

Reception Conditions Directive

2016/0222(COD) - 10/05/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Sophia in t VELD (ADLE, NL) on the proposal for a directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast).

The committee recommended that Parliament adopt its position in first reading bearing in mind the opinion of the consultative working party of the legal services of the European Parliament, the Council and the Commission. However, it submitted amendments to the proposal for a recast:

Restrictions on reception conditions of asylum seekers in case of secondary movements: Members did not subscribe the Commission position, which envisaged a stricter stance towards applicants who try and move illegally to another Member State. They proposed to strengthen measures related to information given to applicants, including details of the circumstances under which the granting of material reception conditions may be restricted, and the reduction of any benefits in such cases.

The report sets out, rather, the circumstances under which applicants can travel to another Member States legally, for example, for medical reasons pertaining to family. In such cases, Member States should supply the applicants concerned with a travel document limited to the purpose or duration needed for the reason for which it is issued.

In any event, any restriction on the applicant's freedom of movement should be adopted only as a measure of last resort and should be based on the decision by a judicial authority, which takes into account the individual behaviour and particular situation of the person concerned, including any specific reception needs of applicants and the principles of necessity and proportionality. Applicants should be provided with the possibility of an appeal or review against such decisions.

Specific reception conditions: Members recalled that the overall objective of the directive is to establish common standards for reception conditions to help to limit the secondary movements of applicants in the Union. They stressed that Member States should in all circumstances ensure access to health care and an adequate standard of living for applicants. Due regard must also be given to applicants with specific reception needs, such as children, and applicants who have experienced sexual or gender-based violence, in particular women, (including appropriate trauma counselling and psycho-social care).

Members also amended the terminology used to set out the daily allowance which should ensure an adequate standard of living for applicants and not dignified as stated in the proposal ensuring that applicants have access to the necessary food, clothing, housing, education, health care and social services for their well-being and that of their family.

Conditions of work and access to employment: Members wanted to see clear rules concerning applicants access to the labour market, so that such access is effective, by not imposing conditions, including sector restrictions, working time restrictions or unreasonable administrative formalities, that effectively hinder an applicant from seeking employment. Member States should also take effective steps to ensure that the entry of applicants for international protection into the labour market is not achieved through a lowering of applicable salaries, which could then lead to wage dumping practices. Members proposed particularly that access to the labour market should be provided to the applicant no later than two months from the date when the application for international protection was made.

It should be noted, however, that for reasons of labour market policies, and especially regarding youth unemployment levels, a vacancy could be filled, through preferential access, by nationals of the Member State concerned or by other Union citizens.

Applicants who have been granted access to the labour market should be allowed to apply for an EU Blue Card under the relevant Union legislation. Applicants who have been granted access to the labour market should also be allowed to apply for a residence permit for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing under the relevant Union legislation.

Measures limiting the risk of absconding: Members set out a clearer framework for situations where there is a risk of an applicant absconding. Accordingly, where there are reasons to believe that an applicant is at serious risk of absconding, Member States may where necessary, proportionate and duly justified require applicants to report to the competent authorities in person, either immediately or at a future date, as frequently as necessary but not more than once a working day, in order to monitor that the applicant does not abscond. Applicants should also be able to appeal against decisions requiring them to report to the competent authorities.

Detention: detention should be adopted only as a measure of last resort and any decision imposing detention should contain a reference to the consideration of the available alternatives and the reasons why they could not be applied effectively. Where an applicant is held in detention he or she should have effective access to the necessary procedural guarantees, such as judicial remedy and the right to free legal assistance and representation. The detention shall not be punitive in nature. Where, as a result of the judicial review, detention is held to be unlawful, the applicant concerned shall be released immediately.

In addition, where detention would put at risk their physical and psychological integrity, applicants with specific reception needs shall not be detained.

In the same way, any detention or confinement of children, whether accompanied by family members or not, must be forbidden since it contravenes the best interests of the child.

Integration measures: Members recalled that language skills are indispensable in order to ensure that applicants have an adequate standard of living. Learning the official language or one of official languages of the Member State concerned would increase self-reliance and the chance of integration in the host society. It also constitutes a deterrent against secondary movements. Effective access to language courses should therefore be granted to all applicants from the date on which their application for international protection is made.

Member States shall use their best endeavours to provide adequate training on employment legislation and non-discrimination to applicants

and to authorities, in order to avoid exploitation in the workplace by means of undeclared work practices and other forms of severe labour exploitation, and to avoid discrimination. Members also provided for professional training for applicants.

Procedural guarantees: the report strengthened the procedural guarantees for applicants. Amongst other things, it proposed that legal advisers shall provide free legal assistance and representation or other suitably qualified persons as admitted or permitted under national law to assist or represent the applicants, whose interests do not conflict or could not potentially conflict with those of the applicant. Such persons may include non-governmental organisations accredited under national law.

In situations of disproportionate pressure, each Member State shall draw up a contingency plan setting out the planned measures to be taken to ensure an adequate reception of applicants for international protection.

Members proposed that necessary training be provided with adequate funding from the Asylum Migration and Integration Fund by means of national programmes. Such training places should place particular importance on active identification of specific reception needs (the Age Gender and Diversity Approach) and adequate prevention and response activities with respect to sexual and gender-based violence and bias-motivated violence.

Charter of Fundamental Rights: the committee made a stronger link between the proposal and the Charter. Member States should apply the definition of family member in accordance with the Charter and bear in mind different circumstances of dependency and the special attention to be accorded to the best interests of the child.

Assessment and reports: lastly, Members provided for more regular implementation reports for Parliament and Council (annual report rather than every three years).