

COUNCIL OF THE EUROPEAN UNION

Brussels, 21 November 2012

16332/12

Interinstitutional File: 2008/0243 (COD)

> **ASILE 138 CODEC 2704**

"I/A" ITEM NOTE

from:	General Secretariat of the Council	
to:	Permanent Representatives Committee (Part II)/Council	
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Recast) [First reading] - Political agreement	

1. The purpose of the Dublin Regulation is to lay down the criteria and mechanisms for determining the Member State responsible for examining an application for international protection, lodged in one of the Member State by a third-country national or a stateless person. The objective of the amending proposal is to enhance the system's efficiency as well as ensuring that the needs of the applicants are met under the responsibility determination procedure.

16332/12 EN DG D 1 B

- 2. On 8 December 2008, the Council received from the Commission a proposal for a recast of this Regulation¹. The European Parliament's voted its first-reading position on the proposal on 7 May 2009². On 16 July 2009, the European Economic and Social Committee adopted an Opinion on the initial Commission proposal³. The Committee of the Regions adopted an Opinion on the initial proposal at its plenary session on 6/7 October 2009⁴.
- 3. In accordance with the provisions of the joint declaration on practical agreements for the codecision procedure ⁵, representatives of the Council, the Parliament and the Commission conducted informal contacts with a view to finding agreement. These contacts resulted in the text as it appears in Annex.
- 4. At its meeting on 18 July 2012, the Permanent Representatives Committee endorsed the compromise regarding the part of the proposal which is not related to comitology⁶. The LIBE Committee endorsed informally the above text on 19 September 2012.
- 5. With regard to comitology-related issues, a compromise between the Chair of the Permanent Representatives Committee and the Rapporteur was reached as a result of the informal trilogue held on 14 November 2012.

16332/12 GK/pf 1 DG D 1 B **EN**

Doc. 16929/08

² P6 TA(2009)0377

³ SOC/333-CESE 1210/2009

⁴ CdR 90/2009

⁵ OJ C 145, 30.6.2007, p. 5.

Doc. 12746/2/12 REV2

6. The Permanent Representatives Committee is accordingly asked to invite the Council to confirm the political agreement on the amended recast of the Dublin Regulation as it appears in Annex⁷ and to enter in its minutes the statements set out in the Annex to the Annex. After approval of the political agreement and the revision maded by the lawyer-linguists, the Council can adopt its first reading position as an "A" item at a forthcoming Council. Subsequently, Council's position at first reading will be communicated to the European Parliament with a view to adoption without amendments in second reading.

_

16332/12 GK/pf 2
DG D 1 B EN

In accordance with Articles 3 and 4a(1) of the Protocol (No. 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union, and to the Treaty on the Functioning of the European Union, these Member States have notified their wish to take part in the adoption and application of the recast of this Regulation. In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union, and to the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption of the recast of this Regulation and is not bound by it or subject to its application.

ANNEX

	♥ 343/2003/EC
	⇒ new
	→ Council
2008/0243 (COD)	

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application ⇒ for international protection ⇔ lodged in one of the Member States by a third-country national ⇒ or a stateless person ⇔

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ⊃ [...] C ⊃ on the Functioning of the European Union (TFEU) C, and in particular \bigcirc point \bigcirc [...] \bigcirc 2 (e) of Article 78 \bigcirc \bigcirc [...] \bigcirc thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁸,

OJ C , , p. .

16332/12 GK/pf ANNEX DG D 1 B EN

Having regard to the opinion of the Committee of the Regions ⁹ ,
Acting in accordance with the procedure laid down in Article \bigcirc [] \bigcirc \bigcirc \bigcirc of the \bigcirc [] \bigcirc \bigcirc TFEU \bigcirc 10,
Whereas:

(1) A number of substantive changes are to be made to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national 11. In the interests of clarity, that Regulation should be recast.

new

→ 343/2003/EC recital 1 **→** Council

A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the <u>\[\bigcircline{\Distalline{\</u>

_

⁹ OJC,,p..

OJC,,p...

OJ L 50, 25.2.2003, p.1.

◆ 343/2003/EC recital 2

The European Council, at its special meeting in Tampere on 15 and 16 October 1999, agreed to work towards establishing a Common European Asylum System, 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, thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of non-refoulement. In this respect, and without affecting the responsibility criteria laid down in this Regulation, Member States, all respecting the principle of non-refoulement, are considered as safe countries for third-country nationals.

◆ 343/2003/EC recital 3

(4) The Tampere conclusions also stated that this system should include, in the short term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.

◆ 343/2003/EC recital 4 ⇒ new

Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for determining refugee ⇒ international protection ⇒ status and not to compromise the objective of the rapid processing of asylum applications ⇒ for international protection ⇔.

◆ 343/2003/EC recital 5

As regards the introduction in successive phases of a common European asylum system that should lead, in the longer term, to a common procedure and a uniform status, valid throughout the Union, for those granted asylum, it is appropriate at this stage, while making the necessary improvements in the light of experience, to confirm the principles underlying the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities(4), signed in Dublin on 15 June 1990 (hereinafter referred to as the Dublin Convention), whose implementation has stimulated the process of harmonising asylum policies.

new

→ Council

(6) The first phase in the creation of a Common European Asylum System that should lead, in the longer term, to a common procedure and a uniform status, valid throughout the Union, for those granted asylum, has now been achieved. The European Council of 4 November 2004 adopted The Hague Programme which sets the objectives to be implemented in the area of freedom, security and justice in the period 2005-2010. In this respect The Hague Programme invited the European Commission to conclude the evaluation of the first phase legal instruments and to submit the second-phase instruments and measures to the Council and the European Parliament with a view to their adoption before 2010.

- (6b) The resources of the European Asylum Support Office established by established by Regulation (EU) No 439/2010 of the European Parliament and of the Council, should be available to provide adequate support to the relevant services of the Member States responsible for implementing this Regulation.

In particular it should provide solidarity measures, such as the Asylum Intervention Pool with Asylum support teams to assist those Member States which are faced with particular pressure and where applicants cannot benefit from adequate standards in particular as regards of reception and protection.

In the light of the results of the evaluations undertaken, it is appropriate, at this stage, to confirm the principles underlying the Regulation (EC) No 343/2003, while making the necessary improvements in the light of experience to enhance the effectiveness of the system and the protection granted to applicants for international protection under this procedure. Given that a well-functioning Dublin system is essential for the CEAS, its principles and functioning should be reviewed as other components of the CEAS and EU solidarity tools are built up. A comprehensive 'fitness check' should be foreseen by conducting an evidence-based review covering the legal, economic and social effects of the Dublin system, including its effects on fundamental rights.

- In view of ensuring equal treatment for all applicants and beneficiaries of international protection, as well as in order to ensure consistency with current EU asylum *acquis*, in particular with $\bigcirc [...] \bigcirc$ Directive $\bigcirc [...] \bigcirc$ \bigcirc 2011/xx/EU of 13 December 2011 on \bigcirc standards for the qualification and status of third country nationals or stateless persons as \bigcirc beneficiaries of international protection for a uniform status for \bigcirc refugees or \bigcirc for \bigcirc \bigcirc [...] \bigcirc persons \bigcirc eligible for subsidiary \bigcirc \bigcirc [...] \bigcirc protection and \bigcirc for \bigcirc the content of the protection granted, \bigcirc 12 \bigcirc [...] \bigcirc the scope of this Regulation \bigcirc [...] \bigcirc encompasses \bigcirc \bigcirc applicants for subsidiary protection and persons enjoying subsidiary protection. \bigcirc \bigcirc [...] \bigcirc
- (9) Directive [.../../EC] of ... laying down minimum standards for the reception of asylum seekers should apply to the procedure regarding the determination of the Member State responsible as regulated under this Regulation, subject to the limitations in the application of that Directive, as specified in its Recitals 28, 29 and 30 and Article 32 of this Directive.
- international protection status [1], should apply in addition and without prejudice to the provisions concerning the procedural safeguards regulated under this Regulation, subject to the limitations in the application of that Directive as specified in its Recitals X, X and X and Article X (Repeal provision) of this Directive.

OJ L 304, 30.9.2004, p. 12.

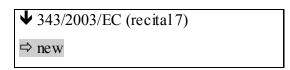
In accordance with the 1989 United Nations Convention on the Rights of the Child and as recognised in the Charter of Fundamental Rights of the European Union, the best interests of the child should be a primary consideration of Member States in the application of this Regulation. In assessing the best interest of the child, Member States should in particular take due account of the minor's wellbeing and social development, including his/her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability.

◆ 343/2003/EC recital 6

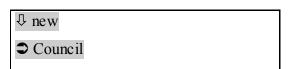
Family unity should be preserved in so far as this is compatible with the other objectives pursued by establishing criteria and mechanisms for determining the Member State responsible for examining an asylum application.

↓ new Council

In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms and as recognised in the Charter of Fundamental Rights of the European Union, respect for family life colouble should be a primary consideration of Member States when applying this Regulation.



The processing together of the asylum applications ⇒ for international protection ⇔ of the members of one family by a single Member State makes it possible to ensure that the applications are examined thoroughly and the decisions taken in respect of them are consistent ⇒ and that the members of one family are not separated ⇔.



In order to ensure full respect for the principle of family unity and of the best interests of the child, the existence of a relationship of dependency between an applicant and his/her

\[
\bigsim_{\text{...}} \color \color \text{relation} \color \text{on account of } \color \text{the applicant's } \color \text{pregnancy or maternity,}
\[
\bigsim_{\text{...}} \color \text{state of health or } \color \bigsim_{\text{...}} \color \color \text{old} \color \text{age, should become binding responsibility}
\]

\[
\text{criterion.} \text{When the applicant is an unaccompanied minor, the presence of a } \color \frac{\text{family}}{\text{amily}}
\]

\[
\text{member, } \color \bigsim_{\text{...}} \color \color \color \bigsim_{\text{...}} \color \color \text{criterion.} \text{Criterion.}
\]

\[
\text{can take care of him/her should also become binding responsibility criterion.}
\]

◆ 343/2003/EC (recital 7)	
⇒ new	
⊃ Council	

Any Member States should be able to derogate from the responsibility criteria, so as to make it possible to bring family members together where this is necessary on humanitarian grounds ⇒ in particular for humanitarian and compassionate reasons ⇒ so as to make it possible to bring other family ⇒ [...] ⊂ members ⇒ [...] ⊂ relatives or relations ⇒ [...] ⊂ together ⊂ and examine an application for international protection lodged with it or with another Member State, even if such examination is not its responsibility under the binding criteria laid down in the Regulation ⇒ [...] ⊂ . ⇔

↓ new→ Council

A personal interview $\bigcirc [...] \subset \bigcirc \underline{\text{should}} \subset \bigcirc [...] \subset \underline{\text{be organised in order to facilitate}}$ the determination of the Member State responsible for examining an application for international protection $\bigcirc [...] \subset \underline{\text{The asylum seeker should be informed, as soon as the}}$ application for international protection is lodged, on the application of the present Regulation and $\bigcirc [...] \subset \underline{\text{that the interview in order to facilitate the process of determining}}$ the Member State responsible includes the possibility for the applicant to $\bigcirc [...] \subset \underline{\text{provide }} \bigcirc [...] \subset \underline{\text{information regarding the presence of family members, siblings or other relatives or relations in the Member States <math>\subset$.

- In accordance in particular with the rights recognised in Article 47 of the Charter of Fundamental Rights of the European Union, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established to guarantee effective protection of the rights of the individuals concerned. An effective remedy should cover both the examination of the application of this Regulation and of the legal factual situation in the Member State to which the applicant is transferred in order to ensure that international law is respected.
- (17) **(**17) **(**17)
- Detention of asylum seekers should be applied in line with the underlying principle that a person should not be held in detention for the sole reason that he is seeking international protection. Detention should be as short as possible and [...] be subject to the principles of necessity and proportionality. In particular, detention of asylum seekers must be applied in line with Article 31 of the Geneva Convention [...] . [...] The procedures carried out according to this Regulation in respect of a detained person should be handled with priority, within the minimum possible deadlines. As regards the general guarantees governing detention, as well as detention conditions, where appropriate, Member States should apply the provisions of Directive [.../.../EC] of ... laying down minimum standards for the reception of asylum seekers also to persons detained on the basis of the present Regulation.
- ② (18A ③ [...] ℂ) Deficiencies or collapses of asylum systems, oftern aggrevated ⑤ [...] ℂ or contributed to by particular pressures on them, can destabilise the proper functioning of the system put in place by the present Regulation ⑤ [...] ℂ, which could lead to a risk of a violation of the rights of applicants for international protection as set out in the EU asylum acquis and the Charter for Fundamental Rights, other international human rights and refugee rights obligations.

(18B) A process for early warning, preparedness and management of asylum crises serving to prevent such deteriorations or collapses, with EASO playing a key role using its powers under Regulation (EU) 439/2010, should be established both in order to ensure that cooperation within the framework of this Regulation is robust as well as to develop mutual trust among the Member States with respect to asylum policy. The process should ensure that the Union is alerted as soon as possible of situations in which a concern exists that the smooth functioning of the system set up by this Regulation is jeopardized because the asylum systems of one or more Member States are subject to particular pressure and/or due to deficiencies in the asylum systems of one or more Member States. Such a process would allow the Union to promote preventive measures at an early stage and afford such situations the appropriate political attention. Solidarity is a pivotal element in the CEAS, and solidarity and mutual trust go hand in hand. By enhancing such trust, the process could improve the steering of concrete measures of genuine and practical solidarity towards the Member State or Member States concerned in order to assist the affected Member States in general and the asylum seekers in particular. In conformity with Article 80 of the Treaty on the Functioning of the European Union which requires that, whenever necessary, Union acts should contain appropriate measures to give effect to the principle of solidarity, this process should be accompanied by such measures. The Council adopted on 8 March 2012, Conclusions on a Common Framework for genuine and practical solidarity towards Member States facing particular pressures on their asylum systems, including through mixed migration flows, which is a 'tool box' of both existing and possible new measures. This 'tool-box' should be taken into consideration in the context of a mechanism for early warning, preparedness and crisis management.

- (18C ⊃ [...] C) Member States should collaborate with the European Asylum Support Office in the gathering of information concerning their ability to manage particular pressure on their asylum and reception systems, in particular in the framework of the application of this Regulation. The European Asylum Support Office should regularly report on the information gathered in accordance with Regulation (EU) No 439/2010. C
- September 2003 laying down detailed rules for the application of Council Regulation (EC)

 No 343/2003 13, transfers to the Member State responsible may be carried out on a

 voluntary basis, by supervised departure or under escort. Member States should promote

 voluntary transfers by providing adequate information to the applicant and should ensure

 that supervised or escorted transfers are undertaken in a human manner, in full respect for

 fundamental rights and human dignity as well as the best interests of the child and taking

 utmost account of developments in the relevant case-law, in particular as regards transfers

 on humanitarian grounds.

◆ 343/2003/EC recital 8

(20) The progressive creation of an area without internal frontiers in which free movement of persons is guaranteed in accordance with the Treaty establishing the European Community and the establishment of Community policies regarding the conditions of entry and stay of third country nationals, including common efforts towards the management of external borders, makes it necessary to strike a balance between responsibility criteria in a spirit of solidarity.

OJ L222, 5.9.2003, p.3.

↓ new→ Council

- (21) **3**[...]**C**
- (22) **3**[...]**C**
- (23) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ¹⁴ applies to the processing of personal data by the Member States in application of this Regulation.
- The exchange of applicant's personal data, including sensitive data concerning health, to be transferred before a transfer is carried out will ensure that the competent asylum authorities are in a position to provide applicants with adequate assistance and to ensure continuity in the protection and rights afforded to them. Special provision should be made to ensure the protection of data relating to applicants involved in this situation, in conformity with Directive 95/46/EC.

_

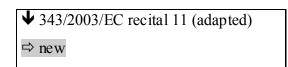
OJ L 281, 23.11.1995, p. 31.

◆ 343/2003/EC recital 9 (adapted)

The application of this Regulation can be facilitated, and its effectiveness increased, by bilateral arrangements between Member States for improving communications between competent departments, reducing time limits for procedures or simplifying the processing of requests to take charge or take back, or establishing procedures for the performance of transfers.

◆ 343/2003/EC recital 10 (adapted)

¹⁵ OJ L 316, 15.12.2000, p.1



The operation of the Eurodae EURODAC system, as established by Regulation (EC) No $\underline{2725/2000}$ [.../...] \boxtimes [concerning the establishment of "EURODAC" for the comparison of fingerprints for the effective application of the Dublin Regulation] \boxtimes and in particular the implementation of Articles $\underline{4}$ $\underline{6}$ and $\underline{\$}$ $\underline{10}$ contained therein should facilitate the implementation \boxtimes application \boxtimes of this Regulation.

new

The operation of the Visa Information System, as established by Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas ¹⁶, and in particular the implementation of Articles 21 and 22 contained therein should facilitate the application of this Regulation.

OJ L 218, 13.8.2008, p. 60.

→ 343/2003/EC recital 12 **→** Council

With respect to the treatment of persons falling within the scope of this Regulation,

Member States are bound by <u>their</u> obligations under instruments of international law

including the relevant case-law of the European Court of Human Rights.

including the relevant case-law of the European Court of Human Rights.

Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European

Parliament and of the Council of 16 February 2011 aying down the rules and general principles concerning mechanisms for control by the Member States of the Commission sex exercise of implementing powers.

◆ 1103/2008/EC pt. 3, first subparagraph of the Annex

Council

Description of an information procedure should be used for the adoption of an information leaflet on Dublin/Eurodac, for procedures aiming to facilitate the appropriate actions to identify the family member, sibling or relative of the unaccompanied minor living in the territory of another Member State, for Description of procedures related to the implementation of measures concerning the reunification of unaccompanied minors with relatives and dependent persons with children, siblings or parents Description of procedures for preparing and transmitting take charge and take back requests, of establishing and revising the two lists indicating the elements of proof regarding a take charge request, the design of the laissez-passer, the procedures for carrying out transfers Description of data exchange, drawing a Description of the standard form of data exchange, drawing a Description of secure electronic transmission channels for all written correspondence, given that those acts are of general scope. Center of the standard of the standard of the secure of general scope. Center of the standard of the secure of general scope. Center of the standard of the standard of the secure of general scope. Center of the standard of the secure of general scope. Center of the standard of the secure of general scope. Center of the standard of the secure of general scope.

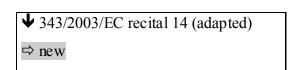
- (31A) In order to provide for supplementary non-essential rules on the identification of family members, siblings or relatives of the unaccompanied minor, including the criteria for establishing the existence of proven family links, the criteria to be taken into account when assessing the capacity of the relative to take care of the unaccompanied minor and supplementary rules when assessing the capacity to take care of the unaccompanied minor in the cases where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- In order to provide for supplementary non-essential rules on the elements to be taken into account in order to assess the dependency link and the criteria for establishing the existence of proven family links, the criteria to take into account in assessing the capacity of the person concerned to take care of the dependant and the elements to be taken into account in order to assess the inability to travel for a significant period of time, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

) [...] **C**

(31D) In the application of the Regulation, including the preparation of delegated acts, the Commission should consult experts from, among others, all relevant national authorities.

new

The measures necessary for the implementation of Regulation (EC) No 343/2003 have been adopted by Regulation (EC) No 1560/2003. Certain provisions of Regulation (EC) No 1560/2003 should be incorporated into this Regulation, for reasons of clarity or because they can serve a general objective. In particular, it is important both for the Member States and the asylum seekers concerned, that there should be a general mechanism for finding a solution in cases where Member States differ over the application of a provision of this Regulation. It is therefore justified to incorporate the mechanism provided for in Regulation (EC) No 1560/2003 for the settling of disputes on the humanitarian clause into this Regulation and to extend its scope to the whole of this Regulation.



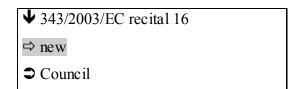
(33) \Rightarrow The effective monitoring of \Leftarrow $\underline{\underline{\mathbf{T}}}$ the application of the \boxtimes this \boxtimes Regulation should \boxtimes requires that it \boxtimes be evaluated at regular intervals.

→ 343/2003/EC recital 15 (adapted)⇒ new→ Council

The
☐ This ☐ Regulation observes ☐ respects ☐ the fundamental rights and ☐ observes the ☐ the principles which are acknowledged in particular in the Charter of Fundamental Rights of the European Union 17. In particular, ☐ this Regulation ☐ if seeks to ensure full observance of the right to asylum guaranteed by Article 18 ☐ and ☐ [...] ☐ the rights recognized by ☐ Articles 1, 4, 7, 24 and 47 of the said Charter and ☐ [...] ☐ should ☐ be applied accordingly ☐.

_

¹⁷ OJ C 364, 18.12.2000, p. 1.



Since the objective of the proposed measure, namely the establishment of criteria and mechanisms for determining the Member State responsible for examining an asylum application ⇒ for international protection ⇒ lodged in one of the Member States by a third-country national ⇒ or a stateless person ⇔, cannot be sufficiently achieved by the Member States and, given the scale and effects, can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.



◆ 343/2003/EC recital 17 (adapted)

Council

In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom and Ireland gave notice, by letters of 30 October 2001, of their wish to take part in the adoption and application of this Regulation.

☐ In accordance with Article 3 and Article 4a(1) of the Protocol No 21 on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, these Member States have notified their wish to take part in the adoption and application of the present Regulation □

◆ 343/2003/EC recital 18 (adapted)

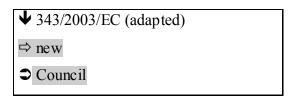
⇒ Council

In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Regulation and is not bound by it nor subject to its application.

☐ In accordance with Articles 1 and 2 of the Protocol (No 22) on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application ☐

◆ 343/2003/EC recital 19 (adapted)

The Dublin Convention remains in force and continues to apply between Denmark and the Member States that are bound by this Regulation until such time an agreement allowing Denmark's participation in the Regulation has been concluded.



HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT-MATTER AND DEFINITIONS

This Regulation lays down the criteria and mechanisms for determining the Member State responsible for examining an application for $\frac{\text{asylum}}{\text{country}} \Rightarrow \text{international protection} \Leftrightarrow \text{lodged in one of}$ the Member States by a third-country national \Rightarrow or a stateless person \Leftarrow .

For the purposes of this Regulation:

"third-country national" means anyone

any person

who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty establishing the European Community

and who is not

national of a state which participates in this Regulation by virtue of an agreement with the European Community.

¬

national of a state which participates in this Regulation by virtue of an agreement with the European Community.

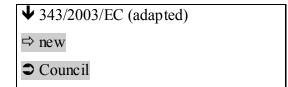
¬

national of a state which participates in this Regulation by virtue of an agreement with the European Community.

- (b) "Geneva Convention" means the Convention of 28 July 1951 relating to the status of refugees, as amended by the New York Protocol of 31 January 1967;
- (c) "application for asylum" means the application made by a third-country national which can be understood as a request for international protection from a Member State, under the Geneva Convention. Any application for international protection is presumed to be an application for asylum, unless a third-country national explicitly requests another kind of protection that can be applied for separately;

↓ new

(b) "application for international protection" means an application for international protection as defined in Article 2(g) of Directive 2004/83/EC;



"applicant" or "asylum seeker" means a third country national ⇒ or a stateless person ⇒ who has made an application for asylum ⇒ international protection ⇒ in respect of which a final decision has not yet been taken;

- "withdrawal of the \boxtimes an \boxtimes asylum application \Rightarrow for international protection \Leftarrow " means the actions by which the applicant for asylum terminates the procedures initiated by the submission of his/her application for asylum \Rightarrow international protection \Leftarrow , in accordance with national law \Rightarrow Directive 2005/85/EC, \Leftarrow either explicitly or tacitly;
- "refugee ⇒ person granted international protection ⇒ " means any ▷ a ☒ third-country national ⇒ or a stateless person recognised as ⊃[...] ⓒ ⊃ entitled to ⓒ international protection as defined in Article 2(a) of Directive 2004/83/EC ⇔ qualifying for the status defined by the Geneva Convention and authorised to reside as such on the territory of a Member State;

¹⁸ OJ L 326, 13.12.2005, p.13.

new		
⊃ Council		

- <u>Solution</u> [2] <u>Solution</u> [2] <u>Solution</u> [2] <u>Solution</u> [3] <u>Solution</u> [4] <u></u>
 - (i) the spouse of the asylum seeker or his or her unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to [...] © third country nationals;
 - (ii) the minor children of couples referred to in point (i) or of the applicant, on condition that they are unmarried \bigcirc [...] \bigcirc and regardless of whether they were born in or out of wedlock or adopted as defined under the national law; \bigcirc

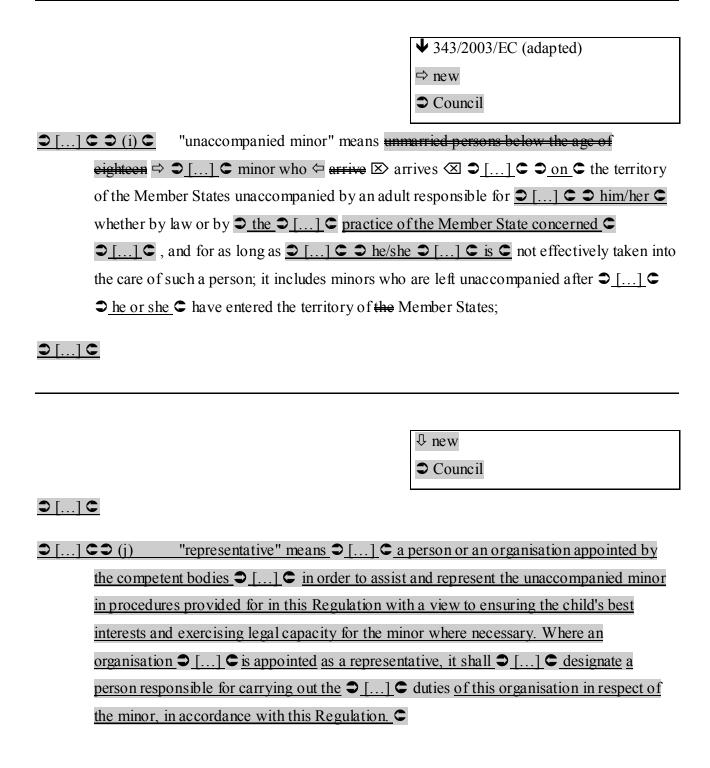
↓ new→ Council

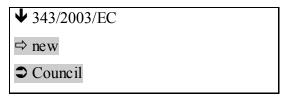
D[...] **C**

when the applicant is a minor and unmarried the father, mother or another adult $\supset [...] \subset$ responsible for the $\supset [...] \subset$ him/her whether by $\supset [...] \subset$ law or $\supset [...] \subset$ by the national practice of the Member State where the adult is present, $\supset [...] \subset$

	(iv)	when the person granted international protection is a minor and unmarried the father,
		mother or another adult responsible for \bigcirc [] \bigcirc him/her by law or by the national
		practice of the Member State where the person granted international protection is
		present C D [] C
⊃ (ga)		tive" \supset [] \subset means, the following persons who are present in the territory of the aber States:
	-	the adult aunt/uncle of the applicant \bigcirc [] \bigcirc the grandparent of the applicant \bigcirc [] \bigcirc ;
		rdless of whether they were born in or out of wedlock or adopted as defined under nal law.
) []¢		
		◆ 343/2003/EC
		⇒ Council

○ [...] ○ ○ (h) ○ "minor" means a third-country national or a stateless person below the age of 18 years;





"residence document" means any authorisation issued by the authorities of a

Member State authorising a third-country national ⇒ or a stateless person ⇔ to stay in its
territory, including the documents substantiating the authorisation to remain in the territory
under temporary protection arrangements or until the circumstances preventing a removal
order from being carried out no longer apply, with the exception of visas and residence
authorisations issued during the period required to determine the responsible Member State
as established in this Regulation or during examination of an application for asylum
⇒ international protection ⇔ or an application for a residence permit;

"visa" means the authorisation or decision of a Member State required for transit or entry for an intended stay in that Member State or in several Member States. The nature of the visa shall be determined in accordance with the following definitions:

(i) "long-stay visa" means ⊃[...] ⊂ ⊃an ⊂ authorisation or decision ⊃ issued by ⊃[...] ⊂ one of the ⊂ ⊃[...] ⊂ Member ⊃[...] ⊂ ⊃ States in accordance with its national law or EU law ⊂⊃[...] ⊂ required for entry for an intended stay in that Member State of more than three months;

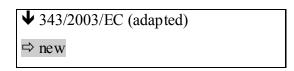
(ii) "short-stay visa" means ⊃[...] ⊂ ⊃an ⊂ authorisation or decision of a Member State ⊃ with a view to transit through or an intended stay in the territory of one, more or all the Member States of a duration of no more than three months in any sixmonth period from the date of first entry in the territory of the Member States; ⊂ ⊃[...] ⊂

<u>[...]</u>C

D[...] C D(iii) C "airport transit visa" means D[...] C Da visa valid for transit through the international transit areas of one or more airports, of the Member States. C D[...] C

↓ new→ Council

"risk of absconding" means the existence of reasons in an individual case, which are based on objective criteria defined by law, to believe that an applicant or a third-country national or a stateless person who is subject to a transfer procedure decision may abscond.

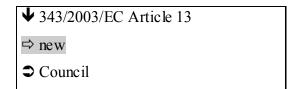


CHAPTER II

Article 3

*⊠*Access to the procedure for examining an application for international protection *⊠*

1. Member States shall examine the → any ✓ application → for international protection ← of any → by a ✓ third-country national → or a stateless person ← who applies → on the territory of any one of them, including ✓ at the border or in → the transit zones ← their territory to any one of them for asylum. The application shall be examined by a single Member State, which shall be the one which the criteria set out in Chapter III → of this Regulation ✓ indicate is responsible.



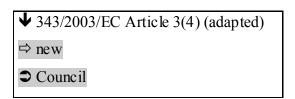
- 2. Where no Member State responsible for examining the application for ⇒ international protection ⇔ asylum can be designated on the basis of the criteria listed in this Regulation, the first Member State with which the application for asylum ⇒ international protection ⇔ was lodged shall be responsible for examining it.
 - Where it is impossible to transfer an applicant to the Member State primarily designated as responsible because there are substantial grounds for believing that there are systemic flaws in the asylum procedure and reception conditions for asylum applicants in that Member State resulting in risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union, the determining Member State shall continue to examine the criteria set out in Chapter III in order to establish whether one of the following criteria enables another Member State to be designated as responsible for the examination of the asylum application.

Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in Chapter III or to the first Member State with which the application was lodged, the determining Member State becomes the Member State responsible for examining the application for international protection.



3. Any Member State shall retain the right, pursuant to its national laws, to send an asylum seeker to a ⇒ safe ⇔ third country, in compliance with the provisions of the Geneva

Convention ⇒ subject to the rules and safeguards laid down in Directive 2005/85/EC ⇔.



As soon as an application for international protection is lodged <u>on the meaning of</u>

Article 20(2) of this Regulation <u>on the competent authorities of Member States shall</u>

inform <u>on the informed in writing in a language that he or she may</u>

reasonably be expected to understand regarding of the application of this

Regulation, its time limits and its effects. on and in particular of: □

new		
⊃ Council		

- (a) the objectives of this Regulation and the consequences of making another application in a different Member State ⊃ as well as the consequences of moving from a Member State to another one during the determination of the Member State responsible under this Regulation and during the examination of the application for international protection ♥;
- (b) the criteria for allocating responsibility, **⊃** and their hierarchy the different steps of the procedure, and their duration including that an application for international protection made in one Member State can result in that Member State becoming responsible for under this Regulation even if it does not follow from the criteria allocating responsibility **⊃**[...] **C**.
- (bc) the ⊃ [...] ⊂ personal interview pursuant to Article 5 and the possibility to submit information regarding the presence of family members within the meaning of Article 2 (g), siblings ⊃ [...] ⊂ relatives ⊃ [...] ⊂ or relations in the Member States, including the means by which the applicant can submit such information;

⊃[...] **C**

 \bigcirc [...] \bigcirc (c) \bigcirc the possibility to challenge a transfer decision \bigcirc and, where applicable, to apply for suspension of the transfer \bigcirc ;

- ⊇ [...] C ⊃ (d) C the fact that the competent authorities ⊃ of Member States C can exchange data on him/her for the sole purpose of implementing the obligations arising under this Regulation;
- that inaccurate data relating to him/her be corrected or that unlawfully processed data relating to him/her be deleted, \bigcirc [...] \bigcirc \bigcirc as well as \bigcirc the procedures for exercising those rights \bigcirc [...] \bigcirc \bigcirc including \bigcirc the contact details \bigcirc of the authorities referred to in Article 33 \bigcirc and of the National Data Protection Authorities which shall hear claims concerning the protection of personal data.
- 2. The information referred to in paragraph 1 shall be provided in writing in a language that the applicant <u>understands or may <u>understands or may understands or may understand or may understands or may understand or ma</u></u>

Where necessary for the proper understanding of the applicant, $\bigcirc \underline{[...]} \bigcirc$ the information shall also be supplied orally $\bigcirc \underline{\text{for example}} \bigcirc \bigcirc \underline{[...]} \bigcirc \underline{\text{in connection with the}}$ personal interview as stipulated in Article 5 \bigcirc .

D[...] **C**

3.	The Commission shall adopt implementing acts concerning the drawing-up of a C
	⊃[] C common leaflet ⊃, as well as a specific leaflet for unaccompanied minors, C
	containing at least the information referred to in paragraph 1 \bigcirc [] \bigcirc . \bigcirc This common
	leaflet shall also include information regarding the application of the Regulation
	concerning the establishment of "Eurodac" for the comparison of fingerprints for the
	effective application of the Dublin Regulation (EC) No [/] and in particular the
	purpose for which the data of the asylum seeker concerned will be processed within
	EURODAC. The common leaflet shall be established in such a manner that it enables
	Member States to complete it with additional Member State specific information.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(2).

D[...]C

Article 5

Personal interview

1.	The Member State carrying out the process of determining the Member State responsible
	under this Regulation \bigcirc [] \bigcirc , \bigcirc shall \bigcirc \bigcirc [] \bigcirc conduct a personal interview
	⊃[] ⊂ ⊃ in order to facilitate the process of determining the Member State responsible.
	The interview shall \bigcirc [] \bigcirc also allow \bigcirc [] \bigcirc the proper understanding of the
	information supplied to \bigcirc [] \bigcirc the applicant in accordance with Article 4. \bigcirc

D[...]C

- **⊃** 2. **⊃** [...] **⊂** The interview may be omitted if:
 - (a) the applicant has absconded; or

⊃[...]**C**

(b⊃[...] C) after having received the information referred to in Article 4 the applicant

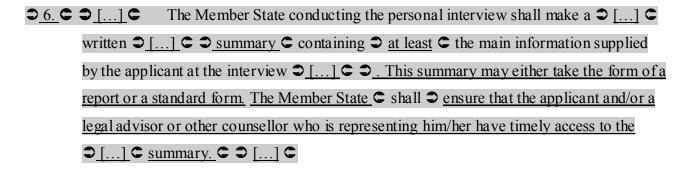
⊃[...] C has already provided ⊃[...] C information relevant to carry out the

process of determining the Member State responsible under this Regulation by any
other means. ⊃[...] C The Member State omitting the interview ⊃[...] C shall
give the applicant the opportunity to present all further information relevant to
correctly carry out the process of determining the Member State responsible before a
decision is taken to transfer the applicant to the responsible Member State pursuant
to Article 25(1).

D[...] **C**

- 3. C ⊃ [...] C The personal interview shall take place in a timely manner ⊃ [...] C and, in any event, before any decision is taken to transfer the applicant to the responsible Member State pursuant to Article 25(1).
- ⊇4. C ⊃ [...] C The personal interview shall take place in a language that the applicant ⊃ understands or may C ⊃ [...] C reasonably ⊃ [...] C ⊃ be presumed C to understand and in which he ⊃ /she C is able to communicate. Where necessary, Member States shall select an interpreter who is able to ensure appropriate communication between the applicant and the person who conducts the personal interview.

3 <u>5.</u> €	⊃ [] C	The personal in	nterview shal	l take place	under condition	ons which en	sure
	appropriate	confidentiality.	⊃ <u>It shall be</u>	conducted b	y a qualified p	person under	national
	law. C						



Article 6

Guarantees for **2**[...] **C** minors

- 1. The best interests of the child shall be a primary consideration for Member States with respect to all procedures provided for in this Regulation.
- Member States shall ensure that a representative represents and/or assists the unaccompanied minor with respect to all procedures provided for in this Regulation.

 □ [...] □ The representative shall □ [...] □ have the qualifications and □ [...] □ expertise in view of ensuring that the best interests of the minor are taken into consideration □ [...] □ during the procedures carried out under this Regulation. He/she shall have access to the content of the relevant documents in the applicant's file □ [...] □ [...] □ including the specific leaflet for unaccompanied minors. This paragraph shall be without prejudice to the relevant provisions in Art 25 of the Asylum Procedures Directive. □

3.	In ass	sessing the best interests of the child, Member States shall closely cooperate with each
	other	and shall, in particular, take due account of the following factors:
	(2)	family maynification magaily ilition.
	(a)	family reunification possibilities;
	(b)	the minor's well-being and social development \bigcirc [] \bigcirc ;
	(c)	safety and security considerations, in particular where there is a risk of the child
		being a victim of trafficking;
	(d)	the views of the minor, in accordance with his/her age and maturity.
3 4.	<u></u>	.] C For the purpose of applying Article 8, the Member State O [] C in which the
	appli	cation for international protection was lodged by the unaccompanied minor shall as
	soon	as possible \bigcirc [] \bigcirc take appropriate action to identify the \bigcirc \bigcirc [] \bigcirc family
	⊃ <u>m</u>	embers \bigcirc [] \bigcirc , siblings \bigcirc \bigcirc [] \bigcirc or \bigcirc [] \bigcirc \bigcirc the \bigcirc relatives \bigcirc of the
	unacc	companied minor in \bigcirc \bigcirc \bigcirc $[]$ \bigcirc the territory of Member States \bigcirc $[]$ \bigcirc \bigcirc whilst
	prote	cting \bigcirc [] \bigcirc the minor's best interests. \bigcirc
	↑ T _a	that and they may call for againtance of international or other relevant arganizations
		that end, they may call for assistance of international or other relevant organisations,
		ding through facilitating the minor's access to the tracing services of such
	organ	nisations.

The staff of the competent authorities referred to in Article 33 who deal with requests concerning unaccompanied minors shall have had and continue to receive appropriate training concerning the specific needs of minors.

5. With a view to facilitating the appropriate actions to identify the family member, sibling or relative of the unaccompanied minor living in the territory of another Member State pursuant to paragraph 4 of this Article, the Commission shall adopt implementing acts including a standard form for the exchange of relevant information between Member States. \bigcirc [...] \bigcirc Those implementing acts \bigcirc [...] \bigcirc shall be adopted in accordance with the examination procedure referred to in Article 40(2). \bigcirc

◆ 343/2003/EC (adapted)

⇒ new

CHAPTER III

HIERARCHY OF CRITERIA

EXECUTER STATE**ESPONSIBLE ★**

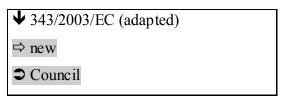
1. The criteria for determining the Member State responsible shall be applied in the order in which they are set out in this Chapter.

2. The Member State responsible in accordance with the criteria ⋈ set out in this Chapter ⋈ shall be determined on the basis of the situation obtaining when the asylum seeker first lodged his/her application ⋈ for international protection ⋈ with a Member State.

new		
⊃ Council		

) [...] **C**

shall take into consideration any available evidence regarding the presence \bigcirc [...] \bigcirc on the territory of a Member State of family members within the meaning of Article 2(g), sibling or of other relatives or relations, \bigcirc [...] \bigcirc of the applicant for international protection, \bigcirc [...] \bigcirc on condition that such evidence is produced \bigcirc [...] \bigcirc before the acceptance of the request by another Member State to take charge or take back the person concerned, pursuant to Articles 22 and 24 respectively and that the previous applications for international protection of the asylum seeker have not yet been subject of a first decision regarding the substance. \bigcirc



Article <u>€</u> 8

2[...] C

→ Minors ←

Where the applicant for asylum is an unaccompanied minor, the Member State responsible for examining the application for international protection for shall be that where a member of his or her family within the meaning of Article 2(g) or his/her sibling for international provided that this is in the best interest for interest for interest for interest for interest for interest for examining the applicant is a married minor whose spouse is not legally present in the territory of the Member States, the Member State responsible for examining the applicant for international protection shall be that where the father, mother or another adult responsible for him/her whether by law or by the national practice of the Member State or the sibling where the latter is legally present.

	◆ 343/2003/EC Article 15(3) (adapted)				
	⇒ new				
	→ Council				
2. <u>3.</u>	¥ ⊗ Where ⊗ ⇒ the applicant ⇔ asylum-seeker is an unaccompanied minor who has a				
	\bigcirc relative \bigcirc who is \bigcirc \bigcirc $\boxed{\dots}$ \bigcirc or relatives \bigcirc legally \bigcirc $\boxed{\dots}$ \bigcirc present \bigcirc				
	⊃[] C in another Member State ⊃[] C ⊃ and where it is established, based on an				
	individual examination, that the relative can take care of him or her, that				
	Member States shall ounite the minor with his/her relative and ounite the minor with his/her relative and ounite the minor with his/her relative and ounite the minor with his/her relative a				
	minor with his or her relative or relatives, ⇒ be responsible for examining the application,				
	provided that \leftarrow unless this is not in the best interest \bigcirc [] \bigcirc of the minor.				
	↓ new				
	→ Council				
3.	Where <u>a family</u> members <u>siblings or relatives as mentioned in paragraphs 1</u>				

◆ 343/2003/EC	
⇒ new	
○ Council	

In the absence of a family member <u>a sibling or a relative as mentioned in paragraphs 1</u>

and 2 <u>C</u> <u>S</u>[...] <u>C</u> the Member State responsible for examining the application shall be that where the <u>unaccompanied</u> <u>C</u> minor has lodged <u>his/her</u> <u>C</u> ⇒ <u>S</u>[...] <u>C</u> ⇔ application for <u>asylum</u> ⇒ international protection, provided that this is in the best interests of the <u>S</u>[...] <u>C</u> minor. ⇔

The Commission shall be empowered to adopt delegated acts in accordance with Article

40A concerning the identification of family members, siblings or relatives of the

unaccompanied minor, including the criteria for establishing the existence of proven family

links, the criteria to be taken into account when assessing the capacity of the relative to

take care of the unaccompanied minor and supplementary rules when assessing the

capacity to take care of the unaccompanied minor in the cases where family members,

siblings or relatives of the unaccompanied minor stay in more than one Member State. In

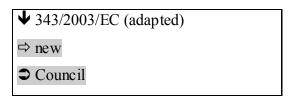
exercising its powers to adopt delegated acts, the Commission shall not exceed the scope

of the best interests of the child as provided for under Article 6(3).

C

▶ 1103/2008/EC, pt. 3(1) of the Annex **○** Council

the Commission shall adopt implementing acts establishing the procedures for the consultation and the exchange of information between Member States. Those implementing acts consultation and the exchange of information between Member States. Those implementing acts including, where appropriate, conciliation mechanisms for settling differences between Member States concerning the need to unite the persons in question, or the place where this should be done, shall be in accordance with the implementation of this Article, the Commission shall adopt implementing acts consultation and the exchange of information between Member States. Those implementing acts concerning the need to unite the persons in question, or the place where this should be done, shall be in adopted in accordance with the implementation of this Article, the consultation of the consultation of the consultation of the consultation of this Article, the consultation of the



Article <u>79</u>

E Family members who are persons granted international protection *⟨* ■

Where the asylum seeker has a family member, regardless of whether the family was previously formed in the country of origin, who has been allowed to reside as a refugee \Rightarrow person granted international protection \Leftarrow in a Member State, that Member State shall be responsible for examining the application for asylum \Rightarrow international protection, \Leftarrow provided that the persons concerned \Longrightarrow \Longrightarrow expressed their \boxtimes desire \Longrightarrow in writing \boxtimes .

Article <u>810</u>

🗷 Family members who are applicants for international protection 🖾

If the asylum seeker has a family member in a Member State whose application \Rightarrow for international protection \Leftrightarrow in that Member State \otimes has not yet been the subject of a first decision regarding the substance, that Member State shall be responsible for examining the application for \Rightarrow international protection \Rightarrow , provided that the persons concerned \Rightarrow \Rightarrow expressed their \otimes desire \Rightarrow in writing \otimes .

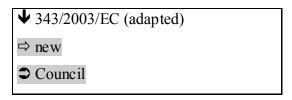


◆ 1560/2003 Article 11(1) (adapted)

Article 15(2) of Regulation (EC) No 343/2003 shall apply whether the asylum seeker is dependent on the assistance of a relative present in another Member State or a relative present in another Member State is dependent on the assistance of the asylum seeker.

▶ 1103/2008/EC, pt. 3(1) of the Annex





Where several members of a family <u>within the meaning of Article 2(g)</u> <u>[...]</u> <u>and/or minor unmarried siblings</u> submit applications for <u>asylum</u> international protection in the same Member State simultaneously, or on dates close enough for the procedures for determining the Member State responsible to be conducted together, and where the application of the criteria set out in this Regulation would lead to them being separated, the Member State responsible shall be determined on the basis of the following provisions:

- responsibility for examining the applications for asylum ⇒ international protection ⇔ of all the members of the family <u>within the meaning of Article 2(g)</u> <u>[...]</u> <u>and/or minor unmarried siblings</u> shall lie with the Member State which the criteria indicate is responsible for taking charge of the largest number of <u>them</u> <u>C</u> <u>[...]</u> <u>C</u>;
- (b) failing this, responsibility shall lie with the Member State which the criteria indicate is responsible for examining the application of the oldest of them.

Article <u>913</u>

\boxtimes Issuance of residence documents or visas \boxtimes

- 1. Where the asylum seeker is in possession of a valid residence document, the Member State which issued the document shall be responsible for examining the application for asylum

 ⇒ international protection ←.
- Where the asylum seeker is in possession of a valid visa, the Member State which issued the visa shall be responsible for examining the application for asylum ⇒ international protection ⇔, unless the visa was issued ⊃ on behalf of another Member State under a representation arrangement as provided for in Article 8 of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on visas ⊂ ⊃ [...] ⊂ In such a case, the ⊃ represented ⊂ ⊃ [...] ⊂ Member State shall be responsible for examining the application for ⇒ international protection ⇔ asylum. ⊃ [...] ⊂.

- 3. Where the asylum-seeker is in possession of more than one valid residence document or visa issued by different Member States, the responsibility for examining the application for

 ⇒ international protection ⇔ asylum shall be assumed by the Member States in the following order:
 - (a) the Member State which issued the residence document conferring the right to the longest period of residency or, where the periods of validity are identical, the Member State which issued the residence document having the latest expiry date;
 - (b) the Member State which issued the visa having the latest expiry date where the various visas are of the same type;
 - (c) where visas are of different kinds, the Member State which issued the visa having the longest period of validity, or, where the periods of validity are identical, the Member State which issued the visa having the latest expiry date.
- 4. Where the asylum seeker is in possession only of one or more residence documents which have expired less than two years previously or one or more visas which have expired less than six months previously and which enabled him/her actually to enter the territory of a Member State, paragraphs 1, 2 and 3 shall apply for such time as the applicant has not left the territories of the Member States.

Where the asylum seeker is in possession of one or more residence documents which have expired more than two years previously or one or more visas which have expired more than six months previously and enabled him/her actually to enter the territory of a Member State and where he has not left the territories of the Member States, the Member State in which the application \Rightarrow for international protection \Leftarrow is lodged shall be responsible.

5. The fact that the residence document or visa was issued on the basis of a false or assumed identity or on submission of forged, counterfeit or invalid documents shall not prevent responsibility being allocated to the Member State which issued it. However, the Member State issuing the residence document or visa shall not be responsible if it can establish that a fraud was committed after the document or visa had been issued.

Article <u>₩14</u> Entry and/or stay <

1. Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article <u>2248</u>(3), including the data referred to in Chapter III of Regulation ⊠ [concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Regulation] ⟨ (EC) No [.../...] <u>2725/2000</u>, that an asylum seeker has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for asylum ⇒ international protection ⇔. This responsibility shall cease 12 months after the date on which the irregular border crossing took place.

2. When a Member State cannot or can no longer be held responsible in accordance with paragraph 1, and where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 22±8(3), that the asylum seeker - who has entered the territories of the Member States irregularly or whose circumstances of entry cannot be established - at the time of lodging the application has been previously living for a continuous period of at least five months in a Member State ⊠ before lodging the application for international protection ⟨□, that Member State shall be responsible for examining the application for asylum ⇒ international protection ⟨□.

If the applicant has been living for periods of time of at least five months in several Member States, the Member State where this has been most recently the case shall be responsible for examining the application \Rightarrow for international protection \Leftarrow .

Article <u>#15</u>

Visa waived entry ✓

- 1. If a third-country national ⇒ or a stateless person ← enters into the territory of a Member State in which the need for him or her to have a visa is waived, that Member State shall be responsible for examining his or her application for asylum ⇒ international protection ←.
- 2. The principle set out in paragraph 1 does not apply, if the third-country national ⇒ or the stateless person ⇔ lodges his or her application for asylum ⇒ international protection ⇔ in another Member State, in which the need for him or her to have a visa for entry into the territory is also waived. In this case, the latter Member State shall be responsible for examining the application for asylum ⇒ international protection ⇔.

Article <u>₩</u>16

🗷 Application in an international transit area of an airport 🖾

Where the application for \Rightarrow international protection \Leftarrow asylum is made in an international transit area of an airport of a Member State by a third-country national \Rightarrow or a stateless person \Leftarrow , that Member State shall be responsible for examining the application.

CHAPTER IV

HUMANITARIAN CLAUSE

☒ DISCRETIONARY CLAUSES**☒**

⊅ Article 16A

Dependants C

asylum seeker \(\times \) is dependent on the assistance of \(\times \) his/her child, sibling or parent \(\times \) the other \(\times \) \(\times \) legally resident in one of the Member States, \(\times \) \(\times \) present in another Member State on account of pregnancy or a new-born child, serious illness, severe handicap or old age, \(\times \) or where \(\times \) [...] \(\times \) the child, sibling or parent of the applicant \(\times \) [...] \(\times \) \(\times \) is dependent on the assistance of the asylum seeker \(\times \) [...] \(\times \) Member States shall normally keep or bring together the asylum seeker with that relation, \(\times \) [...] \(\times \) provided that family ties existed in the country of origin \(\times \) the person or the applicant is able to take care of the other \(\times \) and that the persons concerned expressed their desire in writing. \(\times \) [...] \(\times \)

- Description 2. Where the child, sibling or parent Description is legally Description. The resident in another Member State than the one where the asylum seeker is present, the Member State responsible for examining the application shall be the one where the person concerned Description. Description is legally Description. Description of time from travelling to that Member State.
- 3. The Commission shall be empowered to adopt delegated acts in accordance with Article 40A concerning the elements to be taken into account in order to assess the dependency link and the criteria for establishing the existence of proven family links, the criteria to take into account in assessing the capacity of the person concerned to take care of the dependant and the elements to be taken into account in order to assess the inability to travel for a significant period of time. ©

▶ 1560/2003 Article 11(1) (adapted)

Article 15(2) of Regulation (EC) No 343/2003 shall apply whether the asylum seeker is dependent on the assistance of a relative present in another Member State or a relative present in another Member State is dependent on the assistance of the asylum seeker.

♦ 1103/2008/EC, pt. 3(1) of the Annex **Council**

D[...] C D 4. In order to ensure uniform conditions for the implementation of this Article, the Commission shall adopt implementing acts establishing the procedures for the consultation and the exchange of information between Member States. Those C D[...] C implementing this Article D[...] C including, where appropriate, conciliation mechanisms for settling differences between Member States concerning the need to unite the persons in question, or the place where this should be done, D[...] C D acts shall C be adopted D[...] C in accordance with the D[...] C D examination C procedure D[...] C referred to in Article 27(3) 40 D(2) C D[...] C.

Article <u>₩17</u>

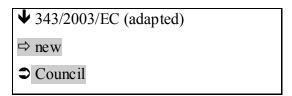
☒ Discretionary clauses **☒**

◆ 343/2003/EC Article 3(2) (adapted)
⇒ new
⊃ Council

<u>aragraph</u>(1), each Member State may <u>aragraph</u>(1).

<u>International protection pursuant to this paragraph</u> <u>International protection pursuant to this paragraph <u>International protection pursuant to this paragraph</u> <u>International protection pursuant to this paragraph <u>International protection pursuant to this paragraph</u> <u>International protection pursuant to this paragraph <u></u></u></u></u></u></u></u></u></u>

The Member State becoming responsible in accordance with this paragraph shall also forthwith indicate in EURODAC that it assumed responsibility pursuant to Article 17(6) of Regulation (EC) No [.../...] [concerning the establishment of "EURODAC" for the comparison of fingerprints for the effective application of the Dublin Regulation].



Regulation,

The Member State in which an application for international protection is made and which is carrying out the process of determining the Member State responsible, or the Member State responsible,

In this ease that Member State set of another Member State shall, at the request of another Member State state.

In the persons concerned must

express their

In this ease that Member State shall, at the request of another Member State shall, at the request of another Member State.

Express their

In this ease that Member State shall, at the request of another Member State, examine the application for asylum of the person concerned.

The persons concerned must

express their

consent

in which an application for international protection is made out in this ease that in the entire is a first decision regarding the substance is taken responsible.

The persons concerned must

express their

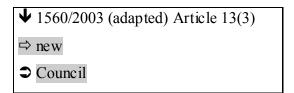
consent

in writing

in writing

Ψ	1560/2003 Article 13(2)

The request to take charge shall contain all the material in the possession of the requesting Member State to allow the requested Member State to assess the situation.



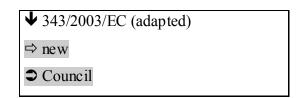
Example State State Shall carry out

the necessary any necessary checks to establish, where applicable, humanitarian reasons, particularly of a family or cultural nature, the level of dependency of the person concerned or the ability or commitment of the other person concerned to provide the assistance desired.

to □[...] □ □ examine □ the humanitarian reasons cited, and shall □[...] □ □ reply to the requesting Member State □ within two months of the date on which the request was received □ by using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003 . □ [...] □ A reply refusing the request shall state the reasons on which it is based. □ □ [...] □ ∴ □

◆ 343/2003/EC (adapted)	
⇒ new	

 $\underline{\underline{+}}$ Where the \boxtimes requested \boxtimes Member State thus approached accedes to \boxtimes accepts \boxtimes the request, responsibility for examining the application shall be transferred to it.



CHAPTER V

TAKING CHARGE AND TAKING BACK

☒ OBLIGATIONS OF THE MEMBER STATE RESPONSIBLE **☒**

Article 1618

☒ Obligations of the Member State responsible **☒**

- 1. The Member State responsible for examining an application for asylum ⇒ international protection ← under this Regulation shall be obliged to:
 - (a) take charge, under the conditions laid down in Articles <u>2117 to 19</u>, 22 and 28</u>, of an asylum seeker who has lodged an application in a different Member State;
 - (b)(e) take back, under the conditions laid down in Articles 23, 24 and 28 20, an applicant whose application is under examination and who ⇒ made an application in another Member State or who ⇔ is in the territory of another Member State without permission ⇒ a residence document ⇔;

- (c)(d) take back, under the conditions laid down in Articles 23, 24 and 28 20, □[...] □ third country national or stateless person □ who has withdrawn the application under examination and made an application in another Member State □ or who is in the territory of another Member State without a residence document □;
- (d)(e) take back, under the conditions laid down in Articles 23, 24 and 28 20, a third-country national ⇒ or a stateless person ⇔ whose application if has been rejected and who ⇒ made an application in another Member State or who ⇔ is in the territory of another Member State without permission ⇒ a residence document. ⇔
- The Member State responsible shall in all circumstances referred to in paragraph 1 (a)
 and (b) c examine or complete the examination of the application for asylum; international protection made by the applicant, within the meaning of Article 2(d).
 - D[...] C ⊃ For the cases referred in paragraph 1 (c), when C the Member State responsible had discontinued the examination of an application following its withdrawal by the applicant ⊃ before a decision on substance in first instance has been taken C ⊃[...] C, it shall ⊃[...] C ⊃ ensure that the applicant is entitled to request that the examination of C his/her ⊃[...] C ⊃ application is completed or to lodge a new application for international protection, which shall not be treated as a subsequent application as defined in Directive [2005/85/EC] [Procedures Directive]. In such cases, Member States shall ensure that C the examination of the application ⊃ is completed C, within the meaning of Article 2(d) □.

To the cases referred to under paragraph 1 (d), where the application has been rejected at first instance only, the Member State responsible shall ensure that the person concerned has or has had, the opportunity to access an effective remedy, pursuant to Article 39 of Directive 2005/85/EC. © Directive 2005/85/EC.

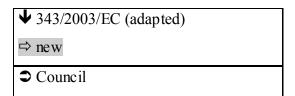
Article19

\boxtimes Cessation of responsibilities \boxtimes

- 1. 2 Where a Member State issues a residence document to the applicant, the obligations specified in Article 18 paragraph (1), shall be transferred to that Member State.

П		
∜ new		

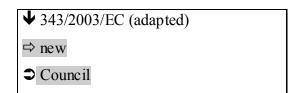
An application lodged after such an absence shall be regarded as a new application giving rise to a new procedure for the determination of the Member State responsible.



<u>4.</u> The obligations specified in <u>Article 18 paragraph</u> (1)(c)(d) and (d)(e), shall likewise cease once ⊗ where ⊗ the Member State responsible for examining the application ⇒ can establish, when requested to take back an applicant or another person as referred to in Article 18(1) ⊃ (c) or ⊂ (d), that ⇔ has adopted and actually implemented, following the withdrawal or rejection of the application, the provisions that are necessary before the third-country national can go to his country of origin or to another country to which he may lawfully travel ⇒ the person concerned has left the territory of the Member States in compliance with a return decision or removal order it issued following the withdrawal or rejection of the application. ⇔

new		

An application lodged after an effective removal shall be regarded as a new application giving rise to a new procedure for the determination of the Member State responsible.



CHAPTER VI

▶ PROCEDURES FOR TAKING CHARGE AND TAKING BACK

➣ SECTION I: START OF THE PROCEDURE **☒**

Article $\frac{420}{2}$ Start of the procedure \boxtimes

- 1. The process of determining the Member State responsible under this Regulation shall start as soon as an application for asylum ⇒ international protection ⇔ is first lodged with a Member State.
- 2. An application for asylum ⇒ international protection ⇔ shall be deemed to have been lodged once a form submitted by the applicant for asylum or a report prepared by the authorities has reached the competent authorities of the Member State concerned. Where an application is not made in writing, the time elapsing between the statement of intention and the preparation of a report should be as short as possible.

- 3. For the purposes of this Regulation, the situation of a minor who is accompanying the asylum seeker and meets the definition of a family member set out in Article 2, point □[...] □ □ g □ shall be indissociable from that of his □/her family member □ □[...] □ and shall be a matter for the Member State responsible for examining the application for asylum □ international protection □ of that □[...] □ □ family member, □ , even if the minor is not individually an asylum seeker □ , provided that this is in his/her best interests □ . The same treatment shall be applied to children born after the asylum seeker arrives in the territory of the Member States, without the need to initiate a new procedure for taking charge of them.
- 4. Where an application for asylum ⇒ international protection ⇔ is lodged with the competent authorities of a Member State by an applicant who is in the territory of another Member State, the determination of the Member State responsible shall be made by the Member State in whose territory the applicant is present. The latter Member State shall be informed without delay by the Member State which received the application and shall then, for the purposes of this Regulation, be regarded as the Member State with which the application for asylum ⇒ international protection ⇔ was lodged.

The applicant shall be informed in writing of this transfer and of the date on which it took place.

An asylum seeker who is present in another Member State <u>□[...]</u> <u>□ without a</u>

residence document or who <u>□</u> there lodges an application for resylum □ international protection □ after withdrawing his □ first □ application □ made in a different Member State □ during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles <u>2923, 24 and 28</u>, by the Member State with which that application for resylum □ international protection □ was □ firstly □ lodged, with a view to completing the process of determining the Member State responsible for examining the application for resylum □ international protection □.

This obligation shall cease \Rightarrow where the Member State requested to complete the process of determining the responsible Member State can establish that \Leftarrow \Rightarrow the asylum seeker has in the meantime left the territories of the Member States for a period of at least three months or has obtained a residence document from \boxtimes another \boxtimes \Rightarrow Member State.

new		

An application lodged after such an absence shall be regarded as a new application giving rise to a new procedure for the determination of the responsible Member State.

➣ SECTION II: PROCEDURES FOR TAKE CHARGE REQUESTS**冬**

Article <u>1721</u>

Submitting a take charge request
 ✓

- 1. Where a Member State with which an application for asylum ⇒ international protection ⇒ has been lodged considers that another Member State is responsible for examining the application, it may, as quickly as possible and in any case within three months of the date on which the application was lodged within the meaning of Article 420(2), eall upon ⇒ request ★ the other Member State to take charge of the applicant.
 - ☐ In case of a EURODAC hit with data recorded pursuant to Article 10 of Regulation

 (EC) No [.../...] concerning the establishment of "EURODAC" for the comparison of

 fingerprints for the effective application of the Dublin Regulation, the request shall be sent

 within two months of receiving that hit pursuant to Article 11(2) of that Regulation.

 □

Where the request to take charge of an applicant is not made within the period of three months or two months respectively , responsibility for examining the application for sylum international protection is shall lie with the Member State in which the application was lodged.

2. The requesting Member State may ask for an urgent reply in cases where the application for asylum ⇒ international protection ⇔ was lodged after leave to enter or remain was refused, after an arrest for an unlawful stay or after the service or execution of a removal order and/or where the asylum seeker is held in detention.

The request shall state the reasons warranting an urgent reply and the period within which a reply is expected. This period shall be at least one week.

3. In both cases, the request that charge be taken by another Member State shall be made using a standard form and including proof or circumstantial evidence as described in the two lists mentioned in Article <u>1822(3)</u> and/or relevant elements from the asylum seeker's statement, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

Article <u>1822</u>

■ Replying to a take charge request

- 1. The requested Member State shall make the necessary checks, and shall give a decision on the request to take charge of an applicant within two months of the date on which the request was received.
- 2. In the procedure for determining the Member State responsible for examining the application for asylum ⇒ international protection ⇒ established in this Regulation, elements of proof and circumstantial evidence shall be used.
- 3. The Commission shall adopt implementing acts concerning the establishment and periodical reviewing of two lists, indicating the elements of proof and circumstantial evidence in accordance with the criteria set out below in points (a) and (b). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(2).
 - (a) Proof:
 - (i) This refers to formal proof which determines responsibility pursuant to this Regulation, as long as it is not refuted by proof to the contrary;
 - (ii) The Member States shall provide the Committee provided for in Article <u>27</u> <u>40</u> with models of the different types of administrative documents, in accordance with the typology established in the list of formal proofs.

- (b) Circumstantial evidence:
 - (i) This refers to indicative elements which while being refutable may be sufficient, in certain cases, according to the evidentiary value attributed to them;
 - (ii) Their evidentiary value, in relation to the responsibility for examining the application for asylum

 international protection

 shall be assessed on a case-by-case basis.
- 4. The requirement of proof should not exceed what is necessary for the proper application of this Regulation.
- 5. If there is no formal proof, the requested Member State shall acknowledge its responsibility if the circumstantial evidence is coherent, verifiable and sufficiently detailed to establish responsibility.
- 6. Where the requesting Member State has pleaded urgency, in accordance with the provisions of Article 17(2) 21(2), the requested Member State shall make every effort to conform to the time limit requested. In exceptional cases, where it can be demonstrated that the examination of a request for taking charge of an applicant is particularly complex, the requested Member State may give the reply after the time limit requested, but in any case within one month. In such situations the requested Member State must communicate its decision to postpone a reply to the requesting Member State within the time limit originally requested.

7. Failure to act within the two-month period mentioned in paragraph 1 and the one-month period mentioned in paragraph 6 shall be tantamount to accepting the request, and entail the obligation to take charge of the person, including the provisions \boxtimes obligation to provide \boxtimes for proper arrangements for arrival.

☒ SECTION III. PROCEDURES FOR TAKE BACK REQUESTS**☒**

Article 20 23

- Where a Member State with which a person as referred to in Article 18(1)(b), (c) or (d) lodged a new application for international protection, considers that another Member State is responsible in accordance with Article 20(5) and Article 18(1)(b), (c) and (d), it may request that other Member State to take back that person.
- 2. The request to take back the person concerned shall be made as quickly as possible and in any case within two months of receiving the EURODAC hit, pursuant to Article 6(5) of Regulation (EC) No [.../...] [concerning the establishment of "EURODAC" for the comparison of fingerprints for the effective application of the Dublin Regulation].

If the request to take back the person concerned is based on evidence other than data obtained from the EURODAC system, it shall be sent to the requested Member State within three months of the date on which the application for international protection was lodged within the meaning of Article 20(2).

- 3. Where the request to take back the person concerned is not made within the periods laid down in paragraph 2, responsibility for examining the application for international protection shall lie with the Member State in which the new application was lodged.
- 4. The request for the person concerned to be taken back shall be made using a standard form and including proof or circumstantial evidence and/or relevant elements from the person's statements, enabling the authorities of the requested Member State to check whether it is responsible.

The Commission shall adopt implementing acts $\supset [...] \subset$ to ensure the uniform application of the $\supset [...] \subset$ rules of proof and evidence $\supset [...] \subset$ on the preparation of $\supset [...] \subset$ the procedures for transmitting requests $\supset [...] \subset$.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(2).

Article 23A

Submitting a take back request when no new application for international protection has been lodged in the requesting Member State

1. Where a Member State on whose territory a person as referred to in Article 18(1)(b), (c) or (d), is staying without a residence document and with which no new application for international protection has been lodged, considers that another Member State is responsible in accordance with Article 20(5) and Article 18(1)(b), (c) and (d), it may request that Member State to take back that person.

2. By derogation from Article 6(2) of Directive 2008/115/EC, where a Member State on whose territory a person is staying without a residence document decides to search the EURODAC system in accordance with article 13 of Regulation (EC) No [.../...] [concerning the establishment of "EURODAC" for the comparison of fingerprints for the effective application of the Dublin Regulation], the request to take back a person as referred to in Article 18 (1) (b) or (c), or a person as referred to in article 18 (1) (d) whose application for international protection not has been rejected by a final decision shall be made as quickly as possible and in any case within two months of receiving the EURODAC hit, pursuant to Article 13(4) of that Regulation.

If the request to take back the person concerned is based on evidence other than data obtained from the EURODAC system, it shall be sent to the requested Member State within three months of the date on which the requesting Member State becomes aware that another Member State may be responsible for the person concerned.

3. Where the request to take back the person concerned, is not made within the periods laid down in paragraph 2, the Member State on whose territory the person concerned is staying without a residence document shall give the person the opportunity to lodge a new application ○ [...] ○.

4. Where a person as referred to in Article 18(1)(d) whose application for international protection has been rejected by a final decision in one Member State is on the territory of another Member State without a residence document, the second Member State may either request the first Member State to take back the person concerned or carry out a return procedure in accordance with Directive 2008/115/EC of the European Parliament and of the Council of 6 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

When the second Member State decided to request the first Member State to take back the person concerned, the rules laid down in Directive 2008/115/EC shall not apply.

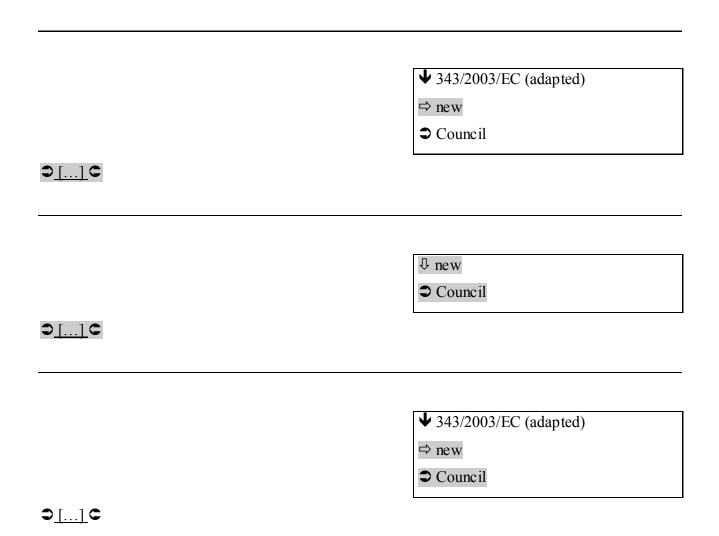
5. The request for the person referred to in Article 18(1)(b), (c) or (d) to be taken back shall be made using a standard form and including proof or circumstantial evidence and/or relevant elements from the person's statements, enabling the authorities of the requested Member State to check whether it is responsible.

The Commission shall adopt implementing acts ⊃ [...] C to ensure the uniform

application of the ⊃ [...] C rules of proof and evidence ⊃ [...] C on the preparation of

□ [...] C the procedures for transmitting requests ⊃ [...] C.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(2).



Article 24

 \boxtimes Replying to a take back request \boxtimes

<u>the the tensor of the tensor</u>

- where the requested Member State does not communicate its decision

 Failure to act

 within the one month period or the two weeks period mentioned in

 by (1),

 shall be tantamount to accepting the request

 shall be considered to have agreed to take back the

 sylum seeker

 person concerned

 it

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the obligation to provide for proper arrangements for arrival

 in cluding the considered to the clude the clud
- (d) a Member State which agrees to take back an asylum seeker shall be obliged to readmit that person to its territory. The transfer shall be carried out in accordance with the national law of the requesting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within six months of acceptance of the request that charge be taken by another Member State or of the decision on an appeal or review where there is a suspensive effect:
 - (e) the requesting Member State shall notify the asylum seeker of the decision concerning his being taken back by the Member State responsible. The decision shall set out the grounds on which it is based. It shall contain details of the time limit on carrying out the transfer and shall, if necessary, contain information on the place and date at which the applicant should appear, if he is travelling to the Member State responsible by his own means. This decision may be subject to an appeal or a review. Appeal or review concerning this decision shall not suspend the implementation of the transfer except when the courts or competent bodies so decide in a case-by-case basis if the national legislation allows for this.

If necessary, the asylum seeker shall be supplied by the requesting Member State with a laissez passer of the design adopted in accordance with the procedure referred to in Article 27(2).

The Member State responsible shall inform the requesting Member State, as appropriate, of the safe arrival of the asylum seeker or of the fact that he did not appear within the set time limit.

- 2. Where the transfer does not take place within the six months' time limit, responsibility shall lie with the Member State in which the application for asylum was lodged. This time limit may be extended up to a maximum of one year if the transfer or the examination of the application could not be carried out due to imprisonment of the asylum seeker or up to a maximum of eighteen months if the asylum seeker absconds.
- 3. The rules of proof and evidence and their interpretation, and on the preparation of and the procedures for transmitting requests, shall be adopted in accordance with the procedure referred to in Article 27(2).
- 4. Supplementary rules on carrying out transfers may be adopted in accordance with the procedure referred to in Article 27(2).

☒ SECTION IV. PROCEDURAL SAFEGUARDS **☒**

Article 1925

1.	Where the requested Member State $\frac{\text{accepts}}{\text{accepts}} \supset \underline{[]} \subset \underbrace{\text{accepts}}_{\text{accepts}} \subset \underline{\text{that it should}}_{\text{accepts}} \boxtimes \text{ to } \boxtimes$
	take charge ⊃of conto take back ⊗an applicant or another person as referred
	to in Article 18(1) ⑤ (c) or ⓒ (d) ⑤ , the ⑥ requesting ⑥ Member State in which the
	application for asylum was lodged shall ⊃[] C ⊃ notify C the applicant ⊗ person
	concerned ≤ of the decision not to examine the application, and of the obligation ≤>
	⊃ [] c the decision a to transfer b him/her a the applicant to the responsible
	Member State and, where applicable, of not examining his/her application for
	international protection ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
	representing the person concerned, Member States may choose to notify \bigcirc [] \bigcirc the
	decision to him/her instead of to the person concerned and where applicable, communicate
	it to the applicant.

2. The decision referred to in paragraph 1 <u>also contain information on available legal</u> remedies, including on the right to apply for suspensive effect, where applicable. <u>C</u>

The decision referred to in paragraph 1 C shall also C contain information on
available legal remedies and the time-limits applicable for seeking such remedies,
• details of the time limit for carrying out the transfer and shall, if necessary,
contain information on the place \boxtimes where, \boxtimes and \boxtimes the \boxtimes date \bowtie on \boxtimes which the
applicant → person concerned → should appear, if he/she is travelling to the
responsible Member State responsible by his her own means. Member States
shall also ensure that information on persons or entities that may provide \bigcirc [] \bigcirc legal
assistance to the person concerned is \bigcirc [] \bigcirc communicated to the person concerned
together with the decision referred to in paragraph 1, when the information has not been
already communicated. ⊃ [] C
⊃[] C This decision may be subject to an appeal or a review. Appeal or review
concerning this decision shall not suspend the implementation of the transfer except when
the courts or competent bodies so decide in a case-by-case basis if the national legislation

allows for this.

new		
⊃ Council		

Article 26

Remedies

- 1. The applicant or another person as referred to in Article 18(1) ⊃(c) or C (d) shall have the right to an effective ⊃[...] C remedy, in the form of an appeal or a review, in fact and in law, ⊃[...] C ⊃ against C the transfer decision referred to in Article 25, before a court or tribunal.
- 2. Member States shall provide for a reasonable period of time within which the person concerned may exercise his/her right to an effective ⊃ [...]

 ☐ remedy pursuant to paragraph 1.
- 3. In the event of an appeal or review concerning the transfer decision referred to in Article 25, ⊃[...] ⊂ ⊃ Member States shall provide in their national legislation that:
 - A) the appeal or review confers upon the applicant the right to remain in the Member

 State concerned pending the outcome of the remedy; or
 - B) an automatic suspension of the transfer which lapses after a certain reasonable period of time, during which a decision by a court or a tribunal whether to grant a suspensive effect of any appeal or review, shall have been taken after a close and rigorous scrutiny of the request; or •

the person concerned is given the opportunity to request within a reasonable period of time [...] a court or tribunal [...] to suspend the implementation of the transfer decision pending the outcome of his/her appeal or review. Member States shall ensure that an effective remedy is in place by suspending the transfer until the decision on the first request for suspension is taken.

Any decision on whether to suspend the implementation of the transfer decision shall be taken within a reasonable period of time, while permitting close and rigorous scrutiny of the request. A decision not to suspend the implementation of the transfer decision shall state the reasons on which it is based.

D[...] **C**

4. Member States may provide that competent authorities may ⊃ [...] ⊂ decide acting ex officio ⊃ [...] ⊂ to suspend the implementation of the transfer decision pending the outcome of the appeal or review ⊃ [...] ⊂.

<u>⊃[…]</u>C

5. \bigcirc Member States shall ensure that the person concerned has access to legal assistance \bigcirc [...] \bigcirc and, where necessary, to linguistic assistance.

⊃ <u>6.</u> C	\bigcirc [] \bigcirc Member States shall ensure that legal assistance \bigcirc [] \bigcirc be granted \bigcirc on
	request \bigcirc \bigcirc [] \bigcirc free of charge where the person concerned cannot afford the costs
	involved \bigcirc [] \bigcirc Member States may provide that, as regards fees and other costs the
	treatment of applicants shall not be more favourable than the treatment generally accorded
	to their nationals in matters pertaining to legal assistance.

Without arbitrarily restricting access to legal assistance, $\supset [...] \subset Member States may$ $\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset [...] \subset Provide that free legal assistance not be granted <math>\supset$

Where a decision not to grant free legal assistance and representation pursuant to this paragraph is taken by an authority which is not a court or tribunal, Member States shall provide the right to an effective remedy before a court or tribunal against this decision.

In the application of this paragraph, Member States shall ensure that legal assistance and representation is not arbitrarily restricted and that the applicant's effective access to justice is not hindered.

Legal assistance shall include at least the preparation of the required procedural documents and representation before the judicial authorities \bigcirc [...] \bigcirc and \bigcirc [...] \bigcirc may be restricted to legal advisors or counsellors specifically designated by national law to assist and represent asylum seekers.

Procedures for access to legal assistance shall be laid down in national law.

SECTION V.

DETENTION FOR THE PURPOSE OF TRANSFER

Article 27

Detention

D[...] **C**

3 1.	Member States shall not hold a person in detention for the sole reason that he/she
	⊃ [] cis subject to the procedure established by this Regulation.
2	C D [] C Member States may detain persons D [] C in order to secure D [

② 3. C Detention shall be ② as short as possible and C no longer than the time reasonably necessary to fulfill ② with due diligence C the required administrative procedures ② until the transfer under this Regulation is carried out. ② [...] C

Where a person is detained in the application of the current Article, the period for submitting a take charge or take back request shall not exceed a month from the moment the application was lodged. The Member State carrying out the procedure in accordance with this Regulation shall ask for an urgent reply in such cases, which shall not exceed two weeks for replying to a take charge or a take back request. Failure to reply within the two-week period shall be tantamount to accepting the request and entail the obligation to take charge or take back the person, including the obligation to provide for proper arrangements for arrival.

Description State approach with application of the current Article, the transfer of that person from the requesting Member State to the responsible Member State shall be carried out as soon as practically possible, and at the latest within six weeks from the implicit or explicit acceptance of the request by another Member State to take charge or to take back the person concerned or from the moment when the appeal or review no longer has a suspensive effect in accordance with Article 26(3).

When the requesting Member States fails to comply with the deadlines for submitting a take charge or take back request or where the transfer does not take place within the above mentioned deadline of six weeks, the person shall no longer be detained. Articles 21, 23, 23 A and 28 shall continue to apply accordingly.

4. As regards conditions for detention of and on guarantees applicable to persons detained, in order to secure the transfer procedures to the responsible Member State, Articles 9, 10 and 11 of Directive [.../.../EU] [laying down minimum standards for the reception of asylum seekers], shall apply. ©

Ψ	343/2003/EC (adapted)
\Rightarrow	new
	Council

☒ SECTION VI: TRANSFERS **☒**

Article 1928

☒ Modalities and time-limits **☒**

The transfer of the applicant \boxtimes or of another person as referred to in Article 18(1) \bigcirc (c) or \bigcirc (d) \boxtimes from the \boxtimes requesting \boxtimes Member State in which the application was lodged to the \boxtimes responsible \boxtimes Member State responsible shall be carried out in accordance with the national law of the \boxtimes requesting \boxtimes first Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within six months of acceptance of the request that charge be taken \boxtimes by another Member State to take charge or to take back the person concerned \boxtimes or of the \Longrightarrow final \hookrightarrow decision on an appeal or review where there is \bigcirc there is \bigcirc a suspensive effect \bigcirc [...] \bigcirc \bigcirc in accordance with Article 26(3) \bigcirc \bigcirc [...] \bigcirc

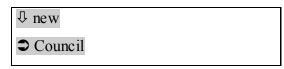
☐ If transfers to the Member State responsible are carried out by supervised departure or under escort, Member States shall ensure that they are carried out in a humane manner and with full respect for fundamental rights and human dignity. □

If necessary, the asylum seeker shall be supplied by the requesting Member State with a laissez passer \bigcirc The Commission shall adopt implementing acts concerning the design of this laissez passer. Those implementing acts shall be \bigcirc \bigcirc [...] \bigcirc adopted in accordance with the \bigcirc examination \bigcirc procedure referred to in Article \bigcirc 40(2) \bigcirc 27(2).

The Member State responsible shall inform the requesting Member State, as appropriate, of the safe arrival of the asylum seeker

→ person concerned ✓ or of the fact that he/she did not appear within the set time limit.

Where the transfer does not take place within the six months' time limit, \Rightarrow the Member State responsible shall be relieved of its obligations to take charge or to take back the person concerned and responsibility shall then be transferred to the requesting Member State \Leftrightarrow responsibility shall lie with the Member State in which the application for asylum was lodged. This time limit may be extended up to a maximum of one year if the transfer could not be carried out due to imprisonment of the asylum seeker \boxtimes person concerned \boxtimes or up to a maximum of eighteen months if the asylum seeker \boxtimes person concerned \boxtimes absconds.



3. If a person has been transferred erroneously or a decision to transfer is overturned on appeal after the transfer has been carried out, the Member State which carried out the transfer shall promptly accept that person back.



the Commission shall adopt implementing acts establishing the procedures for the consultation and the exchange of information between Member States, in particular in cases of postponed or delayed transfers, transfers following acceptance by default, or in cases of transferring minors or dependents, as well as in cases of supervised transfers.

Those implementing acts [...] shall be adopted in accordance with the examination procedure referred to in Article 40(2).

↓ new⇒ Council

Article 29

Costs of transfers

- 1. The costs necessary to transfer an applicant or another person as referred to in Article 18(1) (c) or (d) to the responsible Member State shall be met by the transferring Member State.
- 2. Where the person concerned has to be sent back to a Member State, as a result of an erroneous transfer or of a transfer decision that has been overturned on appeal after the transfer has been carried out, the Member State which initially carried out the transfer shall be responsible for the costs of transferring the person concerned back to its territory.

3. Persons to be transferred pursuant to this Regulation shall not be required to meet the costs of such transfers.

D[...]C

Article 30

Exchange of relevant information before transfers being carried out

⊃<u>[...]</u>C

- the responsible Member State such personal data concerning the \bigcirc [...] \bigcirc \bigcirc person \bigcirc to be transferred as is appropriate, relevant and non-excessive for the sole purposes of ensuring that the competent \bigcirc [...] \bigcirc authorities \bigcirc in accordance with national law \bigcirc in the responsible Member State are in a position to provide the \bigcirc [...] \bigcirc \bigcirc person concerned \bigcirc with adequate assistance, including the provision of \bigcirc [...] \bigcirc \bigcirc immediate health care required in order to protect the vital interest of the person concerned \bigcirc , and to ensure continuity in the protection and rights afforded by this Regulation and by \bigcirc other relevant asylum legal instruments. \bigcirc [...] \bigcirc This information shall be communicated to the responsible Member State within a reasonable period of time before a transfer is carried out, in order to ensure that the competent authorities in accordance with national law in the responsible Member State have sufficient time to take the measures required.
- information is available to the competent authority in accordance with national law, transmit to the responsible Member State any information that it \bigcirc [...] \bigcirc is essential in order to safeguard the rights and immediate special needs of the person concerned, and \bigcirc in particular \bigcirc [...] \bigcirc :

- (a) any immediate measures the responsible Member State [...] C is required to take in order to ensure that the special needs of the person to be transferred are adequately addressed, including [...] C any immediate health care that may be required;
- ○[...] C(b) C contact details of family members within the meaning of Article
 2(g) C or of other relatives or relations C [...] C in the receiving Member
 State, where applicable;
- \bigcirc [...] \bigcirc \bigcirc (c) \bigcirc in the case of minors, information in relation to their \bigcirc [...] \bigcirc education;
- \bigcirc [...] \bigcirc \bigcirc (d) \bigcirc information about the \bigcirc assessment of the \bigcirc age of an applicant.
- The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with Article 33 using the 'DubliNet' electronic communication network set-up under Article 18 of Regulation EC (No) 1560/2003. \bigcirc The information exchanged shall only be used for the purposes set out in paragraph \bigcirc Of this Article \bigcirc and shall not be further processed. \bigcirc Of ... \bigcirc

) [...] **C**

- 5. The rules laid down in Article 32(8) to (12) shall apply to the exchange of information pursuant to this Article.

Article 30 A ⊅ [...] €

Exchange of health data before transfer is being carried out

) []	1. \bigcirc For the \bigcirc [] \bigcirc \bigcirc exclusive \bigcirc purpose of the provision of \bigcirc medical \bigcirc care
o	or treatment, in particular concerning disabled persons, elderly people, pregnant women,
n	ninors and persons that have been subject to torture, rape or other serious forms of
p	sychological, physical and sexual violence, the transferring Member State shall 2_
<u>i1</u>	nsofar as available to the competent authority in accordance with national law, transmit to
tl	he responsible Member State C information about any special needs of the \bigcirc [] C
	person c to be transferred, which in specific cases may include information about the
S	tate of the physical and mental health of the $\bigcirc []$ \bigcirc \bigcirc person \bigcirc to be transferred.
	The information shall be transferred in a common health certificate with the necessary
d	ocuments attached. The Commission shall adopt implementing acts concerning the
d	rawing up of this \bigcirc [] \bigcirc common health certificate. \bigcirc [] \bigcirc Those implementing
<u>a</u>	cts shall be adopted in accordance with the examination procedure referred to in Article
4	0(2). The responsible Member State shall ensure that those special needs are
a	dequately addressed, including in particular any essential medical care that may be
re	equired.

- The lack of consent, including a refusal of consent, to transmitting any information referred to in paragraph 1 shall not be an obstacle to carrying out his/her transfer

 [...] € 1...] € 1...] € 1...] € 1...] € 1...] € 2...] € 2...] € 2...] € 2...] € 2...] € 2...] € 2...] € 2...] € 2...] € 2...] € 2...] € 2...] € 2...] € 3
- 2 ⊆ shall only be carried out by a health professional subject under national law or rules established by national competent bodies to the obligation of professional secrecy or by another person subject to an equivalent obligation of secrecy →, and fully respecting the data subject's right to the protection of his/her personal data. □ [...] □
- □ [...] C 4. C The exchange of information under this Article shall only take place between the
 □ [...] C □ health professionals or other persons referred to in paragraph 3. C □ [...] C
 The information exchanged shall only be used for the purposes set out in paragraph
 □ [...] C □ 1 C of this Article □ and shall not be further processed.
- ⊃<u>[...]</u>C
- DubliNet' electronic communication network set-up under Article 18 of Regulation EC

 (No) 1560/2003.

 □ The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with Article 33 using the 'DubliNet' electronic communication network set-up under Article 18 of Regulation EC

D[...] **C**

⊃[...] C ⊃ 6. C The rules laid down in Article 32(8) to (12) shall apply to the exchange of information pursuant to this Article.

⊃[...]C

⇒ Article 31

A mechanism for \mathcal{I} ... Cearly warning, \mathcal{I} ... Cpreparedness and crisis management

Nhere, based in particular on the information gathered by EASO pursuant to □ [...] □ Regulation (EU) 439/2010 □ [...] □ the Commission establishes that the application of this Regulation may be jeopardised due to either the identification of a substantiated risk of particular pressure on a Member State's asylum system □ [...] □ and/or □ [...] □ because of problems in the functioning of the asylum system of a Member State □ [...] □, the Commission, in cooperation with EASO, □ [...] □ shall make □ [...] □ recommendations to that Member State inviting it to draw up a preventive action plan □ [...] □. The Member State concerned shall inform the Council and the Commission whether it intends to present a preventive action plan in order to overcome the pressure and/or problems in the functioning of its asylum system whilst ensuring the protection of the fundamental rights of applicants for international protection. □ [...] □.

A Member State may upon its own discretion and initiative, draw up a preventive action plan and subsequent revisions thereof. \bigcirc [...] \bigcirc When drawing up a preventive action plan, the Member State may call for the assistance of the Commission \bigcirc [...] \bigcirc other Member States, EASO and other relevant EU agencies. \bigcirc

- where a preventive action plan is drawn up, the Member State concerned shall submit it as well as regular reports on its implementation to \bigcirc [...] the Council and to the Commission \bigcirc [...] the Commission shall consequently inform the European Parliament on the key elements of the preventive action plan. The Commission shall submit reports on its implementation to the Council and transmit reports on its implementation to the European Parliament.
 - b) Where a preventive action plan is drawn up, the Member State concerned shall take all appropriate measures to deal with the situation of particular pressure or to ensure that the deficiencies identified are addressed before the situation deteriorates. Where a preventive action plan includes measures aimed at addressing particular pressure on a Member State's asylum system which may jeopardise the application of this Regulation, the Commission shall seek the advice of EASO before reporting to the Council and the European Parliament.

) [...] **C**

where the Commission establishes on the basis of EASO's analysis that the implementation of the preventive action plan ⊃ [...] ⊂ has not remedied the deficiencies identified or where there is a serious risk that the asylum situation in that Member State develops into a crisis, which is unlikely to be remedied by a preventive action plan, the Commission, in cooperation with EASO as applicable, ⊃ [...] ⊂ may request ⊃ [...] ⊂ the Member State concerned to elaborate ⊃ [...] ⊂ a crisis management ⊃ [...] ⊂ action plan and, where necessary ⊃ [...] ⊂ revisions thereof. The crisis management action plan shall ensure, throughout the process, compliance with the EU asylum acquis, in particular with fundamental rights of the applicants for international protection. ⊂

- ② 3. a) [...] Following the [...] request to elaborate on a crisis management action plan [...] ○, the Member State concerned shall, in cooperation with the Commission and EASO, elaborate such a [...] plan promptly, and at the latest within 3 months from the date of the request [...] ○.
 - b) Where a crisis management action plan is drawn up, ⊃ [...] ⊂ the Member State concerned shall submit ⊃ [...] ⊂ this plan and, at least every three months, report ⊃ [...] ⊂ on its ⊃ [...] ⊂ implementation ⊃ [...] ⊂ to the ⊃ [...] ⊂ Commission and other relevant stakeholders, such as EASO as appropriate ⊃ [...] ⊂ . The Commission shall inform the Council and the European Parliament ⊃ [...] ⊂ on the crisis management action plan, possible revisions, and the ⊃ [...] ⊂ implementation thereof ⊃ [...] ⊂ . In these reports, the Member State concerned shall report on data to monitor this compliance, such as the length of the procedure, the detention conditions and the reception capacity in relation to the inflow of asylum seekers. ⊃ [...] ⊂
- Throughout the entire process, the ⊃[...] ⊂ Council ⊃[...] ⊂ shall closely monitor

 ⊃[...] ⊂ the situation and may request further information and provide political guidance

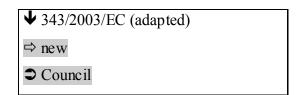
 ⊃[...] ⊂ in particular as regards the urgency and severity of the situation and thus, the

 need for a Member State to draw up either a preventive action plan or, if necessary, a crisis

 management action plan. The Council and the European Parliament may throughout the

 entire process discuss and provide guidance ⊃[...] ⊂ on any measures of solidarity as

 ⊃[...] ⊂ they deem appropriate. ⊂



CHAPTER ¥¥VII

ADMINISTRATIVE COOPERATION

Article 2132

☒ Information sharing **☒**

- 1. Each Member State shall communicate to any Member State that so requests such personal data concerning the asylum seeker as is appropriate, relevant and non-excessive for:

 - (b) examining the application for ⇒ international protection; ⇔ asylum;
 - (c) implementing any obligation arising under this Regulation.
- 2. The information referred to in paragraph 1 may only cover:
 - personal details of the applicant, and, where appropriate, the members of his family

 within the meaning of Article 2(g), or other relatives or relations, ⊃[...] ℂ ℂ

 (full name and where appropriate, former name; nicknames or pseudonyms; nationality, present and former; date and place of birth);

- (b) identity and travel papers (references, validity, date of issue, issuing authority, place of issue, etc.);
- other information necessary for establishing the identity of the applicant, including fingerprints processed in accordance with Regulation (EC) No <u>2725/2000</u>

 [.../...] [□ [concerning the establishment of "EURODAC" for the comparison of fingerprints for the effective application of the Dublin Regulation] [□];
- (d) places of residence and routes travelled;
- (e) residence documents or visas issued by a Member State;
- (f) the place where the application was lodged;
- (g) the date any previous application for asylum ⇒ international protection ⇔ was lodged, the date the present application was lodged, the stage reached in the proceedings and the decision taken, if any.
- Furthermore, provided it is necessary for the examination of the application for asylum

 ⇒ international protection ⇔, the Member State responsible may request another Member

 State to let it know on what grounds the asylum seeker bases his application and, where
 applicable, the grounds for any decisions taken concerning the applicant. The Member

 State may refuse to respond to the request submitted to it, if the communication of such
 information is likely to harm the essential interests of the Member State or the protection
 of the liberties and fundamental rights of the person concerned or of others. In any event,
 communication of the information requested shall be subject to the written approval of the
 applicant for asylum ⇒ international protection, obtained by the ⊅[...] ♥ ⊅ requesting ♥

 Member State ⇔. ☒ In this case, the applicant must know for what information he/she is
 giving his/her approval. ☒

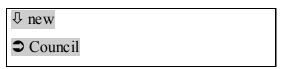
- Any request for information shall ⇒ only be sent in the context of an individual application for international protection. It shall ⇒ set out the grounds on which it is based and, where its purpose is to check whether there is a criterion that is likely to entail the responsibility of the requested Member State, shall state on what evidence, including relevant information from reliable sources on the ways and means asylum seekers enter the territories of the Member States, or on what specific and verifiable part of the applicant's statements it is based. It is understood that such relevant information from reliable sources is not in itself sufficient to determine the responsibility and the competence of a Member State under this Regulation, but it may contribute to the evaluation of other indications relating to the individual asylum seeker.
- The requested Member State shall be obliged to reply within six ⊃ [...] ⊂ ⊃ five ⊂ weeks. ⇒ Any delays in the reply shall be duly justified. ⊃ Non-compliance with the ⊃ [...] ⊂ five week time limit does not relieve the requested Member State of the obligation to reply. ⊂ If the research carried out by the requested Member State which did not respect the maximum time-limit, yield information which shows that it is responsible, that Member State may not invoke the expiry of the time-limit provided for in Articles 21 and 23 as a reason for refusing to comply with a request to take charge or take back. ⊂ ⊃ In that case, the time-limits provided for in Articles 21 and 23 for submitting a request to take charge or take back shall be extended with a period of time which shall be equivalent to the delay in the reply by the requested Member State. ⊂
- 6. The exchange of information shall be effected at the request of a Member State and may only take place between authorities whose designation by each Member State has been communicated to the Commission ⇒ in accordance with Article 33(1) ⇔ which shall inform the other Member States thereof.

- 7. The information exchanged may only be used for the purposes set out in paragraph 1. In each Member State such information may, depending on its type and the powers of the recipient authority, only be communicated to the authorities and courts and tribunals entrusted with:

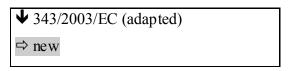
 - (b) examining the application for asylum ⇒ international protection; ⇔
 - (c) implementing any obligation arising under this Regulation.
- 8. The Member State which forwards the information shall ensure that it is accurate and upto-date. If it transpires that that Member State has forwarded information which is inaccurate or which should not have been forwarded, the recipient Member States shall be informed thereof immediately. They shall be obliged to correct such information or to have it erased.
- 9. The asylum seeker shall have the right to be informed, on request, of any data that is processed concerning him/her.

If he finds that this information has been processed in breach of this Regulation or of Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (8), in particular because it is incomplete or inaccurate, he is entitled to have it corrected.

The authority correcting \boxtimes or \boxtimes erasing or blocking the data shall inform, as appropriate, the Member State transmitting or receiving the information.



The asylum seeker shall have the right to bring an action or a complaint before the competent authorities or courts of the Member State which refused the right of access to or the right of correction or $\bigcirc [\ldots] \bigcirc \underline{\quad}$ erasure \bigcirc of data relating to him/her.



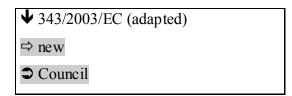
- 10. In each Member State concerned, a record shall be kept, in the individual file for the person concerned and/or in a register, of the transmission and receipt of information exchanged.
- 11. The data exchanged shall be kept for a period not exceeding that which is necessary for the purposes for which it is exchanged.
- Where the data is not processed automatically or is not contained, or intended to be entered, in a file, each Member State should ⇒ shall ← take appropriate measures to ensure compliance with this Article through effective checks.

Article <u>2233</u>

☒ Competent authorities and resources **☒**

new

- 2. The Commission shall publish a consolidated list of the authorities referred to in paragraph 1 in the Official Journal of the European Union. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated list.
- 3. The authorities referred to in paragraph 1 shall receive the necessary training with respect to the application of this Regulation.



Article 2334

Administrative arrangements ✓

- 1. Member States may, on a bilateral basis, establish administrative arrangements between themselves concerning the practical details of the implementation of this Regulation, in order to facilitate its application and increase its effectiveness. Such arrangements may relate to:
 - (a) exchanges of liaison officers;
 - (b) simplification of the procedures and shortening of the time limits relating to transmission and the examination of requests to take charge of or take back asylum seekers;

- 2. Member States may also maintain the administrative arrangements concluded under

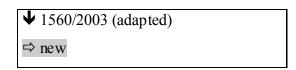
 Regulation (EC) No 343/2003. To the extent that such arrangements are not compatible

 with this Regulation, the Member States concerned shall amend the arrangements in such a

 way as to eliminate ⊃ [...] ⊂ any incompabilities ⊃ [...] ⊂ observed.
- 3. Before concluding or amending any arrangement referred to in paragraph 1(b), the

 Member States concerned shall consult the Commission as to the compatibility of the

 arrangement with this Regulation.
- □ [...] □ 4. If the Commission considers the arrangements referred to in paragraph 1(b) to be incompatible with this Regulation, it shall, within a reasonable period, notify the Member States concerned. The Member States shall take all appropriate steps to amend the arrangement concerned within a reasonable period in such a way as to eliminate □ [...] □ any incompatibilities □ [...] □ observed.
- 5. Member States shall notify the Commission of all arrangements referred to in paragraph 1, and of any denunciation thereof, or amendment thereto.



☒ CHAPTER VIII **☒**

Conciliation

<u> Article 1435</u>

➣ Conciliation **☒**

- 1. Where the Member States cannot resolve a dispute, either on the need to earry out a transfer or to bring relatives together on the basis of Article 15 of Regulation (EC) No 343/2003, or on the Member State in which the person concerned should be reunited, ⇒ on any matter related to the application of this Regulation, ⇒ they may have recourse to the conciliation procedure provided for in paragraph 2 of this Article.
- 2. The conciliation procedure shall be initiated by a request from one of the Member States in dispute to the Chairman of the Committee set up by Article <u>2740</u> of Regulation (EC) No <u>343/2003</u>. By agreeing to use the conciliation procedure, the Member States concerned undertake to take the utmost account of the solution proposed.

The Chairman of the Committee shall appoint three members of the Committee representing three Member States not connected with the matter. They shall receive the arguments of the parties either in writing or orally and, after deliberation, shall propose a solution within one month, where necessary after a vote.

The Chairman of the Committee, or his deputy, shall chair the discussion. He may put forward his point of view but he may not vote.

Whether it is adopted or rejected by the parties, the solution proposed shall be final and irrevocable.

♦ 343/2003/EC **○** Council

CHAPTER VIIIX

TRANSITIONAL PROVISIONS AND FINAL PROVISIONS

⊃ *Article 35 A* **⊃** [...] **C**

Data security and data protection

Member States shall take all appropriate measures to ensure the security of transmitted personal data \bigcirc [...] \bigcirc and in particular to avoid unlawful or unauthorized access or disclosure, alteration or loss of personal data processed.

Each Member State shall provide that the national supervisory authority or authorities designated pursuant to Article 28(1) of Directive 95/46/EC shall monitor independently, in accordance with its respective national law, the lawfulness of the processing, in accordance with this Regulation, of personal data by the Member State in question.

Article 35 B ⊅[...] €

Confidentiality

Member States shall ensure that the authorities referred to in Article 33 are bound by the confidentiality principle as defined in national law, in relation to any information they obtain in the course of their work.

↓ new

Article 36

Penalties

Member States shall take the necessary measures to ensure that any misuse of data processed in accordance with this Regulation is punishable by penalties, including administrative and/or criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.

◆ 343/2003/EC (adapted)

◆ Council

Article <u>24</u>37

- 1. This Regulation shall replace the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 (Dublin Convention).
- 2. However, to ensure continuity of the arrangements for determining the Member State responsible for an application for asylum, $\underline{\underline{w}}\underline{W}$ here an application has been lodged after the date mentioned in the second paragraph of Article $\underline{\underline{29}\underline{-}44}$, the events that are likely to entail the responsibility of a Member State under this Regulation shall be taken into consideration, even if they precede that date, with the exception of the events mentioned in Article $\underline{14(2)}$. $\underline{10(2)}$.
- 3. Where, in Regulation (EC) No 2725/2000 reference is made to the Dublin Convention, such reference shall be taken to be a reference made to this Regulation.

*Article*2538

🗷 Calculation of time-limits 🖾

≜Any period of time prescribed in this Regulation shall be calculated as follows:

- (a) where a period expressed in days, weeks or months is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;
- (b) a period expressed in weeks or months shall end with the expiry of whichever day in the last week or month is the same day of the week or falls on the same date as the day during which the event or action from which the period is to be calculated occurred or took place.

 If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;
- (c) time limits shall include Saturdays, Sundays and official holidays in any of the Member States concerned.

2. Requests and replies shall be sent using any method that provides proof of receipt.

Article <u>2639</u>

Territorial scope ✓

As far as the French Republic is concerned, this Regulation shall apply only to its European territory.

Article <u>2740</u>

➣ Committee **☒**

1.	The Commission shall be assisted by a committee. That committee shall be a committee
	within the meaning of Regulation (EU) No 182/2011.

- 2. Where reference is made to this paragraph, Article 5 <u>● of Regulation (EU) No</u>

 182/2011 shall apply.
- Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.
 □

↓ 1103/2008/EC, pt. 3(4) of the Annex

○ Council

◆ 343/2003/EC (adapted)

→ Council

D[...] **C**



⇒ Article 40A

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
- 2. The power to adopt delegated acts referred to in Articles 8 \bigcirc [...] \bigcirc and 16A \bigcirc [...] \bigcirc shall be conferred on the Commission for a period of 5 years from [the date of entry into force of the basic legislative act or any other date set by the legislator]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5 year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
- 3. The delegation of power referred to in Articles 8 \supset [...] \subset and 16A \supset [...] \subset may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

Article 2841

☒ Monitoring and evaluation **☒**

At the latest three years after the date mentioned in the first paragraph of Article 44 29, the Commission shall report to the European Parliament and the Council on the application of this Regulation and, where appropriate, shall propose the necessary amendments. Member States shall forward to the Commission all information appropriate for the preparation of that report, at the latest six months before that time limit expires.

↓ new

Article 42

Statistics

In accordance with Article 4(4) of Regulation (EC) No 862/2007 of the European Parliament and of the Council, Member States shall communicate to the Commission (Eurostat), statistics concerning the application this Regulation and of Regulation (EC) No 1560/2003.



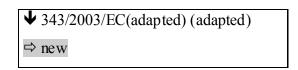
Article 43

Repeal

Regulation (EC) 343/2003 is repealed.

Articles 11(1), 13, 14 and 17 of Commission Regulation (EC) No 1560/2003 are repealed.

References to the repealed Regulation or Articles shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.



This Regulation shall enter into force on the <u>20th</u> twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply to asylum applications \Rightarrow for international protection \Leftarrow lodged as from the first day of the sixth month following its entry into force and, from that date, it will apply to any request to take charge of or take back asylum seekers, irrespective of the date on which the application was made. The Member State responsible for the examination of an asylum application \Rightarrow for international protection \Leftarrow submitted before that date shall be determined in accordance with the criteria set out in the \boxtimes Regulation (EC) No 343/2003 \boxtimes Dublin Convention.

This Regulation shall be binding in its entirety and directly applicable in the Member States in conformity with the Treaty establishing the European Community.

Done at [...]

For the European Parliament	For the Council	
The President	The President	
[]	[]	

↑			

ANNEX I

REPEALED REGULATION (REFERRED TO IN ARTICLE 43)

Council Regulation (EC) No 343/2003

(OJ L 50, 25.2.2003)

Commission Regulation (EC) No 1560/2003 only Articles 11(1), 13, 14 and 17

(OJ L 222, 5.9.2003)

ANNEX II

CORRELATION TABLE

Regulation (EC) 343/2003	This Regulation
Article 1	Article 1
Article 2(a)	Article 2(a)
Article 2(b)	deleted
Article 2(c)	Article 2(b)
Article 2(d)	Article 2(c)
Article 2(e)	Article 2(d)
Article 2(f)	Article 2(e)
Article 2(g)	Article 2(f)
-	Article 2(g)
Article 2(h) to (k)	Article 2(h) to (k)
-	Article 2(l)
Article 3(1)	Article 3(1)
Article 3(2)	Article 17(1)
Article 3(3)	Article 3(3)
Article 3(4)	Article 4(1), introductory wording
-	Article 4(1)(a) to (g)
-	Article 4(2) and (3)
Article 4 (1) to (5)	Article 20 (1) to (5)
-	Article 20 (5), third sub-paragraph
-	Article 5
-	Article 6

Article 5(1)	Article 7(1)
Article 5(2)	Article 7(2)
-	Article 7(3)
Article 6, first paragraph	Article 8(1)
-	Article 8(3)
Article 6, second paragraph	Article 8(4)
Article 7	Article 9
Article 8	Article 10
Article 9	Article 13
Article 10	Article 14
Article 11	Article 15
Article 12	Article 16
Article 13	Article 3(2)
Article 14	Article 12
Article 15(1)	Article 17(2), first sub-paragraph
Article 15(2)	Article 11(1)
Article 15(3)	Article 8(2)
Article 15(4)	Article 17(2), fourth sub-paragraph
Article 15(5)	Articles 8(5) and Article 11(2);
Article 16(1)(a)	Article 18(1)(a)
Article 16(1)(b)	Article 18(2)
Article 16(1)(c)	Article 18(1)(b)
Article 16(1)(d)	Article 18(1)(c)
Article 16(1)(e)	Article 18(1)(d)
Article 16(2)	Article 19(1)
Article 16(3)	Article 19(2), first sub-paragraph

-	Article 19(2), second sub-paragraph
Article 16(4)	Article 19(3)
	Article 19(3), second sub-paragraph
Article 17	Article 21
Article 18	Article 22
Article 19(1)	Article 25(1)
Article 19(2)	Article 25(2) and Article 26(1)
-	Article 26(2) to (6)
Article 19(3)	Article 28(1)
Article 19(4)	Article 28(2)
-	Article 28(3)
Article 19(5)	Article 28(4)
Article 20(1), introductory wording	Article 23(1)
-	Article 23(2)
-	Article 23(3)
-	Article 23(4)
Article 20(1)(a)	Article 23(5), first sub-paragraph
Article 20(1)(b)	Article 24(1)
Article 20(1)(c)	Article 24(2)
Article 20(1)(d)	Article 28(1), first sub-paragraph
Article 20(1)(e)	Article 25(1), (2), Article 26(1), Article 28(1), second and third sub-paragraphs;
Article 20(2)	Article 28(2)
Article 20(3)	Article 23(5), second sub-paragraph
Article 20(4)	Article 28(4)
-	Article 27

	1
-	Article 29
-	Article 30
-	Article 31
Article 21(1) to (9)	Article 32(1) to (9) first to third subparagraph
	Article 32(9) fourth sub-paragraph
Article 21(10) to (12)	Article 32(10) to (12)
Article 22(1)	Article 33(1)
-	Article 33(2)
-	Article 33(3)
Article 22(2)	Article 33(4)
Article 23	Article 34
Article 24(1)	deleted
Article 24(2)	Article 37
Article 24(3)	deleted
Article 25(1)	Article 38
Article 25(2)	deleted
Article 26	Article 39
Article 27(1), (2)	Article 40 (1), (2)
Article 27(3)	deleted
Article 28	Article 41
Article 29	Article 44
-	Article 35
-	Article 36
-	Article 42
-	Article 43

Regulation (EC) 1560/2003	This Regulation
Article 11(1)	Article 11(1)
Article 13(1)	Article 17(2), first sub-paragraph
Article 13(2)	Article 17(2), second sub-paragraph
Article 13(3)	Article 17(2), third sub-paragraph
Article 13(4)	Article 17(2), first sub-paragraph
Article 14	Article 35
Article 17(1)	Articles 9, 10, 17(2), first sub-paragraph
Article 17(2)	Article 32(3)

ANNEX TO ANNEX

Statements to be inserted in the Council minutes

1. The European Parliament and the Council invite the Commission to consider, without prejudice to its right of initiative, a revision of Article 8(4) of the Recast of the Dublin Regulation once the Court of Justice rules on case C-648/11 MA and Others vs. Secretary of State for the Home Department and at the latest by the time limits set in Article 41 of the Dublin Regulation. The European Parliament and the Council will then both exercise their legislative competences, taking into account the best interests of the child.

<u>The Commission</u>, in a spirit of compromise and in order to ensure the immediate adoption of the proposal, accepts to consider this invitation, which it understands as being limited to these specific circumstances and not creating a precedent.

- 2. In the application of the present Regulation, the Commission reiterates that, when proposing uniform conditions for implementing the provisions on transfers as foreseen under the present Regulation, it will ensure that current standards on transfers, as laid down in Articles 7-10 of Commission Regulation 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003, will be upheld.
- 3. The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.