















Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation</p> <p>2016/0224(COD)</p>	Awaiting Parliament's position in 1st reading
<p>Asylum Procedure Regulation</p> <p>Repealing Directive 2013/32/EU 2009/0165(COD)</p> <p>Subject</p> <p>7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)</p> <p>Legislative priorities</p> <p>Joint Declaration 2017</p> <p>Joint Declaration 2021</p> <p>Joint Declaration 2018-19</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs	 KELLER Fabienne	09/11/2020
		Shadow rapporteur	
		 DÜPONT Lena	
		 GUILLAUME Sylvie	
		 MARQUARDT Erik	
		 FEST Nicolaus	
		 KANKO Assita	
		 REGO Sira	
	Former committee responsible		
 Civil Liberties, Justice and Home Affairs	 FERRARA Laura	05/09/2016	
Committee for opinion	Rapporteur for opinion	Appointed	
 Foreign Affairs	The committee decided not to give an opinion.		
 Employment and Social Affairs	The committee decided not to give an opinion.		
Former committee for opinion			
 Foreign Affairs			
 Employment and Social Affairs			
Council of the European Union	Council configuration	Meeting	Date

European Commission	Transport, Telecommunications and Energy	3545	09/06/2017
	Justice and Home Affairs (JHA)	3508	09/12/2016
	Justice and Home Affairs (JHA)	3490	14/10/2016
	Commission DG	Commissioner	
	Migration and Home Affairs	AVRAMOPOULOS Dimitris	

Key events

12/09/2016	Committee referral announced in Parliament, 1st reading		
14/10/2016	Debate in Council	3490	
09/06/2017	Debate in Council	3545	
25/04/2018	Vote in committee, 1st reading		
25/04/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
22/05/2018	Committee report tabled for plenary, 1st reading	A8-0171/2018	Summary
28/05/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
30/05/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
21/10/2019	Committee referral announced in Parliament, 1st reading		

Technical information

Procedure reference	2016/0224(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Directive 2013/32/EU 2009/0165(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 078-p2
Stage reached in procedure	Awaiting Parliament's position in 1st reading
Committee dossier	LIBE/9/00168

Documentation gateway

Legislative proposal	COM(2016)0467	13/07/2016	EC	Summary
Committee of the Regions: opinion	CDR5807/2016	08/02/2017	CofR	
Committee draft report	PE597.506	12/05/2017	EP	
Committee report tabled for plenary, 1st reading/single reading	A8-0171/2018	22/05/2018	EP	Summary
Supplementary legislative basic document	COM(2020)0611	23/09/2020	EC	Summary
Amendments tabled in committee	PE697.689	11/10/2021	EP	

Asylum Procedure Regulation

PURPOSE: to establish a common procedure granting and withdrawing international protection, which replaces the various procedures in the Member States, and which is applicable to all applications for international protection made in Member States.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Common European Asylum System is based on rules determining the Member State responsible for applicants for international protection, common standards for asylum procedures, reception conditions, the recognition and protection of beneficiaries of international protection.

Notwithstanding the significant progress that has been made in the development of the Common European Asylum System (CEAS), there are still notable differences between the Member States in the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection. These divergences contribute to secondary movements and asylum shopping, create pull factors, and ultimately lead to an uneven distribution among the Member States of the responsibility to offer protection to those in need.

Recent large scale arrivals have shown that Europe needs an effective and efficient asylum system able to assure a fair and sustainable sharing of responsibility between Member States and to ensure the quality of the decisions made.

Against this backdrop, the Commission presented a first set of proposals to reform the Common European Asylum System delivering on three priorities identified in its Communication:

- [establishing a sustainable and fair Dublin system](#) for determining the Member State responsible for examining asylum applications,
- [reinforcing the Eurodac system](#) to better monitor secondary movements and facilitate the fight against irregular migration,
- establishing a genuine [European Union Agency for Asylum](#) to ensure the well-functioning of the European asylum system.

With the second package, the Commission is completing the reform of the Common European Asylum System by adopting four additional proposals:

1. this proposal replacing the Asylum Procedures Directive with a Regulation, harmonising the current disparate procedural arrangements in all Member States and creating a genuine common procedure;
2. a [proposal replacing the Qualification Directive with a Regulation](#), setting uniform standards for the recognition of persons in need of protection and the rights granted to beneficiaries of international protection;
3. a [proposal revising the Reception Conditions Directive](#);
4. a [structured Union resettlement framework](#), moving towards a more managed approach to international protection within the EU.

CONTENT: the aim of this proposal is to ensure fast and efficient treatment of applications for international protection by establishing a common procedure for granting and withdrawing international protection, which replaces the various procedures in the Member States, and which is applicable to all applications for international protection made in Member States.

By choosing the form of a Regulation, which is directly applicable in all Member States, and by removing elements of discretion as well as simplifying, streamlining and consolidating procedural arrangements, the proposal aims at achieving a higher degree of harmonisation and greater uniformity in the outcome of asylum procedures across all Member States, thereby removing incentives for asylum shopping and secondary movements between Member States.

The proposal promotes the objective of ensuring fast but high quality decision making at all stages of the procedure

Main aims of the proposal:

1. Simpler, clearer and shorter procedures which replace the current disparate procedural arrangements in the Member States.

- time-limits: this proposal provides for short but reasonable time-limits for an applicant to accede to the procedure and for concluding the examination of applications both at the administrative and the appeal stages. The six-month benchmark for a first decision is maintained, while significantly shorter time-limits are foreseen for dealing with manifestly unfounded and inadmissible claims.

Member States also have possibility to prioritise and examine quickly any application. Time-limits for registering, lodging and examining applications are set up but may be exceptionally extended when Member States receive a disproportionate number of simultaneous applications. To plan for such eventualities, Member States should rather regularly review and anticipate their needs to ensure that they have adequate resources in place to manage their asylum system efficiently. Where necessary, Member States may also rely on the assistance of the European Union Agency for Asylum. In addition, the use of the admissibility procedure and the accelerated examination procedure becomes mandatory and the provisions on subsequent applications are clarified allowing for exceptions from the right to remain at the end of or during the administrative procedure.

These procedures should be expedient and for this reason the time-limit proposed for an accelerated examination procedure is of two months whereas that for inadmissibility cases is of one month.

In cases where the ground for inadmissibility is the fact that an applicant comes from a first country of asylum or a safe-third country, the time-limit for the admissibility check is set at ten working days.

Border procedures, which normally imply the use of detention throughout the procedure, remain optional and can be applied for examining admissibility or the merits of applications on the same grounds as under an accelerated examination procedure. If no decision is taken within four weeks, the applicant gains the right to enter and remain on the territory.

- additional elements: following the lodging of their application, applicants shall be authorised to submit any additional elements relevant for its examination until a decision under the administrative procedure is taken on the application.

2. Procedural guarantees safeguarding the rights of the applicants to ensure that asylum claims are adequately assessed within the framework of a streamlined and shorter procedure.

This is ensured by informing all applicants, at the start of the procedure, of their rights, obligations and consequences of not complying with their obligations. The applicants need to be given an effective opportunity to cooperate and properly communicate with the responsible authorities so as to present all facts at their disposal to substantiate their claim. Applicants are required to cooperate with the responsible authorities for them to be able to establish their identity, including by providing their fingerprints and facial image. The applicant needs to inform the responsible authorities of his or her place of residence and telephone number so that he or she can be reached for the purposes of the procedure.

- personal interview: the proposal contains important guarantees for the applicant to ensure that, subject to limited exceptions and at all stages of the procedure, an applicant enjoys the right to be heard through a personal interview, is assisted with the necessary interpretation and is provided with free legal assistance and representation. However, Member States may decide not to provide free legal assistance and representation when the applicant has sufficient resources and where the application or appeal are considered as having no tangible prospect of success;

- right to remain on the territory: within three working days from lodging an application, the applicant must be provided with a document certifying that the individual is an applicant, stating that he or she has a right to remain on the territory of the Member State and stating that it is not a valid travel document. The proposal sets out the type of information that should be included in that document and foresees the possibility of having a uniform format for those documents to be established by means of an implementing act so as to ensure that all applicants receive the same document across all Member States;

- right to an effective remedy: the applicants have the right to appropriate notification of a decision, the reasons for that decision in fact and in law and, in the case of a negative decision, they have the right to an effective remedy before a court or a tribunal;

- unaccompanied minors: the proposal upholds a high level of special procedural guarantees for vulnerable categories of applicants, and in particular for unaccompanied minors. To ensure a fair procedure for these applicants, it is necessary to identify their needs as early as possible in the procedure and to provide them with adequate support and guidance throughout all stages of the procedure.

As regards children in general, the best interests of the child as a primary consideration is the prevailing principle when applying the common procedure. All children, irrespective of their age and of whether they are accompanied or not, shall also have the right to a personal interview unless it is manifestly not in the child's best interests.

As regards unaccompanied minors, they should be assigned a guardian as soon as possible and not later than five working days from the moment an unaccompanied minor makes an application. The role of the guardian is to assist and represent an unaccompanied minor with a view to safeguarding the best interests of the child and his or her general well-being in the procedure for international protection. The proposal provides that a guardian should not be made responsible for a disproportionate number of minors

3. Stricter rules to prevent abuse of the system, sanction manifestly abusive claims and remove incentives for secondary movements by setting out clear obligations for applicants to cooperate with the authorities throughout the procedure and by attaching strict consequences to non-compliance with obligations.

In this respect, the examination of an application for international protection is made conditional upon lodging an application, fingerprinting, providing the necessary details for the examination of the application as well as presence and stay in the Member State responsible.

Failure to comply with any of these obligations may lead to an application being rejected as abandoned in accordance with the procedure for implicit withdrawal.

The current optional procedural instruments for sanctioning abusive behaviour of applicants, secondary movements and manifestly unfounded claims are made compulsory and further reinforced. In particular, the proposal provides for clear, exhaustive and compulsory lists of grounds where an examination must be accelerated and where applications must be rejected as manifestly unfounded or as abandoned. Moreover, the ability to respond to subsequent applications abusing the asylum procedure has been reinforced, in particular by enabling the removal of such applicants from Member States' territories before and after an administrative decision is taken on their applications.

At the same time, all guarantees are in place, including the right to an effective remedy, to ensure that the rights of applicants are always guaranteed.

4. Harmonised rules on safe countries: where applicants are manifestly not in need of international protection because they come from a safe country of origin, their applications must be quickly rejected and a swift return organised. Where applicants have already found a first country of asylum where they enjoy protection or where their applications can be examined by a safe third country, applications must be declared inadmissible. The Commission proposes to progressively move towards full harmonisation in this area, and to replace national safe country lists with European lists or designations at Union level within five years of entry into force of the Regulation ('sunset' clause).

The proposed EU common list of safe countries of origin includes Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Kosovo, Montenegro, Serbia and Turkey.

Monitoring, evaluation and reporting arrangements: the Commission shall report on the application of this Regulation to the European Parliament and to the Council within two years from its entry into force and every five years after that.

Asylum Procedure Regulation

The committee recommended that the European Parliaments position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows:

Purpose: the Regulation shall establish a common procedure for granting and withdrawing international protection provided for in the Regulation on the conditions to be fulfilled by applicants for asylum. Member States may introduce or retain more favourable standards on procedures for granting and withdrawing international protection, insofar as those standards are compatible with this Regulation.

Registration of applications: all applications shall be registered as soon as possible and, in any case, no later than three working days from when it is made. The applicant shall be given a document certifying that an application has been made in accordance with this Regulation. This document shall be valid for a period of six months and should be renewed automatically where no final decision has yet been taken on the application for international protection, ensuring that the validity of that document covers the period during which the applicant has the right to remain on the territory of the Member State responsible.

Obligations of applicants: the applicant shall apply in the Member State of first entry or in the Member State established under the revised Dublin Regulation. If the applicant refuses to cooperate by not providing his/her personal information (name, date of birth, gender, nationality, statelessness, identity or travel document) or biometric data, the application shall be rejected on the grounds that it was implicitly withdrawn.

The applicant shall be informed properly of his or her rights to legal assistance and representation, including free legal assistance and representation and obligations at the latest when the application for international protection is registered, both in written and oral form, where appropriate with the support of multimedia equipment and in a language that he or she understands in a concise and easily accessible form, using clear and plain language.

Information shall be provided to minors in a child-friendly manner by appropriately trained staff and with the involvement of the guardian.

The European Union Agency for Asylum shall create specific information material intended particularly for adult applicants, with specific attention to female and vulnerable applicants, unaccompanied minors and accompanied minors.

Individual interviews: the applicant shall have the right to be heard in a substantive interview before the determining authority decides on the merits of an application for international protection. The presence of an interpreter as well as the applicant's legal counsel shall be ensured when the applicant has decided to seek legal assistance. The person conducting the interview shall not wear a military or law enforcement uniform. They shall take into account evidence that the person may have been subjected to torture in the past or may have been a victim of trafficking.

Where necessary and appropriate, the determining authority shall make available to the applicant the assistance of a cultural mediator to assist him or her during the procedure and, in particular, during the personal interview.

Specific safeguards for children: the determining authority shall ensure the right of the minor child to be heard in an individual interview unless it is clearly not in the best interests of the minor.

Border procedures shall never be applied to unaccompanied minors. Member States shall take the necessary measures to ensure that alternatives to detention are available. Minors shall never be detained as part of border procedures, at transit zones, external borders or at any stage during the determination of their asylum application.

Furthermore, an accelerated examination procedure may only apply to unaccompanied minors in the specific cases provided for in the Regulation, for reasons of national security or public order.

To ensure that unaccompanied minors have effective protection, the guardian should be appointed as soon as possible prior to the collection of biometric data and in any event no later than 24 hours after the making of the application. In any event, guardians should not be placed in charge of more than 20 unaccompanied minors.

Third country concepts: an application may be declared inadmissible if the applicant has already been recognised as a refugee in a third country (first country of asylum) or has a sufficient connection, such as previous residence, with a safe country where it is reasonably expected that the applicant may seek protection and there are reasons to believe that the applicant shall be readmitted to that country.

An applicant shall be allowed to challenge the application of the concept of safe third country in light of his or her particular circumstances at any stage of the procedure.

The concept of safe third country shall not be applied to unaccompanied minors unless it is determined to be clearly in their best interests.

Member States shall not apply the safe country of origin concept in the case of applicants that belong to a minority or group of persons that remains at risk in light of the situation in the country of origin concerned.

Designation of safe countries of origin at EU level: in view of the harmonisation of national lists of safe countries of origin, during the transitional three-year period, it shall be possible for the Member States to send the Commission proposals to add particular countries to the EU common list of safe countries of origin.

The Commission shall examine the proposals within six months of their submission, on the basis of a range of information sources at its disposal, in particular, reports from the European External Action Service (EEAS) and information provided by the Member States, the European Union Agency for Asylum, the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe and other relevant international organisations and national or international non-governmental organisations.

Where a third country is to be added to the list, the Commission shall submit a proposal in accordance with the ordinary legislative procedure to extend the EU common list of safe countries of origin.

The Commission shall keep under constant review the situation in third countries which are on the EU common list of safe countries of origin or which have been suspended from that list. The Commission shall be empowered to adopt delegated acts to suspend the entry of a third country on the EU common list of safe countries of origin.

The Regulation shall include an annex listing safe countries of origin. Members proposed to remove Turkey from this list.

Asylum Procedure Regulation

In the context of the [New Pact on Migration and Asylum](#) which represents a fresh start on migration, the Commission presents a targeted amendment to its 2016 proposal for a new Regulation on asylum procedures to allow for a more efficient and flexible application of procedures at the border.

The aim of this proposal is to establish, with the new proposal for a Regulation introducing [pre-entry screening](#), a close link between all stages of the migration process, from arrival to the processing of asylum applications and, where appropriate, return. The rules on asylum and return procedures at the border shall thus be merged into a single legislative instrument.

The purpose is to further prevent migrants from delaying procedures for the sole purpose of preventing their removal from the Union and misusing the asylum system.

The new procedures should be governed by the same rules, regardless of the Member State applying them, to ensure equity in the treatment of the applicants, third-country nationals or stateless persons subject to them and clarity and legal certainty for the individual.

The main modifications made by the Commission concern the following issues:

Border asylum procedure

Under the amended proposal, an asylum procedure at the border shall be applied to asylum applications which are manifestly abusive, or where the applicant represents a security threat or is unlikely to be in need of international protection due to the low rate of recognition of his/her nationality for international protection.

In addition, Member States may choose to use a border asylum procedure on the basis of the admissibility of the application or on the substance of the application, where the application is to be examined under an accelerated procedure.

In cases where, from the outset, it is unlikely that the readmission of such persons, in the event of a negative decision on their asylum application, shall be granted, Member States may decide not to apply the border asylum procedure, but rather to apply the regular asylum procedure.

The time limit for examining applications under the asylum procedure at the border shall, in principle, not exceed 12 weeks from the first registration of the application, including where a single appeal is lodged.

The Commission stipulates that unaccompanied minors and families with children below the age of 12 may only be subject to a border procedure for reasons linked to national security or public order.

A new border procedure for carrying out return

The proposal introduces a border procedure for carrying out return, which replaces the return border procedure included in the 2018 proposal for a recast Return Directive. The border procedure for carrying out return applies to applicants, third-country nationals or stateless persons whose applications have been rejected in the context of the border procedure for asylum. Persons subject to this procedure are not authorised to enter the Member States territory and should be kept at the external borders, or in their proximity, or in transit zones.

Third-country nationals and stateless persons subject to the procedure can be granted a period for voluntary departure not exceeding 15 days, without prejudice to the possibility to voluntarily comply with the obligation to return departing from a border area or transit zone at any moment. The border procedure for carrying out return cannot exceed 12 weeks, starting from when the person concerned no longer has a right to remain and is no longer allowed to remain.

The proposal specifies that a return decision and a decision rejecting an asylum application shall be issued simultaneously, which shall speed up existing practices.