient means to cover the cost of the material reception conditions or health care received in accordance with paragraph 4 at the time the applicant was provided with an adequate standard of living, Member States may require the applicant to refund the cost of those material reception conditions or health care.
6. When assessing the resources of an applicant, when requiring an applicant to cover or contribute to the cost of the material reception conditions and of the health care received or when requiring an applicant to refund costs in accordance with paragraph 5, Member States shall respect the principle of proportionality. Member States shall also take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs.

7. 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 levels established by the Member State concerned either by law or practice to ensure an adequate standard of living for nationals. Member States shall inform the Commission and the Asylum Agency of those levels. Member States may grant less favourable treatment to applicants compared with nationals in this respect, in particular where material support is fully or partially provided in kind or where those levels applied for nationals aim to ensure a standard of living higher than that required for applicants by this Directive.

Article 20

Arrangements for material reception conditions

1. Where Member States provide housing in kind, they shall ensure that such housing provides the applicant with an adequate standard of living in accordance with Article 19(2) as well as with necessary support to account for applicants' special reception needs. The housing provided shall take one or a combination of the following forms:
- (a) premises used for the purpose of housing applicants during the examination of an application for international protection made at the border or in transit zones;
 - (b) accommodation centres;
 - (c) private houses, flats, hotels or other premises adapted for housing applicants.

2. Without prejudice to any specific conditions of detention as provided for in Articles 12 and 13, in relation to housing referred to in paragraph 1(a), (b) and (c) of this Article, Member States shall ensure that:
 - (a) applicants are guaranteed protection of their family life;
 - (b) applicants have the possibility of communicating with relatives, legal advisers or counsellors, persons representing UNHCR and other relevant national, international and non-governmental organisations and bodies;
 - (c) family members, legal advisers or counsellors, persons representing UNHCR and relevant non-governmental organisations recognised by the Member State concerned are granted access to the housing provided in order to assist the applicants; limits on such access may be imposed only on grounds relating to the security of the premises and of the applicants.
3. Member States shall take into consideration gender and age-specific concerns and the situation of applicants with special reception needs when providing material reception conditions.
4. When providing housing in accordance with paragraph 1, Member States shall take appropriate measures to ensure, as far as possible, the prevention of assault and violence, including violence committed with a sexual, gender, racist or religious motive.

5. Where female applicants are placed in accommodation centres, Member States shall provide separate sanitary facilities and a safe place in those centres for them and their minor children.
6. Member States shall, as far as possible, ensure that dependent adult applicants with special reception needs are accommodated together with close adult relatives who are already present in the same Member State and who are responsible for them whether by the law or practice of the Member State concerned.
7. Member States shall ensure that transfers of applicants from one housing facility to another take place only when necessary. Member States shall provide for the possibility for applicants to inform their legal advisers or counsellors of the transfer and of their new address.
8. Persons providing material reception conditions, including those providing health care and education in accommodation centres, shall be adequately trained and shall be bound by the confidentiality rules provided for in national law in relation to any information they obtain in the course of their work.
9. Member States may involve applicants in managing the material resources and non-material aspects of life in the accommodation centre through an advisory board or council representing residents. Without prejudice to Article 17, Member States may also allow applicants to perform voluntary work outside the accommodation centre subject to conditions of national law.

10. In duly justified cases and for a reasonable period of time which shall be as short as possible, Member States may exceptionally provide material reception conditions that are different from those provided for in this Article where:

- (a) an assessment of special reception needs of the applicant is required, in accordance with Article 25;
- (b) housing capacities normally available are temporarily exhausted or, due to a disproportionate number of persons to be accommodated or a man-made or natural disaster, housing capacities normally available are temporarily unavailable.

Different material reception conditions referred to in the first subparagraph of this paragraph shall in any event ensure access to health care in accordance with Article 22 and a standard of living for all applicants in accordance with Union law, including the Charter, and international obligations.

Where a Member State provides different material reception conditions in accordance with the first subparagraph of this paragraph, that Member State shall inform without delay the Commission and the Asylum Agency in accordance with Article 32(2) on the activation of its contingency plan. That Member State shall also inform the Commission and the Asylum Agency as soon as the reasons for providing those different material conditions have ceased to exist.

Article 21

Reception conditions in a Member State

other than the one in which the applicant is required to be present

From the moment applicants have been notified of a decision to transfer them to the Member State responsible in accordance with Regulation (EU) .../...⁺, they shall not be entitled to the reception conditions set out in Articles 17 to 20 of this Directive in any Member State other than the one in which they are required to be present in accordance with Regulation (EU) .../...⁺. This shall be without prejudice to the need to ensure a standard of living in accordance with Union law, including the Charter, and international obligations.

Unless a separate decision is issued, the transfer decision shall state that the relevant reception conditions have been withdrawn in accordance with this Article. The applicant shall be informed of his or her rights and obligations with regard to that decision.

Article 22

Health care

1. Member States shall ensure that applicants, irrespective of where they are required to be present in accordance with Regulation (EU) .../...⁺, receive the necessary health care, whether provided by generalists or, where needed, specialist practitioners. Such necessary health care shall be of adequate quality and include, at least, emergency care, essential treatment of illnesses, including of serious mental disorders, and sexual and reproductive health care which is essential in addressing a serious physical condition.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

2. Member States shall ensure that the minor children of applicants and applicants who are minors receive the same type of health care as provided to their own nationals who are minors. Member States shall ensure that specific treatment provided in accordance with this Article which started before the minor reached the age of majority and is considered to be necessary, is received without interruption or delay after the minor reaches the age of majority.
3. Where needed for medical reasons, Member States shall provide necessary medical or other assistance, such as necessary rehabilitation and assistive medical devices, to applicants who have special reception needs, including appropriate mental health care.

Chapter III

Reduction or withdrawal of material reception conditions

Article 23

Reduction or withdrawal of material reception conditions

1. With regard to applicants who are required to be present on their territory in accordance with Article 17(4) of Regulation (EU) .../...⁺, Member States may reduce or withdraw the daily expenses allowance.

If duly justified and proportionate, Member States may also:

- (a) reduce other material reception conditions, or

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

- (b) where paragraph 2, point (e), applies, withdraw other material reception conditions.
2. Member States may take a decision in accordance with paragraph 1 where an applicant:
- (a) abandons a geographical area within which the applicant is able to move freely in accordance with Article 8 or the residence in a specific place designated by the competent authority in accordance with Article 9 without permission, or absconds;
 - (b) does not cooperate with the competent authorities, or does not comply with the procedural requirements established by them;
 - (c) has lodged a subsequent application as defined in Article 3, point (19), of Regulation (EU) .../...⁺;
 - (d) has concealed financial resources, and has therefore unduly benefitted from material reception conditions;
 - (e) has seriously or repeatedly breached the rules of the accommodation centre or has behaved in a violent or threatening manner in the accommodation centre; or
 - (f) fails to participate in compulsory integration measures, where provided or facilitated by the Member State, unless there are circumstances beyond the applicant's control.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

3. Where a Member State has taken a decision in a situation referred to in paragraph 2, points (a), (b) or (f), and the circumstances on which that decision was based cease to exist, it shall consider whether some or all of the material reception conditions withdrawn or reduced may be reinstated. Where not all material reception conditions are reinstated, the Member State shall take a duly justified decision and notify it to the applicant.
4. Decisions in accordance with paragraph 1 of this Article shall be taken objectively and impartially on the merits of the individual case and shall state the reasons on which they are based. Decisions shall be based on the particular situation of the applicant, especially with regard to applicants with special reception needs, taking into account the principle of proportionality. Member States shall ensure access to health care in accordance with Article 22 and shall ensure a standard of living in accordance with Union law, including the Charter, and international obligations for all applicants.
5. Member States shall ensure that material reception conditions are not withdrawn or reduced before a decision is taken in a situation referred to in paragraph 2.

Chapter IV

Provisions for applicants with special reception needs

Article 24

Applicants with special reception needs

Member States shall take into account the specific situation of applicants with special reception needs.

Member States shall take into consideration the fact that certain applicants such as those falling within any of the following categories, are more likely to have special reception needs:

- (a) minors;
- (b) unaccompanied minors;
- (c) persons with disabilities;
- (d) elderly persons;
- (e) pregnant women;
- (f) lesbian, gay, bisexual, trans and intersex persons;
- (g) single parents with minor children;
- (h) victims of trafficking in human beings;
- (i) persons with serious illnesses;
- (j) persons with mental disorders including post-traumatic stress disorder;
- (k) persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, for example victims of gender-based violence, of female genital mutilation, of child or forced marriage, or violence committed with a sexual, gender, racist or religious motive.

Article 25

Assessment of special reception needs

1. In order to effectively implement Article 24, Member States shall, as early as possible after an application for international protection is made, individually assess whether the applicant has special reception needs, using oral translation where necessary.

The assessment referred to in the first subparagraph of this paragraph may be integrated into existing national procedures or into the assessment referred to in Article 20 of Regulation (EU) .../...⁺.

The assessment referred to in the first subparagraph of this paragraph shall be initiated by identifying special reception needs based on visible signs or on the applicants' statements or behaviour or, where applicable, statements of the parents or the representative of the applicant.

The assessment referred to in the first subparagraph of this paragraph shall be completed within 30 days from the making of the application for international protection or, where it is integrated into the assessment referred to in Article 20 of Regulation (EU) .../...⁺, within the timeframe set out in that Regulation, and the special reception needs identified on the basis of such assessment shall be addressed.

Where special reception needs become apparent at a later stage in the procedure for international protection, Member States shall assess and address those needs.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

Member States shall ensure that the support provided to applicants with special reception needs in accordance with this Directive takes into account their special reception needs throughout the duration of the procedure for international protection and shall provide for appropriate monitoring of their situation.

2. For the purposes of paragraph 1, Member States shall ensure that the staff assessing special reception needs in accordance with this Article:
 - (a) are trained and continue to be trained to detect signs that an applicant has special reception needs and to address those needs when identified;
 - (b) include information concerning the nature of the applicant's special reception needs in the applicant's file held by the competent authorities, together with a description of the visible signs or the applicants' statements or behaviour relevant for the assessment of the applicants' special reception needs as well as the measures that have been identified to address those needs and the authorities responsible for addressing those needs; and
 - (c) subject to prior consent in accordance with national law, refer applicants to the appropriate medical practitioner or psychologist for further assessment of their psychological and physical state where there are indications that their mental or physical health could affect their reception needs; where necessary, oral translation shall be provided by professionals trained in translation to ensure that the applicant is able to communicate with medical staff; where the lack of such trained professionals would risk delaying the treatment, oral translation may be provided by other adult individuals, subject to the applicant's consent.

The competent authorities shall take into account the result of the assessment referred to in point (c) when deciding on the type of special reception support which may be provided to the applicant.

3. The assessment referred to in the first subparagraph of paragraph 1 need not take the form of an administrative procedure.
4. Only applicants with special reception needs may benefit from the specific support provided in accordance with this Directive.
5. The assessment provided for in the first subparagraph of paragraph 1 shall be without prejudice to the assessment of international protection needs pursuant to Regulation (EU) .../...⁺.

Article 26

Minors

1. The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this Directive that possibly affect minors. Member States shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 70/23 (2016/0223(COD)).

2. In assessing the best interests of the child, Member States shall in particular take due account of the following factors:
 - (a) family reunification possibilities;
 - (b) the minor's well-being and social development, taking into particular consideration the minor's background and the need for stability and continuity in care;
 - (c) safety and security considerations, in particular where there is a risk of the minor being a victim of any form of violence or exploitation, including trafficking in human beings;
 - (d) the views of the minor in accordance with his or her age and maturity.
3. Member States shall ensure that minors have access to leisure activities, including play and recreational activities appropriate to their age, and to open-air activities within the premises and accommodation centres referred to in Article 20(1)(a) and (b), as well as to school materials where needed.
4. Member States shall ensure access to rehabilitation services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and ensure that appropriate mental health care is developed and qualified counselling is provided where needed.

5. Member States shall ensure that minor children of applicants or applicants who are minors are accommodated with their parents or with the adult responsible for them and their unmarried minor siblings whether by the law or practice of the Member State concerned, provided it is in the best interests of the minors concerned.
6. Persons working with minors, including representatives and persons suitable to provisionally act as representatives as referred to in Article 27, shall not have a record of child-related crimes or offences, or of crimes or offences that lead to serious doubts about their ability to assume a role of responsibility with regard to minors, shall receive initial and continuous appropriate training concerning the rights and needs of minors, including those relating to any applicable child safeguarding standards, and shall be bound by the confidentiality rules provided for in national law in relation to any information they obtain in the course of their work.

Article 27

Unaccompanied minors

1. Where an application is made by a person who claims to be a minor, or in relation to whom there are objective grounds to believe that that person is a minor, Member States shall designate:
 - (a) a person suitable to provisionally act as a representative under this Directive until a representative has been appointed;

- (b) a representative as soon as possible and no later than 15 working days from the date on which the application is made.

The representative and the person suitable to provisionally act as a representative shall meet with the unaccompanied minor and take into account the minor's own views about his or her needs.

Where a Member State has assessed that an applicant who claims to be a minor is without any doubt above the age of 18 years, that Member State need not appoint a representative or designate a person suitable to provisionally act as a representative in accordance with the first or second subparagraph, respectively.

Member States shall include in their contingency plans referred to in Article 32 measures to be taken to ensure the appointment of representatives and the designation of persons suitable to provisionally act as representatives in accordance with this Article in cases where they are confronted with a disproportionate number of applications made by unaccompanied minors.

Where the implementation of measures referred to in the fourth subparagraph is insufficient in order to respond to a disproportionate number of applications made by unaccompanied minors, or in other exceptional situations, the appointment of representatives may be delayed for ten working days and the number of unaccompanied minors per representative may be increased, up to a maximum of 50 unaccompanied minors.

When applying the fifth subparagraph, Member States shall inform the Commission and the Asylum Agency accordingly.

The duties of the representative and the person suitable to provisionally act as a representative shall cease where the competent authorities, following the age assessment referred to in Article 25(1) of Regulation (EU) .../...⁺, do not assume that the applicant is a minor or consider that the applicant is not a minor, or where the applicant is no longer an unaccompanied minor.

2. Member States shall ensure that the person suitable to provisionally act as a representative is immediately informed when an application for international protection is made by an unaccompanied minor of any relevant facts pertaining to that minor. Persons whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be designated as a person suitable to provisionally act as a representative. The unaccompanied minor shall be immediately informed that a person suitable to provisionally act as a representative has been designated.
3. Where an organisation is appointed as a representative or designated as a person suitable to provisionally act as a representative, it shall appoint a natural person to carry out the tasks of the representative in respect of the unaccompanied minor in accordance with this Directive.
4. The representative provided for in paragraph 1 of this Article may be the same person as provided for in Article 23(2) of Regulation (EU) .../...⁺.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

5. The competent authorities shall immediately inform:
- (a) the unaccompanied minor that a representative has been appointed for him or her and how to lodge a complaint against that representative in confidence and safety in an age-appropriate manner and in a manner that ensures that the minor understands that information;
 - (b) the authority responsible for providing reception conditions that a representative has been appointed for the unaccompanied minor; and
 - (c) the representative of relevant facts pertaining to the unaccompanied minor.
6. The representative or the person suitable to provisionally act as a representative shall be changed only where necessary, in particular when the competent authorities consider that that representative or person has not performed his or her tasks adequately.
- Organisations or natural persons whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as a representative or designated as a person suitable to provisionally act as a representative.
7. Member States shall place a natural person appointed as a representative or designated as a person suitable to provisionally act as a representative in charge of a proportionate and limited number of unaccompanied minors and, under normal circumstances, of no more than 30 unaccompanied minors at the same time, in order to ensure that that person is able to perform tasks effectively.

8. Member States shall ensure that there are administrative or judicial authorities or other entities responsible to supervise the proper performance of tasks by the representatives and persons suitable to provisionally act as representatives, including by reviewing the criminal records of those appointed representatives and designated persons at regular intervals in order to identify potential incompatibilities with their role. Those administrative or judicial authorities or other entities shall review complaints lodged by unaccompanied minors against their appointed representatives or designated persons.
9. Unaccompanied minors who make an application for international protection shall, from the moment they are admitted to the territory of a Member State in which the application for international protection was made or is being examined until the moment when they are obliged to leave that Member State, be placed:
 - (a) with adult relatives;
 - (b) with a foster family;
 - (c) in accommodation centres with special provisions for minors;
 - (d) in other accommodation suitable for minors.

Member States may place unaccompanied minors aged 16 or over in accommodation centres for adult applicants, if it is in their best interests, as provided for in Article 26(2).

As far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.

10. 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 the best interests of that unaccompanied minor. Where there is a possible threat to the life or integrity of the minor or the minor's close relatives, in particular if those relatives have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety.

Article 28

Victims of torture and violence

1. Member States shall ensure that persons who have been subjected to trafficking in human beings, torture, rape or other serious acts of psychological, physical or sexual violence, including violence committed with a sexual, gender, racist or religious motive, are provided with necessary medical and psychological treatment and care, including rehabilitation services and counselling where necessary, for the damage caused by such acts. Those persons shall be provided, where needed, with an oral translation in accordance with Article 25(2), point (c).

Access to such treatment and care shall be provided as early as possible after those persons' needs have been identified.

2. Those working with the persons referred to in paragraph 1, including health professionals, shall be appropriately trained and continue to receive appropriate training concerning those persons' needs and appropriate treatments, including necessary rehabilitation services. They shall also be bound by the confidentiality rules provided for in national law and applicable professional ethics codes in relation to any information they obtain in the course of their work.

Chapter V

Remedies

Article 29

Appeals

1. Member States shall ensure that decisions relating to the granting, withdrawal or reduction of benefits under this Directive, decisions refusing to grant the permission referred to in Article 8(5), first subparagraph, or decisions taken under Article 9 which affect applicants individually may be the subject of an appeal within the procedures laid down in national law. In at least the last instance, the possibility of an appeal or a review, in fact and in law, shall be granted before a judicial authority.

2. In the cases of an appeal or a review before a judicial authority referred to in paragraph 1 of this Article, and in the case of judicial review referred to in Article 11(3) and (5), Member States shall ensure that free legal assistance and representation is made available as necessary to ensure effective access to justice. Such legal assistance and representation shall consist of the preparation of the appeal or request for review, including, at least, the preparation of the required procedural documents, and participation in the hearing before the judicial authorities on behalf of the applicant.

Free legal assistance and representation shall be provided by legal advisers or other suitably qualified persons, as admitted or permitted under national law, whose interests do not conflict or could not potentially conflict with those of the applicant.

3. Member States may decide not to grant free legal assistance and representation where:
- (a) the applicant has sufficient resources; or
 - (b) the appeal or review is considered to have no tangible prospect of success, in particular if the appeal or review is at a second level of appeal or higher.

Where a decision not to grant free legal assistance and representation is taken by an authority which is not a court or tribunal on the ground that the appeal or review is considered to have no tangible prospect of success, the applicant shall have the right to an effective remedy before a court or tribunal against that decision, and for that purpose shall be entitled to request free legal assistance and representation.

Member States may also provide that free legal assistance and representation are granted only by legal advisers or other counsellors who are specifically designated under national law to assist and represent applicants or by non-governmental organisations accredited under national law to provide free legal assistance and representation.

4. Member States may also:
 - (a) impose monetary or time limits on the provision of free legal assistance and representation, provided that such limits do not arbitrarily restrict access to free legal assistance and representation;
 - (b) provide that, as regards fees and other costs and reimbursements, the treatment of applicants shall be equal to but not more favourable than the treatment generally given to their nationals in matters pertaining to legal assistance.
5. Without prejudice to Article 19(2) of this Directive, Member States may request total or partial reimbursement of any costs incurred where the applicant's financial situation has improved considerably during the procedure for international protection in accordance with Regulation (EU) .../...⁺ or where the decision to provide free legal assistance and representation was taken on the basis of false information supplied by the applicant.
6. Member States shall lay down specific procedural rules governing the manner in which requests for free legal assistance and representation are filed and processed, or apply existing rules for domestic claims of a similar nature, provided that those rules do not render access to free legal assistance and representation impossible or excessively difficult.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224A(COD)).

Chapter VI

Actions to improve the efficiency of the reception system

Article 30

Competent authorities

Each Member State shall notify the Commission of the authorities responsible for fulfilling the obligations arising under this Directive. Member States shall inform the Commission of any changes in the identity of such authorities.

Article 31

Guidance, monitoring and control system

1. Member States shall, with due respect to their constitutional structure, put in place relevant mechanisms in order to ensure that appropriate guidance, monitoring and control of the level of reception conditions are established. Member States shall take into account available, non-binding operational standards, indicators, guidelines or best practices on reception conditions developed by the Asylum Agency in accordance with Article 13 of Regulation (EU) 2021/2303, without prejudice to Member States' competence for organising their reception systems in accordance with this Directive.
2. Member States' reception systems shall be subject to the monitoring mechanism set out in Chapter 5 of Regulation (EU) 2021/2303.

Article 32
Contingency planning

1. Each Member State shall draw up a contingency plan in consultation with local and regional authorities, civil society and international organisations, as appropriate. The contingency plan shall set out the measures to be taken to ensure an adequate reception of applicants in accordance with this Directive in cases where the Member State is confronted with a disproportionate number of applicants for international protection, including of unaccompanied minors. The contingency plan shall also include measures to address situations referred to in Article 20(10), point (b), as quickly as possible.
2. The contingency plan referred to in paragraph 1 shall take into account the specific national circumstances, using a template to be developed by the Asylum Agency, and shall be notified to the Asylum Agency by ... [ten months from the date of entry into force of this Directive]. That plan shall be reviewed when needed due to changed circumstances and at least every three years and, if updated, shall be notified to the Asylum Agency. The Member States shall inform the Commission and the Asylum Agency whenever its contingency plan is activated.
3. Member States shall provide the Asylum Agency, upon its request, with information on their contingency plans referred to in paragraph 1 and the Asylum Agency shall assist Member States, with their agreement, to draw up and review their contingency plans.

Article 33
Staff and resources

1. Member States shall take appropriate measures to ensure that the staff of authorities and other organisations directly responsible for implementing this Directive have received the necessary training with respect to the needs of applicants, including minors. To that end, Member States shall include relevant core parts of the European asylum curriculum related to reception conditions as well as the tool for identification of applicants with special reception needs developed by the Asylum Agency in the training of their staff.
2. Member States shall allocate the necessary resources, including the necessary staff, translators and interpreters, for the implementation of this Directive, taking into account seasonal fluctuations in the numbers of applicants. Where local and regional authorities, civil society or international organisations take part in the implementation of this Directive, they shall be allocated the necessary resources.

Article 34
Monitoring and evaluation

By ... [48 months from the date of entry into force of this Directive], and at least every five years thereafter, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary.

Member States shall, upon the request of the Commission, send the necessary information for drawing up the report by ... [36 months from the date of entry into force of this Directive] and every three years thereafter.

Article 35

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 1 to 10, 12, 13, 17 to 29 and 31 to 34 by ... [24 months from the date of entry into force of this Directive]. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 36

Repeal

Directive 2013/33/EU is repealed, for the Member States bound by this Directive, with effect from ... [24 months from the date of entry into force of this Directive], without prejudice to the obligations of the Member States relating to the time-limit for transposition into national law of Directive 2013/33/EU set out in Annex I.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex II.

Article 37

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 38
Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament
The President

For the Council
The President

ANNEX I

Time-limit for transposition into national law

(referred to in Article 35)

Directive	Time-limit for transposition
2013/33/EU	20 July 2015

ANNEX II

Correlation table

Directive 2013/33/EU	This Directive
Article 1	Article 1
Article 2, introductory wording	Article 2, introductory wording
Article 2, point (a)	Article 2, point (1)
Article 2, point (b)	Article 2, point (2)
Article 2, point (c)	Article 2, point (3)
Article 2, point (d)	Article 2, point (4)
Article 2, point (e)	Article 2, point (5)
Article 2, point (f)	Article 2, point (6)
Article 2, point (g)	Article 2, point (7)
–	Article 2, point (8)
Article 2, point (h)	Article 2, point (9)
Article 2, point (i)	Article 2, point (10)
–	Article 2, point (11)
–	Article 2, point (12)
Article 2, point (j)	Article 2, point (13)
Article 2, point (k)	Article 2, point (14)
Article 3	Article 3
Article 4	Article 4
Article 5(1)	Article 5(1), first and third subparagraphs
–	Article 5(1), second subparagraph
Article 5(2)	Article 5(2), first subparagraph
–	Article 5(2), second, third and fourth subparagraphs

Directive 2013/33/EU	This Directive
Article 6(1) to (4)	Article 6(1)
Article 6(5)	Article 6(3)
Article 6(6)	Article 6(2)
Article 7(1)	Article 7(1), (2) and (3) and Article 8(3)
–	Article 7(5) and (7)
Article 7(2)	Article 9(1), first subparagraph, and Article 8(2), first subparagraph
–	Article 8(1), Article 8(2), second subparagraph, and Article 8(4), (6) and (7)
–	Article 9(1), second subparagraph
–	Article 9(2)
Article 7(3)	Article 7(4)
Article 7(4)	Article 8(5) and Article 9(3)
Article 7(5)	Article 7(6)
–	Article 9(4) and (5)
Article 8(1) and (2)	Article 10(1) and (2)
–	Article 10(3)
Article 8(3), points (a) and (b)	Article 10(4), points (a) and (b)
–	Article 10(4), point (c)
Article 8(3), point (c)	Article 10(4), point (d)
Article 8(3), point (d)	Article 10(4), point (e)
Article 8(3), point (e)	Article 10(4), point (f)
Article 8(3), point (f)	Article 10(4), point (g)
Article 8(3), second subparagraph	Article 10(4), second subparagraph
Article 8(4)	Article 10(5)

Directive 2013/33/EU	This Directive
Articles 9	Article 11
Article 10	Article 12
Article 11	Article 13
Article 12	Article 14
Article 13	Article 15
Article 14	Article 16
Article 15(1)	Article 17(1), first subparagraph
–	Article 17(1), second subparagraph
Article 15(2)	Article 17(2)
–	Article 17(4) to (8)
Article 15(3)	Article 17(9)
–	Article 18
Article 16	–
Article 17(1) to (4)	Article 19(1) to (5)
–	Article 19(6)
Article 17(5)	Article 19(7)
Article 18(1) to (8)	Article 20(1) to (4) and (6) to (9)
–	Article 20(5)
Article 18(9), first and second subparagraphs	Article 20(10), first and second subparagraphs
–	Article 20(10), third subparagraph
–	Article 21
Article 19	Article 22 (1) and (3)
–	Article 22(2)
Article 20, introductory wording	Article 23(1)

Directive 2013/33/EU	This Directive
Article 20(1), first subparagraph, points (a), (b) and (c)	Article 23(2), first subparagraph, points (a), (b) and (c)
–	Article 23(2), first subparagraph, points (e) and (f)
Article 20(1), second subparagraph	Article 20(3)
Article 20(2)	–
Article 20(3)	Article 23(2), first subparagraph, point (d)
Article 20(4)	–
Article 20(5)	Article 23(4)
Article 20(6)	Article 23(5)
Article 21	Article 24
Article 22(1)	Article 25(1)
–	Article 25(2)
Article 22(2), (3) and (4)	Article 25(3), (4) and (5)
Article 23(1) to (5)	Article 26(1) to (5)
Article 24(1), first subparagraph	Article 27(1), first subparagraph, and Article 27(6)
Article 24(1), second subparagraph	–
–	Article 27(1), second to eight subparagraphs, and Article 27(2) to (5), (7) and (8)
Article 24(2) and (3)	Article 27(9) and (10)
Article 24(4)	Article 26(6)
Article 25	Article 28
Article 26	Article 29
Article 27	Article 30
Article 28	Article 31

Directive 2013/33/EU	This Directive
–	Article 32
Article 29	Article 33
Article 30(1) and (2)	Article 34
Article 30(3)	–
Article 31	Article 35
Article 32	Article 36
Article 33(1)	Article 37
Article 33(2)	–
Article 34	Article 38
Annex I	–
Annex II	Annex I
Annex III	Annex II