

2020/0279 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on asylum and migration management and amending Council Directive (EC) 2003/109
and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund]**

(Text with EEA relevance)

Compromise Amendments

**CA 1 : Scope and definitions
(PART I, with corresponding recitals)**

**CA 2 : Common framework and solidarity
(PART II and Part IV + Annexes I, II, III, with corresponding recitals)**

**CA 3 : Dublin part
(PART III, with corresponding recitals)**

**CA 4 : General provisions, final and transitional provisions
(Part V and Part VII and Annex IV, with corresponding recitals)**

**CA 5 : Amendments to other union acts
(PART VI, with corresponding recitals)**

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2)(e) and Article 79(2)(a)(b) and (c) **and Article 80** thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national parliaments,
Having regard to the opinion of the European Economic and Social Committee¹,
Having regard to the opinion of the Committee of the Regions²,
Acting in accordance with the ordinary legislative procedure,
Whereas:

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HAVE ADOPTED THIS REGULATION:

PART I
SCOPE AND DEFINITIONS

Article 1
Aim and subject matter

In accordance with the principle of solidarity and fair sharing of responsibility, and with the objective of reinforcing mutual trust, this Regulation:

- (a) sets out a common framework for the management of asylum and migration in the Union, **and the functioning of the Common European Asylum System**;
- (b) establishes a mechanism for solidarity **and fair sharing of responsibility, as enshrined in Article 80 Treaty of the Functioning of the European Union (TFEU)**;
- (c) lays down the criteria and mechanisms for determining the Member State responsible for examining an application for international protection.

Article 2
Definitions

For the purposes of this Regulation:

- (a) ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 20(1) of the ~~Treaty~~ **TFEU** and who is not a person enjoying the right ~~to~~ **of** free movement under Union law as defined in Article 2, point (5) of Regulation (EU) 2016/399 of the European Parliament and of the Council³;
- (aa new) ‘Stateless person’ means a person who is not considered as a national by any State under the operations of its law, as referred to in the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954.**

¹ OJ C , , p. .

² OJ C , , p. .

³ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1.

- (b) ‘application for international protection’ or ‘application’ means a request for protection made to a Member State by a third-country national or a stateless person, who can be understood as seeking refugee status or subsidiary protection status;
- (c) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a **final** decision has not been taken, ~~or has been taken and is either subject to or can still be subject to a remedy in the Member State concerned, irrespective of whether the applicant has a right to remain or is allowed to remain in accordance with Regulation (EU) XXX/XXX [Asylum Procedure Regulation], including a person who has been granted immediate protection pursuant to Regulation (EU) XXX/XXX [Regulation addressing situations of crisis and force majeure in the field of asylum and migration];~~
- (d) ‘examination of an application for international protection’ means examination of the admissibility or the merits of an application for international protection in accordance with Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*] and Regulation (EU) XXX/XXX [*Qualification Regulation*], excluding procedures for determining the Member State responsible in accordance with this Regulation;
- (e) ‘withdrawal of an application for international protection’ means either explicit or implicit withdrawal of an application for international protection in accordance with Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*];
- (f) ‘beneficiary of international protection’ means a third-country national or a stateless person who has been granted international protection as defined in Article 2(2) of Regulation (EU) XXX/XXX [*Qualification Regulation*];
- (g) ‘family members’ means, ~~insofar as the family already existed before the applicant or the family member arrived on the territory of the Member States,~~ the following members of the applicant’s **or beneficiary’s** family who are present on the territory of the Member States:
- (i) the spouse of the applicant **or beneficiary** or his or her unmarried partner in a stable relationship, where the law 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 **or adult dependent** children of couples referred to in the first indent or of the applicant, **or beneficiary** ~~on condition that they are unmarried and~~ regardless of whether they were born in or out of wedlock or adopted as defined **or recognised** under national law,
 - (iii) where the applicant is a minor ~~and unmarried~~ **or adult dependent child**, the father, mother or another adult responsible for the applicant, whether by law or by the practice of the Member State where the adult is present,
 - (iv) where the beneficiary of international protection is a minor ~~and unmarried~~ **or adult dependent child**, the father, mother or another adult responsible for him or her whether by law or by the practice of the Member State where the beneficiary is present,
 - (v) the sibling or siblings of the applicant **or beneficiary**;
- (va new)** *As a derogation to points (ii), (iii) and (iv), on the basis of an individual assessment, where the minor is married, the adult spouse constitutes a member of family provided that the marriage is in accordance with the relevant*

national law had it been contracted in the Member State concerned, in particular having regard to the legal age of marriage.

- (h) ‘relative’ means the applicant’s adult aunt or uncle or grandparent who is present in the territory of a Member State, regardless of whether the applicant was born in or out of wedlock or adopted as defined under national law;
- (i) ‘minor’ means a third-country national or a stateless person below the age of 18 years;
- (j) ‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States;
- (k) ~~‘representative’~~ **‘Guardian’** means a *natural* person or an organisation *including a public body* ~~appointed~~ *designated* by the competent *authorities* ~~bodies~~ in order to assist, ~~and represent~~ *and act on behalf of* an unaccompanied minor in procedures provided for in this Regulation with ~~a view to ensuring~~ *in order to ensure that the unaccompanied minor can benefit from the rights and comply with the obligations under this Regulation*, while ~~to~~ safeguarding the best interests of the child and *his or her well-being*, and exercising legal capacity for the minor where necessary;
- (l) ‘residence document’ means any authorisation issued by the authorities of a Member State authorising a third-country national or a stateless person to stay on its territory, including the documents substantiating the authorisation to remain on 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 Member State responsible as established in this Regulation or during the examination of an application for international protection or an application for a residence permit;
- (m) ‘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, including:
 - (i) an authorisation or decision issued in accordance with its national law or Union law required for entry for an intended stay in that Member State of more than 90 days,
 - (ii) an authorisation or decision issued in accordance with its national law or Union law required for entry for a transit through or an intended stay in that Member State not exceeding 90 days in any 180-day period,
 - (iii) an authorisation or decision valid for transit through the international transit areas of one or more airports of the Member States;
- (n) ‘diploma or qualification’ means a diploma or qualification which is obtained after at least a three months’ period of study *achieved on the territory of a Member State* in a recognised, state or regional programme of education or vocational training at least equivalent to level 2 of the International Standard Classification of Education, operated by an education establishment in accordance with national law or administrative practice of the Member States;
- (o) ‘education establishment’ means any type of public or private education or vocational training establishment established in a Member State and recognised by that Member

- State or considered as such in accordance with national law or whose courses of study or training are recognised in accordance with national law or administrative practice;
- (p) ‘absconding’ means the action by which an applicant does not remain available to the competent administrative or judicial authorities, ~~such as by leaving the territory of the Member State without authorisation from the competent authorities~~ for reasons which are not beyond the applicant’s control;
- (q) ‘risk of absconding’ means the existence of specific reasons and circumstances in an individual case, **following an individual assessment**, which are based on objective criteria **clearly** defined by national law to believe that an applicant who is subject to a transfer procedure may abscond;
- (r) ‘benefitting Member State’ means the Member State benefitting from the solidarity measures **contributions as set out in Article 45** in situations of migratory pressure ~~or for disembarkations following search and rescue operations as set out in Chapters I-III of Part IV of this Regulation~~;
- (s) ‘contributing Member State’ means a Member State that ~~providese~~contributes or is obliged to ~~provide~~contribute to the solidarity ~~contributions~~measures to a benefitting Member State, **as set out in Article 45, Chapters I-III of Part IV of this Regulation**;
- ~~(t) ‘sponsoring Member State’ means a Member State that commits to return illegally staying third-country nationals to the benefit of another Member State, providing the return sponsorship referred to in Article 55 of this Regulation;~~
- (ta new) ‘transfer’ means the action taken by the Member States and practical arrangements made by that Member State in order to take charge or or to take back and applicant pursuant to Article 26 of this Regulation;**
- (u) ‘relocation’ means ~~the transfer of a third-country national~~**transferral of an applicant** or a stateless person ~~beneficiary of international protection~~ from the territory of a benefitting Member State to the territory of a contributing Member State;
- (v) ‘search and rescue operations’ means operations of search and rescue **activities**, as referred to in the 1979 International Convention on Maritime Search and Rescue adopted in Hamburg, Germany on 27 April 1979, **and operations as referred to in Article 10 of Regulation (EU) 656/2014**;
- (w) ‘migratory pressure’ means, **without prejudice to the definition of crisis in Article XX of Regulation (EU) xx/xx [Crisis Regulation]**, a situation ~~where there is a large number of~~, **whereby** the arrivals **or applications** of third-country nationals or stateless persons, ~~or a risk of such arrivals~~, including where this stems from arrivals following **as a result of** search and rescue operations, ~~as a result of the geographical location of a Member State and the specific developments in third countries which generate migratory movements that~~ **activities** place a burden ~~disproportionate responsibility~~ even on well-prepared asylum and, reception **and migration** systems ~~and, which requires immediate action~~ **solidarity contributions pursuant to Article 45 of this Regulation**;
- (wa new) ‘reception conditions’ means the reception conditions, as defined in Article 2(6) of Directive (EU) XXX/XXX [Reception Conditions Directive];**
- (x) ‘resettled or admitted person’ means a person who has been accepted by a Member State for admission pursuant to Regulation (EU) XXX/XXX [*Union Resettlement*]

Framework Regulation] or under a national resettlement scheme outside the framework of that Regulation;

- (xa new) **‘EU Relocation Coordinator’ means the person appointed by the Commission and with the mandate as defined in Article 58 a of this Regulation.**
- (y) ‘Asylum Agency’ means the European Union Agency for Asylum as established by Regulation (EU) XXX/XXX [*European Union Asylum Agency*];
- (z) ~~‘return decision’ means an administrative or judicial decision or act stating or declaring the stay of a third country national to be illegal and imposing or stating an obligation to return that respects Directive 2008/115/EC of the European Parliament and of the Council⁴;~~
- (aa) ~~‘illegally staying third country national’ means a third country national who does not fulfil or no longer fulfils the conditions of entry as set out in Article 6 of Regulation (EU) 2016/399 or other conditions for entry, stay or residence in a Member State.~~

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| <p>PART II COMMON FRAMEWORK FOR ASYLUM AND MIGRATION MANAGEMENT</p> |
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Article 3

Comprehensive approach to asylum and migration management .

The Union and the Member States shall take **common** actions in the field of asylum and migration management on the basis of a comprehensive approach **including the principle of integrated policy-making**, ~~That comprehensive approach shall~~ **in compliance with international and EU law**, ~~address the entirety of the migratory routes~~ **ensuring coherence between** ~~of that affect asylum and migration management~~ **policies** and shall consist of the following components:

- (a) ~~mutually beneficial partnerships and close cooperation with relevant third countries, including on legal pathways for third country nationals in need of international protection and for those otherwise admitted to reside legally in the Member States addressing the root causes of irregular migration, supporting partners hosting large numbers of migrants and refugees in need of protection and building their capacities in border, asylum and migration management, preventing and combatting irregular migration and migrant smuggling, and enhancing cooperation on readmission;~~
- (b) close cooperation and mutual partnership among Union institutions and bodies, Member States and international organisations;
- (c) ~~full implementation of the common visa policy;~~
- (d) ~~effective management and prevention of irregular migration;~~
- (e) effective management of the Union’s external borders, based on the European integrated border management **as set out in Article 3 of Regulation (EU) 2019/1896**;
- (f) full respect of the obligations laid down in international and European law concerning persons rescued at sea;
- (g) **swift** access to **fair and efficient** procedures for granting ~~and withdrawing~~ international protection on Union territory, **including at Union borders** and recognition of third-

- country nationals or stateless persons as refugees or beneficiaries of subsidiary protection;
- (h) determination of the Member State responsible for the examination of an application for international protection, based on shared responsibility and rules and mechanisms for solidarity, *as enshrined in Article 80, TFEU*;
 - (i) access for applicants to adequate reception conditions, *in accordance with the Reception Conditions Directive*;
 - (j) *return of irregularly staying third-country nationals in accordance with the Return Directive*; ~~effective management of the return of illegally staying third-country nationals~~;
 - (k) effective measures to provide incentives for and support to the integration of beneficiaries of international protection in the Member States;
 - ~~(l) measures aimed at reducing and tackling the enabling factors of irregular migration to and illegal stay in the Union, including illegal employment;~~
 - (m) *where applicable*, full deployment and use of the operational tools set up at Union level, notably ~~the European Border and Coast Guard Agency, the Asylum Agency, EU-LISA and Europol~~, as well as large-scale Union Information Technology systems;
 - ~~(n) full implementation of the European framework for preparedness and management of crisis.~~

Article 4

Principle of integrated policy-making

- ~~1. The Union and Member States shall ensure coherence of asylum and migration management policies, including both the internal and external components of those policies.~~
- ~~2. The Union and Member States acting within their respective competencies shall be responsible for the implementation of the asylum and migration management policies.~~
- ~~3. Member States, with the support of Union Agencies, shall ensure that they have the capacity to effectively implement asylum and migration management policies, taking into account the comprehensive approach referred to in Article 3, including the necessary human and financial resources and infrastructure.~~

Article 4a (new)

A long-term European Asylum and Migration Management Strategy⁵

1. *The Commission shall adopt a 5 year European Asylum and Migration Management Strategy (the ‘Strategy’) setting out the strategic approach to ensure access to asylum procedures and ~~on~~ of the functioning and implementation of asylum and migration policies at Union level, in accordance with the principles set out in this Part and in EU primary law and applicable international law. The Commission shall transmit the Strategy to the European Parliament and the Council.*

The First Strategy shall be adopted [18 months after the entry of this Regulation] and every five years thereafter.

⁵ This wording is based on Article 6 of European Commission proposal.

The Strategy shall include the components listed in Article 3, and also take into account:

- (a) the implementation of the national asylum and migration management strategies of the Member States, referred to in Article 5, and their compliance with EU and international law;*
- (b) relevant information gathered by the Commission under the Commission Recommendation No XXX on an European Preparedness and Crisis Management Mechanism (the ‘Migration Preparedness and Crisis Blueprint’);*
- (c) information collected by the Commission and the EU Asylum Agency on implementation of the asylum acquis;*
- (d) information gathered from the European External Action Services and relevant Union bodies, offices and agencies, in particular reports by the Asylum Agency, European Border and Coast Guard Agency and the European Union Agency for Fundamental Rights;*
- (e) any other relevant information, including from Member States, monitoring authorities, international organisations, and any other relevant body and organisations.*
- (f) the jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights.*

*Article 4b (new)
Annual Situational Report*

- 1. The Commission shall monitor and provide information on the asylum, reception and migratory situation over the previous 12 month period as a whole through annual situational reports based on qualitative data and information provided by the Member States, the European External Action Service, the Asylum Agency, the European Border and Coast Guard Agency, the European Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Fundamental Rights, and other relevant bodies, offices, agencies or organisations. The Commission shall transmit the annual situational reports to the European Parliament and the Council by [...] of each year.*

The annual situational reports shall include:⁶

- (a) the total number of applications for international protection and the nationalities of the applicants, including the numbers of applications lodged by unaccompanied minors and other vulnerable persons;*
- (b) the reception capacity of the Member States;*
- (c) the number of third-country nationals who have been identified by Member States authorities that do not fulfil the conditions for entry, stay or residence in the Member State, including overstayers within the meaning of Article 3(1) point (19) of Regulation (EU) 2017/2226 of the European Parliament and of the Council;*

⁶ The following list was partly included and amended from Art.50(3)

- (d) *the number of return decisions issued by the Member States and the number of third-country nationals who left the territory of the Member States in accordance with a return decision;*
 - (e) *the number of third-country nationals admitted by the Member States through resettlement or humanitarian admission schemes;*
 - (f) *the number of incoming and outgoing take charge or take back requests, the number of transfer decisions and the numbers of transfers carried out in accordance with this Regulation;*
 - (g) *the number and nationality of third-country nationals disembarked following search and rescue operations and activities, and the number of applications for international protection lodged by those third-country nationals;*
 - (h) *the Member States which experienced recurring arrivals by sea, in particular through disembarkations following search and rescue operations and activities;*
 - (i) *the number of third-country nationals subject to the border procedure provided for in Regulation (EU) XXX/XXX [Asylum Procedure Regulation] and their nationalities;*
 - (j) *the support provided by Union bodies, offices and agencies to the benefitting Member States;*
 - (k) *an annual evaluation of the implementation of the Strategy*
2. *In addition to the annual situational reports, the Commission shall, where necessary or upon request, provide information to the Council and the Parliament on the asylum, reception and migratory situation.*

Article 4c (new)⁷

Projected Annual Solidarity Needs

1. *The Commission shall, together with the transmission of the annual situational report as referred to in Article 4 b (new), adopt a delegated act in accordance with Article 68, setting out the anticipated evolution of the migratory situation in the Member States and anticipated number of arrivals, including arrivals by sea, in particular through disembarkation following search and rescue operations or activities, in the following 12 months.*
- That delegated act shall also identify the Member States that experienced recurring arrivals by sea, in particular disembarkations following search and rescue operations or activities in the previous 12 months.*
2. *Where the Commission anticipates that one or more Member States could face a situation of migratory pressure, the delegated act shall also, for the upcoming year, set out the projected annual solidarity needs in the form of:*
- (a) *the total number of required relocations pursuant to Article 45(1)(a) and (c)*
 - (b) *the total number of required relocations allocated for applicants arriving by sea, in particular through disembarkation following search and rescue operations*
 - (c) *the total need of capacity-building measures pursuant to Article 45(2a)(new)*

⁷ This concept behind this Article is partly inspired from Article 6(4) of the EC proposal.

The delegated act shall give priority to measures set out in Article 45(1).

The Commission shall consult with the Member State of Member States identified.

4. *Where a Member State is identified as having experienced recurring arrivals by sea, in particular disembarkations following search and rescue operations or activities in the previous 12 months, the Commission shall, for the purpose of paragraph 2, in any case consider that that Member State could face a situation of migratory pressure.*

3. *The Commission shall review the evolution of the migratory situation six months after the adoption of the delegated act, taking into account qualitative data and information from relevant agencies, bodies, offices, agencies or organisations.*

The Commission shall transmit the review to the European Parliament and to the Council.

4. *Where necessary, the Commission shall amend the delegated act by adjusting the anticipated number of arrivals, including by sea, in particular through disembarkation following search and rescue operations or activities, the projected annual solidarity needs as well as the indication as regards their type and increase.*

Article 5

Principle of solidarity and fair sharing of or responsibility and the duties of the Member States

1. In implementing their obligations, the Member States shall observe the principle of solidarity and fair sharing of responsibility *as enshrined in Article 80, TFEU*, and shall take into account the shared interest in the effective functioning of the Union's asylum and migration management policies. ~~Member States shall:~~

1a (new). In fulfilling their duties, Member States shall:

- (a) establish and maintain national asylum and migration management systems that provide access to international *and national* protection procedures, *provide and invest in adequate reception and* grant such protection to those who are in need and ensure the *effective and dignified* return of those who are ~~illegally~~ *irregularly* staying;

(aa (new)) Ensure that sufficient funding and qualified and well-trained staff is allocated in all circumstances and, where they consider if necessary or where applicable, request support from Union bodies, offices and agencies for that purpose.

- (b) take all measures necessary and proportionate, *in full compliance with fundamental rights*, to reduce and prevent irregular migration to the territories of the Member States, ~~in close cooperation and partnership with relevant third countries~~, including as regards the prevention and fight against migrant smuggling *and human trafficking, whilst protecting the rights of smuggled and trafficked people*;
- (c) apply correctly and expeditiously the rules on the determination of the Member State responsible for examining an application for international protection and, where necessary, carry out the transfer to the Member State responsible pursuant to Chapters I-VI of Part III *and Chapter I of Part IV*;

- (d) provide *effective* support to other Member States in the form of solidarity contributions on the basis of needs set out in Chapters I-III of Part IV;
- (e) ~~take all reasonable and proportionate measures to prevent and correct unauthorised movements between Member States.~~

1b (new) When implementing their obligations under paragraph 1a, Member States shall cooperate closely.

1c (new)⁸. Member States shall have national strategies in place that establish the strategic approach to ensure they have the capacity to effectively implement their asylum and migration management system, in full compliance with their obligation under EU and international law, taking into account their specific situation, especially their geographical location. . The Commission and relevant EU bodies, offices and agencies, particular the European Union Asylum Agency shall, within their respective mandates, be able to support the Member States when establishing their national strategies. Those strategies shall, at least, include:

- (a) preventive measures to reduce the risk of migratory pressure and contingency planning, taking into account the contingency planning pursuant to Regulation (EU) 2021/2303 [European Union Asylum Agency], Regulation (EU) 2019/1896 of the European Parliament and of the Council⁹ and Directive (EU) XXX/XXX [Reception Conditions Directive] and the reports of the Commission issued within the framework of the Migration Preparedness and Crisis Blueprint;***
- (b) information on how the Member States implements the principles set out in this Part and legal obligations stemming therefrom at national level;***
- (c) the results of the monitoring undertaken by the Asylum Agency and the European Border and Coast Guard Agency, of the evaluation carried out in accordance with Council Regulation (EU) No 2022/922¹⁰ as well as of the monitoring carried out in accordance with Article 7 of Regulation (EU) XXX/XXX [Screening Regulation].***

The national strategies shall take into account other relevant strategies and existing support measures in particular those support measures under Regulation (EU) 2021/1147 of the European Parliament and of the Council¹¹ and Regulation (EU) 2021/2303 [European Union Asylum Agency] and be coherent with and complementary to the national strategies for European integrated border management established in accordance with Article 8(6) of Regulation (EU) 2019/1896.

When establishing their national strategies, Member States shall consult local and regional authorities.

⁸ This paragraph is inspired from EC proposal Article 6(3). The list is basically a reordering of elements contained in Article 6(3) of the Commission proposal.

⁹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

¹⁰ Council Regulation (EU) Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013.

¹¹ Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund (OJ L 251, 15.7.2021, p. 1).

Member States shall transmit their national asylum and migration management strategies to the Commission six months before the adoption of the Strategy as referred to in Article 4a (new).

2. Financial and operational support by the Union for the implementation of the obligations, ***including operational support from its agencies***, shall be provided in accordance with the ***Regulation (EU) 2021/2303 [Asylum Agency]***, ***Regulation (EU) 2019/1986 [Establishing the European Border and Coast Guard]***, ***Regulation (EU) XXX/XXX 2021/1147 [Asylum, Migration and Integration Fund]*** and ***Regulation (EU) XXX/XXX 2021/1148 [Integrated Border Management Fund]***.

Article 6

Governance and monitoring of the migratory situation

- ~~1. The Commission shall adopt a European Asylum and Migration Management Strategy setting out the strategic approach to managing asylum and migration at Union level and on the implementation of asylum and migration management policies in accordance with the principles set out in this Part. The Commission shall transmit the Strategy to the European Parliament and the Council.~~
- ~~2. The European Asylum and Migration Management Strategy shall take into account the following:
 - ~~(a) the national strategies of the Member States referred to paragraph 3 of this Article;~~
 - ~~(b) information gathered by the Commission under the Commission Recommendation No XXX on an EU Migration Preparedness and Crisis Management Mechanism hereinafter referred to as Migration Preparedness and Crisis Blueprint; the reports issued under that framework as well as the activities of the Migration Preparedness and Crisis Management Network;~~
 - ~~(c) relevant reports and analyses from Union agencies;~~
 - ~~(d) information gathered in the course of evaluations undertaken in the Schengen evaluation and monitoring mechanism in accordance with Article 4 of Regulation (EU) No 1053/2013¹².~~~~
- ~~3. Member States shall have national strategies in place to ensure sufficient capacity for the implementation of an effective asylum and migration management system in accordance with the principles set out in this Part. Those strategies shall include contingency planning at national level, taking into account the contingency planning pursuant to Regulation (EU) XXX/XXX [European Union Asylum Agency], Regulation (EU) 2019/1896¹³ (European Border and Coast Guard Agency) and Directive XXX/XXX/EU [Reception Conditions Directive] and the reports of the Commission issued within the framework of the Migration Preparedness and Crisis Blueprint. Such national strategies shall include information on how the Member State~~

¹² Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen, OJ L 295, 6.11.2013, p. 27.

¹³ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019, p. 1.

is implementing the principles set out in this Part and legal obligations stemming therefrom at national level. They shall take into account other relevant strategies and existing support measures notably under Regulation (EU) XXX/XXX [*Asylum and Migration Fund*] and Regulation (EU) XXX/XXX [*European Union Asylum Agency*] and be coherent with and complementary to the national strategies for integrated border management established in accordance with Article 8(6) of Regulation (EU) 2019/1896. The results of the monitoring undertaken by the Asylum Agency and the European Border and Coast Guard Agency, of the evaluation carried out in accordance with Council Regulation No 1053/2013 as well as those carried out in line with Article 7 of Regulation (EU) XXX/XXX [*Screening Regulation*], should also be taken into account in these strategies.

4. ~~The Commission shall adopt a Migration Management Report each year setting out the anticipated evolution of the migratory situation and the preparedness of the Union and the Member States. In the case of migratory flows generated by search and rescue operations, the Commission shall consult the concerned Member States and the Report shall set out the total number of projected disembarkations in the short term and the solidarity response that would be required to contribute to the needs of the Member States of disembarkation through relocation and through measures in the field of capacity building, operational support and measures in the field of the external dimension. The Report shall also indicate whether particular Member States are faced with capacity challenges due to the presence of third country nationals who are vulnerable and include the results of the reporting on monitoring listed in paragraph 3 including the information gathered within the framework of the Migration Preparedness and Crisis Blueprint and propose improvements where appropriate.~~
5. ~~The Member States shall establish the national strategies by [one year after the entry into force of this Regulation] at the latest. The first European Asylum and Migration Management Strategy shall be adopted by [18 months after the entry into force of this Regulation] at the latest and the first Migration Management Report shall be issued by [one year after the entry into force of this Regulation] at the latest.~~
6. ~~The Commission shall monitor and provide information on the migratory situation through regular situational reports based on good quality data and information provided by Member States, the External Action Service, the Asylum Agency, the European Border and Coast Guard Agency, Europol and the Fundamental Rights Agency and notably the information gathered within the framework of the Migration Preparedness and Crisis Blueprint and its Network.~~

Article 6a (new)

Governance and monitoring of the asylum and migration management

1. ***The Commission, the Council and the Member States shall ensure the consistent implementation of asylum and migration management policies, including both the internal and external components of those policies, in consultation with and with full respect for the competencies of the EU and Member States institutions and agencies responsible for external policies.***
2. ***The Commission, the Council and the Member States, acting within their respective competences, shall be responsible for the implementation of the asylum and migration management policies that comply fully with EU and international***

law, including with regard to fundamental rights, taking into account the comprehensive approach referred to in Article 3.

Article 7

Cooperation with third countries to facilitate return and readmission

- ~~1. Where the Commission, on the basis of the analysis carried out in accordance with Article 25a(2) or (4) of Regulation (EU) No 810/2009 of the European Parliament and of the Council¹⁴ and of any other information available, considers that a third country is not cooperating sufficiently on the readmission of illegally staying third country nationals, and without prejudice to Article 25(a)(5) of that Regulation, it shall submit a report to the Council including, where appropriate, the identification of any measures which could be taken to improve the cooperation of that third country as regards readmission, taking into account the Union's overall relations with the third country.~~
- ~~2. Where the Commission considers it appropriate, it shall also identify in its report measures designed to promote cooperation among the Member States to facilitate the return of illegal staying third country nationals.~~
- ~~3. On the basis of the report referred to in paragraph 1, the Commission and the Council, within their respective competencies, shall consider the appropriate actions taking into account the Union's overall relations with the third country.~~
- ~~4. The Commission shall keep the European Parliament regularly informed of the implementation of this Article.~~

Article 7a (new)¹⁵

Cooperation with third countries on asylum, border and migration management

- 1. *The Union and the Member States shall, promote and build tailor-made and mutually beneficial partnerships and close cooperation with relevant third countries, in order to***
 - (i) promote legal migration and well-managed mobility for third-country nationals in need of international protection and for those otherwise admitted to reside legally in the Member States;***
 - (ii) support partners hosting large numbers of migrants and refugees in need of protection and build their operational capacities;***
 - (iii) Strengthen bilateral, regional and international partnerships on migration, forced displacement, legal pathways and mobility partnerships;***
 - (iv) Support effective and human rights based migration policies;***
 - (v) Reduce the vulnerabilities caused by human trafficking and smuggling;***
 - (vi) Address drivers of irregular migration and forced displacement;***

¹⁴ Regulation (EC) No 810/2009 of the European Parliament and of the Council, of 13 July 2009, establishing a Community Code on Visas, OJ L 243, 15.9.2009, p. 1.

¹⁵ This article is entirely new. It is likely to change substantially pending further discussions on the file.

- (vii) *Enhance readmission and reintegration.*
2. *The partnerships and close cooperation with third countries shall be implemented in compliance with EU law and based on human rights, rule of law and in respect the Union's common values-*
 3. *The Commission and Member States shall also take measures to assess and promote other measures designed to foster and enhance mutually benefiting cooperation with third countries*
 4. *The Commission, the Council, and the Member States shall, within their respective competences, take actions which promote joint objectives and cooperation with third countries to address causes and drivers of irregular migration and forced displacement, applying fully the Neighbourhood, Development and International Cooperation Instrument - Global Europe.*
 5. *In the application of this Article, the Commission shall, in particular, consider reports by the Asylum Agency, the European Border and Coast Guard, Europol, the European Court of Auditors and the European External Action Service.*
 6. *The Commission shall on an annual basis evaluate the efficiency and fundamental rights compliance of the partnerships referred to in the first paragraph, as well as the implementation of this Article, and report to the European Parliament and the Council.*

The evaluation shall include an assessment of the objectives of external policies as elaborated in Article 21 TEU and assessment of the impact these potential actions may have in the fields of migration, peace and security, development and poverty eradication.

PART III
CRITERIA *AND MECHANISMS* FOR DETERMINING THE MEMBER STATE
RESPONSIBLE

CHAPTER I
GENERAL PRINCIPLES AND SAFEGUARDS

Article 8

~~Access to the~~ *The procedure for **determining the Member State responsible for examining an application for international protection***

1. Member States shall examine any application for international protection 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. The application shall be examined by a single Member State **at a time**, which shall be the one which the criteria set out in Chapter II of Part III indicate is responsible.
2. Where no Member State ~~responsible~~ can be designated **as responsible for the examination of the application for international protection** on the basis of the criteria listed in this Regulation, the first Member State in which the application for

international protection was registered shall be responsible for examining it, *pursuant to Article 21*.

3. Where it is impossible for a Member State to transfer an applicant *or a beneficiary of international protection* to the Member State primarily designated as responsible because there are substantial grounds for believing that *there is a real risk of violations of fundamental rights for the applicant* or there are systemic flaws in the asylum procedure ~~and/or~~ in the reception conditions for applicants *or the beneficiaries of international protection* in that Member State, ~~resulting in a 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 II of Part III in order to establish whether another Member State can be designated as responsible.

Where a Member State cannot carry out the transfer pursuant to the first subparagraph ~~to any~~ *and cannot establish whether another Member State can be* designated as *responsible* on the basis of the criteria set out in Chapter II of Part III or to the first Member State with which the application was registered, that Member State shall become the Member State responsible *for the examination of that application for international protection*.

4. If a security check provided for in Article 11 of Regulation (EU) XXX/XXX [*Screening Regulation*] has not been carried out, the first Member State in which the application for international protection was registered shall examine whether there are reasonable grounds to consider the applicant a ~~danger~~ *threat* to ~~national~~ *internal* security ~~or public order~~ of that Member State, as soon as possible, *at the latest within three days* after the registration of the application, before applying the criteria for determining the Member State responsible pursuant to Chapter II or the clauses set out in Chapter III of Part III.

If a security check provided for in Article 11 of Regulation (EU) XXX/XXX [*Screening Regulation*] has been carried out, but the first Member State in which the application for international protection was registered has justified reasons to examine whether there are reasonable grounds to consider the applicant a ~~danger~~ *threat* to ~~national~~ *internal* security ~~or public order~~ of that Member State, that Member State shall carry out the examination as soon as possible after the registration of the application, before applying the criteria for determining the Member State responsible pursuant to Chapter II or the clauses set out in Chapter III of Part III.

Where the security check carried out in accordance with Article 11 of Regulation (EU) XXX/XXX [*Screening Regulation*] or in accordance with the first and second subparagraphs of this paragraph shows that there are reasonable grounds to consider the applicant a ~~danger~~ *threat* to ~~national~~ *internal* security ~~or public order~~ of the Member State carrying out the security check, that Member State shall be the Member State responsible.

- ~~5. Each Member State shall retain the right to send an applicant to a safe third country, subject to the rules and safeguards laid down in Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*].~~

Article 9

Obligations Cooperation of the applicant with the competent authorities

1. Where a third-country national or stateless person intends to make an application for international protection, the application shall be made and registered in the Member State of first entry **or the Member State in which that third-country national or stateless person is legally present.**
2. By derogation from paragraph 1, where ~~a third-country national or stateless person is in possession of a valid residence permit or a valid visa, the application shall be made and registered in the Member State that issued the residence permit or visa.~~

Where a third-country national or stateless person **who intends to make an application for international protection** is in possession of a residence permit or a visa, **either valid or** which has expired, the application shall be made and registered in the Member State ~~where he or she is present~~ **that issued the residence permit or visa.**

3. The applicant shall fully cooperate with the competent authorities of the Member States in matters covered by this Regulation, in particular by submitting **and disclosing**, as soon as possible ~~and at the latest during the interview referred to in Article 12,~~ all the elements and information available to him or her ~~relevant for determining~~ **to determine** the Member State responsible. ~~Where the applicant is not in a position at the time of the interview to submit evidence to substantiate the elements and information provided, the~~ **The** competent authority ~~may~~ **shall** set a **reasonable** time limit within the period referred to in Article 29(1) for submitting such evidence, **taking into account the circumstances of the individual case and shall inform the applicant thereof.**

The competent authorities shall consider elements and information submitted also after a take charge request is sent if the elements or information are of such nature that it provides a key and reliable evidence for is crucial for the determining the Member State responsible, in particular regarding unaccompanied minors and family reunification.

4. The applicant shall be required, **within reason**, to be present **and to remain available to the competent authorities or judicial authorities** in:
 - (a) the Member State referred to in paragraphs 1 and 2 pending the determination of the Member State responsible and, where applicable, the implementation of the transfer procedure;
 - (b) the Member State responsible;
 - (c) the Member State of relocation following a transfer pursuant to Article 57(98).
5. Where a transfer **or relocation** decision is **final and** notified to the applicant in accordance with Article 32(2) and Article 57(87), the applicant shall comply with that decision.

6a (new). **Member States shall take into account the individual circumstances of the applicant when applying this Article.**

Article 10
Consequences of non-compliance

1. ~~The applicant shall not be entitled to the reception conditions set out in Articles 15 to 17 of Directive XXX/XXX/EU [Reception Conditions Directive] pursuant to Article 17a of that Directive in any Member State other than the one in which he or she is required to be present pursuant to Article 9(4) of this Regulation from the moment he or she has been notified of a decision to transfer him or her to the Member State responsible, provided that the applicant has been informed of that consequence pursuant to Article 8(2), point (b) of Regulation (EU) XXX/XXX [Screening Regulation]. This shall be without prejudice to the need to ensure a standard of living in accordance with Union law, including the Charter of Fundamental Rights of the European Union, and international obligations.~~
2. ~~Elements and information relevant for determining the Member State responsible submitted after expiry of the time limit referred to in Article 9(3) shall not be taken into account by the competent authorities.~~

Article 10a (new)

Reception conditions in a Member State other than the one in which the applicant is required to be present

- 1a (new) Before applying Article 17a of Directive (EU) xxx/xxx [Reception Conditions Directive], Member States shall ensure that the applicant has been duly informed of the requirement set out in Article 9(4) of this Regulation and of the consequences of non-compliance with that requirement pursuant to Article 8(2) point (b) of Regulation (EU) xxx/xxx [Screening Regulation].*
- 2a (new). Paragraph 1 shall not apply if the applicant is present a Member State other than the Member State where he or she is required to be present where his or her presence is due to reasons beyond his or her control.*
- 3a (new). Member States shall take into account the individual circumstances of the applicant, including the real risk of violations of fundamental rights in the Member State where the applicant is required to be present, when applying this Article. Any measures taken by the Member States shall be proportionate.*

Article 11

Right to information

1. As soon as possible and at ***in any event*** by the latest ***date*** when an application for international protection is registered in a Member State, its competent authorities shall ~~inform~~ ***provide*** the applicant ***with information*** of the application of this Regulation and of the obligations set out in Article 9 as well as the consequences of non-compliance set out in Article 10, and. ***That information shall*** in particular ***include***:
 - (a) ~~that the right to apply for international protection does not encompass a choice by the applicant in relation to either the Member State responsible for examining the application for international protection or the Member State of relocation;~~
 - (aa (new)) ***the objectives of this Regulation;***

- (ab (new)) *the cooperation expected by the applicant with the competent authorities as set out in Article 9.*
- (ac (new)) *a statement to the effect that the right to apply for international protection does not encompass a choice by the applicant as to which Member State is responsible for examining the application for international protection or is the Member State of relocation;*
- (b) ~~of the objectives of this Regulation and the consequences of making another application in a different Member State as well as the consequences of leaving the Member State where he or she is required to be present pursuant to Article 9(4),~~ *during the phases in determining the Member State responsible, in particular that the applicant shall only be entitled to the reception conditions as set out in Article 10(1);*
- (c) ~~of the criteria~~ *of this Regulation* and the procedures for determining the Member State responsible, the hierarchy of such criteria in the different steps of the procedure and their duration, *including the specific criteria applied by the determining Member States in the individual case;*
- (ca (new)) *the provisions relating to family reunification and, in that regard, the applicable definition of family members and relatives;*
- (d) ~~of the aim~~ *the right to and purpose* of the personal interview pursuant to Article 12, *the procedure* and the obligation to submit and substantiate orally or through the provision of documents information as soon as possible in the procedure any relevant information that could help to establish the presence of family members, relatives or any other family relations in the Member States, including the means by which the applicant can submit such information, as well as any assistance that the Member State can offer with regard to the tracing of family members or relatives;
- (e) ~~of the obligation for the applicant to disclose, as soon as possible in the procedure any relevant information that could help to establish any prior residence permits, visas or educational diplomas;~~
- (ea (new)) *the possibility to request that the discretionary clause be applied in accordance with Article 25, as well as the specific arrangements relating to the procedure, including the discretion of application for the Member State;*
- (f) ~~of the possibility~~ *and arrangements* to challenge a transfer decision within the time limits set out in Article 33(2), *as well as the existence of the right to an effective remedy before a court or tribunal, including in a situation where no transfer decision is issued and the fact that the challenge to a transfer decision has suspensive effect.* ~~and of the fact that the scope of that challenge is limited as laid down in Article 33(1).~~
- (g) ~~of the right to be granted, on request, legal assistance free of charge where the person concerned cannot afford the costs involved;~~
- (h) *the fact* that the competent authorities of Member States and the Asylum Agency will process personal data of the applicant including for the exchange of data on him or her for the sole purpose of implementing their obligations arising under this Regulation;
- (i) ~~of the categories of personal data concerned;~~

(j) ~~of the right of access to data relating to him or her~~ **the applicant** and the right to request that such data be corrected if inaccurate or be deleted if unlawfully processed, as well as the procedures for exercising those rights, including the contact details of the authorities referred to in Article 41 and of the national data protection authorities responsible for hearing claims concerning the protection of personal data, and of the contact details of the data protection officer;

(ja (new)) the protection of natural persons with regard to the processing of personal data in accordance with Union or Member State law;

(k) in the case of an unaccompanied minor, **the guarantees and rights applicable to the applicant**, ~~of the role and responsibilities of the representative~~ **applicant's guardian** and ~~of the procedure to file complaints against a representative~~ **guardian** in confidence and safety and in full respect of the child's right to be heard in this respect;

(ka (new)) where applicable, the fact that an age assessment or a DNA-test to prove family-link will be carried out;

(l) where applicable, of the relocation procedure set out in Articles 57 and 58.

1a (new). The competent authorities of the Member States shall keep the applicants informed of the progress of the procedure for determining the Member State responsible on a regular basis with regard to their application. Where the applicant is a minor, the competent authorities shall inform both the minor and the parent or the guardian.

~~2. The information referred to in paragraph 1 shall be provided in writing in a language that the applicant understands or is reasonably supposed to understand. Member States shall use the common information material drawn up in clear and plain language pursuant to paragraph 3 for that purpose.~~

~~Where necessary for the applicant's proper understanding, the information shall also be supplied orally, where appropriate in connection with the personal interview as referred to in Article 12.~~

~~3. The Asylum Agency shall, in close cooperation with the responsible national agencies, draw up common information material, as well as a specific leaflet for unaccompanied minors, containing at least the information referred to in paragraph 1. That common information material shall also include information regarding the application of Regulation (EU) XXX/XXX [*Eurodac Regulation*] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common information material shall be drawn up in such a manner as to enable Member States to complete it with additional Member State specific information.~~

Article 11 a (new)¹⁶ **Accessibility of the information**

1. The information referred to in Article 11 shall be provided in writing in the mother tongue of the applicant or in a language that the applicant understands. The information shall be provided in a concise and transparent manner, in an easily

¹⁶ That Article is contains provisions foreseen under Article 11(2) and (3) in the Commission proposal.

accessible form, and in advance of the personal interview as referred to in Article 12.

Member States shall use the common information material drawn up in clear and plain language pursuant to paragraph 2 for that purpose.

The competent authority shall ensure that the applicant understands the information and has the opportunity to ask questions to clarify or follow up on the information.

Where necessary for the applicant's proper understanding, the information shall also be supplied orally, with the support of multimedia equipment.

- The Asylum Agency shall, in close cooperation with the responsible national authorities, produce common information material, in clear and plain language, as well as a targeted information to specific ~~leaf~~target groups and specific information for unaccompanied minors and other vulnerable groups, containing at least the information referred to in Article 11. That common information and material shall also include information regarding the application of Regulation (EU) XXX/XXX [Eurodac Regulation] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac.*

The common information material referred to in the first subparagraph shall be available online, in an open and easily accessible platform for applicants.

Member States shall use the common information material referred to in the first subparagraph and shall complement it with additional Member State-specific information.

- Where the applicant is a minor, the information referred to in Article 11 shall be provided in a child-friendly manner, both in written and oral form, by appropriately trained staff and in the presence of the applicant's guardian.*

Article 11 b (new)

Right to legal assistance and representation

An applicant shall, in accordance with Article 14 of Regulation (EU) xxx/xxx [Asylum Procedure Regulation] have the right to consult, in an effective manner, a legal representative, admitted or permitted as such under national law, on matters relating, at all stages, to the determination of the Member State responsible for his or her application.

Article 12

Personal interview

- In order to facilitate the process of determining the Member State responsible, the **competent authorities of the** determining Member State shall conduct a personal interview with the applicant. ~~The interview shall also~~ **to** allow the proper understanding of the ~~information supplied to~~ **specific individual situation of** the applicant **and the information he or she applied** in accordance with Article 11.*

*The determining Member States shall proactively ask question on all aspects of the claim that would allow for the determination of the Member State responsible or aspects that would preclude the transfer of an applicant due to a real risk of **serious** violations of fundamental rights for the applicant.*

2. The personal interview may be omitted where:
 - (a) the applicant has absconded, **and is not available to the authorities**;
 - (b) the applicant has not attended the personal interview and has not provided justified reasons for his or her absence;
 - (c) after having received the information referred to in Article 11, the applicant has already provided the information relevant to determine the Member State responsible by other means, **unless the applicant request a personal interview**. The Member State omitting the interview shall give the applicant the opportunity to present all further information which is relevant to correctly determine the Member State responsible within the period referred to in Article 29(1), **unless the applicant requests a personal interview**.
3. The personal interview shall take place in a timely manner and, in any event, before any **decision on the Member State responsible is taken or a take charge or take back request is made pursuant to Article 29 or Article 31**.
4. The personal interview shall be conducted in **the applicant's mother tongue or in a language that the applicant understands or is reasonably supposed to understand** and in which he or she is able to communicate. Interviews of unaccompanied minors shall be conducted in a child-friendly manner, by staff who are appropriately trained and qualified under national law, in the presence of the ~~representative~~ **guardian** and, where applicable, the minor's legal advisor. Where necessary, Member States shall have recourse to ~~an~~ **a qualified** interpreter, and where appropriate a cultural mediator, who is able to ensure appropriate communication between the applicant and the person conducting the personal interview. The applicant may request to be interviewed and assisted by staff of the same sex.

4a (new) . In addition to the presence of the legal advisor and, where applicable, a representative during the interview, the applicant shall have the right to nominate one person of his or her trust to accompany him or her to the interview.
5. The personal interview shall take place under conditions which ensure appropriate confidentiality.

It shall be conducted by a qualified person under national law, **having received sufficient training to take account of the personal and general circumstances of the applicant. Staff interviewing applicants shall also have acquired general knowledge of problems which could adversely affect the applicant's ability to be interviewed, such as indicators showing that** the person may have been the victim of torture or gender-based violence in the past.

Applicants who are identified as being in need of ~~special~~ **specific** procedural guarantees pursuant to Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*], shall be provided with adequate support in order to create the conditions necessary for effectively presenting all elements allowing for the determination of the Member State responsible.
6. The Member State conducting the personal interview shall **make an audio recording of the interview and** make a written summary thereof which shall contain at least the main information supplied by the applicant at the interview. **The main elements in the summary shall be verified by the applicant, and where relevant, by the guardian or**

legal representative. The summary may either take the form of a report or a standard form.

The Member State shall ensure that the applicant or the legal advisor or other counsellor who is representing the applicant have timely access to the summary, **as soon as possible after the interview and in any case before the competent authorities take a decision on the Member State responsible.**

Article 13 Guarantees for 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. **Procedures including minors shall be treated with priority.**
2. Each Member States where an unaccompanied minor is **minors are** present shall ensure that ~~he or she is~~ **they are** represented and assisted by a **guardian and legal representative** with respect to the ~~relevant~~ procedures provided for in this Regulation. The ~~representative~~ **guardian** shall have the **resources, qualifications, training and expertise and independence to** ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. ~~Such representative~~ **The guardian** shall have access to the content of the relevant documents in the applicant's file including the specific information material for unaccompanied minors **and shall inform the minor accordingly about the procedure.**

The guardian shall be appointed as soon as possible, and in any event prior to the collection of biometric data pursuant to Articles 10, 13 and 14a of Regulation (EU) xxx/xxx [Eurodac Regulation]

Where an organisation is appointed as a ~~representative~~ **guardian**, it shall designate a person responsible for carrying out its duties in respect of the minor. The first subparagraph shall apply to that person.

The ~~representative~~ **guardian** provided for in the first subparagraph may be the same person or organisation as provided for in Article 22 of Regulation (EU) XXX/XXX [Asylum Procedure Regulation].

3. The ~~representative~~ **guardian** of an unaccompanied minor shall be involved in the process of establishing the Member State responsible **from the start of, and throughout, the procedure** under this **Regulation and any other rights recognised to the minor.** The ~~representative~~ **guardian** shall assist the unaccompanied minor to provide information relevant to the assessment of his or her best interests in accordance with paragraph 4, including the exercise of the right to be heard, and shall support his or her engagement with other actors, such as family tracing organisations, where appropriate for that purpose, **with due regard to confidentiality obligations to the minor. The guardian shall keep the unaccompanied minor informed on the progress in the procedures under this Regulation, and ensure that the unaccompanied minor have access to information, legal advice and representation.**
4. In assessing the best interests of the child, Member States shall closely cooperate **and exchange information** with each other and shall, in particular, take due account of the following **non-exhaustive list of factors and rights of the child:**
 - (a) **the right to family life, including** family reunification possibilities;

- (b) the minor's well-being and social development *in the short-, medium- and long term, including situations of vulnerabilities such as trauma, specific health needs and disability*, taking into particular consideration the minor's *ethnic, religious, cultural and linguistic* background, *and having regard to the need for stability and continuity in care and custodial arrangements and access to health and education services*;
- (c) safety and security considerations, in particular where there is a risk of the minor being a victim of any form of violence and exploitation, including trafficking in human beings *or violence within the family*;
- (d) the views of the minor, in accordance with his or her age and maturity, *in accordance with his or her right to be heard*;
- (e) where the applicant is an unaccompanied minor, the information provided by the ~~representative~~ *guardian* in the Member State where the unaccompanied minor is present.

(e a (new)) any other reasons relevant to the assessment of the best interest of the child.

5. Before transferring an unaccompanied minor to the Member State responsible or, where applicable, to the Member State of relocation, the transferring Member State shall ~~make sure~~ *obtain individual guarantees* that the Member State responsible or the Member State of relocation takes the measures referred to in Articles 14 and 23 of Directive XXX/XXX/EU [*Reception Conditions Directive*] and Article 22 of Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*] without delay.

The individual guarantee shall also include the appointment of a guardian in the Member State of transfer, and a guarantee of a handover to a designated guardian.

Any decision to transfer *or not to transfer* an unaccompanied minor shall be preceded by an *individual* assessment of his/her best interests. The assessment shall be based on the factors listed in paragraph 4 and the conclusions of the assessment on these factors shall be clearly stated in the transfer decision. The assessment shall be done swiftly by staff with the *necessary* qualifications and expertise to ensure that the best interests of the minor are taken into consideration.

6. For the purpose of applying Article 15, the Member State where ~~the~~ *an* unaccompanied minor's application for international protection was registered shall, ~~as soon as possible~~ *immediately*, take appropriate action to identify the family members or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.

To that end, that Member State may call for the assistance of international or other relevant organisations, and may facilitate the minor's access to the tracing services of such organisations.

In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, as to avoid jeopardising their safety.

The staff of the competent authorities referred to in Article 41 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive,

appropriate training concerning the specific needs of minors *and the identification of vulnerabilities or trauma, and on the right of the child.*

7. With a view to facilitating the appropriate action to identify the family members or relatives of ~~an~~ the unaccompanied minor living in the territory of another Member State pursuant to paragraph 6, the Commission shall adopt ~~implementing~~ *delegated* acts ~~including a standard form for the exchange of relevant information between Member States.~~ Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).*68 on:*

- (a) *common standards on the identification of family members or relatives;*
- (b) *the criteria for establishing family-links;*
- (c) *the criteria for assessing the capacity of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor are staying 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 this Regulation.¹⁷

- 8a (new). The Commission shall adopt an implementing act in accordance with Article 67(2) for a standard form for the exchange of relevant information between Member States.*

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 67(2).

The implementing acts shall promote the ability of the guardian and legal assistance provider to seek assistance in another Member State to gain information about the circumstances of reception and care arrangements in the other Member State or family reunification possibilities.

The implementation act shall also promote and facilitate cooperation between guardians and legal assistance providers between Member States in the event a transfer of an unaccompanied minor is contemplated or implemented, including providing for sharing of information about the child, with the informed consent of the child or his or her guardian.

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| <p>PART III CRITERIA AND MECHANISMS FOR DETERMINING THE MEMBER STATE RESPONSIBLE</p> |
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| <p>CHAPTER II: CRITERIA FOR DETERMINING THE MEMBER STATE RESPONSIBLE</p> |
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Article 14

Hierarchy of criteria

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

¹⁷ The addition in the last part of para. 7 comes from Article 15(6) on unaccompanied minors.

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 application for international protection was first registered with a Member State.

The Member State with which the applicant has meaningful links, as set out in this Chapter, shall be responsible for examining an application for international protection.

- 3a (new). Articles 20 [Visa waived entry] and 21 [Application in an international transit area of an airport] shall not apply if the applicant arrived irregularly prior in another Member State.***

Article 15

Unaccompanied minors

1. ***Where a minor is accompanied by one parent, adult sibling or other adult who holds parental responsibility for the minor, whether by law or by the practice of that Member State and one parent or other adult who holds parental responsibility for the minor, whether by law or by practice of that Member State is legally present in a Member State, the determination of the Member State responsible shall be based on the objective of prioritising the family unit, taking into account the best interest of the minor.***

Where the applicant is an unaccompanied minor, only the criteria set out in this Article shall apply, in the order in which they are set out in paragraphs 2 to 5.

2. The Member State responsible shall be that where a family member of the unaccompanied minor is legally present, ~~unless it is demonstrated that~~ ***if it is not in the best interests of the minor. Where the applicant is a married minor whose spouse is not legally present on the territory of the Member States, the Member State responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.***

For the purpose of this Regulation, on the basis of an individual assessment, a minor shall be considered unmarried if his or her marriage would not be in accordance with the relevant national law had it been contracted in the Member State concerned, in particular having regard to the legal age of marriage.

Where the applicant is a married minor whose adult spouse is legally present on the territory of the Member States, the Member State responsible shall be the Member State where the parent or other adult who holds parental responsibility for the minor, whether by law or by practice of that Member State, is legally present, unless the applicant expresses in writing a wish to be reunified with his or her spouse and it is in the best interest of the minor.

3. Where the applicant has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, ~~unless it is demonstrated~~ ***provided*** that it is ~~not~~ in the best interests of the minor.
4. Where family members or relatives as referred to in paragraphs 2 and 3, are staying in more than one Member State, the Member State responsible shall be decided on the basis of what is in the best interests of the unaccompanied minor.

5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be that where the ~~unaccompanied minor's application for international protection was first registered~~ **minor is present**, unless it is demonstrated that this is not in the best interests of the minor.
6. ~~The Commission is empowered to adopt delegated acts in accordance with Article 68 concerning:~~
- ~~(a) the identification of family members or relatives of unaccompanied minors;~~
 - ~~(b) the criteria for establishing the existence of proven family links;~~
 - ~~(c) the criteria for assessing the capacity of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor are staying 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 13(4).~~
7. ~~The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and the exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).~~

Article 16

*Family members who **legally reside in a Member State** are beneficiaries of international protection*

Where the applicant has a family member who has been allowed to **legally** reside as a ~~beneficiary of international protection~~ in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Article 17

Family members who are applicants for international protection

Where the applicant has a family member in a Member State whose application for international protection in that Member State has not yet been the subject of a **final** first decision ~~regarding the substance as defined in Article 4(2)(d) of Regulation (EU) xxx/xxx [Asylum Procedure Regulation]~~, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Article 18

Family procedure

1a (new). Where several family members submit applications for 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 their being separated, the Member State responsible shall be determined as follows:

- (a) responsibility for examining the applications for international protection of all the family members shall lie with the Member State which the criteria indicate is responsible for taking charge of the largest number of them;

- (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.

2a. (new) *The processing together of the application of a family is without prejudice to the right of an applicant to make an application individually.*

Article 19

Issue of residence documents or visas

1. Where the applicant is in possession of a valid residence document, the Member State which issued the document shall be responsible for examining the application for international protection.
2. Where the applicant is in possession of a valid visa, the Member State which issued the visa shall be responsible for examining the application for 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. In such a case, the represented Member State shall be responsible for examining the application for international protection.
3. Where the applicant 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 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) where the various visas are of the same type the Member State which issued the visa having the latest expiry date;
 - (c) where the visas are of different types, 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 applicant is in possession of one or more residence documents or one or more visas which expired ~~less than three years~~ before the application was registered, paragraphs 1, 2 and 3 shall apply.
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 fraud was committed after the document or visa was issued.

Article 19 a (new)

Previous stay

If the applicant has resided legally for at least two years in a Member State with a valid residence permit, that Member State shall be responsible for examining his or her application for international protection.

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Article 20
Diplomas or other qualifications

1. Where the applicant is in possession of a diploma or qualification issued by an education establishment established in a Member State and the application for international protection was registered after the applicant left the territory of the Member States following the completion of his or her studies, the Member State in which that education establishment is established shall be responsible for examining the application for international protection. ***Online training or other forms of distance learning shall not be considered to be relevant.***
2. Where the applicant is in possession of more than one diploma or qualification issued by education establishments in different Member States, the responsibility for examining the application for international protection shall be assumed by the Member State which issued the diploma or qualification following the longest period of study or, where the periods of study are identical, by the Member State in which the most recent diploma or qualification was obtained.

Article 20 a (new)¹⁸
Visa waived entry

If a third-country national or a stateless person enters into the territory of the Member States through 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 international protection. That responsibility shall cease if the application is registered more than three years after the date on which the person entered the territory.

Article 20 b (new)¹⁹
Application in an international transit area of an airport

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

Article 21
Entry

1. Where it is established, on the basis of proof or circumstantial evidence as described in the two lists referred to in Article 30(4) of this Regulation, including the data referred to in Regulation (EU) XXX/XXX [*Eurodac Regulation*], that an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the first Member State thus entered shall be responsible for examining the application for international protection. That responsibility shall cease if the application is registered more than ***twelve months*** ~~3 years~~ after the date on which that border crossing took place.
2. The rule set out in paragraph 1 shall ~~also~~ ***not*** apply where the applicant was disembarked on the territory following a search and rescue operation ***or activity***.

¹⁸ Article 22 of the Commission proposal

¹⁹ Article 23 of the Commission proposal

3. Paragraphs 1 and 2 shall not apply if it can be established, on the basis of proof or circumstantial evidence as described in the two lists referred to in Article 30(4) of this Regulation, including the data referred to in Regulation (EU) XXX/XXX [*Eurodac Regulation*], that the applicant was relocated pursuant to Article 57 of this Regulation to another Member State after having crossed the border. In that case, that other Member State shall be responsible for examining the application for international protection.

Article 22

Visa waived entry

~~If a third country national or a stateless person enters into the territory of the Member States through 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 international protection. That responsibility shall cease if the application is registered more than three years after the date on which the person entered the territory.~~

Article 23

Application in an international transit area of an airport

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

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| PART III CRITERIA AND MECHANISMS FOR DETERMINING THE MEMBER STATE RESPONSIBLE |
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| CHAPTER III DEPENDENT PERSONS AND, DISCRETIONARY CLAUSES <i>AND</i> <i>LIGHT PROCEDURE</i> |
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Article 24

Dependent persons

1. Where, on account of pregnancy, having a new-born child, serious illness, severe disability, severe trauma, or old age ***or other relevant psychological or physical vulnerabilities*** an applicant is dependent on the assistance of his or her child, ***sibling*** or parent legally resident in one of the Member States, or his or her child, ***sibling***, or parent legally resident in one of the Member States is dependent on the assistance of the applicant, Member States shall normally keep or bring together the applicant with that child, ***sibling***, or parent, provided that family ties existed before the applicant arrived on the territory of the Member States, that the child, ***sibling*** or parent or the applicant is able to take care of the dependent person and that, ***having been informed of this possibility***, the persons concerned expressed their desire in writing.

Where there are indications that a child, **sibling** or parent is legally resident on the territory of the Member State where the dependent person is present, that Member State shall verify whether the child, **sibling** or parent can take care of the dependent person, before making a take charge request pursuant to Article 29.

2. Where the child, **sibling** or parent referred to in paragraph 1 is legally resident in a Member State other than the one where the applicant is present, the Member State responsible shall be the one where the child, **sibling** or parent is legally resident unless the applicant's health prevents him or her from travelling to that Member State for a significant period of time. In such a case, the Member State responsible shall be the one where the applicant is present. Such Member State shall not be subject to the obligation to bring the child or parent of the applicant to its territory.
3. The Commission is empowered to adopt delegated acts in accordance with Article 68 concerning:
 - (a) the elements to be taken into account in order to assess the dependency link;
 - (b) the criteria for establishing the existence of proven family links;
 - (c) the criteria for assessing the capacity of the person concerned to take care of the dependent person;
 - (d) the elements to be taken into account in order to assess the inability to travel for a significant period of time.
4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

Article 25 *Discretionary clauses*

1. By way of derogation from Article 8(1), each Member State may decide to examine an application for international protection by a third-country national or a stateless person registered with it, even if such examination is not its responsibility under the criteria laid down in **Chapter II** of this Regulation.

An applicant may request any Member State to apply this paragraph. Such a request shall be made in writing, shall be duly motivated and shall be addressed to the competent authorities in the determining Member State.

Where applicable, the determining Member State shall forward the request to the requested Member State, which shall reply to the request within the time limits set out in Article 30 of this Regulation.

2. The Member State in which an application for international protection is registered and which is carrying out the process of determining the Member State responsible, or the Member State responsible, may, at any time before a first decision regarding the substance is taken, request another Member State to take charge of an applicant in order to bring together any family relations, on humanitarian grounds based in particular on family, or cultural considerations, **social ties, language skills, or any other meaningful links or to support a Member State under migratory pressure**, even where that other Member State is not responsible under the criteria laid down in Articles 15 to 18 and 24. The persons concerned shall express their consent in writing.

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

The requested Member State shall carry out any necessary checks to examine the humanitarian grounds cited, and shall reply to the requesting Member State within two months of receipt of the request using the 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 the refusal is based. *Where a reply is not provided within the set time limit, this shall be tantamount to accepting the request.*

Where the requested Member State accepts the request, responsibility for examining the application for international protection shall be transferred to it.

Article 25 a (new)

Light procedure for the purpose of family reunification

1. *The Member States shall apply a special procedure in order to ensure a swift family reunification and access to the asylum procedure for applicants where there are sufficient indicators showing that they are likely to have the right to family reunification in accordance with Articles 15, 16, 17 and 24.*

A determining Member State that considers that the applicant has shown sufficient indicators for family links in another Member State shall notify that Member State and the applicant and the responsibility shall be transferred to that Member State.

2. *In establishing whether there are sufficient indicators that the applicant has family members and/or relatives in the Member State he or she claims, the determining Member State shall ensure that the applicant understands:*

(a) the applicable definition of family members and/or relatives and ensure that the applicant is certain that the alleged family members and/or relatives are not present in another Member State.

(b) that he or she will not be allowed to stay in the Member State where he or she claims to have family members and/or relatives unless such a claim can be verified by that Member State.

3. *If the information provided by the applicant does not give manifest reasons to doubt the presence of family members and/or relatives in the Member State indicated by the applicant, it shall be concluded that there are sufficient indicators that the applicant has family members and/or relatives in that Member State in order to meet the requirements of paragraph 1.*

The competent authorities of the Member State where the applicant claims to have family members and/or relatives present shall assist the competent authorities of the determining Member State with answering any questions aimed at clarifying whether the alleged family links are correct.

4. *The determining Member State shall transfer all the information provided by the applicant to the responsible Member State using the electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003.*

5. *If it is determined that the conditions for family reunification are not met, the receiving Member State shall transfer the applicant back to the determining Member State, if no other Member State can be deemed responsible.*

PART III
CRITERIA AND MECHANISMS FOR DETERMINING THE MEMBER STATE
RESPONSIBLE

CHAPTER IV: OBLIGATIONS OF THE MEMBER ~~STATES~~ STATE RESPONSIBLE

Article 26
Obligations of the Member ~~States~~ State responsible

1. The Member State responsible under this Regulation shall be obliged to:
 - (a) take charge, under the conditions laid down in Articles 29, 30 and 35, of an applicant whose application was registered in a different Member State;
 - (b) take back, under the conditions laid down in Articles 31 and 35 of this Regulation, an applicant or a third-country national or a stateless person in relation to whom that Member State has been indicated as the Member State responsible under Article 11(1) of Regulation (EU) XXX/XXX [*Eurodac Regulation*];
 - (c) take back, under the conditions laid down in Articles 31 and 35 of this Regulation, a beneficiary of international protection in relation to whom that Member State has been indicated as the Member State responsible under Article 11(1) of Regulation (EU) XXX/XXX [*Eurodac Regulation*];
 - (d) take back, under the conditions laid down in Articles 31 and 35 of this Regulation, a resettled or admitted person who has made an application for international protection or who is irregularly staying in a Member State other than the Member State which accepted to admit him or her in accordance with Regulation (EU) XXX/XXX [*Union Resettlement Framework Regulation*] or which granted international protection or humanitarian status under a national resettlement scheme.

Member States shall make all necessary practical and legal arrangements to comply with their obligations under this Article.

2. For the purposes of this Regulation, the situation of a minor who is accompanying the applicant and meets the definition of family member shall be indissociable from that of his or her family member and the minor shall be taken charge of or taken back by the Member State responsible for examining the application for international protection of that family member, even if the minor is not individually an applicant, unless it is demonstrated that this is not in the best interests of the child. The same principle shall be applied to children born after the applicant arrives on the territory of the Member States, without the need to initiate a new procedure for taking charge of them.
3. In the situations referred to in paragraph 1, points (a) and (b), the Member State responsible shall examine or complete the examination of the application for international protection pursuant to Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*].

Article 27

Cessation of responsibilities

1. Where a Member State issues a residence document to the applicant, decides to apply Article 25, or does not transfer the person concerned to the Member State responsible within the time limits set out in Article 35, that Member State shall become the Member State responsible and the obligations laid down in Article 26 shall be transferred to that Member State. Where applicable, it shall inform the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of **or take back** the applicant ~~or has received a take back notification~~, using the electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003.

The first subparagraph shall not apply if the person has already been granted international protection by the responsible Member State, **provided that the transfer of the person concerned is in accordance with Article 4 of the Charter of Fundamental Rights**.

The Member State which becomes responsible pursuant to the first subparagraph of this Article shall indicate that it has become the Member State responsible pursuant to Article 11(3) of Regulation (EU) XXX/XXX [*Eurodac Regulation*].

2. The ~~obligation~~ **obligations specified** laid down in Article 26(1), point (b), of this Regulation to take back a third-country national or a stateless person shall cease where **the Member State responsible can establish, when requested to take charge or take back an applicant or another person as referred to in Article 26 it can be established, on the basis of the update of the data set referred to in Article 11(2)(c) of Regulation (EU) XXX/XXX [*Eurodac Regulation*], that the person concerned has left the territory of the Member States for at least three months, on either a compulsory or a voluntary basis, unless the person concerned is in possession of a valid residence document or visa issued by the Member State responsible.** ~~, in compliance with a return decision or removal order issued following the withdrawal or rejection of the application.~~

An application registered after an effective removal has taken place shall be regarded as a new application for the purpose of this Regulation, thereby giving rise to a new procedure for determining the Member State responsible.

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| <p>PART III CHAPTER V PROCEDURES SECTION I: START OF THE PROCEDURE</p> |
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Article 28

Start of the procedure

1. The Member State where an application for international protection is first registered pursuant to Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*] ~~or, where applicable, the Member State of relocation~~ shall start the process of determining the Member State responsible without delay.

Where the Member State where an application for international protection is first registered has justified reasons to believe that another Member State is responsible for the examination of an application for international protection shall immediately start the process of submitting a take charge or take back request pursuant to Articles 29 and 31.

2. The Member State where an application is first registered or, where applicable, the Member State of relocation shall continue the process of determining the Member State responsible if the applicant leaves the territory of that Member State without authorisation or is otherwise not available to the competent authorities of that Member State.
3. The Member State which has conducted the process of determining the Member State responsible or which has become responsible pursuant to Article 8(4) **or Article 58(3)** of this Regulation shall indicate in Eurodac without delay pursuant to Article 11(1) of Regulation (EU) XXX/XXX [*Eurodac Regulation*]:
 - (a) its responsibility pursuant to Article 8(2);
 - (b) its responsibility pursuant to Article 8(4);
 - (c) its responsibility due to its failure to comply with the time limits laid down in Article 29;
 - (d) the responsibility of the Member State which has accepted a request to take charge of the applicant pursuant to Article 30.

(e) its responsibility pursuant to Article 58(3)

Until this indication has been added, the procedures in paragraph 4 shall apply.

4. An applicant who is present in another Member State without a residence document or who there makes an application for international protection during the process of determining the Member State responsible, shall be taken back, under the conditions laid down in Articles 31 and 35, by the Member State with which that application was first registered ***with a view to completing the process of determining the Member State responsible.***

That obligation shall cease where the Member State determining the Member State responsible can establish that the applicant has obtained a residence document from another Member State, ***or when a Member States decides to apply Article 25.***

5. An applicant who is present in a Member State without a residence document or who there makes an application for international protection after another Member State has confirmed to relocate the person concerned pursuant to Article 57(7), and before the ~~transfer~~ ***relocation*** has been carried out to that Member State pursuant to Article 57(9), shall be taken back, under the conditions laid down in Articles 31 and 35, by the Member State of relocation.

PART III
CHAPTER V
PROCEDURES

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Article 29

Submitting a take charge request

1. If ~~at~~ the Member State *referred to in Article 28(1)* where an application for international protection has been registered considers that another Member State is responsible for examining the application, it shall, without delay and in any event within two months of the date on which the application was registered, request that other Member State to take charge of the applicant.

~~Notwithstanding the first subparagraph, in the case of a Eurodac hit with data recorded pursuant to Articles 13 and 14a of Regulation (EU) XXX/XXX [*Eurodac Regulation*] or of a VIS hit with data recorded pursuant to Article 21 of Regulation (EC) No 767/2008, the request to take charge shall be sent within one month of receiving that hit.~~

Where the request to take charge of an applicant is not made within the periods laid down in the first ~~and second~~ subparagraphs, responsibility for examining the application for international protection shall lie with the Member State where the application was registered.

Time referred to in subparagraph 1 shall start to run where the applicant is an unaccompanied minor, *when a guardian has been appointed or when the best interest of the child assessment pursuant to Article 13(4) has been concluded*. The determining Member State *shall also*, where it considers that it is in the best interest of the minor *or the request is based on Article 16, 17 or 24*, continue the procedure for determining the Member State responsible and request another Member State to take charge of the applicant despite the expiry of the time limits laid down in the first ~~and second~~ subparagraphs.

2. The requesting Member State may request an urgent reply in cases where the application for international protection was registered after a decision to refuse entry or a return decision was issued.

The request shall state the reasons warranting an urgent reply and the period within which a reply is requested. That period shall be ~~at least one~~ *two weeks*.

3. ~~In the cases referred to in paragraphs 1 and 2, the~~ *The* take charge request by another Member State shall be made using a standard form ~~and including proof or circumstantial evidence as described in the two lists referred to in Article 30(4) and/or~~ *include the* relevant elements from the applicant's statement *and the proof or circumstantial evidence, or any other documentation or information used to justify the request*, enabling the authorities of the requested Member State to check whether it is responsible *based* on the ~~basis of~~ the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, adopt uniform conditions on the preparation and submission of take charge requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

Article 30 *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 ***without delay and in any event*** within one month of receipt of the request.

If the requesting Member State have asked for an urgent reply pursuant to Article 29(2), the requested Member State shall reply as soon as possible, and in any event within two weeks of receipt of the request.

- ~~2. Notwithstanding the first paragraph, in the case of a Eurodac hit with data recorded pursuant to Article 13 and 14a of Regulation (EU) XXX/XXX [*Eurodac Regulation*] or of a VIS hit with data recorded pursuant to Article 21(2) of Regulation (EC) No 767/2008, the requested Member State shall give a decision on the request within two weeks of receipt of the request.~~

3. In the procedure for determining the Member State responsible elements of proof and circumstantial evidence ***and any other any other documentation or information*** shall be used.

3 a (new) Where the requested Member State does not object to the request within the time limits set out in paragraph 1 and 2, this shall be tantamount to accepting the request and entail the obligation to take charge of the applicant, including the obligation to provide for proper arrangement for travel.

The objection referred to in the first subparagraph shall include elements of proof and circumstantial evidence.

4. The Commission shall, by means of implementing acts, establish, and review periodically, two lists, indicating the relevant elements of proof and circumstantial evidence in accordance with the criteria set out in points (a) and (b) of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(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 ***Commission*** ~~Committee provided for in Article 67~~ 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 according to the evidentiary value attributed to them;
- (ii) their evidentiary value, in relation to the responsibility for examining the application for international protection shall be assessed on a case-by-case basis.

5. The requirement of proof shall not exceed what is necessary for the proper application of this Regulation.

6. The requested Member State shall acknowledge its responsibility if the *proof*, circumstantial evidence *or any other documentation or information* is coherent, verifiable and sufficiently detailed to establish responsibility.
- ~~7. Where the requesting Member State has asked for an urgent reply pursuant to Article 29(2), the requested Member State shall reply within the period requested or, failing that, within two weeks of receipt of the request.~~
- ~~8. Where the requested Member State does not object to the request within the one-month period set out in paragraph 1 by a reply which gives full and detailed reasons, or where applicable within the two-week period set out in paragraphs 2 and 7, this shall be tantamount to accepting the request, and entail the obligation to take charge of the person, including the obligation to provide for proper arrangements for arrival.~~

PART III
CHAPTER V
PROCEDURES
SECTION III: PROCEDURE FOR TAKE BACK NOTIFICATION *REQUESTS*

Article 31 Submitting a take back notification request

1. In a situation referred to in Article 26(1), point (b), (c) or (d) the Member State where the person is present shall make a take back *notification request* immediately without delay and in any event within one month ~~two weeks~~ after receiving the Eurodac hit.

Where the take back request is not made within the established time limits, the responsibility for examining the application for international protection shall lie with the Member State where the applicant is present.
2. A take back *notification request* shall be made using a standard form and shall include proof or circumstantial evidence as described in the two lists referred to in Article 30(4) and/or relevant elements from the statements of the person concerned, *enabling the authorities of the requested Member State to check whether it is responsible.*
3. The notified *requested* Member State shall *accept the* ~~confirm receipt of the~~ *notification request* to the Member State which made the *notification request* within ~~one week~~ *one month*, unless the notified *requested* Member State can demonstrate within that time limit that ~~its~~ *it is not responsible* ~~responsibility has ceased pursuant to Article 27.~~
4. Failure to act within the one *week* month period set out in paragraph 3 shall be tantamount to confirming the receipt of the *request notification*.
5. The Commission shall, by means of implementing acts, adopt uniform *methods conditions* for the preparation and submission of take back *requests notifications*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

PART III
CHAPTER V
PROCEDURES
SECTION IV: PROCEDURAL SAFEGUARDS

Article 32
Notification of a transfer decision

1. The determining Member State whose take charge **or take back** request as regards the applicant referred to in Article 26(1), point (a) was accepted or who made a take back notification request as regards persons referred to in Article 26(1), point (b), (c) and (d) shall take a transfer decision at the latest within one week of the acceptance or notification.
2. Where the requested Member State accepts to take charge of, **or take back**, an applicant or to take back a person referred to in Article 26(1), point (b), (c) or (d), the requesting or the notifying Member State shall notify the person concerned in writing, **in a plain language that he or she understands**, without delay **within one week** of the decision to transfer him or her to the Member State responsible and, where applicable, of the fact that it will not examine his or her application for international protection, **the consequences of the decision, including the time limites for carrying out the transfer and the obligation for the applicant set out in Article 9(5)**.

The notification shall also include, where available, information on the place where and the date on which the person concerned is required to appear, if that person is travelling to the Member State responsible by his or her own means.

3. If a legal advisor or other counsellor is representing the person concerned, Member States ~~may choose to~~ **shall** notify the decision to such legal advisor or counsellor instead of to the person concerned and, ~~where applicable,~~ communicate the decision to the person concerned.
4. The decision referred to in paragraph 1 shall **also include** ~~contain~~ information on the legal remedies available **pursuant to Article 33**, including on the right to apply for suspensive effect, and on the time limits applicable for seeking such remedies ~~and for carrying out the transfer, and shall, if necessary, contain information on the place where, and the date on which, the person concerned is required to appear, if that person is travelling to the Member State responsible by his or her own means.~~

Member States shall ensure that information on persons or entities that may provide legal assistance to the person concerned is communicated to the person concerned together with the decision referred to in paragraph 1, when that information has not been already communicated.

5. Where the person concerned is not assisted or represented by a legal advisor or other counsellor, Member States shall inform him or her of the main elements of the decision, which shall always include information on the legal remedies available, **the right to suspensive effect**, and the time limits applicable for seeking such remedies, in a language that the person concerned understands ~~or is reasonably supposed to understand~~.

Article 33 Remedies

1. The applicant or another person as referred to in Article 26(1), ~~point (b), (c) and (d)~~ shall have the right to an effective remedy, in the form of an appeal or a review, in fact and in law, against a transfer decision, **or a decision to reject a take charge request** before a court or tribunal.

The scope of the **The** remedy **against a transfer decision** shall be limited to shall include **entail** an **ex nunc** assessment of **at least**:

- (a) whether the transfer would, *for the person concerned*, result in a real risk of *a violation of a right guaranteed in the Charter of Fundamental Rights*; ~~the rights in the of inhuman or degrading treatment for the person concerned within the meaning of Article 4 of the Charter of Fundamental Rights;~~
- (b) whether Articles 15 to 18 and Article 24 have been infringed, in the case of the persons taken charge of pursuant to Article 26(1), point (a).
2. Member States shall provide for a period of ~~two weeks~~ *one week* after the notification of a transfer decision *or decision to reject a take charge request* within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1. ~~Where the applicant have requested suspensive effect. No transfer shall take place before the decision on the appeal or review against a transfer decision is taken (suspensive effect).~~
3. ~~The person concerned shall have the right to request, within a reasonable period of time from the notification of the transfer decision, a court or tribunal to suspend the implementation of the transfer decision pending the outcome of his or 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 suspension request is taken. Any decision on whether to suspend the implementation of the transfer decision shall be taken within one month of the date when that request reached the competent court or tribunal.~~
- ~~Where the person concerned has not exercised his or her right to request suspensive effect, the appeal against, or review of, the transfer decision shall not suspend the implementation of a transfer decision.~~
- ~~A decision not to suspend the implementation of the transfer decision shall state the reasons on which it is based.~~
- ~~If suspensive effect is granted, the~~ *The* court or tribunal shall endeavour to decide on the substance of the appeal or review within one month of the *appeal decision to grant suspensive effect*.
4. Member States shall ensure that the person concerned has access to legal assistance *at all stages of the procedure* and, where necessary, to linguistic assistance.
5. Member States shall ensure that legal assistance is granted on request free of charge ~~where the person concerned cannot afford the costs involved~~. Member States may provide that, as regards fees and other costs, the treatment of persons subject to this Regulation 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, Member States may provide that free legal assistance and representation is not to be granted where the appeal or review is considered by the competent authority or a court or tribunal to have no tangible prospect of success.~~
- ~~Where a decision not to grant free legal assistance and representation pursuant to the second subparagraph is taken by an authority other than a court or tribunal, Member States shall provide the right to an effective remedy before a court or tribunal to challenge that decision. Where the decision is challenged, that remedy shall be an integral part of the remedy referred to in paragraph 1.~~

In complying with the requirements set out in this paragraph, Member States shall ensure that legal assistance and representation is not arbitrarily restricted and that effective access to justice for the person concerned is not hindered.

Legal assistance shall include at least the preparation of the required procedural documents and representation before a court or tribunal ~~and may be restricted to legal advisors or counsellors specifically designated by national law to provide assistance and representation.~~

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

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| <p>PART III CHAPTER V PROCEDURES SECTION V: DETENTION FOR THE PURPOSES OF TRANSFER</p> |
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Article 34
Detention

1. Member States shall ~~not~~**may** hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation. ***to secure the transfer procedures pursuant to Article 8(3) point (g) of Directive xxx/xxx [Reception Conditions Directive].***
2. ~~Where there is a risk of absconding, Member States may detain the person concerned in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively, based on an individual assessment of the person's circumstances.~~
- 2 a(new). As regards the sole reason detention conditions and the guarantees applicable to applicants detained in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive XXX/XXX/EU [Reception Conditions Directive] shall apply.***
3. Detention shall be for as short a period as possible and shall be for no longer than the time reasonably necessary to fulfil the required administrative procedures with due diligence until the transfer under this Regulation is carried out.²⁰
4. ~~Where a person is detained pursuant to this Article, the detention shall be ordered in writing by judicial authorities. The detention order shall state the reasons in fact and in law on which it is based, and shall contain a reference to the consideration of the available alternatives and the reasons as to why they could not be applied effectively.~~
5. ~~As regards the detention conditions and the guarantees applicable to applicants detained, in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive XXX/XXX/EU [Reception Conditions Directive] shall apply.~~

²⁰ The remaining parts of this paragraph in the EC prop are now included under Article 34a (new).

Article 34 a (new)
Time limits for detained applicants²¹

1. *With derogation from Articles 29 and 31, where a person is detained pursuant to this Article, the period for submitting a take charge or take back request shall not exceed two weeks from the registration of the application for international protection.*

Where a person is detained at a later stage than the registration of the application, the period for submitting a take charge request or a take back request shall not exceed two weeks from the date on which the person was placed in detention.

2. *With derogation from Article 30(1), the requested Member State shall reply as soon as possible, and in any event within two weeks of receipt of the request.*
3. *With derogation from Article 35, where a person is detained, the transfer of that person from the requesting Member State to the Member State responsible shall be carried out as soon as practically possible, and at the latest eight weeks of:*

(a) the date on which the request to take charge or take back was accepted, or

(b) the date on which the decision on appeal or review was taken

4. *Where the requesting Member State, for reasons beyond its control fails to comply with the time limits for submitting a take charge request or take back request or to take a transfer decision within the time limit laid down in paragraph 3 of this Article or Article 32(1) or where the transfer does not take place within the period of eight weeks referred to in the third subparagraph of this paragraph, the person shall no longer be detained. Articles 29, 31 and 35 shall continue to apply accordingly.*

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| PART III CHAPTER V PROCEDURES SECTION VI: TRANSFERS |
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Article 35

Detailed rules and time limits

1. The transfer of an applicant or of another person as referred to in Article 26(1), point (b), (c) and (d), from the requesting ~~or notifying~~ Member State to the Member State responsible shall be carried out in accordance with the national law of the requesting ~~or notifying~~ Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within ~~six~~ **three** months of the acceptance of the take charge **or take back** request ~~or of the confirmation of the take back notification~~ by another Member State or of the final decision on an appeal or review of a transfer decision where there is a suspensive effect in accordance with Article 33(3). That time limit may be extended up to a maximum of one year, if the transfer cannot be carried out due to imprisonment of the person concerned **or his or her non-compliance with the transfer decision.**

²¹ This Article is based on provisions contained in Art. 34(3 &4) of the Commission proposal.

Where the transfer is carried out for the purpose of relocation, the transfer shall take place within the time limit set out in Article 57(98).

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 **compliance with** fundamental rights and human dignity.

If necessary, the applicant shall be supplied by the requesting ~~or notifying~~ Member State with a *laissez passer*. The Commission shall, by means of implementing acts, establish the design of the *laissez passer*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

The Member State responsible shall inform the requesting ~~or notifying~~ Member State, as appropriate, of the safe arrival of the person concerned or of the fact that he or she did not appear within the set time limit.

2. Where the transfer does not take place within the time limits set out in paragraph 1, first subparagraph, the Member State responsible shall be relieved of its obligations to take charge of or to take back the person concerned and responsibility shall be transferred to the requesting ~~or notifying~~ Member State, **unless the Member State responsible is accountable for the failure of the transfer.**

Notwithstanding the first subparagraph, where the person concerned absconds and the requesting ~~or notifying~~ Member State informs the Member State responsible before the expiry of the time limits set out in paragraph 1, first subparagraph, that the person concerned has absconded, the transferring Member State shall retain the right to carry out the transfer within **one year from when the requesting Member State informed the Member State responsible**, ~~the remaining time at a later stage~~, should the person become available to the authorities again, unless another Member State has carried out the procedures in accordance with this Regulation and transferred the person to the responsible Member State after the person absconded.

3. If a person has been transferred erroneously or a decision to transfer is overturned on appeal or review after the transfer has been carried out, the Member State which carried out the transfer shall promptly accept that person back.
4. The Commission shall, by means of implementing acts, establish uniform **methods conditions** for the consultation and exchange of information between Member States, in particular in the event of postponed or delayed transfers, transfers following acceptance by default, transfers of minors or dependent persons, and supervised transfers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

Article 36 Costs of transfer

1. In accordance with Article 17 ~~20~~ of Regulation (EU) ~~XXX/XXX~~2021/1147 [*Asylum, and Migration and Integration Fund*], a contribution shall be paid to the Member State carrying out the transfer for the transfer of an applicant or another person as referred to in Article 26(1), point (b), (c) or (d), pursuant to Article 35.
2. Where the person concerned has to be transferred back to a Member State as a result of an erroneous transfer or of a transfer decision that has been overturned on appeal or review 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.

Article 37

Exchange of relevant information before a transfer is carried out

1. The Member State carrying out the transfer of an applicant or of another person as referred to in Article 26(1), point (b), (c) or (d), shall communicate to the Member State responsible such personal data concerning the person to be transferred as is adequate, relevant and limited to what is necessary for the sole purposes of ensuring that the competent authorities, in accordance with national law in the Member State responsible, are in a position to provide that person with adequate assistance, including the provision of immediate health care required in order to protect his or her vital interests, to ensure continuity in the protection and rights afforded by this Regulation and by other applicable asylum legal instruments. Those data shall be communicated to the Member State responsible within a reasonable period of time before a transfer is carried out, in order to ensure that its competent authorities in under national law have sufficient time to take the necessary measures.
2. The transferring Member State shall transmit to the Member State responsible any information that is essential in order to safeguard the rights and immediate ~~special~~ **specific** needs of the person to be transferred, and in particular:
 - (a) any immediate measures which the Member State responsible is required to take in order to ensure that the ~~special~~ **specific** needs of the person to be transferred are adequately addressed, including any immediate health care that may be required **and, where necessary, any arrangements needed to uphold the best interest of the child;**
 - (b) contact details of family members, relatives or any other family relations in the receiving Member State, where applicable;
 - (c) in the case of minors, **the best interest of the child assessment and** information, **as set out in Article 13, including** on their education;
 - (d) an assessment of the age of an applicant, **where relevant;**
 - (e) information collected during the screening in accordance with Article 13 of Regulation (EU) XXX/XXX [*Screening Regulation*].

(e a) any other relevant information
3. The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with Article 41 of this Regulation using the electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003. The information exchanged shall only be used for the purposes set out in paragraph 1 of this Article and shall not be further processed.
4. With a view to facilitating the exchange of information between Member States, the Commission shall, by means of ~~implementing~~ **delegated** acts, draw up a standard form for the transfer of the data required pursuant to this Article. Those ~~implementing~~ **delegated** acts shall be adopted in accordance with the examination procedure laid down in Article ~~68~~ **67(2)**.
5. The rules laid down in Article 40(8) and (9) shall apply to the exchange of information pursuant to this Article.

Article 38

Exchange of security-relevant information before a transfer is carried out

Where the Member State carrying out a transfer is in possession of information that indicates that there are reasonable grounds to consider the applicant or another person as referred to in Article 26(1), point (b), (c) or (d), a ~~danger~~ **threat** to **internal security** ~~national security or public order~~ in a Member State, that Member State shall also communicate such information to the Member State responsible.

Article 39

Exchange of health data before a transfer is carried out

1. For the sole purpose of the provision of medical care or treatment, in particular concerning **vulnerable persons, including** disabled persons, elderly people, pregnant women, minors and persons who have been subject to torture, rape or other serious forms of psychological, physical and sexual violence, the transferring Member State shall, in so far as it is available to the competent authority in accordance with national law, transmit to the Member State responsible information on any ~~special~~ **specific** needs of the person to be transferred, which in specific cases may include information on that person's physical or mental health. That information shall be transferred in a common health certificate with the necessary documents attached. The Member State responsible shall ensure that those special needs are adequately addressed, including in particular any essential medical care that may be required.

The Commission shall, by means of implementing acts, draw up the common health **and vulnerabilities** certificate. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 67(2).

2. The transferring Member State shall only transmit the information referred to in paragraph 1 to the Member State responsible after having obtained the explicit consent of the applicant and/or of his or her ~~representative~~ **guardian** or when such transmission is necessary to protect public health and public security, or, where the person concerned is physically or legally incapable of giving his or her consent, to protect the vital interests of the person concerned or of another person. The lack of consent, including a refusal to consent, shall not constitute an obstacle to the transfer.
3. The processing of personal health data referred to in paragraph 1 shall only be carried out by a health professional who is 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 professional secrecy.
4. The exchange of information under this Article shall only take place between the health professionals or other persons referred to in paragraph 3. The information exchanged shall only be used for the purposes set out in paragraph 1 and shall not be further processed.
5. The Commission shall, by means of implementing acts, adopt uniform conditions and practical arrangements for exchanging the information referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 67(2).
6. The rules laid down in Article 40(8) and (9) shall apply to the exchange of information pursuant to this Article.

PART III
CHAPTER VI
ADMINISTRATIVE COOPERATION

Article 40
Information sharing

1. Each Member State shall communicate to any Member State that so requests such personal data concerning the person covered by the scope of this Regulation as is adequate, relevant and limited to what is necessary for:
 - (a) determining the Member State responsible;
 - (b) examining the application for international protection;
 - (c) implementing any obligation arising under this Regulation.

(c a) implementing a return decision
2. The information referred to in paragraph 1 shall only cover:
 - (a) personal details of the person concerned, and, where appropriate, his or her family members, relatives or any other family relations (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.);
 - (c) other information necessary for establishing the identity of the person concerned, including biometric data taken of the applicant by the Member State, in particular for the purposes of Article 57(6) of this Regulation, in accordance with Regulation (EU) XXX/XXX [*Eurodac 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~~ **made**;
 - (g) the date on which any previous application for international protection was **made** ~~lodged~~, the date on which the current application was registered, the stage reached in the proceedings and the decision taken, if any.
3. Provided it is necessary for the examination of the application for international protection, the Member State responsible may request another Member State to let it know on what grounds the applicant bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. The other Member State may refuse to respond to the request submitted to it, if the communication of such information is likely to harm ~~its essential interests~~ or the protection of the liberties and fundamental rights of the person concerned or of others. ~~In any event, communication of the~~ **The applicant shall be informed about the specific** information requested shall be subject to the written approval of the applicant for international protection, obtained by the requesting Member State **and the reason for the request in advance**. ~~In that case, the applicant must know for what specific information he or she is giving his or her approval.~~

4. Any request for information shall only be sent in the context of an individual application for international protection or transfer for the purpose of relocation. 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 by which applicants enter the territories of the Member States, or on what specific and verifiable part of the applicant's statements it is based. 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 an individual applicant.
5. The requested Member State shall be obliged to reply within three weeks. Any delays in the reply shall be duly justified. Non-compliance with the three week time limit shall 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 withholds information which shows that it is responsible, that Member State may not invoke the expiry of the time limits provided for in Article 29 as a reason for refusing to comply with a request to take charge. In that case, the time limits provided for in Article 29 for submitting a request to take charge shall be extended by a period of time 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 41(1).
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:
 - (a) determining the Member State responsible;
 - (b) examining the application for 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 up-to-date. If it transpires that it 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. In each Member State concerned, a record shall be kept, in the individual file for the person concerned or in a register, of the transmission and receipt of information exchanged. ***The security and confidentiality of this record shall be ensured.***

Article 41 Competent authorities and resources

1. Each Member State shall notify the Commission without delay of the specific authorities responsible for fulfilling the obligations arising under this Regulation, and any amendments thereto. The Member States shall ensure that those authorities have the necessary ***human, material and financial*** resources for carrying out their tasks and in particular for ***applying the procedures for determining the Member State responsible for examining an application for international protection in a rapid and efficient manner, safeguarding procedural and fundamental rights***, replying within

the prescribed time limits to requests for information, requests to take charge *or*, take back notifications and, if applicable, complying with their obligations under Chapters I-III of Part IV.

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 changes to that list, the Commission shall publish an updated consolidated list once a year.
3. Member States shall ensure that the authorities referred to in paragraph 1 shall receive the necessary training with respect to the application of this Regulation.
4. The Commission shall, by means of implementing acts, establish secure electronic transmission channels between the authorities referred to in paragraph 1 and between those authorities and the Asylum Agency for transmitting information, biometric data taken in accordance with Regulation (EU) XXX/XXX [*Eurodac Regulation*], requests, notifications, replies and all written correspondence and for ensuring that senders automatically receive an electronic proof of delivery. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2).

Article 42

Administrative arrangements

1. Member States may, on a bilateral basis, establish administrative arrangements between themselves concerning the practical details for 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 applicants;
 - (c) solidarity contributions made pursuant to Chapters I-III of Part IV.
2. Member States may also maintain the administrative arrangements concluded under Regulation (EC) No 343/2003 and Regulation (EU) No 604/2013. 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 incompatibilities.
3. Before concluding or amending any arrangement as referred to in paragraph 1, point (b), the Member States concerned shall consult the Commission as to the compatibility of the arrangement with this Regulation *and relevant EU acquis, including the Charter of Fundamental Rights*.
4. If the Commission considers the arrangements referred to in paragraph 1, point (b), to be incompatible with this Regulation *and relevant EU acquis*, 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 time 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.

Article 43
Network of responsible units

1. The Asylum Agency shall set up and facilitate the activities of a network *or networks* of the competent authorities referred to in Article 41(1), with a view to enhancing *the transfers*, practical cooperation and information sharing on all matters related to the *full* application of this Regulation, including the development of practical tools, *best practices* and guidance.

- 2a (new).* *The European Border and Coast Guard agency and other relevant Union bodies, offices and agencies shall be represented in a network or networks when necessary.*

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| CHAPTER VII CONCILIATION |
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Article 44

Conciliation

- ~~1. In order to facilitate the proper functioning of the mechanisms set up under this Regulation and resolve difficulties in the application thereof, where two or more Member States encounter difficulties in their cooperation under this Regulation or in its application between them, the Member States concerned shall, upon request by one or more of them, hold consultations without delay with a view to finding appropriate solutions within a reasonable time, in accordance with the principle of sincere cooperation.

As appropriate, information about the difficulties encountered and the solution found may be shared with the Commission and with the other Member States within the Committee referred to in Article 67.~~

- ~~2. Where no solution is found under paragraph 1 or the difficulties persist, one or more of the Member States concerned may request the Commission to hold consultations with the Member States concerned with a view to finding appropriate solutions. The Commission shall hold such consultations without delay. The Member States concerned shall actively participate in the consultations and, as well as the Commission, take all appropriate measures to promptly resolve the matter. The Commission may adopt recommendations addressed to the Member States concerned indicating the measures to be taken and the appropriate deadlines.

As appropriate, information about the difficulties encountered, the recommendations made and the solution found may be shared with the other Member States within the Committee referred to in Article 67.~~

- ~~3. This Article shall be without prejudice to the powers of the Commission to oversee the application of Union law under Articles 258 and 260 of the Treaty. It shall be without prejudice to the possibility for the Member States concerned to submit their dispute to the Court of Justice in accordance with Article 273 of the Treaty or to bring the matter to it in accordance with Article 259 of the Treaty.~~

PART IV
SOLIDARITY
CHAPTER I: SOLIDARITY MECHANISMS

Article 45

Solidarity contributions to a Member State under migratory pressure

1. Solidarity contributions for the benefit of a Member State under migratory pressure ~~or subject to~~, **including as a result of a recurring arrivals by sea, in particular through disembarkations following search and rescue operations and activities or as a result of the arrival of persons in a vulnerable situation shall be provided by a contributing Member State and reflect the needs of the benefitting Member State and primarily consist of the following types:**
 - ~~(a) relocation of applicants who are not subject to the border procedure for the examination of an application for international protection established by Article 41 of Regulation (EU) XXX/XXX [Asylum Procedure Regulation];~~
 - ~~(b) return sponsorship of illegally staying third-country nationals;~~
 - (c) relocation of beneficiaries of international protection who have been granted international protection less than three years prior to adoption of an implementing act pursuant to ~~Article 53(1); Article 53 and who have requested or consented to such relocation in writing.~~

1a (new) A contributing Member State may, with the agreement of the benefitting Member State, also decide to examine an application for international protection pursuant to Article 25.

 - ~~(d) capacity building measures in the field of asylum, reception and return, operational support and measures aimed at responding to migratory trends affecting the benefitting Member State through cooperation with third countries.~~
2. ~~Such contributions may, pursuant to Article 56, also consist of:~~
 - ~~(a) relocation of applicants for international protection subject to the border procedure in accordance with Article 41 of Regulation (EU) XXX/XXX [Asylum Procedure Regulation];~~
 - ~~(b) relocation of illegally staying third-country nationals.~~

2a (new). A contributing Member State may commit to capacity-building measures in the benefitting Member State pursuant to Article 55 a(1)

Article 45 a (new)²².

Voluntary contributions to another Member State

Voluntary contributions for the benefit of another Member State may be provided by a contributing Member State. Such contributions may consist of:

- (a) solidarity contributions referred to in Article 45 paragraph 1;*
- (b) capacity building measures pursuant to Article 55a(new)(2)*

²² Corresponds to provisions contained in Article 45(2) deleted above

Article 45 b (new)
Annual solidarity pool

1. *The Commission, led by the EU Relocation Coordinator shall each year establish an annual solidarity pool on the basis of the projected annual solidarity needs pursuant to Article 4 b. The pool shall consist of:*
 - (a) *the total number of required relocation pursuant to Article 45(1) points (a) and (b),*
 - (b) *the total number of required relocations allocated for applicants arriving by sea, in particular through disembarkations following search and rescue operations or activities.*
 - (c) *the total need for capacity-building measures pursuant to Article 45(2).*

Where the Commission adopts an amending delegated act pursuant to Article 4 b paragraph 3, the pledges in the solidarity pool shall be updated accordingly.

The Commission and the Member States shall at all times prioritise relocation pursuant to Article 45(1), as the primary measure of solidarity.
2. *Within two weeks from the adoption of the delegated act pursuant to Article 4c(new), the EU Relocation Coordinator shall convene the Solidarity Forum.*

Within the same two weeks, the Commission shall invite all contributing Member States, to provide pledges of their anticipated solidarity contributions to meet the identified needs. The pledges shall include the share of each type of contribution.
3. *At least 80 % of pledges in the solidarity pool shall be made up of relocation pursuant to paragraph 1 point (a) and (b) of this Article or the application of the discretionary clause in Article 25.*

The remaining pledges may, where applicable, consist of capacity building measures pursuant to Article 45(1a).
4. *Where the Commission considers that the Member States' pledges do not correspond to the needs identified pursuant to Article 4b, the Commission shall distribute the remaining needs on the basis of the reference key referred to in Article 54.*
5. *The Commission shall adopt an implementing act to establish the solidarity pool consisting of the Member States' pledges and, where applicable, the distribution of the remaining needs, no later than two weeks after the Solidarity Forum is convened.*
6. *That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 67(1a).*

Article 46
Solidarity Forum

- 1a (new).* A Solidarity Forum shall comprise all Member States, *represented at the level of responsibility and decision-making power that is appropriate in order to provide solidarity contributions for the creation of the solidarity pool pursuant to Article 45 a or solidarity response in situations of migratory pressure pursuant to Article 52..*

The Commission *EU Relocation Coordinator* shall, *on behalf of the Commission*, convene and preside the Solidarity Forum in order to ensure the smooth functioning of this Part *the solidarity mechanism and enhance the practical contributions between the Member States pursuant to 45 b (new) and Article 52.*

2a (new). The Solidarity Forum shall meet at least twice a year in order for the Member States to provide their pledges to the creation of the Solidarity Pool pursuant to 45 b (new) and as frequent as necessary according to needs as identified in Article 52.

3a (new). The Asylum Agency shall participate in the Solidarity Forum.

The European Border and Coast Guards Agency and the European Union Agency for Fundamental Rights shall, where appropriate and invited by the EU Relocation Coordinator, participate in the Solidarity Forum.

Article 47

Solidarity for disembarkations following search and rescue operations

- ~~1. This Article and Articles 48 and 49 shall apply to search and rescue operations that generate recurring arrivals of third-country nationals or stateless persons onto the territory of a Member State and to vulnerable persons as set out in Article 49 a (new)(4).~~
- ~~2. Where the Migration Management Report referred to in Article 6(4) indicates that one or more Member States faced with the situations referred to in paragraph 1, it shall also set out the total number of applicants for international protection referred to in Article 45(1), point (a) that would need to be relocated in order to assist those Member States. The report shall also identify any capacity building measures referred to in Article 45(1), point (d) which are necessary to assist the Member State concerned.~~
- ~~3. Within two weeks of the adoption of the Migration Management Report, the Commission shall invite all other Member States that are not expected to be faced with arrivals on their territory as referred to in paragraph 1 to provide the solidarity contributions referred to in paragraph 2. In its request, the Commission shall indicate the total number of applicants to be relocated by each Member State in the form of solidarity contributions referred to in Article 45(1), point (a) by each Member State, calculated according to the distribution key set out in Article 54. The distribution key shall include the share of the benefitting Member States.~~
- ~~4. Within one month of the adoption of the Migration Management Report, Member States shall notify the Commission of the contributions they intend to make, by completing the SAR Solidarity Response Plan set out in Annex I. Member States shall indicate whether they intend to provide contributions in the form of:
 - ~~(a) relocation in accordance with Article 45(1), point (a); or~~
 - ~~(b) measures in accordance with Article 45(1), point (d) identified in the Migration Management Report; or~~
 - ~~(c) relocation in accordance with Article 45(1), point (a) of vulnerable persons pursuant to Article 49 a (new)(4).~~~~

- ~~5. Where the Commission considers that the solidarity contributions indicated by all the Member States pursuant to paragraph 4 fall significantly short of the total solidarity contributions set out in the Migration Management Report, the Commission shall convene the Solidarity Forum. The Commission shall invite Member States to adjust the number and, where relevant, the type of contributions. Member States that adjust their contributions shall submit revised SAR Solidarity Response Plans in the course of the Solidarity Forum.~~

Article 48

Commission implementing acts for search and rescue operations

- ~~1. Within two weeks from the submission of the SAR Solidarity Response Plans referred to in Article 47(4) or two weeks from the end of the Solidarity Forum referred to in Article 47(5), and where the total solidarity contributions indicated by all the Member States in their Plans corresponds to, or is considered by the Commission to be sufficiently close to the total solidarity contributions set out in the Migration Management Report, the Commission shall adopt an implementing act setting out the solidarity measures indicated by Member States pursuant to Article 47(4) or Article 47(5). Such measures shall constitute a solidarity pool for each Member State expected to be faced with disembarkations in the short term.~~

~~Where the Asylum Agency notifies the Commission and the Member States that 80% of the solidarity pool in the first subparagraph has been used for one or more of the benefitting Member States, the Commission shall convene the Solidarity Forum to inform the Member States of the situation and request Member States to increase their contributions. Following the end of the Solidarity Forum, where Member States have indicated their readiness to make increased contributions the Commission shall amend the implementing act establishing a solidarity pool referred to in the first subparagraph in relation to the benefitting Member State concerned to increase the contributions indicated by Member States.~~

- ~~2. Where the total number or type of solidarity contributions indicated by Member States pursuant to Article 47(5) still falls significantly short of the total solidarity contributions set out in the Migration Management Report leading to a situation where the solidarity pool is not able to provide a foreseeable basis of ongoing support to the Member States referred to in Article 47(2), the Commission shall, within two weeks after the end of the Solidarity Forum, adopt an implementing act establishing a solidarity pool for each Member State expected to be faced with disembarkations in the short term. That implementing act shall set out:~~

- ~~(a) the total number of third country nationals to be covered by relocation to contribute to the needs of the Member States referred to in Article 47(2) as identified in the Migration Management Report;~~
- ~~(b) the number and share referred to in point (a) for each Member State, including the benefitting Member States calculated according to the distribution key set out in Article 54;~~
- ~~(c) the measures indicated by Member States as set out in Article 45(1), point (d).~~

~~Where Member States have indicated measures set out in Article 45(1), point (d), those measures shall be in proportion to the contributions that the Member States would have~~

~~made by means of the relocations referred to in Article 45(1), point (a) as a result of the application of the distribution key set out in Article 54. They shall be set out in the implementing act except where the indications by Member States would lead to a shortfall of greater than 30% of the total number of relocations identified in the Migration Management Report. In those cases, the contributions set out in the implementing act shall be adjusted so that those Member States indicating such measures are required to cover 50% of their share calculated in accordance with the distribution key set out in Article 54 through relocation or return sponsorship as referred to in Article 45(1) point (b) or a combination of both. The Member States concerned shall immediately indicate to the Commission how they intend to cover their share in this regard. The Commission shall adjust the contributions set out in the implementing act regarding relocation, return sponsorship and the measures referred to in Article 45(1), point (d) for those Member States accordingly.~~

~~Where one or more Member States have not submitted an SAR Solidarity Response Plan within the time limits set out in Article 47(4) and Article 47(5), the Commission shall determine the amount and type of contributions to be made by those Member States.~~

~~Where the Asylum Agency notifies the Commission and the Member States that 80% of the solidarity pool in the first subparagraph has been used for one or more of the benefitting Member States, the Commission shall convene the Solidarity Forum to inform the Member States of the situation and the additional needs of the Member States. Following the Solidarity Forum the Commission shall adopt an amendment to the implementing act establishing a solidarity pool referred to in the first subparagraph in relation to the benefitting Member State concerned to increase the total number of third-country nationals covered by the solidarity measures referred to in point (a) of the first subparagraph by a maximum of 50%. The share of each Member State referred to in point (b) of the first subparagraph shall be amended accordingly. Where the provisions of the second subparagraph are applied and Member States have indicated that they shall contribute through return sponsorship, the share of these measures shall be increased by 50%. The measures referred to in Article 45(1), point (d) shall also be increased by a share that is in proportion to a 50% increase of that Member States share calculated according to the distribution key set out in Article 54.~~

- ~~3. The implementing act referred to in paragraphs 1 and 2 shall be adopted in accordance with the examination procedure referred to in Article 67(2).~~

Article 49

Solidarity pool for search and rescue operations

- ~~1. Within two weeks of the adoption of the implementing act referred to in Article 48(1) or Article 48(2), the Member State referred to in Article 47(2) shall notify the Commission of its request for solidarity support. Following that request, the Commission shall draw on the solidarity pool and coordinate the implementation of the solidarity measures for each disembarkation or group of disembarkations taking place in a period of two weeks.~~
- ~~2. Under the coordination of the Commission, the Asylum Agency and the European Border and Coast Guard Agency shall draw up the list of eligible persons to be relocated and to be subject to return sponsorship. The list shall indicate the distribution~~

~~of those persons among the contributing Member States taking into account the total number of persons to be relocated or to be subject to return sponsorship by each contributing Member State, the nationality of those persons and the existence of meaningful links between them and the Member State of relocation or of return sponsorship. Priority shall be given to the relocation of vulnerable persons. The Asylum Agency and the European Border and Coast Guard Agency shall assist the Commission in monitoring the use of the solidarity pool.~~

- ~~3. Where the Commission has adopted a report concluding that a Member State referred to in Article 47(2) is under migratory pressure as set out in Article 51(3), the remaining solidarity contributions from the solidarity pool established under Article 48(1) or Article 48(2) may be used for the purpose of immediately alleviating the migratory pressure on that Member State. In such cases, the provisions of paragraph 2 shall apply.~~

~~This paragraph shall not apply where an implementing act provided for in Article 53 is adopted. As from the adoption of that implementing act drawing on the list of eligible persons to be relocated and to be subject to return sponsorship as provided for in paragraph 2 shall cease.~~

~~Where the solidarity pool referred to in the first subparagraph is insufficient for the purpose of immediately alleviating the challenges faced by the Member State referred to in Article 47(2), solidarity contributions from the solidarity pool of the other Member States established under Article 48(1) or Article 48(2) may be used insofar as this does not jeopardize the functioning of the pool for those Member States.~~

- ~~4. Where the Migration Management Report identifies that a Member State referred to in Article 47(2) is faced with capacity challenges due to the presence of applicants who are vulnerable regardless of how they crossed the external borders, the solidarity pool established under Article 48(1) or Article 48(2) may also be used for the purpose of relocation of vulnerable persons. In such cases, the provisions of paragraph 2 shall apply.~~

- ~~5. The Commission shall support and facilitate the procedures leading to the relocation of applicants and the implementation of return sponsorship, paying particular attention to unaccompanied minors. It shall coordinate the operational aspects of relocation and return sponsorship, including with the assistance of experts or teams of experts to be deployed by the Asylum Agency or the European Border and Coast Guard Agency.~~

Article 49 a (new)²³
Notification of migratory pressure

- 1. *A Member State that has been identified in the delegated act referred to in Article 4b as a Member State that could face a situation of migratory pressure shall, when it considers itself to be under the migratory pressure as provided for in the delegated act, notify the Commission.***
- 2. *Following that notification, a solidarity response shall be provided in accordance with Article 52. Where necessary, the Commission shall have recourse to and, where applicable, Article 53 of this Regulation.***

²³ This new Article combines provisions from Article 47(4) of the Commission proposal in paragraph 1. and Article 49 a (new)(2) in para.2

Article 50
Assessment of migratory pressure

-1a (new). *A Member State that has not been identified in the delegated act referred to in Article 4c shall, when it considers itself to be under migratory pressure, immediately request the Commission to assess whether it is under migratory pressure.*

A Member State that has been identified in the delegated act referred to in Article 4c may also request such an assessment when faced with a situation of migratory pressure not provided for in that delegated act.

1. *The Commission shall assess the migratory situation in a Member State where, within one week of the request, initiate an assessment of whether the Member State that made the request is under migratory pressure.*

The Commission shall also assess the migratory situation in a Member State where:

- ~~(a) that Member State has informed the Commission that it considers itself to be under migratory pressure;~~
- (b) *on the basis of available information, it considers, based on available information, that a Member State could be under migratory pressure;*

(ba (new)) the European Parliament or the Council request the Commission to carry out such an assessment.

2. *The Asylum Agency, the European Border and Coast Guard Agency and the Agency for Fundamental Rights, shall assist the Commission in drawing up the assessment of migratory pressure, in cooperation with the Member State concerned. The Commission shall immediately inform the European Parliament, the Council and the Member States, without delay, that it is undertaking an assessment.*

3. *The assessment of migratory pressure shall ~~cover~~ be based on the situation in the Member State concerned during the preceding ~~six~~twelve months, compared to the overall situation in the Union, and shall be based in particular on the following information: on the information referred to in Article 4a(1), second subparagraph, including the information gathered through the monitoring conducted by the Asylum Agency.:*

- ~~(a) the number of applications for international protection by third-country nationals and the nationality of the applicants;~~
- (b) *the number of third-country nationals who have been detected by Member State authorities while not fulfilling, or no longer fulfilling, the conditions for entry, stay or residence in the Member State including overstayers within the meaning of Article 3(1)(19) of Regulation (EU) 2017/2226 of the European Parliament and of the Council²⁴;*
- ~~(c) the number of return decisions that respect Directive 2008/115/EC;~~
- (d) *the number of third-country nationals who left the territory of the Member States following a return decision that respects Directive 2008/115/EC;*

- ~~(e) — the number of third country nationals admitted by the Member States through Union and national resettlement [or humanitarian admission] schemes;~~
 - ~~(f) — the number of incoming and outgoing take charge requests and take back notifications in accordance with Articles 34 and 36;~~
 - ~~(g) — the number of transfers carried out in accordance with Article 31;~~
 - ~~(h) — the number of persons apprehended in connection with an irregular crossing of the external land, sea or air border;~~
 - ~~(i) — the number of persons refused entry in accordance with Article 14 of Regulation EU (No) 2016/399;~~
 - ~~(j) — the number and nationality of third country nationals disembarked following search and rescue operations, including the number of applications for international protection;~~
 - ~~(k) — the number of unaccompanied minors.~~
4. The assessment of migratory pressure shall also take into account the following:
- ~~(a) — the information presented by the Member State, where the assessment is carried out pursuant to paragraph 1, point (a);~~
 - ~~(b) — the level of cooperation on migration with third countries of origin and transit, first countries of asylum, and safe third countries as defined in Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*];~~
 - ~~(c) — the geopolitical situation in relevant third countries that may affect migratory movements;~~
 - (d) the relevant Recommendations provided for in Article 15 of Council Regulation (EU) No 2022/922²⁵, Article 13, 14 and 22 of Regulation (EU) ~~XXX/XXX~~ 2021/2303 [*European Union Asylum Agency*] and Article 32(7) of Regulation (EU) 2019/1896;
 - (e) information gathered pursuant to Commission Recommendation of XXX on an EU mechanism for Preparedness and Management of Crisis related to Migration (Migration Preparedness and Crisis Blueprint)
 - ~~(f) — the Migration Management Report referred to in Article 6(4);~~
 - ~~(g) — the Integrated Situational Awareness and Analysis (ISAA) reports under Council Implementing Decision (EU) 2018/1993 on the EU Integrated Political Crisis Response Arrangements, provided that the Integrated Political Crisis Response is activated or the Migration Situational Awareness and Analysis (MISAA) report issued under the first stage of the Migration Preparedness and Crisis Blueprint, when the Integrated Political Crisis Response is not activated;~~
 - ~~(h) — information from the visa liberalisation reporting process and dialogues with third countries;~~
 - ~~(i) — quarterly bulletins on migration, and other reports, of the European Union Agency for Fundamental Rights.~~

²⁵ Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013

~~(j) the support provided by Union Agencies to the benefitting Member State.~~

5a.(new) *Where during the assessment of migratory pressure in accordance with this Article, the Commission considers that the situation may be a situation of crisis pursuant to Article X of Regulation (EU) xxx/xxx [Crisis Regulation], and the Member State concerned agrees, the Commission shall also assess whether the Member State concerned is in a situation of crisis instead of under migratory pressure.*

Article 51

~~Report on~~ *Delegated act to determine migratory pressure*

1. The Commission shall consult the Member State concerned during its assessment undertaken pursuant to Article 50(1).

~~The Commission shall submit the report on migratory pressure to the European Parliament and to the Council within one month after the Commission informed them that it was carrying out an assessment pursuant to Article 50(2).~~

~~2. In the report, the Commission shall state whether the Member State concerned is under migratory pressure.~~

2 a (new). *The Commission shall, within two weeks after it informed the European Parliament, the Council and the Member States pursuant to Article 50(2) that it was carrying out an assessment, adopt a delegated act determining whether the Member State concerned is under migratory pressure.*

3. Where the Commission concludes that the Member State concerned is under migratory pressure, the ~~report~~ *delegated act* shall identify:

(a) the capacity of the Member State under migratory pressure in the field of migration management, in particular asylum, **reception** and return as well as its overall needs in managing its asylum and return caseload;

(a a) measures that the Member State has taken to enhance its asylum, reception and migration system

(b) measures that are appropriate to address the situation and the expected timeframe for their implementation consisting, as appropriate, of:

(i) measures that the Member State under migratory pressure ~~should~~**shall** take in the field of migration management, and in particular ~~in the field of asylum and return~~ **to enhance its asylum, reception and migration system;**

(ii) measures referred to in Article 45(1), points (a), (b) and (e) to be taken by other Member States;

(iii) measures referred to in Article 45(2) (1), point (d) to be taken by other Member States.;

~~4. Where the Commission considers that a rapid response is required due to a developing situation in a Member State, it shall submit its report within two weeks at the latest from the date on which it informed the European Parliament, the Council and the Member States pursuant to Article 50(2) that it was carrying out an assessment.~~

4 a (new). *The delegated act shall identify the capacity of the solidarity pool and the distribution of solidarity contributions among the contributing Member States in accordance with the implementing act as referred to in Article 46.*

5a (new). *The delegated act shall set out the time frame for the implementation of solidarity contributions pursuant to Article 45(1), taking into account the need for urgent actions for the Member State concerned.*

6a (new). *Where, in a case of migratory pressure, imperative grounds of urgency so require, the procedure provided for in Article 68a shall apply to delegated acts adopted pursuant to this Article.*

Article 52

Solidarity Response Plans in situations of migratory pressure

~~1. Where the report referred to in Article 51 indicates that a Member State is under migratory pressure, the other Member States which are not themselves benefitting Member States shall contribute by means of the solidarity contributions referred to in Article 45(1), points (a), (b) and (c). Member States shall prioritise the relocation of unaccompanied minors.~~

1a (new). *The EU Relocation Coordinator shall, without delay, and no later than within two weeks following a notification pursuant to Article 49 a (new) or the adoption of a delegated act pursuant to Article 51 coordinate the relocation.*

~~2. Where the report referred to in Article 51 identifies measures referred to in paragraph 3, point (b)(iii) of that Article, other Member States may contribute by means of those measures instead of measures referred to in Article 51(3)(b)(ii). Such measures shall not lead to a short fall of more than 30% of the total contributions identified in the report on migratory pressure under Article 51(3)(b)(ii).~~

2a (new) *Where the Commission has adopted a delegated act pursuant to Article 51, the EU Relocation Coordinator shall convene the Solidarity Forum, where the capacity of the solidarity pool as referred to in 45 b (new) falls short of the identified needs. The Solidarity Forum shall take place no later than one week after the adoption of the delegated act*

Where the Commission has received a notification pursuant to Article 49 a (new) and the capacity of the solidarity pool as referred to in 45 b (new) is no longer able to meet the identified needs, the EU Relocation Coordinator shall convene the Solidarity Forum no later than one week after receipt of that notification.

The Commission shall consider measures at its disposal to encourage increased pledges by the contributing Member States.

~~3. Within two weeks from the adoption of the report referred to in Article 51, Member States shall submit to the Commission a Solidarity Response Plan by completing the form in Annex II. The Solidarity Response Plan shall indicate the type of contributions from among those set out in Article 51(3)(b)(ii) or, where relevant, the measures set out in Article 51(3)(b)(iii) that Member States propose to take. Where Member States~~

~~propose more than one type of contribution set out in Article 51(3)(b)(ii), they shall indicate the share of each.~~

~~Where the Solidarity Response Plan includes return sponsorship, Member States shall indicate the nationalities of the illegally staying third-country nationals present on the territory of the Member State concerned that they intend to sponsor.~~

~~Where Member States indicate measures set out in Article 51(3)(b)(iii) in the Solidarity Response Plan they shall also indicate the detailed arrangements and the time frame for their implementation.~~

3a (new) *The Member States which are not themselves benefitting Member States shall at the Solidarity Forum provide additional pledges by completing the Solidarity Response Plan form in Annex II setting out the solidarity contributions referred to in Article 45 Member States shall prioritise the relocation of vulnerable persons, in particular unaccompanied minors.*

Where Member States propose more than one type of contribution set out in Article 45 they shall indicate the share of each, including the detailed arrangements for its implementation, within the timeframe set out in Article 51(5).

3b (new). *A benefitting Member State may request the contributing Member States to take responsibility for applications for international protection for which the benefitting Member State has been determined as responsible pursuant to Articles 19-23. Where contributing Member States agree, pursuant to Article 25 of this Regulation, to take responsibility for applications of international protection for which the benefitting Member State has been determined as responsible, they shall indicate their responsibility pursuant to Article x of Regulation (EU) xxx/xxx [Eurodac Regulation].*

The first subparagraph shall not apply where the applicant is an unaccompanied minor pursuant to Article 15.

4. ~~Where the Commission considers that the solidarity contributions indicated in the Solidarity Response Plans do not correspond to the needs identified in the report on migratory pressure-delegated act provided for in Article 51, or the needs identified in the notification received pursuant to Article 49 a (new), it shall convene the Solidarity Forum the Commission shall, no later than within one week from the adoption of that delegated act or receipt of that notification, adopt an implementing act setting out the solidarity contributions from the Contributing Member States. In such cases, the Commission shall invite Member States to adjust the type of contributions in their Solidarity Response Plans in the course of the Solidarity Forum by submitting revised Solidarity Response Plans.~~

Article 52a (new)

Postponement of transfers procedures

1. *A benefitting Member State may, at any time when under migratory pressure, notify to the Commission and the other Member States the temporary postponement of the transfer of applicants for a maximum period of nine months where it is responsible for the examination of their applications pursuant to Article 23 of this regulation. Transferring Member States shall not carry out transfers to the benefitting Member State during that established period, which*

shall in any case not be longer than the remaining of the year. Time limits laid down in Article 35(1) shall start on the dates the postponement period ends.

- 2. This temporary postponement is without prejudice to the possibility for the transferring Member States to assume responsibility, pursuant to Article 25 at any time for the applications in respect of which the transfer was pending.*
- 3. Applicants whose transfer is postponed in accordance with paragraph 1 shall benefit from the reception conditions, in accordance with Article 17a of Directive (EU) XXX/XXX [Reception Conditions Directive] and 9(4)(a) of this Regulation.*

Article 53

Commission implementing acts on solidarity contributions in situations of migratory pressure

- ~~1. Within two weeks from the submission of the Solidarity Response Plans referred to in Article 52(3) or, where the Solidarity Forum is convened pursuant to Article 52(4), within two weeks from the end of the Solidarity Forum, the Commission shall adopt an implementing act laying down the solidarity contributions for the benefit of the Member State under migratory pressure to be taken by the other Member States and the timeframe for their implementation.~~

1 a (new) Where the Commission considers that the solidarity contributions as referred to in Article 52(2) do not correspond to the needs identified in the delegated act to determine migratory pressure provided for in Article 51, or in the notification made pursuant to Article 49 a (new), it shall set out the solidarity contributions of the contributing Member States as submitted by them and the distribution of solidarity contributions in accordance with the reference key for the remaining needs in an implementing act.

- ~~2. The types of contributions set out in the implementing act shall be those indicated by Member States in their Solidarity Response Plans. Where one or more Member States have not submitted a Solidarity Response Plan, the Commission shall determine the types of contributions to be made by the Member State taking into account the needs identified in the report on migratory pressure.~~

~~Where the type of contribution indicated by Member States in their solidarity response plans is that referred to in Article 45(1), point (d), the Commission shall assess whether the measures proposed are in proportion to the contributions that the Member States would have made by means of the measures referred to in Article 45(1), points (a), (b) or (c) as a result of the application of the distribution key set out in Article 54.~~

~~Where the measures proposed are not in proportion to the contributions that the contributing Member State would have made by means of the measures referred to in Article 45(1), points (a), (b) or (c), the Commission shall set out in the implementing act the measures proposed while adjusting their level.~~

~~Where the measures proposed would lead to a shortfall greater than 30% of the total number of solidarity measures identified in the report on migratory pressure under Article 51(3)(b)(ii), the contributions set out in the implementing act shall be adjusted so that those Member States indicating such measures would be required to cover 50%~~

of their share calculated according to the distribution key set out in Article 54 through measures set out in Article 51(3)(b)(ii). The Commission shall adjust measures referred to in Article 51(3)(b)(iii) indicated by those Member States accordingly.

2 a (new) *The implementing act shall be adopted in accordance with the advisory procedure referred to in Article 67(1a), and no later than within two weeks from the submission of the notification pursuant to Article 49, the delegated act referred to in Article 51 to the Member State concerned, the European Parliament and the Council.*

3. The implementing act shall set out:

(a) the total number of persons to be relocated from the requesting Member State pursuant to Article 45(1), points (a) or (c), taking into account the capacity and needs of the requesting Member States in the area of asylum identified in the report referred to in Article 51(3)(b)(ii); **and the share of each contributing Member State.**

(a a (new)) *Capacity building measures in accordance with Article 55 a(1) and the timeframe for its implementation.*

(b) the total number of persons to be subject to return sponsorship from the requesting Member State pursuant to Article 45(1), point (b), taking into account the capacity and needs of the requesting Member States on return identified in the report referred to in Article 51(3)(b)(ii);

(c) the distribution of persons to be relocated and/or those to be subject to return sponsorship among the Member States including the benefitting Member State, on the basis of the distribution key set out in Article 54;

(d) the measures indicated by Member States pursuant to second, third and fourth subparagraph of paragraph 2.

The distribution referred to in paragraph 3 point (c) shall be adjusted where a Member State making a request pursuant to Article 52(5) demonstrates in the Solidarity Response Plan that over the preceding 5 years it has been responsible for twice the Union average per capita of applications for international protection. In such cases the Member State shall receive a deduction of 10/0% of its share calculated according to the distribution key set out in Article 54. This deduction shall be distributed proportionately among the Member States making contributions referred to in Article 45(1) points (a), (b) and (c);

The distribution referred to in the first subparagraph, point (a) of this paragraph shall be adjusted accordingly if a Member State have the right to a deduction of its share pursuant to Article 54(2).

4. Where contributions have been made in response to a request by a Member State for solidarity support from other Member States to assist it in addressing the migratory situation on its territory to prevent migratory pressure pursuant to Article 56(1) within the preceding year, and where they correspond to the type of measures set out in the implementing act, the Commission shall deduct these contributions from the corresponding contributions set out in the implementing act.

5. On duly justified imperative grounds of urgency due to the migratory pressure present in a benefitting Member State, the Commission shall adopt immediately applicable

implementing acts in accordance with the urgency procedure referred to in Article 67(3).

Those acts shall ~~remain in force~~ **apply** for a period not exceeding 1 year.

6. The Commission shall report on the ~~implementation~~ **application** of the implementing act one month after it ceases to apply. The report shall contain an analysis of the effectiveness of the measures undertaken.

Article 54

Distribution-Reference key

1 a(new). The share of solidarity contributions referred to in Article 45(1), ~~points (a), (b) and (c) to be provided by each Member State in accordance with Articles 48 and 53 shall be calculated in accordance with the formula set out in Annex III and~~ shall be based on the following criteria for each Member State, according to the latest available Eurostat data:

- (a) the size of the population (50% weighting);
- (b) the total GDP (50% weighting).

2a. (new) *A Member State proposing solidarity contributions set out in Article 45(1), may request a deduction of 10% of its share calculated according to the reference key where it indicates in the Solidarity Response Plans that over the preceding ten years it has examined twice the Union average per capita of applications for international protection.*

Article 55

Return sponsorship

- ~~1. A Member State may commit to support a Member State to return illegally staying third country nationals by means of return sponsorship whereby, acting in close coordination with the benefitting Member State, it shall take measures to carry out the return of those third country nationals from the territory of the benefitting Member State.~~
- ~~2. Where a Member State commits to provide return sponsorship and the illegally staying third country nationals who are subject to a return decision issued by the benefitting Member State do not return or are not removed within 8 months, the Member State providing return sponsorship shall transfer the persons concerned onto its own territory in line with the procedure set out in Articles 57 and 58. This period shall start from the adoption of the implementing act referred to in Article 53(1) or, where applicable, in Article 49 a (new)(2).~~
- ~~3. Where a Member State commits to provide return sponsorship in relation to third country nationals who are not yet subject to a return decision in the benefitting Member State, the period referred to in paragraph 2 shall start to run from either of the following dates:
 - (a) the date when a return decision is issued by the benefitting Member State; or~~

~~(b) — where a return decision is issued as a part of a decision rejecting an application for international protection or where a return decision is issued in a separate act, at the same time and together with the decision rejecting an application for international protection in accordance with Article 35a of Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*], the date when the applicant or third-country national no longer has a right to remain and is not allowed to remain.~~

~~4. — The measures referred to in paragraph 1 shall include one or more of the following activities carried out by the sponsoring Member State:~~

~~(a) — providing counselling on return and reintegration to illegally staying third-country nationals;~~

~~(b) — using the national programme and resources for providing logistical, financial and other material or in-kind assistance, including reintegration, to illegally staying third-country nationals willing to depart voluntarily;~~

~~(c) — leading or supporting the policy dialogue and exchanges with the authorities of third countries for the purpose of facilitating readmission;~~

~~(d) — contacting the competent authorities of third countries for the purpose of verifying the identity of third-country nationals and obtaining a valid travel document;~~

~~(e) — organising on behalf of the benefitting Member State the practical arrangements for the enforcement of return, such as charter or scheduled flights or other means of transport to the third country of return.~~

~~These measures shall not affect the obligations and responsibilities of the benefitting Member State laid down in Directive 2008/115/EC.~~

Article 55 a (new)²⁶

Capacity building measures

1. *A Member State may commit to support another Member State in providing capacity-building measures in the field of asylum, reception and pre-departure reintegration and operational support pursuant to Article 45(2).*

Such measures shall be identified in the delegated act adopted on migratory pressure pursuant to Article 4c and 51 and address the specific needs of the benefitting Member State.

2. *A Member State may commit to support another Member State ~~at the risk of migratory pressure~~ in providing capacity-building measures in the field of asylum, reception, return and reintegration and operational support, including through cooperation with third countries.*

Such measures shall be identified by the Commission and the benefitting Member State in their national strategies pursuant to Article 5.

3. *Capacity-building measures in third countries shall be limited to measures which:*

²⁶ Paragraph 4 of this Article includes parts of Art. 55 of the Commission proposal (deleted)

(a) enhance the capacity of asylum and reception in third countries, by strengthening, human and institutional expertise and capacity;

(b) promoting legal migration and well-managed mobility

(c) reducing the vulnerabilities caused by human trafficking and smuggling and address the drivers of irregular migration and forced displacement,

(d) Strengthening bilateral, regional and international partnerships on migration, forced displacement, legal pathways and mobility partnerships;

(e) Supporting effective and human rights based migration policies;

(f) Supporting sustainable reintegration of returning migrants and their families;

4. *Measures pursuant to this Article shall be in full compliance with fundamental rights and the Charter of Fundamental Rights.*

5. *The Commission and the Member State concerned with the support of the Asylum Agency and other relevant Union bodies, offices and agencies shall evaluate monitor the implementation of the capacity-building measures at regular intervals.*

The Commission and the Member State concerned shall also take into account information from other relevant organisations.

6. *The Commission shall keep the European Parliament and the Council regularly informed on its monitoring of capacity-building measures.*

A contributing Member State shall immediately end capacity-building measures that do not comply with fundamental rights.

The European Parliament shall immediately be informed when subparagraph 2 of this Article is applied. The Commission shall take into account any recommendations provided by the European Parliament for the purpose of subparagraph 2 of this Article.

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Article 56

Other solidarity contributions

~~1. Where a Member State requests solidarity support from other Member States to assist it in addressing the migratory situation on its territory to prevent migratory pressure, it shall notify the Commission of that request.~~

~~2. Any Member State may, at any time, in response to a request for solidarity support by a Member State, or on its own initiative, including in agreement with another Member State, make contributions by means of the measures referred to in Article 45 for the benefit of the Member State concerned and with its agreement. Contributions referred to in article 45, point (d) shall be in accordance with the objectives of Regulation (EU) XXX/XXX [Asylum Migration Fund].~~

~~3. Member States which have contributed or plan to contribute with solidarity contributions in response to a request for solidarity support by a Member State, or on its own initiative, shall notify the Commission, thereof by completing the Solidarity Support Plan form set out in Annex IV. The Solidarity Response Plan shall include, where relevant, verifiable information, including on the scope and nature of the measures and their implementation.~~

EN

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EN

Article 56 a (new)
Support from Union bodies, offices and agencies

1. *The Union bodies, offices and agencies acting in the field of asylum, border and migration management shall, within their respective mandates, provide support to the Member States and the Commission with a view to ensuring the proper implementation and functioning of this Regulation.*

For the purpose of the first subparagraph, the relevant Union bodies, offices and agencies may provide competent authorities in the Member States with analysis, expertise and operational support.

2. *Where requested by a Member State, a Union body, office or agency shall provide it with support. The Commission or a Union body, office or agency may, on its own initiative, propose to provide a specific Member State with support.*

Where the Commission or a Union body, office or agency proposes support to a Member State, that Member State shall take due account of the proposal. The Member State concerned may accept, amend or reject the proposal.

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| PART IV: SOLIDARITY |
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| CHAPTER II: PROCEDURAL REQUIREMENTS |
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Article 57

Procedure before relocation

1. The procedure set out in this Article shall apply ~~to~~ *for the relocation of persons referred to in Article 45(1) and in Article 45 a (new) point (a).*

~~(a) persons referred to in Article 45(1), points (a) and (c) and in Article 45(2), point (a);~~

~~(b) persons referred to in Article 45(1), point (b) where the period referred to in Article 55(2) has expired, and Article 45(2), point (b).~~

The identification of persons who could be relocated shall be made by the benefiting Member State, in close cooperation the EU Relocation Coordinator and the contributing Member State and the Asylum Agency.

- ~~2. Before applying the procedure set out in this Article, the benefiting Member State shall ensure that there are no reasonable grounds to consider the person concerned a danger to national security or public order of that Member State. If there are reasonable grounds to consider the person a danger to national security or public order, the benefiting Member State shall not apply the procedure set out in this Article and shall, where applicable, exclude the person from the list referred to in Article 49 a (new)(2).~~

2 a (new). *For the purpose of paragraph 1, the benefitting and contributing Member States shall make use of the pre-screening criteria adopted by the Asylum Agency. The applicant shall be fully informed and consulted in the procedure of determination of the meaningful links and shall have the right to present relevant information and documentation to determine meaningful links to a specific Member State.*

Where the identified person to be relocated is a beneficiary for international protection, the person concerned shall be relocated only after that person has consented to the relocation in writing.

Applicant who do not have links to any other country shall be fairly shared among the remaining participating Member States. Where applicable, the wish of the applicant to be relocated to a specific country shall be considered

~~3. — Where relocation is to be applied, the benefitting Member State shall identify the persons who could be relocated. Where the person concerned is an applicant for or a beneficiary of international protection, that Member State shall take into account, where applicable, the existence of meaningful links between the person concerned and the Member State of relocation. Where the identified person to be relocated is a beneficiary for international protection, the person concerned shall be relocated only after that person consented to relocation in writing.~~

~~Where relocation is to be applied pursuant to Article 49 a (new), the benefitting Member State shall use the list drawn up by the Asylum Agency and the European Border and Coast Guard Agency referred to in Article 49 a (new)(2).~~

~~The first subparagraph shall not apply to applicants for whom the benefitting Member State can be determined as the Member State responsible pursuant to the criteria set out in Articles 15 to 20 and 24, with the exception of Article 15(5). Those applicants shall not be eligible for relocation.~~

3a (new). *The EU Relocation Coordinator should support the relocation activities from the benefitting Member State to the contributing Member State.*

~~4. — When the period referred to in Article 55(2) expires, the benefitting Member State shall immediately inform the sponsoring Member State that the procedure set out in paragraphs 5 to 10 shall be applied in respect of the illegally staying third-country nationals concerned.~~

5. The benefitting Member State shall **notify and** transmit to the **contributing** Member State of relocation as quickly as possible the relevant information and documents on the person referred to in paragraphs 1 2 and 3.

6. The **contributing** Member State of relocation shall **confirm within 72 hours that it will relocate the person concerned.** examine the information transmitted by the benefitting Member State pursuant to paragraph 5, and verify that there are no reasonable grounds to consider the person concerned a danger to its national security or public order.

A contributing Member State may verify that there are no reasonable grounds to consider the person concerned an individual and specific threat to its internal security where:

(a) a security check in accordance with Article X of Regulation (EU) xxx/xxx has provided a hit related to internal security

(b) a security check has not previously been carried out in accordance with Regulation (EU) xxx/xxx [Screening Regulation]

Where the check confirm that there are reasonable grounds to consider the person concerned an individual and specific threat to internal security, the contributing Member State shall inform within 72 hours the benefitting Member State that relocation of that person shall not take place.

Failure to act within the 72 hours shall be considered as confirming the notification and entail the obligation to relocate the person.

~~7. Where there are no reasonable grounds to consider the person concerned a danger to its national security or public order, the Member State of relocation shall confirm within one week that it will relocate the person concerned.~~

~~Where the checks confirm that there are reasonable grounds to consider the person concerned a danger to its national security or public order, the Member State of relocation shall inform within one week the benefitting Member State of the nature of and underlying elements for an alert from any relevant database. In such cases, relocation of the person concerned shall not take place.~~

~~In exceptional cases, where it can be demonstrated that the examination of the information is particularly complex or that a large number of cases need checking at that time, the Member State of relocation may give its reply after the one week time limit mentioned in the first and second subparagraphs, but in any event within two weeks. In such situations, the Member State of relocation shall communicate its decision to postpone a reply to the benefitting Member State within the original one-week time limit.~~

~~Failure to act within the one week period mentioned in the first and second subparagraphs and the two week period mentioned in the third subparagraph of this paragraph shall be tantamount to confirming the receipt of the information, and entail the obligation to relocate the person, including the obligation to provide for proper arrangements for arrival.~~

8. The benefitting Member State shall take a ~~transfer~~ **relocation** decision at the latest within one week of the confirmation by the Member State of relocation. It shall notify the person concerned in writing without delay of the decision to transfer him or her to that Member State, *and at the latest 48 hours before the relocation in case of applicants and 1 week before the relocation in case of beneficiaries.*

Where the person to be relocated is an applicant, he or she shall comply with the relocation decision.

9. The ~~transfer~~**relocation** of the person concerned from the benefitting Member State to the **contributing** Member State ~~of relocation~~ shall be carried out in accordance with the national law of the benefitting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within 4 weeks of the confirmation by the **contributing** Member State ~~of relocation~~ or of the final decision on an appeal or review of a transfer decision where there is a suspensive effect in accordance with Article 33(3).

10. Articles 32(3), (4) and (5), Articles 33 and 34, Article 35(1) and (3), Article 36(2) and (3), and Articles 37 and 39 shall apply *mutatis mutandis* to the transfer for the purpose of relocation.
11. The Commission shall, by means of implementing acts, adopt uniform conditions for the preparation and submission of information and documents for the purpose of relocation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 67(2). ***In the preparation of those implementing acts, the Commission shall consult the Asylum Agency and the EU Relocation Coordinator.***

Article 58 Procedure after relocation

1. The ***contributing*** Member State ~~of relocation~~ shall inform the benefitting Member State, ***Asylum Agency and the EU Relocation Coordinator*** of the safe arrival of the person concerned or of the fact that he or she did not appear within the set time limit.
2. ~~Where the Member State of relocation has relocated an applicant for whom the Member State responsible has not yet been determined, that Member State~~ ***The contributing Member State*** shall ***not*** apply the procedures set out in Part III, ~~with the exception of Article 8(2), Article 9(1) and (2), Article 15(5), and Article 21(1) and (2).~~ ***after relocating an applicant or beneficiary for international protection.***

~~Where no Member State responsible can be designated under the first subparagraph, the Member State of relocation shall be responsible for examining the application for international protection.~~

The Member State of relocation shall indicate its responsibility in Eurodac pursuant to Article 11(1) of Regulation (EU) XXX/XXX [*Eurodac Regulation*].

3. Where the ***benefitting*** Member State of relocation has relocated an applicant for whom the benefitting Member State had previously been determined as responsible on other grounds than the criteria referred to in Article 57(3) third subparagraph, the responsibility for examining the application for international protection shall be transferred to the ***contributing*** Member State of relocation.

The Member State of relocation shall indicate its responsibility in Eurodac pursuant to Article 11(3) of Regulation (EU) XXX/XXX [*Eurodac Regulation*].

4. Where the ***benefitting*** Member State ~~of relocation~~ has relocated a beneficiary for international protection, the ***contributing*** Member State ~~of relocation~~ shall automatically grant international protection status respecting the respective status granted by the benefitting Member State.
5. ~~Where the Member State of relocation has relocated a third-country national who is illegally staying on its territory, of Directive 2008/115/EC shall apply.~~

Article 58 a (new) ***EU Relocation Coordinator***

1. ***With a view to supporting the implementation of the relocation mechanism established under this Regulation, the Commission shall appoint an EU Relocation Coordinator, who will coordinate the relocation activities from the benefitting Member State to the contributing Member State, in accordance with the implementing acts set out in 45 b (new), Article 52 or Article 53.***

2. *The EU Relocation Coordinator shall:*
- (a) coordinate and support the communication between the Member States involved;*
 - (b) keep an overview of the persons eligible for relocation and follow up on the ongoing relocation, and on the contributions of the Member States involved;*
 - (c) organise, at regular intervals, meetings between the authorities of the Member States to establish the needs, including at an operational level, in order to facilitate the best interaction and cooperation among Member States, in the interest of the persons eligible for relocation and the efficiency of the relocation mechanism;*
 - (d) promote best practices in the field of relocation.*
 - (e) encourage Member States to take into consideration the capacities and willingness of regional and local authorities to take part in relocation efforts.*
 - (f) convene and chair the Solidarity Forum as referred to in Article 47*
3. *For the purpose of paragraph 2, the EU Relocation Coordinator shall be assisted by an Office and provided with the necessary financial and human resources to effectively carry out its tasks.*
- The EU Relocation Coordinator shall work closely with the Asylum Agency to coordinate the practical details of relocation under this Regulation.*
4. *The EU Relocation Coordinator shall provide an annual report, with a quarterly bulletin on the state of the implementation and functioning of the relocation mechanism. The report and bulletin shall be transmitted to the European Parliament and to the Council.*
5. *Member States shall provide the EU Relocation Coordinator will necessary data and information for the EU Relocation Coordinator to effectively carry out its task.*
6. *In the event of a crisis as defined in Article X of Regulation EU xx/xx [Crisis Regulation], the EU Relocation Coordinator shall also carry out the tasks in accordance with Article X of Regulation (EU) xx/xx [Crisis Regulation].*

*Article 59
Other obligations*

The ~~benefitting and contributing~~ Member States shall keep the Commission, **Asylum Agency and the EU Relocation Coordinator** informed on the implementation of solidarity measures taken on a bilateral level including measures of cooperation with a third country.

*Article 60
Operational coordination*

Upon request, the Commission shall coordinate the operational aspects of the measures offered by the contributing Member States, including any assistance by experts or teams deployed by the Asylum Agency, ~~or~~ the European Border and Coast Guard Agency **or any other Union office, body or agency.**

PART IV
SOLIDARITY
CHAPTER III: FINANCIAL SUPPORT PROVIDED BY THE UNION

Article 61
Financial support

In accordance with the principle of solidarity and fair sharing of responsibility, Member States shall receive appropriate and proportionate funding support from the Union budget to apply this Regulation.

Funding support following relocation pursuant to Chapters I and II of Part IV shall be implemented in accordance with Article ~~17~~ **20** of Regulation (EU) **2021/1147** ~~XXX/XXX~~ [*Asylum and Migration Fund*].

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| PART V: GENERAL PROVISIONS |
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Article 62
Data security and data protection

1. ***Without prejudice to Section 2 of Chapter IV of Regulation (EU) 2016/679***, Member States shall implement appropriate technical and organisational measures to ensure the security of personal data processed under this Regulation and in particular to prevent unlawful or unauthorised access or disclosure, alteration or loss of personal data processed.
2. ~~The~~ ***Without prejudice to Section 2 of Chapter IV of Regulation (EU) 2016/679***, the competent supervisory authority or authorities of each Member State shall monitor ***and enforce*** the lawfulness of the processing of personal data by the authorities referred to in Article 41 of the Member State in question.
2 a(new) The Common and secure electronic transmission and communication system referred to in Article 40 shall fully comply with this Article;
3. The processing of personal data by the Asylum Agency shall be subject to Regulation (EU) ~~XXX/XXX~~ **2018/1752** [*European Union Asylum Agency*], in particular as regards the ~~monitoring~~ ***supervision by*** ~~of~~ the European Data Protection Supervisor.

Article 63
Confidentiality

Without prejudice to Section 2 of Chapter IV of Regulation (EU) 2016/679, Member States shall ensure that the authorities referred to in Article 41 are bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

Article 64
Penalties

Member States shall lay down the rules on penalties, including administrative or criminal penalties in accordance with national law, applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 65
Calculation of time limits

Any period of time provided for 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.

Article 66
Territorial scope

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

Article 67
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.

1 a (new) When reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 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.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 shall apply.

Article 68
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 15(6) and 24(3) shall be conferred on the Commission for a period of 5 years from the date of entry into force of this Regulation. 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

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72

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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 15(6) and 24(3) 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. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 15(6) and 24(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 68 a (new)
Urgency procedure

1. ***Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.***
2. ***Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 68(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.***

Article 69

Monitoring and evaluation

By [18 months after entry into force] and from then on ***every two years thereafter*** ~~annually~~, the Commission shall review the functioning of the measures set out in Chapters I-III of Part IV of this Regulation ***and report on the implementation of the measures set out in this Regulation. The report shall be communicated to the European Parliament and the Council.***

~~[Three years after entry into force, the Commission shall report on the implementation of the measures set out in this Regulation.]~~

No sooner than [~~three~~ **five**] years after the date of application of this Regulation, and every five years thereafter, the Commission shall carry out an evaluation of this Regulation. The Commission shall present a Report on the main findings to the European Parliament, the

Council and the European Economic and Social Committee. Member States shall provide the Commission all information necessary for the preparation of that report, at the latest six months before the *above mentioned* ~~[five]~~ years time limit expires.

Article 70
Statistics

In accordance with Article 4(4) of Regulation (EC) No 862/2007 of the European Parliament and of the Council²⁷, Member States shall communicate to the Commission (Eurostat), statistics concerning the application of this Regulation and of Regulation (EC) No 1560/2003.

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| PART VI AMENDMENTS TO OTHER UNION ACTS |
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Article 71
Amendments to the Long Term Residence Directive

1. Directive 2003/109/EC is amended as follows:

Article 4 is amended as follows:

(a) in paragraph 1, the following sub-paragraph is added:

“With regard to beneficiaries of international protection, the required period of legal and continuous residence shall be three years”.

Article 72
Amendments to Regulation (EU) XXX/XXX [Asylum and Migration Fund]

Regulation (EU) XXX/XXX [Asylum and Migration Fund] is amended as follows:

1. Article 16 is replaced by the following:

" 1. Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 11(1), an amount of EUR 10 000 for each person admitted through resettlement or humanitarian admission.

2. Where appropriate, Member States may also be eligible for an additional amount of EUR 10 000 for family members of persons referred to in paragraph 1, if the persons are admitted to ensure family unity.

3. The amount referred to in paragraph 1 shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation.

4. The additional amount referred to in paragraph 1 shall be allocated to the Member State programme. The funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme. The amount referred to in paragraph 1 may be included in the payment applications to the Commission, provided that the person in respect of whom the amount is allocated was resettled or admitted.

5. Member States shall keep the information necessary to allow the proper identification of the persons resettled or admitted and of the date of their resettlement or admission, while applicable provisions concerning data retention periods shall prevail.

²⁷ Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection, OJ L 199, 31.7.2007, p. 23.

6. To take account of current inflation rates and relevant developments in the field of resettlement, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 of this Regulation to adjust, if deemed appropriate, the amount referred to in paragraph 1 of this Article, to take into account the current rates of inflation, relevant developments in the field of resettlement, as well as factors which can optimise the use of the financial incentive brought by those amounts.”

2. Article 17 is replaced by the following:

“1. A Member State shall receive a contribution of:

- (a) EUR [10 000] per applicant for whom that Member State becomes responsible as a result of relocation in accordance with Articles 48, 53 and Article 56 Regulation (EU) XXX/XXX [*Asylum and Migration Management Regulation*];
- (b) EUR [10 000] per beneficiary of international protection relocated in accordance with Articles 53 and 56 of Regulation (EU) XXX/XXX [*Asylum and Migration Management Regulation*];
- (c) EUR [10 000] per illegally staying third-country national relocated in accordance with Article 53, when the period referred to in Article 55(2) has expired, and Article 56 of Regulation (EU) XXX/XXX [*Asylum and Migration Management Regulation*].
- (d) The contribution in points (a), (b) and (c) is increased to EUR [12 000] for each unaccompanied minor relocated in accordance with Article 48, Article 53 and Article 56 of Regulation (EU) XXX/XXX [*Asylum and Migration Management Regulation*].

2. A Member State carrying out the transfer shall receive a contribution of EUR 500 to cover the transfer of persons pursuant to paragraph 1 for each person, applicant or beneficiary subject to relocation.

3. A Member State shall receive a contribution of EUR 500 to cover the transfer of a person referred to in Article 26(1)(a), (b), (c) or (d) pursuant to Article 35 of Regulation (EU) XXX/XXX [*Asylum and Migration Management Regulation*].

4. A Member State will receive amounts referred to in paragraphs 1 to 3 for each person provided that the person in respect of whom the contribution is allocated was relocated.

5. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation.

6. Member States shall keep the information necessary to allow the proper identification of the persons transferred and of the date of their transfer, while applicable provisions concerning data retention periods shall prevail.

7. Within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the amounts referred to in paragraphs 1, 2 and 3 of this Article to take into account the current rates of inflation, relevant developments in the field of transfer of applicants for international protection and of beneficiaries of international protection from one Member State to another, as well as factors which can optimise the use of the financial incentive brought by those amounts.”

PART VII
TRANSITIONAL PROVISIONS AND FINAL PROVISIONS

Article 73
Repeal

Regulation (EU) No 604/2013 is repealed.
References to the repealed Regulation shall be construed as references to this Regulation.

Article 74
Transitional measures

Where an application has been registered after [*the first day following the entry into force of this Regulation*], 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.

Article 75
Entry into force and applicability

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

It shall apply to applications for international protection registered as from [the first day of the thirteenth month following its entry into force]. The Member State responsible for the examination of an application for international protection submitted before that date shall be determined in accordance with the criteria set out in Regulation 604/2013.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

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76

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RECITALS

- (1) The Union, in constituting an area of freedom, security and justice, should ensure the absence of internal border controls for persons and frame a common policy on asylum, immigration and management of the external borders of the Union, based on solidarity **and fair sharing of responsibility** between Member States, which is fair towards third-country nationals **and fully respect the rights of asylum-seekers, refugees and migrants**.
- (2) To this end, a comprehensive approach is required with the objective of reinforcing mutual trust between Member States which should bring together policy in the areas of asylum and migration management ~~and towards relations with relevant third countries~~, recognising that the effectiveness of such an approach depends on all components being jointly addressed, ~~and~~ in an integrated manner **and properly implemented**.
- (3) This Regulation should contribute to that comprehensive approach by setting out a common framework for the actions of the Union and of the Member States in the field of asylum and migration management policies, by **upholding and** elaborating on the principle of solidarity and fair sharing of responsibility in accordance with Article 80 of the Treaty on the Functioning of the European Union (TFEU). Member States should therefore take all necessary measures, inter alia, to provide access to international protection and adequate reception conditions to those in need, **to promote safe and legal pathways**, to enable the effective application of the rules on determining the Member State responsible for examining an application for international protection, to **fairly and effectively** return ~~those illegally staying~~ third-country nationals **who do not fulfil the conditions for residence in the territory of the Member States**, to prevent irregular migration and unauthorised movements between them, **to prevent and fight** migrant smuggling **and human trafficking whilst protecting the rights of smuggled and trafficked people**, and to provide support to other Member States in the form of solidarity contributions, as their contribution to the comprehensive approach.
- ~~(4) The common framework should bring together the management of the Common European Asylum System and that of migration policy. The objective of migration policy should be to ensure the efficient management of migration flows, the fair treatment of third-country nationals residing legally in Member States and the prevention of, and enhanced measures to combat, illegal migration and migrant smuggling.~~
- (5) The common framework is needed in order to effectively address the increasing phenomenon of mixed arrivals of persons in need of international protection and those who are not and in recognition that the **responsibility for** ~~challenge of~~ irregular arrivals of **irregular migrants and asylum-seekers** in the Union should not have to be assumed by individual Member States alone, but by the Union as a whole. ~~To ensure that Member States have the necessary tools to effectively manage this challenge in addition to applicants for international protection, irregular migrants should also fall within the scope of this Regulation. The scope of this Regulation should also include beneficiaries of international protection, resettled or admitted persons as well as persons granted immediate protection.~~
- (6) In order to ~~reflect the whole of government approach and~~ ensure coherence and effectiveness of the actions and measures taken by the Union and its Member States

acting within their respective competencies, there is a need for integrated policy-making in the field of asylum and migration management, including both its internal and external components, ***in compliance with international and EU law, ensuring coherence between asylum and migration management policies*** which is part of the comprehensive ***integrated policy-making*** approach.

- (7) Member States should have sufficient human, ***material*** and financial resources and infrastructure to effectively implement asylum and migration management policies, ***and allocate adequate staff for their competent authorities, in terms of level, expertise, training and independence, in particular for the determination of the Member State responsible for examining and application for international protection*** and should ensure appropriate coordination between the relevant national authorities as well as with the national authorities of the other Member States.
- (8) ~~Taking a strategic approach,~~ The Commission should adopt a ***long-term*** European Asylum and Migration Management Strategy (***the 'Strategy'***) on the implementation of asylum and migration management policies ***at Union level, in accordance with the principles set out in this Part and in EU primary law and applicable international law.*** The Strategy should be based on relevant reports and analyses produced by Union agencies, ***bodies and offices***, and on the national strategies of the Member States, ***setting out the approach to managing asylum and migration at Union level. It should include access to asylum procedures and should take into account the relevant jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights.***
- (9) National strategies of the Member States should ***serve to ensure their capacity to effectively implement their asylum and migration management system, in full compliance with their obligation under EU and international law. They should include preventive measures to reduce the risk of migratory pressure as well as*** information on contingency planning and on the implementation of the principles of integrated policy-making and of solidarity and fair sharing of responsibility of this Regulation and legal obligations stemming therefrom at national level. ***To this end, the duties of the Member States in respect of their competences should be clearly defined. The Commission and relevant EU bodies, offices and agencies, particular the European Union Asylum Agency, should be able to support the Member States when establishing their national strategies.***
- (10) In order to ensure that an effective monitoring system is in place to ensure the application of the asylum acquis, the results of the monitoring undertaken by, the European Union Asylum Agency and the European Border and Coast Guard Agency, ***and other relevant bodies, offices, agencies or organisations***, of the evaluation carried out in accordance with Council Regulation No 1053/2013 ~~2022/922~~ as well as those carried out in line with Article 7 of Regulation (EU) XXX/XXX [*Screening Regulation*] should also be taken into account in these strategies.
- (11) ~~Bearing in mind~~ ***Considering*** the importance of ensuring that the Union is prepared and able to adjust to the developing and evolving realities of asylum and migration management, ***the Commission should monitor and provide information on the asylum, reception and migratory situation over the previous 12-month period as a whole.*** The Commission should annually adopt ***a situational report, including an evaluation of its***

strategy. The *situational* Migration Management report *should set out, inter alia*, ~~setting out~~ the likely evolution of the migratory situation and the preparedness of the Union and the Member States to respond and adapt to ~~it~~ *the evolution of the migratory situation, ensuring their engagement and participation in solidarity and responsibility sharing*. The *situational* report should also include the results of the reporting on monitoring foreseen in the national strategies, *assessing Member States' implementation and compliance with relevant EU law* and should propose improvements where weaknesses are apparent.

- (12) In order to ensure that the necessary tools are in place to assist Member States in dealing with challenges that may arise due to the presence on their territory of third-country nationals that are vulnerable applicants for international protection, regardless of how they crossed the external borders, the *annual situational* report should also indicate whether the said Member States are faced with such challenges. Those Member States should also be able to rely on ~~the use of the~~ *'solidarity contributions foreseen in Article 45, pool' for the relocation of vulnerable persons and the relocation of persons in a vulnerable situation should be prioritised*.
- (13) For the effective implementation of the common framework and to identify gaps, address challenges and prevent the building up of migratory pressure *on asylum and reception systems*, the Commission should monitor and regularly report on the migratory situation *and the implementation of the EU asylum acquis*.
- ~~(14) An effective return policy is an essential element of a well-functioning system of Union asylum and migration management, whereby those who do not have the right to stay on Union territory should return. Given that a significant share of applications for international protection may be considered unfounded, it is necessary to reinforce the effectiveness of the return policy. By increasing the efficiency of returns and reducing the gaps between asylum and return procedures, the pressure on the asylum system would decrease, facilitating the application of the rules on determining the Member State responsible for examining those applications as well as contributing to effective access to international protection for those in need.~~
- (15) To strengthen cooperation with third countries *on asylum and migration, including readmission* in the area of return and readmission of illegally staying third-country nationals, it is necessary to develop a new mechanism, including all relevant EU policies and tools, *to promote and build tailor-made and mutually beneficial partnerships with this countries*. ~~to improve the coordination of the different actions in various policy areas other than migration that the Union and the Member States may take for that purpose.~~ *Close cooperation and partnerships with third countries should address causes and drivers of irregular migration and forced displacement. Such partnership should provide a framework for better coordination of policies with third countries, and be based on human rights, rule of law and the respect of the Union's common values.* ~~That mechanism should build on the analysis carried out in accordance with Regulation (EU) 810/2019 of the European Parliament and of the Council or of any other information available, and take into account the Union's overall relations with the third country and take into account the Union's overall relations with the third country.. That mechanism should also serve to support the implementation of return sponsorship.~~

The Commission should evaluate the efficiency and fundamental rights compliance of these partnerships annually.

15a (new) *In order to take actions to promote joint objectives and cooperation with third countries, the Union should fully apply the Neighbourhood, Development and International Cooperation Instrument - Global Europe, established by Regulation (EU) 2021/947 of the European Parliament and of the Council.*

15b (new) *Capacity building measures in third countries carried out for the purposes of this Regulation should be limited to those set out in this Regulation and shall uphold and promote the Union's values, principles and fundamental interests and be in full compliance with fundamental rights and the rights set out in the Charter of Fundamental Rights, including the right to protection.*

(16) In order to ensure a fair sharing of responsibility and a balance of effort between Member States, a **binding** solidarity mechanism should be established which is effective and ensures that applicants have swift access to ~~the~~ **fair and efficient** procedures for granting international protection. Such a mechanism should provide for different types of **true** solidarity **as enshrined in Article 80 of the TFEU and should prioritise relocation while also allowing for capacity building measures within the EU.** Measures and should be **flexible, predictable** and able to adapt **quickly** to the evolving nature of the migratory challenges facing a Member States, **particularly those under migratory pressure, including as a result of a recurring arrivals by sea and through disembarkations following search and rescue operations. Relocation of applicants and beneficiaries should ensure that family and other meaningful links of the applicant are taken into account.**

16a (new) *To ensure a smooth functioning of the relocation of applicants and beneficiaries under this Regulation, an EU Relocation Coordinator should be appointed by the Commission. The EU Relocation Coordinator should monitor and coordinate the operational aspects of relocations and should act as a central point of contact. The EU Relocation Coordinator should assist in solving conflicts arising between Member States in the implementation of this Regulation. The EU Relocation Coordinator should, in cooperation with the Asylum Agency, also promote coherent working methods for the verification of any meaningful links persons eligible for relocation might have with Member States of relocation. The office of the Relocation Coordinator should be provided with sufficient staff and resources to effectively fulfil this role.*

(17) Given the need to ensure the smooth functioning of the solidarity mechanism established in this Regulation, a Solidarity Forum comprising the representatives of all Member States should be established and **should be convened and chaired by the EU Relocation Coordinator on behalf of the Commission. The European Asylum Agency and, where appropriate and invited by the EU Coordinator Relocator, the European Border and Coast Guard and the Fundamental Rights Agency, should participate in the Solidarity**

Forum. To ensure the effectiveness of the Forum meetings, Member State representatives should be empowered to take decisions.

- (18) Given the specific characteristics *of recurring arrivals by sea, in particular* of disembarkations, arising in the context of search and rescue operations ~~conducted by Member States or private organisations whether under instruction from Member States or autonomously~~ in the context of migration, this Regulation should *take into account the vulnerability of persons arriving from such disembarkations and* provide for a *specific fast and effective solidarity measures* process applicable to people disembarked following those operations irrespective of whether there is a situation of migratory pressure.
- (19) Given the recurring nature of disembarkations from search and rescue operations on the different migratory routes, the annual Migration Management Report should set out the short term projections of disembarkations anticipated for such operations and the solidarity response that would be required to contribute to the needs of the Member States of disembarkation. The Commission should adopt *annually a implementing delegated act* establishing a pool of solidarity *contributions* measures ('the solidarity pool') with the aim of assisting the Member State *under migratory pressure or likely to be under such pressure, including where this pressure is caused by recurring level of arrivals by sea, including disembarkations following search and rescue operations or activities* of disembarkation to address the challenges of such disembarkations. Such measures should comprise applicants for international protection or *beneficiaries of international protection* that are not in the border procedure or measures in the field of ~~to~~ strengthening of capacity in the field of asylum *and* reception ~~and return~~, or operational support, ~~or measures in the external dimension.~~
- 19a(new) Where the annual solidarity pool has not been used, in whole or in part, at the end of a one year period, the anticipated solidarity contributions as regard which no action has yet to be taken as to their use should lapse.*
- (20) In order to provide a timely response to the *specific* situation of *migratory pressure following disembarkations from search and rescue operations, the EU Relocation Coordinator the Commission, with the assistance of Union Agencies,* should *facilitate support* the swift relocation of eligible applicants for *and beneficiares of* international protection ~~who are not in the border procedure~~. *The benefitting Member State, in close cooperation with the EU Relocation Coordinator and the contributing Member State and the Asylum Agency, Under the coordination of the Commission, the European Union Asylum Agency and the European Border and Coast Guard Agency* should draw up the list of eligible persons to be relocated indicating the distribution of those persons among the contributing Member States. *Applicants should be informed and consulted and should have the right to present relevant information in the procedure of determination of meaningful links.*
- ~~(21) Persons disembarked should be distributed in a proportionate manner among the Member States.~~
- (22) ~~The overall contribution of each Member States' contributions~~ to the solidarity pool should be determined through indications by Member States of the measures by which

they wish to contribute. Where Member States contributions are insufficient to provide for a sustainable solidarity response the Commission should be empowered to ~~adopt an implementing act setting out the total number of third country nationals~~ **distribute the remaining needs** to be covered by relocation and the share of this number for each Member State calculated according to a ~~distribution reference~~ **key** based on the population and the GDP of each Member State. ~~Where the indications from Member States to take measures in the field of capacity or the external dimension would lead to a shortfall of greater than 30% of the total number of relocations identified in the Migration Management Report, the Commission should be able to adjust the contributions of these Member States which should then contribute half of their share identified according to the distribution key either by way or relocation, or when so indicated, through return sponsorship.~~

- (23) In order to ensure that support measures **solidarity contributions** are available at all times, ~~the solidarity forum should meet at least twice a year and as frequently as necessary. to address the specific situation of disembarkations from search and rescue operations, where the number of disembarkations following search and rescue operation have reached 80% of the solidarity pools for one or more of the benefitting Member States, the Commission should adopt amended implementing acts increasing the total number of contributions by 50%.~~
- ~~(24) The solidarity mechanism should also address situations of migratory pressure in particular for those Member States which due to their geographical location are exposed to or likely to be exposed to migratory pressure. For this purpose, the Commission should adopt a report identifying whether a Member State is under migratory pressure and setting out the measures that could support that Member State in addressing the situation of migratory pressure.~~
- (25) When assessing whether a Member State is under migratory pressure the Commission, based on a broad qualitative **and quantitative** assessment, should take account of a broad range of factors, **including the relevant recommendations provided by the European Asylum Agency and information gathered pursuant to the EU mechanism for Preparedness and Management of Crisis related to Migration** including the number of asylum applicants, irregular border crossings, return decisions issued and enforced, **transfer decisions issued and carried out, level of arrivals by sea including through disembarkations following search and rescue operations, vulnerabilities of asylum applicants and the capacity of a Member State in managing its asylum and reception caseload. and relations with relevant third countries.** The solidarity response should be designed on a case-by-case basis in order to be tailor-made to the needs of the Member State in question.
- ~~(26) Only persons who are more likely to have a right to stay in the Union should be relocated. Therefore, the scope of relocation of applicants for international protection should be limited to those who are not subject to the border procedure set out in Regulation (EU) XXX/XXX [Asylum Procedure Regulation].~~
- (27) The solidarity mechanism should include measures to ~~promote~~ **ensure** a fair sharing of responsibility and a balance of effort between Member States, also in the area of ~~return transfers within this Regulation. Through return sponsorship, With the agreement of the benefitting Member State,~~ a Member State should **be able to** commit to support a Member State under migratory pressure **by taking responsibility for applications for international protections carrying out the necessary activities to return illegally staying third country nationals, bearing in mind that the benefitting Member State remains**

~~responsible for carrying out the return while the individuals are present on its territory. Where such activities have been unsuccessful after a period of 8 months, the sponsoring Member States should transfer these persons in line with the procedures set out in this Regulation and apply Directive 2008/115/EC; if relevant, Member States may recognise the return decision issued by the benefitting Member State in application of Council Directive 2001/40. Return sponsorship should form part of the common EU system of returns, including operational support provided through the European Border and Coast Guard Agency and the application of the coordination mechanism to promote effective cooperation with third countries in the area of return and readmission.~~

- (28) Member States should notify the type of solidarity contributions that they will take through the completion of a solidarity response plan. Where Member States are themselves benefitting Member States they should not be obliged to make solidarity contributions to ~~other~~ Member States. At the same time, where a Member State has ~~incurred a heavy migratory burden examined twice the Union average per capita of applications for international protection in previous over the preceding ten years~~, it should be possible for a Member State to request a reduction **of 10%** of its share of the solidarity contribution to Member States under migratory pressure ~~where such contribution consists of relocation or return sponsorship~~. That reduction should be shared proportionately among the other Member States taking such measures.
- ~~(29) Where the Migration Management Report identifies needs in a Member State under migratory pressure in the field of capacity measures in asylum, reception and return or in the external dimension, contributing Member States should be able to make contributions to these needs instead of relocation or return sponsorship. In order to ensure that such contributions are in proportion to the share of the contributing Member State the Commission should be able to increase or decrease of such contributions in the implementing act. Where the indications from Member States to take measures in the field of capacity or the external dimension would lead to a shortfall greater than 30% of the required number of persons to be relocated or subject to return sponsorship, the Commission should be able to adjust the contributions of these Member States in order to ensure that they contribute half of their share to relocation or return sponsorship.~~
- (30) In order to ensure a, comprehensive and effective solidarity response and in order to give clarity to Member States receiving support, the Commission should adopt an implementing act specifying the **type and number of** contributions to be made by each Member State. Such contributions should ~~always~~ be based on the type of contributions indicated by the Member State concerned in the solidarity response plan, **except where the measures do not cover the identified need of the benefitting Member State**. ~~that Member State failed to submit one~~. In such cases, the measures set out in the implementing act for the Member State concerned should be determined by the Commission.
- ~~(31) A distribution key based on the size of the population and of the economy of the Member States should be applied as a point of reference for the operation of the solidarity mechanism enabling the determination of the overall contribution of each Member State.~~
- (32) A Member State should be able to ~~take make~~, at its own initiative or at the request of another Member State, other **solidarity measures contributions** on a voluntary basis to assist that Member State in addressing the migratory situation or to prevent migratory pressure. Those contributions ~~should~~ **may** include **relocations of applicants and beneficiares of international protection and** measures aimed at strengthening the

capacity of the Member State *under pressure in the field of asylum, reception, return and reintegration and operational support, including at responding to migratory trends* through cooperation with third countries. *In addition, such solidarity measures should include relocation of third-country nationals that are in the border procedure as well as illegally staying third-country nationals. In order to incentivise voluntary solidarity, where Member States make voluntary contributions in the form of relocation or return sponsorship.* Those contributions *are without prejudice of the solidarity contributions established in the implementing act.* ~~should be taken into account in the implementing act provided for in respect of situations of migratory pressure.~~

(32a new) Union bodies, offices and agencies in the field of asylum, border and migration management should be able to provide support to the Member States and the Commission in implementing this Regulation by providing expertise and operational support as foreseen by their respective mandates.

(33) The Common European Asylum System (CEAS) has been built progressively as a common area of protection based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967 ('the Geneva Convention'), thus ensuring that no person is sent back to persecution, in compliance with the principle of *non-refoulement*. In this respect, and without the responsibility criteria laid down in this Regulation being affected, Member States, *all respecting are responsible for upholding human rights and* the principle of *non-refoulement*, *and as such* are considered as safe countries for third-country nationals.

(34) It is appropriate that a clear and workable method for determining the Member State responsible for the examination of an application for international protection should be included in the Common European Asylum System²⁸. That 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 *and with which applicants have meaningful links as set out in this regulation*, so as to guarantee *swift and* effective access to *the fair and efficient* procedures for granting international protection and not to compromise the objective of the rapid *and fair* processing of applications for international protection. *Member State should provide applicants with all the relevant information regarding the application of this Regulation in a language that they understand.*

34a (new) In order to increase understanding of the CEAS and solidarity provided under this Regulation, it is necessary to improve the provision of information. Investing in the early provision of accessible information will greatly increase the likelihood that persons concerned by this regulation will understand the procedures linked to it. The Asylum Agency should in this regard develop suitable information material, in close cooperation with national authorities. The agency should also develop audio-visual information material complementary to written information material. The information material should be translated and made available in different languages.

²⁸ As set out by the European Council at its special meeting in Tampere on 15 and 16 October 1999.

- (35) This Regulation should be based on the principles underlying Regulation (EU) No 604/2013 of the European Parliament and of the Council²⁹ ~~while developing~~ **and the** principle of solidarity and fair sharing of responsibility as part of the common framework, ***in line with Article 80 of TFEU***. To that end, ~~a~~ **the** new solidarity mechanism should enable a strengthened preparedness of Member States to manage migration, to address situations where Member States are faced with migratory pressure and to facilitate regular solidarity support among Member States. ***The effective implementation of such solidarity contributions is a key prerequisite to the functioning of the whole CEAS.***
- (36) This Regulation should apply to applicants for subsidiary protection and persons eligible for subsidiary protection in order to ensure equal treatment for all applicants and beneficiaries of international protection, and consistency with the current Union asylum acquis, in particular with Regulation (EU) XXX/XXX [*Qualification Regulation*].
- (37) ~~Persons granted immediate protection pursuant to Regulation (EU) XXX/XXX [Regulation addressing situations of crisis and force majeure in the field of asylum and migration] should continue to be considered as applicants for international protection, in view of their pending (suspended) application for international protection within the meaning of Regulation (EU) XXX/XXX [Asylum Procedure Regulation]. As such, they should fall under the scope of this Regulation and be considered as applicants for the purpose of applying the criteria and mechanisms for determining the Member State responsible for examining their applications for international protection or the procedure for relocation as set out in this Regulation.~~
- (38) ~~In order to limit unauthorised movements and~~ To ensure that the Member States have the necessary tools to ensure transfers of beneficiaries of international protection who entered the territory of another Member State ~~than the Member State responsible~~ without fulfilling the conditions of stay ~~in that other Member State to the Member State responsible~~, and to ensure effective solidarity between Member States, this Regulation should also apply to beneficiaries of international protection, Likewise, this Regulation should apply to persons resettled or admitted by a Member State in accordance with Regulation (EU) XXX/XXX [*Union Resettlement Framework Regulation*] or who are granted international protection or humanitarian status under a national resettlement scheme.
- (39) ~~At the same time, and~~ Given the importance of facilitating the full integration of beneficiaries of international protection in the Member State of residence, the prospect of obtaining long-term resident status in a shorter period of time should be provided for. Beneficiaries of international protection, ***as well as beneficiaries of protection under the 1954 Convention Relating to Stateless Persons***, should be able to obtain long-term resident status in the Member State which granted them international protection after three years of legal and continuous residence in that Member State. As regards other conditions to obtain the status, beneficiaries of international protection should be

²⁹ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 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, OJ L 180, 29.6.2013, p. 31.

required to fulfil the same conditions as other third-country nationals. Council Directive 2003/109/EC³⁰ should therefore be amended accordingly.

- (40) For reasons of efficiency and legal ~~certainly~~ **certainty**, it is essential that the Regulation is based on the principle that responsibility is determined only once, unless the person concerned has left the territory of the Member States in compliance with a return decision or removal order.
- (41) Directive XXX/XXX/EU [*Reception Conditions Directive*] of the European Parliament and of the Council³¹ should apply to ~~the procedure~~ **all procedures** for the determination of the Member State responsible as regulated under this Regulation, subject to the limitations in the application of that Directive.
- (42) Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*] of the European Parliament and of the Council³² 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 Regulation.
- (43) In accordance with the 1989 United Nations Convention on the Rights of the Child and with the Charter of Fundamental Rights of the European Union, the best interests of the child should be a primary consideration of Member States when applying this Regulation. ~~In assessing the best interests of the child,~~ Member States should **carry out an individual assessment of the best interest of the child, taking**, in particular, take due account of the minor's well-being and social development, safety and security considerations **in the short, medium and long term**, and the views of the minor in accordance with his or her age and maturity, including his or her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability, **including the appointment of an independent guardian and access to free legal assistance**.

(43a new) *Staff who deal with requests concerning unaccompanied minors should have received and continue to receive, appropriate training on the rights of the child and child psychology and development, and on risk assessment to target care and protection depending on the individual needs of the minor, with a specific focus on early identification of victims of trafficking in human beings and of abuse as well as training on good practices to prevent disappearance.*

- (44) In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms and with the Charter of Fundamental Rights of the European Union, respect for **private and family life, as well as for the principle of non-discrimination** should be a primary consideration of Member States when applying this Regulation.

44a new) *In applying this Regulation, Member States must respect their international obligations towards stateless persons, including under the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954, and in accordance with other international human rights law instruments. Where necessary,*

³⁰ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 016, 23.1.2004, p. 44.

³¹ Directive XXX/XXX/EU (full text)

³² Directive XXX/XXX/EU (full text)

the treatment of stateless persons should be distinguished from third-country nationals with due consideration to their particular protection needs.

- (45) In order to prevent that persons who represent a security risk are ~~from being~~ transferred among the Member States, it is necessary to ensure that the Member State where an application is first registered does not apply the **responsibility** ~~responsibility~~ criteria or the benefitting Member State does not apply the relocation procedure where there are reasonable grounds to consider the person concerned a **threat** ~~danger~~ to national **internal security** ~~or public order~~.
- (46) *In order to ensure family unity*, the processing together of the applications for international protection of the members of one family by a single Member State should make it possible to ensure that the applications are examined thoroughly, the decisions taken in respect of them are consistent and the members of one family are not separated, *with a view also to promoting integration and reduce unauthorised movements. This should be without prejudice to the right of an applicant to lodge an application individually.*
- (47) The definition of a family member in this Regulation should include the sibling or siblings of the applicant. ~~Reuniting siblings is of particular importance for improving the chances of integration of applicants and hence reducing unauthorised movements.~~ The scope of the definition of family member should also reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The definition should therefore include families formed outside the country of origin **provided that there is a proven family link**. ~~but before their arrival on the territory of the Member State.~~ This limited and targeted enlargement of the scope of the definition is **of particular importance for improving the chances of integration of applicants and hence reducing unauthorised movements** ~~expected to facilitate reduce the incentive for some unauthorised movements of asylum seekers within the EU.~~
- (48) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent, **including** on account of the applicant's pregnancy or maternity, state of health or old age, should be a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion, **if it is in the best interest of the minor**. ~~In order to discourage unauthorised movements of unaccompanied minors, which are not in their best interests, in~~ the absence of a family member or a relative, the Member State responsible should be that where the unaccompanied **minor is present** ~~minor's application for international protection was first registered~~, unless it is demonstrated that this would not be in the best interests of the child. Before transferring an unaccompanied minor to another Member State, the transferring Member State should make sure that that Member State will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a **guardian** ~~a representative or representatives~~ tasked with safeguarding respect for all the rights to which they are entitled. Any decision to transfer an unaccompanied minor should be preceded by an assessment of his or her best interests by staff with the necessary qualifications, **training, and expertise and independence**.
- (49) The rules on evidence should allow for a swifter family reunification than until now. It is therefore necessary to clarify that formal proof, such as original documentary

evidence and DNA testing, should not be necessary in cases where the circumstantial evidence is coherent, verifiable and sufficiently detailed to establish responsibility for examining an application for international protection. **Member States' authorities should consider all available evidence including photos, proof of contact and witness statements to make a fair appraisal of the relationship. A light procedure should be envisaged to ensure swift family reunification and access to the asylum procedures for applicants where there are sufficient indicators that they are likely to have the right to family reunification.**

- (50) Where persons are in possession of a diploma or other qualification, the Member State where the diploma was issued should be responsible for examining their application. This would ensure a swift examination of the application in the Member State with which the applicant has meaningful links based on such a diploma. **Without prejudice to online training following restrictions imposed by Member States, online training or other forms of distance learning should not be considered to be relevant.**
- ~~(51) Considering that a Member State should remain responsible for a person who has irregularly entered its territory, it is also necessary to include the situation when the person enters the territory following a search and rescue operation. A derogation from this responsibility criterion should be laid down for the situation where a Member State has relocated persons having crossed the external border of another Member State irregularly or following a search and rescue operation. In such a situation, the Member State of relocation should be responsible if the person applies for international protection.~~
- (52) Any Member State should be able to derogate **at its own discretion** from the responsibility criteria in particular on humanitarian and compassionate grounds, in order to bring together family members, relatives or any other family relations **or to support a Member State under migratory pressure** and examine an application for international protection registered with it or with another Member State, even if such examination is not its responsibility under the binding criteria laid down in this Regulation.
- (53) In order to ensure that the procedures set out in this Regulation are respected and to prevent obstacles to the efficient application of this Regulation, in particular in order to avoid absconding and unauthorised movements between Member States, it is necessary to establish clear obligations to be complied with by the **Member State and the applicant** in the context of the procedure, of which ~~he or she~~ **the applicant** should be duly informed in a timely manner. **Information to applicants about rights and legal obligations should be provided in writing and, where necessary, also orally in a concise and transparent manner and, when the applicant is a minor, in a child-friendly manner. Applicants should fully cooperate with the competent authorities of the Member States in matters covered by this Regulation and they should be duly informed of the requirements and of the consequences of non-compliance.** ~~Violation of those legal obligations should lead to appropriate and proportionate procedural consequences for the applicant and to appropriate and proportionate consequences in terms of his or her reception conditions. In line with the Charter of Fundamental Rights of the European Union, the Member State where such an applicant is present should in any case ensure that the immediate material needs of that person are covered.~~
- ~~(54) In order to limit the possibility for applicants' behaviour to lead to the cessation or shift of responsibility to another Member State, rules allowing for cessation or shift of responsibility where the person leaves the territory of the Member States for at least three months during examination of the application or absconds to evade a transfer to~~

~~the Member State responsible for more than 18 months should be deleted. The shift of responsibility when the time limit for sending a take back notification has not been respected by the notifying Member State should also be removed in order to discourage circumventing the rules and obstruction of procedure. In situations where a person has entered a Member State irregularly without applying for asylum, the period after which the responsibility of that Member State ceases and another Member State where that person subsequently applies becomes responsible should be extended, to further incentivise persons to comply with the rules and apply in the first Member State of entry and hence limit unauthorised movements and increase the overall efficiency of the CEAS.~~

- (55) A personal interview with the applicant should be organised in order to facilitate the determination of the Member State responsible for examining an application for international protection unless the applicant has absconded **and is not available to the authorities**, has not attended the interview without justified reasons or the information provided by the applicant is sufficient for determining the Member State responsible **and the applicant does not request to be heard**. As soon as the application for international protection is registered, the applicant should be informed in particular of the application of this Regulation, the fact that the Member State responsible for examining his or her application for international protection is based on objective criteria, of his or her rights as well as of ~~the~~ **his or her** obligations under this Regulation and of the consequences of not complying with them. **The information should be provided in a language that the applicant understands and can communicate in, in a concise and easily accessible form, using clear and plain language.**

55a (new) The person conducting the interview should have received sufficient training to take account of the personal and general circumstances of the applicant, including their cultural origin, age, gender, sexual orientation, gender identity and vulnerability. Staff interviewing applicants should also have acquired general knowledge and possess awareness of issues which could adversely affect the applicant's ability to be interviewed, such as indicators that the person may have been the victim of torture or gender-based violence in the past.

(55bnew) In accordance with Directive 2011/36/EU³³, particular attention should be paid to identifying victims of trafficking in human beings, in order to offer protection and prevent them from being trafficked further into the Union.

- (56) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred. ~~The scope of the effective remedy should be limited to an assessment of whether applicants' fundamental rights to respect of family life, the rights of the child, or the prohibition of inhuman and degrading treatment risk to be infringed upon.~~

³³ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

- (57) In order to facilitate the smooth application of this Regulation, Member States should in all cases indicate the Member State responsible in Eurodac after having concluded the procedures for determining the Member State responsible, including in cases where the responsibility results from the failure to respect the time limits for sending or replying to take charge requests, carrying *out* a transfer, as well as *in cases of relocation or* where the Member State of first application becomes responsible or it is impossible to carry out the transfer to the Member State primarily responsible due to *a real risk of fundamental rights violations for the applicant or* systemic deficiencies resulting in a risk of inhuman or degrading treatment and subsequently another Member State is determined as responsible.
- (58) In order to ensure the speedy determination of responsibility, the deadlines for making and replying to requests to take charge, for making take back *requests notifications*, as well as for making and deciding on appeals, should be streamlined and shortened, *to the greatest extent possible, while respecting the fundamental rights of applicants. The transfer and relocation of applicants with specific reception or procedural needs should be prioritised.*
- (59) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection. Detention should be for as short a period as possible and subject to the principles of necessity and proportionality thereby only being allowed as a measure of last resort. *Minors, as a rule, should not be detained and efforts should be made to place them in accommodation with special provisions for minors.* ~~In particular,~~ The detention of applicants must be in accordance with Article 31 of the Geneva Convention. The procedures provided for under this Regulation in respect of a detained person should be applied as a matter of priority, within the shortest possible deadlines. As regards the general guarantees governing detention, as well as detention conditions, where appropriate, Member States should apply the provisions of Directive XXX/XXX/EU [*Reception Conditions Directive*] also to persons detained on the basis of this Regulation.
- (60) Deficiencies in, or the collapse of, asylum systems, often aggravated or contributed to by particular pressures on them, can jeopardise the smooth functioning of the system put in place under this Regulation, which could lead to a risk of a violation of the rights of applicants as set out in the Union asylum *acquis* and the Charter of Fundamental Rights of the European Union, other international human rights and refugee rights.
- (61) In accordance with Commission Regulation (EC) No 1560/2003³⁴, transfers to the Member State responsible for examining an application for international protection 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 person concerned and should ensure that supervised or escorted transfers are undertaken in a humane manner, in full compliance with fundamental rights and respect for 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.

³⁴ Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 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, OJ L 222, 5.9.2003, p. 3.

- (62) In order to ensure a clear and efficient relocation procedure, specific **binding** rules for a benefitting and a contributing Member State should be set out. The rules and safeguards relating to transfers set out in this Regulation should apply to transfers for the purpose of relocation. ~~except where they are not relevant for such a procedure.~~
- (63) ~~To support~~ **When** Member States who undertake relocation as a solidarity **contribution measure, appropriate and proportionate** financial support from the Union budget should be provided. In order to incentivise Member States to give priority to the relocation of unaccompanied minors a higher incentive contribution should be provided.
- (63a) Member States should take into account the support offered by cities and regions, as relocation and integration relies to a large extent on these actors; they are key players in the achievement of meaningful solidarity and successful relocation and integration trajectories. To that end, Member States should take measures to support local and regional authorities, such as providing financial support, information, technical support, and reducing unnecessary administrative barriers.**
- (64) The application of this Regulation can be facilitated, and its effectiveness increased, by bilateral arrangements between Member States **in order to carry out transfers more efficiently**. ~~Such arrangements may include~~ **for** improving communication between competent departments, **or** reducing time limits and simplifying ~~for~~ procedures. ~~or the processing of take charge requests or take back notifications, or establishing procedures for the performance of transfers.~~
- (65) Continuity between the system for determining the Member State responsible established by Regulation (EU) No 604/2013 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation (EU) XXX/XXX [*Eurodac Regulation*].
- (66) A network of competent Member State authorities should be set up and facilitated by the European Union Agency for Asylum to enhance practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance. **The network should organise regular meetings to enhance trust-building and common understanding of the challenges of the implementation of the CEAS in the different Member States.**
- (67) The operation of the Eurodac system, as established by Regulation (EU) XXX/XXX [*Eurodac Regulation*], should facilitate the application of this Regulation.
- (68) The operation of the Visa Information System, as established by Regulation (EC) No 767/2008 of the European Parliament and of the Council³⁵, and in particular the implementation of Articles 21 and 22 thereof, should facilitate the application of this Regulation.
- (69) With respect to the treatment of persons falling within the scope of this Regulation, Member States are bound by their obligations under instruments of international law, including the relevant case-law of the **Court of Justice of the European Union and the European Court of Human Rights**.

³⁵ 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, OJ L 218, 13.8.2008, p. 60.

- (70) Regulation (EU) 2016/679 of the European Parliament and of the Council³⁶ applies to the processing of personal data by the Member States under this Regulation. Member States should implement appropriate technical and organisational measures to ensure and be able to demonstrate that processing is performed in accordance with that Regulation and the provisions specifying its requirements in this Regulation. In particular those measures should ensure the security of personal data processed under this Regulation and in particular to prevent unlawful or unauthorised access or disclosure, alteration or loss of personal data processed. The competent supervisory authority or authorities of each Member State should monitor the lawfulness of the processing of personal data by the authorities concerned, including of the transmission to the authorities competent for carrying out security checks. ***In particular, data subjects should be notified without undue delay when a security incident is likely to result in a high risk to their rights and freedoms in accordance with Article 34 of Regulation (EU) 2016/679.***
- (70a) ***Member States as well as the Union agencies should take all proportionate and necessary measures to ensure that the data is stored in a secure way.***
- (71) In order to ensure uniform conditions for the implementation of this 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 Council³⁷.
- (72) The examination procedure should be used for the adoption of a standard form for the exchange of relevant information on unaccompanied minors; of uniform conditions for the consultation and exchange of information on minors and dependent persons; of uniform conditions on the preparation and submission of take charge *requests* and take back *requests* ~~notifications~~; of two lists of relevant elements of proof and circumstantial evidence, and the periodical revision thereof; of a *laissez passer*; of uniform conditions for the consultation and exchange of information regarding transfers; of a standard form for the exchange of data before a transfer; of a common health ***and vulnerabilities*** certificate; of uniform conditions and practical arrangements for the exchange of information on a person's health data before a transfer, and of secure electronic transmission channels for the transmission of requests.
- (73) The Commission should adopt immediately applicable ***delegated and*** implementing acts in duly justified imperative grounds of urgency due to the situation of migratory pressure present in a Member States.
- (74) In order to provide for supplementary rules, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the identification of family members or relatives of an unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State; the elements for assessing a dependency link; the criteria for assessing

³⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1.

³⁷ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

the capacity of a person to take care of a dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time. 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 in this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (75) A number of substantive changes are to be made to Regulation (EU) No 604/2013. In the interests of clarity, that Regulation should be repealed.
- (76) The effective monitoring of the application of this Regulation requires that it be evaluated at regular intervals.
- (77) This Regulation respects the fundamental rights and observes the principles which are ~~acknowledged, in particular,~~ **guaranteed in EU and international law, including** in the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full observance of the right to asylum guaranteed by Article 18 of the Charter as well as the rights recognised under Articles 1, 4, 7, 24 and 47 thereof. ~~This Regulation—Member States~~ should therefore **apply this Regulation**—be applied accordingly.
- (78) Since the objective of this Regulation, namely the establishment of criteria and mechanisms for determining the Member State responsible for examining an application for international protection ~~lodged~~ **registered** in one of the Member States by a third-country national or a stateless person, and the establishment of a solidarity mechanism to support Member States in addressing a situation of migratory pressure, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (79) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that Parts III, V and VII of this Regulation constitute amendments within the meaning of Article 3 of the Agreement concluded between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and ‘Eurodac’ for the comparison of fingerprints for the effective application of the Dublin Convention³⁸, Denmark has to notify the Commission of its decision whether or not to implement the content of such amendments at the time of the adoption of the amendments or within 30 days hereafter.

³⁸ OJ L 66, 8.3.2006, p. 38

- (80) [In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified their wish to take part in the adoption and application of this Regulation]
- (81) [In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]
- (82) As regards Iceland and Norway, Parts III, V and VII of this Regulation constitute new legislation in a field which is covered by the subject matter of the Annex to the Agreement concluded by the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway³⁹.
- (83) As regards Switzerland, Parts III, V and VII of this Regulation constitute acts or measures amending or building upon the provisions of Article 1 of the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland⁴⁰.
- (84) As regards Liechtenstein, Parts III, V and VII of this Regulation constitute acts or measures amending or building upon the provisions of Article 1 of the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland to which Article 3 of the Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland⁴¹ refer.

³⁹ OJ L 93, 3.4.2001 p. 40.

⁴⁰ OJ L 53, 27.2.2008, p. 5.

⁴¹ OJ L 160, 18.6.2011, p. 37.

ANNEX I**Standard form for establishing a Search and Rescue Solidarity Response Plan in accordance with Article 47**

- Contributing Member State:
- Reference No..... (Rev)⁴².....
- Date of submission:.....

| Measures set out in Article 45 (a) and (e) | Number of relocations |
|---|------------------------------|
| Relocation of applicants for international protection | |

| Measures set out in Article 45(d) | Quantity/Description/timeframe for implementation |
|---|--|
| Capacity-building measures in the field of asylum, reception and return | |
| Operational support | |
| Measures aimed at responding to migratory trends affecting the benefitting Member State though cooperation with third countries | |

⁴² Reference to revision to be used in case of revised contributions in the course of the Solidarity Forum.

ANNEX II

Standard form for establishing a Solidarity Response Plan in accordance with Article 50

- Benefitting Member State:
- Contributing Member State:
- Reference No: (Rev)⁴³
- Date of submission:.....

| Measures set out in Article 45 (a), (b), (c) | Share for each measure |
|--|---|
| Relocation of applicants who are not subject to the border procedure for the examination of an application for international protection established by Article 41 of Regulation (EU) XXX/XXX (Asylum Procedures Regulation), including share of unaccompanied minors | Share: Of which, UAMs: |
| Return sponsorship in relation to illegally staying third-country nationals | Share: Nationalities of illegally staying third-country nationals to sponsor ⁴⁴ : |
| Relocation of beneficiaries of international protection including, share of unaccompanied minors | Share: Of which, UAMs: |
| TOTAL | 100% |

To be filled in only if the Report on Migratory Pressure identifies the need for such measures in accordance with Article 49(3)(b)(iii):

| Measures set out in Article 45(d) | Quantity/Description/timeframe for implementation |
|--|---|
| Capacity-building measures in the field of asylum, reception and return | |
| Operational support | |
| Measures aimed at responding to migratory trends affecting the benefiting Member State | |

⁴³ Reference to revision to be used in case of revised contributions in the course of the Solidarity Forum.

⁴⁴ The nationalities for return sponsorship shall be identified from those indicated in the Report on migratory pressure established in accordance with Article 48 of the Regulation.

| | |
|--|--|
| though cooperation with third countries | |
| Application for reduction in contributions in line with Article 50(4) | Average per capita applications for international protection over 5 years (based on the latest full year EUROSTAT statistics) |
| | |

ANNEX III

Formula for the distribution key pursuant to Article 52 of the Regulation:

$$\text{Population effect}_{\text{MS}} = \frac{\text{Population}_{\text{MS}}}{\text{Population}_{\text{EU25}}}$$
⁴⁵

$$\text{GDP effect}_{\text{MS}} = \frac{\text{GDP}_{\text{MS}}}{\text{GDP}_{\text{EU25}}}$$
⁴⁶

$$\text{Share}_{\text{MS}} = 50\% \text{ Population effect}_{\text{MS}} + 50\% \text{ GDP effect}_{\text{MS}}$$

⁴⁵ For two Member States, participation depends on the exercise of rights as set out in the relevant Protocols and other instruments.

⁴⁶ For two Member States, participation depends on the exercise of rights as set out in the relevant Protocols and other instruments.

ANNEX IV

Standard form for contributing to a Solidarity Support Plan in accordance with Article 54

- Benefitting Member State:
- Contributing Member State:
- Reference No:
- Date of submission:.....

| Other forms of solidarity in line with Article 54 | Information on Quantity/Description of scope and nature /timeframe for implementation |
|--|--|
| Capacity-building measures in the field of asylum, reception and return | |
| Operational support | |
| Measures aimed at responding to migratory trends affecting the benefitting Member State through cooperation with third countries | |
| | Number of persons to be covered and timeframe for implementation |
| Relocation of applicants for international protection who are not subject to the border procedure for the examination of an application for international protection established by Article 41 of Regulation (EU) XXX/XXX (Asylum Procedures Regulation) [including number of UAM] | |
| Relocation of beneficiaries of international protection including [including number of UAM] | |
| Relocation of applicants for international protection subject to the border procedure in line with Article 41 of Regulation (EU) XXX/XXX (Asylum Procedures Regulation) | |
| Relocation of illegally staying third-country nationals [including number of UAM], including nationalities of the third-country nationals | |
| Return sponsorship in relation to illegally staying third-country nationals [including number of UAM], including nationalities of third-country nationals | |