



27/03/2017

AMENDMENTS: 145

Cecilia Wikström

Establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)

Proposal for a regulation COM(2016)0270 - C8-0173/2016 – 2016/0133(COD)

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Amendments per language:

EN: 145

Amendment 1
Elly Schlein

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) The European Union Agency for Asylum should provide adequate support in the implementation of this Regulation, in particular by establishing the reference key for the distribution of asylum seekers under the corrective allocation mechanism, and by adapting the figures underlying the reference key annually, as well as the reference key based on Eurostat *data*.

Amendment

(9) The European Union Agency for Asylum should provide adequate support in the implementation of this Regulation, in particular by establishing the reference key for the distribution of asylum seekers under the corrective allocation mechanism, and by adapting the figures underlying the reference key annually, as well as the reference key based on Eurostat *data*. ***The Agency should also develop information material, in cooperation with the relevant authorities of the Member States. The Agency should gradually become responsible for the transfer of applicants for, or beneficiaries of, international protection under this Regulation.***

Or. en

Justification

The amendment updates the recital taking into consideration the changes proposed to Article 6 and Article 38.

Amendment 2
Elly Schlein

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) In order to prevent that applicants with inadmissible claims or who are likely not to be in need of international protection, or who represent a security risk are transferred among the Member

Amendment

deleted

States, it is necessary to ensure that the Member where an application is first lodged verifies the admissibility of the claim in relation to the first country of asylum and safe third country, examines in accelerated procedures applications made by applicants coming from a safe country of origin designated on the EU list, as well as applicants presenting security concerns.

Or. en

Justification

The recital is deleted as a consequence of deleting Article 3(3). The inadmissibility and pre-Dublin checks would not only put additional burden on front-line Member states, constituting an improper anticipation of the examination of the application, but also create an extremely discretionary filter to applications for asylum in the EU, in violation of the Geneva Convention.

Amendment 3 **Elly Schlein**

Proposal for a regulation **Recital 19**

Text proposed by the Commission

(19) 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 secondary 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, but before their arrival on the territory of the Member State. This limited and targeted enlargement of the scope of the definition is expected to reduce the incentive for some secondary movements

Amendment

(19) The definition of a family member in this Regulation should include the sibling or siblings, ***the grandparents*** of the applicant ***or beneficiary of international protection and the grandchildren of the applicant***. Reuniting siblings ***the grandparents of the applicant or beneficiary of international protection and the grandchildren of the applicant*** is of particular importance for improving the chances of integration of applicants and hence reducing secondary 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

of asylum seekers within the EU.

the country of origin, but before their arrival on the territory of the Member State. This limited and targeted enlargement of the scope of the definition is expected to reduce the incentive for some secondary movements of asylum seekers within the EU.

Or. en

Justification

The amendment aims at aligning the text to the expansion of the family notion proposed under Article 2(g).

Amendment 4

Elly Schlein

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) 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 on account of the applicant's pregnancy or maternity, state of health or old age, should become 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. ***In order to discourage secondary 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 first has lodged his or her application for international protection, unless it is demonstrated that this would not be in the best interests of the child.*** Before transferring an

Amendment

(20) 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 on account of the applicant's pregnancy or maternity, state of health or old age, should become 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. ***When the applicant is a minor who is accompanied by a parent, an adult sibling or another adult responsible for the minor, the legal presence of another parent or adult responsible for him or her in a Member State should also become a binding responsibility criterion.*** Before transferring an unaccompanied minor to another Member State, the transferring Member State should ***obtain individualised***

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 **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/her best interests **by staff with the necessary qualifications and expertise.**

guarantees from the Member State **where the minor will be transferred that it** will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a **guardian** tasked with safeguarding respect for all the rights to which they are entitled. Any decision **on responsibility in accordance with this Regulation concerning** an unaccompanied minor should be preceded by **a multidisciplinary** assessment of his/her best interests **which shall involve, at a minimum, his or her guardian and legal advisor or counsellor**

Or. en

Justification

The amendment intends to cover situations in which the minor could not be reunited with another family member, relative or other adult responsible for him or her, only because accompanied by another adult.. The shadow rapporteur suggests to include guardian and legal advisor since they should be involved in a multidisciplinary assessment.

Amendment 5 **Elly Schlein**

Proposal for a regulation **Recital 21**

Text proposed by the Commission

(21) **Assuming responsibility by a Member State for examining an application lodged with it in cases when such examination is not its responsibility under the criteria laid down in this Regulation may undermine the effectiveness and sustainability of the system and should be exceptional. Therefore,** a Member State should be able to derogate from the responsibility criteria **only on humanitarian grounds, in particular for family reasons, before a Member State responsible has been determined** and examine an application for

Amendment

(21) A Member State should be able to derogate from the responsibility criteria and examine an application for international protection lodged with it or with another Member State, even if such examination is not its responsibility under the criteria laid down in this Regulation.

international protection lodged with it or with another Member State, even if such examination is not its responsibility under the **binding** criteria laid down in this Regulation.

Or. en

Justification

The shadow rapporteur doesn't support the limitations to the discretionary clause of Article 19 proposed by the EC.

Amendment 6 **Elly Schlein**

Proposal for a regulation **Recital 22**

Text proposed by the Commission

(22) In order to ensure that the aims of this Regulation are achieved and ***obstacles to its application are prevented, in particular in order to avoid absconding and secondary movements between*** Member States, ***it is necessary to establish clear obligations to be complied with by the applicant in the context of the procedure, of which he or she should be duly informed in a timely manner. 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.***

Amendment

(22) In order to ensure that the aims of this Regulation are achieved and ***its swift implementation, procedures should be put in place to ensure the cooperation of applicants and*** Member States, ***with a clear system of incentives and disincentives to ensure compliance. It is also necessary to ensure that all applicants are appropriately informed of the application of this Regulation. The support and protection of minors, in particular unaccompanied minors, should be strengthened***

Or. en

Amendment 7 **Elly Schlein**

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22 a) In order to increase applicants' understanding of the functioning of the Common European Asylum System (CEAS) it is necessary to significantly improve the provision of information. Investing in the early provision of accessible information to applicants will greatly increase their possibilities to understand, accept and follow the procedures of this Regulation. In order to reduce the administrative requirements and make effective use of common resources the European Union Asylum Agency should develop suitable information material, in close cooperation with the national authorities. The Agency should make full use of modern information technologies when developing that material. In order to properly assist asylum seekers the Agency should also develop audio-visual information material that can be used as a complement to written information materials. The Agency should be responsible for maintaining a dedicated website with information on the functioning of the CEAS for applicants and potential applicants designed to counter the often incorrect information provided to them by smugglers. The information material developed by the Agency should be translated and made available in all of the major languages spoken by asylum seekers arriving in Europe.

Or. en

Justification

The shadow rapporteur supports the rapporteur by highlighting that improved information to applicants is an investment for the European Union as well as for the Member States since it could potentially reduce important costs in other parts of the system. At the same time it would

contribute to a better understanding of the future Asylum System.

Amendment 8

Elly Schlein

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) 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 or the*** information provided by the applicant is sufficient for determining the Member State responsible . As soon as the application for international protection is lodged, the applicant should be informed in particular of the application of this Regulation, of the lack of choice as to which Member State will examine his or her asylum application; of his or her obligations under this Regulation and of the consequences of not complying with them

Amendment

(23) 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 information provided by the applicant is sufficient for determining the Member State responsible . As soon as the application for international protection is lodged, the applicant should be informed in particular of the application of this Regulation, of the lack of choice as to which Member State will examine his or her asylum application; of his or her obligations under this Regulation and of the consequences of not complying with them ***and of the possibility of presenting all further information which is relevant for correctly determining the Member State responsible before a final decision is taken, including the presence of family members or relatives in the Member States, and the existence of meaningful links with a Member State.***

The applicant should also be informed of all his or her rights, including the right to an effective remedy and legal assistance.

When the applicant is a minor, the interview has to be conducted in a child-friendly manner and with the presence of a guardian and, where applicable, the legal advisor or counsellor. The person conducting the interview shall be qualified and competent to take account of the personal and general circumstances

Justification

The amendment aims at aligning the text with the modifications proposed to Article 7.

Amendment 9
Elly Schlein

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) 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. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State is responsible on the basis that he has a family member or, for unaccompanied minors, a relative in another Member State. 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.***

Amendment

(24) 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. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State is responsible on the basis that he has a family member or, for unaccompanied minors, a relative in another Member State. 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.

Justification

The shadow rapporteur suggests to delete this since it would likely not be compatible with the requirements of article 47 of the Charter to limit the right of a remedy to only certain breaches of rights.

Amendment 10 **Elly Schlein**

Proposal for a regulation **Recital 25**

Text proposed by the Commission

Amendment

(25) *The Member State which is determined as responsible under this Regulation should remain responsible for examination of each and every application of that applicant, including any subsequent application, in accordance with Article 40, 41 and 42 of Directive 2013/32/EU, irrespective of whether the applicant has left or was removed from the territories of the Member States. Provisions in Regulation (EU) 604/2013 which had provided for the cessation of responsibility in certain circumstances, including when deadlines for the carrying out of transfers had elapsed for a certain period of time, had created an incentive for absconding, and should therefore be removed.* **deleted**

Or. en

Justification

The shadow rapporteur does not support the principle of permanent responsibility as proposed by the EC.

Amendment 11 **Elly Schlein**

Proposal for a regulation **Recital 27**

Text proposed by the Commission

(27) 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. 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 2013/33/EU also to persons detained on the basis of this Regulation.

Amendment

(27) 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 **limited to exceptional cases and** for as short a period as possible and subject to the principles of necessity and proportionality. **Minors shall never be detained.** In particular, the detention of applicants must be in accordance with Article 31 of the Geneva Convention **and which shall fully respect the person's fundamental rights.** 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 2013/33/EU also to persons detained on the basis of this Regulation.

Or. en

Justification

The shadow rapporteur suggests this amendment in order to align it with the proposed change made in Article 29 - paragraph 4.

Amendment 12
Elly Schlein

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Proper registration of all asylum applications in the EU under a unique application number should help detect multiple applications and **prevent irregular**

Amendment

(29) Proper registration of all asylum applications in the EU under a unique application number should help detect multiple applications and **facilitate**

secondary movements and asylum shopping. An automated system should be established for the purpose of facilitating the application of this Regulation. It should enable registration of asylum applications lodged in the EU, effective monitoring of the share of applications of each Member State and a correct application of the corrective allocation mechanism.

implementation of this Regulation. An automated system should be established for the purpose of facilitating the application of this Regulation. It should enable registration of asylum applications lodged in the EU, effective monitoring of the share of applications of each Member State and a correct application of the corrective allocation mechanism.

Or. en

Amendment 13

Elly Schlein

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the ***corrective*** allocation mechanism ***in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure.*** The application of the ***corrective*** allocation ***for the benefit of a Member State*** should be ***triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds 150% of the figure identified in the reference key.*** In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.

Amendment

(32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the allocation mechanism, ***in order to implement the principles of solidarity and fair sharing of responsibility on asylum among Member States enshrined in Article 80 TFEU.*** The application of the allocation ***mechanism*** should be ***permanent and automatic, whenever a Member State responsible could not be determined according to the criteria set out in Chapter III and IV of this Regulation.*** In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection ***for which the Member State is responsible,*** for the purposes of this calculation.

Or. en

Amendment 14

Elly Schlein

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) When the allocation mechanism applies, the applicants who lodged their applications in the ***benefitting*** Member State should be allocated to Member States which are below their share of applications on the basis of the reference key as applied to those Member States. Appropriate rules should be provided for in cases where an applicant may for serious reasons be considered a danger to national security or public order, especially rules as regards the exchange of information between competent asylum authorities of Member States. After the transfer, the Member State of allocation should ***determine the Member State responsible, and should become responsible for examining the application, unless the overriding responsible criteria, related in particular to the presence of family members, determine that a different Member State should be responsible.***

Amendment

(33) When the allocation mechanism applies, the applicants who lodged their applications in the ***determining*** Member State should be allocated to Member States which are below their share of applications on the basis of the reference key as applied to those Member States. Appropriate rules should be provided for in cases where an applicant may for serious reasons be considered a danger to national security or public order, especially rules as regards the exchange of information between competent asylum authorities of Member States. After the transfer the Member State of allocation should ***examine the application, unless new elements demonstrates that another Member State should be responsible according to the criteria set out in Chapter III and IV of this Regulation, and in particular those related to the presence of family members.***

Or. en

Amendment 15
Elly Schlein

Proposal for a regulation
Recital 33 a (new)

Text proposed by the Commission

Amendment

(33 a) Member State should ensure that procedures are efficient and allow applicants for international protection to be promptly relocated to other Member States. With a view to avoid costly and time-consuming secondary transfers and in order to provide an efficient access to family unity for applicants whilst not unduly overburdening frontline Member

States a light family reunification procedure should be envisaged which would allow for the transfer of applicants that are likely to meet the relevant criteria to allow them to be reunited with family members in a particular Member State.

Or. en

Justification

Related with the "light family reunification procedure" under Article 13a. The shadow rapporteur supports the proposal of the rapporteur and believes such a procedure should be always available for the determining Member States dealing with an application, and not only in the cases where the allocation mechanism applies.

Amendment 16
Elly Schlein

Proposal for a regulation
Recital 35

Text proposed by the Commission

Amendment

(35) A Member State of allocation may decide not to accept the allocated applicants during a twelve months-period, in which case it should enter this information in the automated system and notify the other Member States, the Commission and the European Union Agency for Asylum. Thereafter the applicants that would have been allocated to that Member State should be allocated to the other Member States instead. The Member State which temporarily does not take part in the corrective allocation should make a solidarity contribution of EUR 250,000 per applicant not accepted to the Member State that was determined as responsible for examining those applications. The Commission should lay down the practical modalities for the implementation of the solidarity contribution mechanism in an implementing act. The European Union Agency for Asylum will monitor and ***deleted***

report to the Commission on a yearly basis on the application of the financial solidarity mechanism.

Or. en

Justification

The shadow rapporteur believes there should not be a way to buy out of the allocation mechanism, as it would violate the principles of solidarity and fair sharing of responsibility enshrined in Article 80 TFEU.

Amendment 17 **Elly Schlein**

Proposal for a regulation **Recital 47**

Text proposed by the Commission

(47) The examination procedure should be used for the adoption of a ***common leaflet on Dublin/Eurodac, as well as a specific leaflet for unaccompanied minors; 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 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 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.

Amendment

(47) 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 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 certificate; ***of a common vulnerability certificate, including relevant information on the follow-up of cases with traumatic background***; 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.

Or. en

Justification

The shadow rapporteur suggests to align the text with the modifications proposed to Article 6(3), which aim at giving to the European Asylum Agency responsibility on developing common information material.

Amendment 18 **Elly Schlein**

Proposal for a regulation **Recital 52**

Text proposed by the Commission

(52) In order to assess whether the ***corrective*** allocation mechanism in this Regulation is meeting the objective of ensuring a fair sharing of responsibility between Member States and of relieving disproportionate pressure on certain Member States, the Commission should review the functioning of the ***corrective*** allocation mechanism and in particular verify that the ***threshold for the triggering and cessation of the corrective*** allocation effectively ensures a fair sharing of responsibility between the Member States and a swift access of applicants to procedures for granting international protection ***in situations when a Member State is confronted with a disproportionate number of applications for international protection for which it is responsible under this Regulation.***

Amendment

(52) In order to assess whether the allocation mechanism in this Regulation is meeting the objective of ensuring a fair sharing of responsibility between Member States and of relieving disproportionate pressure on certain Member States, the Commission should review the functioning of the allocation mechanism and in particular verify that the allocation effectively ensures a fair sharing of responsibility between the Member States and a swift access of applicants to procedures for granting international protection.

Or. en

Amendment 19 **Elly Schlein**

Proposal for a regulation **Article 1 – paragraph 1**

Text proposed by the Commission

This Regulation lays down the criteria and

Amendment

This Regulation lays down the criteria and

mechanisms for determining the *single* 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 ('the Member State responsible').

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 ('the Member State responsible').

Or. en

Justification

In accordance with the deletion of the principle of permanent responsibility, this article should be amended accordingly.

Amendment 20 **Elly Schlein**

Proposal for a regulation **Article 2 – paragraph 1 – point a**

Text proposed by the Commission

(a) 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU and who is not national of a State which participates in this Regulation by virtue of an agreement with the Union;

Amendment

(a) 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU, ***including stateless persons pursuant to Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons*** and who is not national of a State which participates in this Regulation by virtue of an agreement with the Union;

Or. en

Justification

Taking into consideration Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons, the shadow rapporteur believes that this notion should be included in the definition of "third country nationals".

Amendment 21 **Elly Schlein**

Proposal for a regulation **Article 2 – paragraph 1 – point c**

Text proposed by the Commission

(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 yet been taken;

Amendment

(c) ‘applicant’ means a third-country national or a stateless person ***pursuant to Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons*** who has made an application for international protection in respect of which a final decision has not yet been taken;

Or. en

Justification

Taking into consideration Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons, the shadow rapporteur believes that this notion should be included in the definition of “third country nationals”.

Amendment 22

Elly Schlein

Proposal for a regulation

Article 2 – paragraph 1 – point f

Text proposed by the Commission

(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(a) of Directive 2011/95/EU;

Amendment

(f) ‘beneficiary of international protection’ means a third-country national or a stateless person ***pursuant to Article 1(1) of the 1954 Convention Relating to the Status of Stateless Person*** who has been granted international protection as defined in Article 2(a) of Directive 2011/95/EU;

Or. en

Justification

Taking into consideration Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons, the shadow rapporteur believes that this notion should be included in the definition of “third country nationals”.

Amendment 23

Elly Schlein

Proposal for a regulation

Article 2 – paragraph 1 – point g – indent 2

Text proposed by the Commission

- the **minor children** of couples referred to in the first indent or of the applicant, **on condition that they are unmarried and** regardless of whether they were born in or out of wedlock or adopted as defined under national law,

Amendment

- the **sons and daughters** of couples referred to in the first indent or of the applicant, regardless of whether they were born in or out of wedlock or adopted as defined under national law,

Or. en

Justification

The shadow rapporteur considers that the sons and daughters of the applicant should be considered as family members regardless of their age or marital status.

Amendment 24

Elly Schlein

Proposal for a regulation

Article 2 – paragraph 1 – point g – indent 3

Text proposed by the Commission

- **when the applicant is a minor and unmarried**, 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**,

Amendment

- **the mother and** the father **of** the applicant **or beneficiary of international protection**,

Or. en

Justification

The shadow rapporteur suggests to strengthen the provisions and guarantees on family reunification by also extending the definition of family members, which in practice turned out to be too restrictive and distant from the complex reality of family links of applicants. In particular, the mother and the father of the applicant should be considered as family members regardless of the age and marital status of the applicant.

Amendment 25

Elly Schlein

Proposal for a regulation

Article 2 – paragraph 1 – point g – indent 4

Text proposed by the Commission

- **when the** beneficiary of international protection is a minor **and unmarried**, 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,

Amendment

- **if the applicant or** beneficiary of international protection is a minor, **the mother**, the father or another adult responsible for him or her whether by law or by the practice of the Member State where the **adult or beneficiary of international protection** is present,

Or. en

Justification

The shadow rapporteur suggests to strengthen the provisions and guarantees on family reunification by also extending the definition of family members, which in practice turned out to be too restrictive and distant from the complex reality of family links of applicants. In particular, when the applicant is a minor, the same provisions also apply in the case of another adult responsible for him or her.

Amendment 26

Elly Schlein

Proposal for a regulation

Article 2 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(g a) - the grandparents of the applicant or beneficiary of international protection;

Or. en

Justification

The current limited scope of the definition of family members is one of the key factors leading to onward movement. The shadow rapporteur proposes consequently to expand the definition of family members.

Amendment 27

Elly Schlein

Proposal for a regulation
Article 2 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

(g b) - the grandchildren of the applicant;

Or. en

Justification

The current limited scope of the definition of family members is one of the key factors leading to onward movement. The shadow rapporteur proposes consequently to expand the definition of family members.

Amendment 28
Elly Schlein

Proposal for a regulation
Article 2 – paragraph 1 – point h

Text proposed by the Commission

Amendment

(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;

(h) ‘relative’ means the applicant’s aunt or uncle or **cousin** 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;

Or. en

Justification

The current limited scope of the definition of relative is one of the key factors leading to onward movement. The shadow rapporteur proposes consequently to expand the definition of relative.

Amendment 29
Elly Schlein

Proposal for a regulation
Article 2 – paragraph 1 – point k

Text proposed by the Commission

Amendment

(k) **'representative'** means a person or an organisation appointed **by the competent bodies in order** to assist and represent an unaccompanied minor **in procedures provided for in this Regulation** with a view to **ensuring** the best interests of the child and **exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out its duties in respect of the minor, in accordance with this Regulation;**

(k) **'guardian'** means a person or an organisation appointed 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 all procedures provided for in this Regulation and exercising legal capacity for the minor where necessary;**

Or. en

Justification

The suggested amendment seeks to align the terminology with the Asylum Procedures Regulation (APR) and Reception Conditions Directive (RCD) that substituted the term "representative" with "guardian".

Amendment 30
Elly Schlein

Proposal for a regulation
Article 2 – paragraph 1 – point p a (new)

Text proposed by the Commission

Amendment

(p a) - 'sponsor' means a European citizen , or a third country national legally residing in a Member State for a period of at least one year, or an entity registered, that respect the requirements set out in the delegated act referred to in Article 18a, paragraph 3.

Or. en

Justification

The suggested amendment is in line with the intention to allow private individuals -- be them EU citizen or third country nationals legally residing in the EU to act as a point of reference and provide for an applicant until his or her application has been examined. A similar reasoning

might apply to non - profit organisations or firms. The eligibility requirements shall be set out in a delegated act.

Amendment 31
Elly Schlein

Proposal for a regulation
Article 2 – paragraph 1 – point q – introductory part

Text proposed by the Commission

(q) ‘resettled person’ means a person subject to **the** process of resettlement whereby, on a request **from** the United Nations High Commissioner for Refugees (‘UNHCR’) **based on a person’s need for international protection**, third-country nationals are transferred from a third country and established in a Member State where they are permitted to reside with one of the following statuses:

Amendment

(q) ‘resettled person’ means a person subject to **a** process of resettlement whereby, on a request **based on a person’s need for international protection by** the United Nations High Commissioner for Refugees (‘UNHCR’) **or by other entities or sponsors having concluded a dedicated agreement with the relevant Members State’s authorities**, third-country nationals are transferred from a third country and established in a Member State where they are permitted to reside with one of the following statuses:

Or. en

Justification

The shadow rapporteur suggests this amendment to expand the notion of resettled person valid for the purpose of this Regulation in order to embrace other legal avenues for seeking and obtaining international protection in European soil, such as sponsorships or pilot projects of humanitarian corridors (such as the one operating in Italy).

Amendment 32
Elly Schlein

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

1. Member States shall examine any application for international protection by a third-country national or a stateless person

Amendment

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, which shall be the one which the criteria set out in Chapter III indicate is responsible.

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 Member State, which shall be the one which the criteria set out in Chapter III, **IV and VII** indicate is responsible.

Or. en

Justification

In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the Resolution on migration and refugees in Europe approved in September 2015, the shadow rapporteur is proposing a centralised, permanent and automatic mechanism of fair distribution of responsibilities among Member States.

Amendment 33

Elly Schlein

Proposal for a regulation

Article 3 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Where no Member State responsible can be designated on the basis of the criteria listed in this Regulation, the **first** Member State in which the application for international protection **was lodged** shall be **responsible for examining it**.

Amendment

Where no Member State responsible can be designated on the basis of the criteria listed in this Regulation, the Member State in which the application for international protection shall be **determined by the allocation mechanism pursuant to Chapter VII**.

Or. en

Justification

In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the Resolution on migration and refugees in Europe approved in September 2015, the shadow rapporteur is proposing a centralised, permanent and automatic mechanism of fair distribution of responsibilities among Member States.

Amendment 34

Elly Schlein

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where it is impossible to transfer an applicant to the Member State primarily designated as responsible because there are substantial grounds for believing that ***there are systemic flaws in the asylum procedure and in the reception conditions for applicants*** 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 III in order to establish whether another Member State can be designated as responsible.

Amendment

Where it is impossible to transfer an applicant to the Member State primarily designated as responsible because there are substantial grounds for believing that ***the applicant's fundamental rights would be violated*** 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 III in order to establish whether another Member State can be designated as responsible.

Or. en

Justification

The definition of systemic flaws has led to divergent interpretations and rulings, therefore the shadow rapporteur suggests an approach more focused on the applicant's fundamental rights, in accordance with the ECtHR case law.

Amendment 35
Elly Schlein

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 3

Text proposed by the Commission

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

Amendment

Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in Chapter III, ***the*** Member State ***responsible shall be determined by the allocation mechanism pursuant to Chapter VII.***

Or. en

Justification

In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the Resolution on migration and refugees in Europe approved in September 2015, the shadow rapporteur is proposing a centralised, permanent and automatic mechanism of fair distribution of responsibilities among Member States.

Amendment 36 **Elly Schlein**

Proposal for a regulation **Article 3 – paragraph 3**

Text proposed by the Commission

Amendment

3. Before applying the criteria for determining a Member State responsible in accordance with Chapters III and IV, the first Member State in which the application for international protection was lodged shall:

deleted

(a) examine whether the application for international protection is inadmissible pursuant to Article 33(2) letters b) and c) of Directive 2013/32/EU when a country which is not a Member State is considered as a first country of asylum or as a safe third country for the applicant; and

(b) examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU when the following grounds apply:

(i) the applicant has the nationality of a third country, or he or she is a stateless person and was formerly habitually resident in that country, designated as a safe country of origin in the EU common list of safe countries of origin established under Regulation [Proposal COM (2015) 452 of 9 September 2015]; or

(ii) the applicant may, for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly

expelled for serious reasons of public security or public order under national law.

Or. en

Justification

The shadow rapporteur is convinced that the paragraph shall be deleted. The inadmissibility and pre-Dublin checks would not only put additional burden on front-line Member States, constituting an improper anticipation of the examination of the application, but also create an extremely discretionary filter to applications for asylum in the EU, in violation of the Geneva Convention.

Amendment 37
Elly Schlein

Proposal for a regulation
Article 3 – paragraph 4

Text proposed by the Commission

Amendment

4. *Where the Member State considers an application inadmissible or examines an application in accelerated procedure pursuant to paragraph 3, that Member State shall be considered the Member State responsible.* ***deleted***

Or. en

Justification

The shadow rapporteur is convinced that the paragraph shall be deleted, as a consequence of deleting Article 3(3). The inadmissibility and pre-Dublin checks would not only put additional burden on front-line Member states, constituting an improper anticipation of the examination of the application, but also create an extremely discretionary filter to applications for asylum in the EU, in violation of the Geneva Convention.

Amendment 38
Elly Schlein

Proposal for a regulation
Article 3 – paragraph 5

Text proposed by the Commission

Amendment

5. ***The Member State which has examined an application for international protection, including in the cases referred to in paragraph 3, shall be responsible for examining any further representations or a subsequent application of that applicant in accordance with Article 40, 41 and 42 of Directive 2013/32/EU, irrespective of whether the applicant has left or was removed from the territories of the Member States.***

deleted

Or. en

Justification

The shadow rapporteur doesn't support the principle of the permanent responsibility as proposed by the EC.

Amendment 39
Elly Schlein

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. The applicant shall submit as soon as possible ***and at the latest during the interview pursuant to Article 7, all*** the elements and information relevant for determining the Member State responsible ***and cooperate with the competent authorities of the Member States.***

2. The applicant shall submit as soon as possible ***all the available elements and information relevant for determining the Member State responsible and cooperate with the competent authorities of the Member States. The competent authorities shall take into account*** the elements and information relevant for determining the Member State responsible ***submitted at any stage of the procedure, provided they have been submitted before the final decision determining the Member State responsible. In the period between the final decision and the actual transfer to a designated Member State, other elements provided by the applicant shall exceptionally be taken into consideration***

if the delay in submitting them is due to force majeure.

Or. en

Amendment 40
Elly Schlein

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Amendment

1. If an applicant does not comply with the obligation set out in Article 4(1), the Member State responsible in accordance with this Regulation shall examine the application in an accelerated procedure, in accordance with Article 31(8) of Directive 2013/32/EU.

deleted

Or. en

Amendment 41
Elly Schlein

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. The applicant shall not be entitled to the reception conditions set out in Articles 14 to 19 of Directive 2013/33/EU, with the exception of emergency health care, during the procedures under this Regulation in any Member State other than the one in which he or she is required to be present.

deleted

Or. en

Amendment 42
Elly Schlein

Proposal for a regulation
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. As soon as an application for international protection is **lodged** within the meaning of Article 21(2) in a Member State, its competent authorities shall inform the applicant of the application of this Regulation **and of the obligations set out in Article 4 as well as the consequences of non-compliance set out in Article 5**, and in particular :

Amendment

1. As soon as an application for international protection is **made** within the meaning of Article 27 (**Proposal for the Asylum Procedures Regulation**) in a Member State, its competent authorities shall inform the applicant of the application of this Regulation, and in particular :

Or. en

Justification

The shadow rapporteur believes that the applicant should be fully informed of the application of this Regulation as soon as possible. This amendment is suggested since it would facilitate the process of gathering relevant information, as applicants would have more time to produce relevant documentation. This would also anticipate other relevant procedures such as family tracing, thus reducing the length of family reunion procedures, in particular concerning minors.

Amendment 43

Elly Schlein

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) that the right to apply for international protection does not encompass **any** choice of the applicant which Member State shall be responsible for examining the application for international protection;

Amendment

(a) that the right to apply for international protection does not encompass **a** choice of the applicant which Member State shall be responsible for examining the application for international protection, **except when provided within the allocation mechanism under the terms of Chapter VII.**

Or. en

Amendment 44

Elly Schlein

Proposal for a regulation

Article 6 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) of the right for the applicant to provide information about the presence in any Member State of meaningful links relevant under the provisions of Chapter VII of this Regulation

Or. en

Justification

This amendment is in line with the system proposed by the shadow rapporteur, that foresees, within the functioning of the allocation mechanism under Chapter VII, the possibility to take into consideration to the extent possible the meaningful links of applicants with the Member States.

Amendment 45

Elly Schlein

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(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 obliged to be present during the phases in which the Member State responsible under this Regulation is being determined and the application for international protection is being examined , ***in particular that the applicant shall not be entitled to the reception conditions set out in Articles 14 to 19 of Directive 2013/33/EU in any Member State other than the one where he or she is required to be present, with the exception of emergency health care ;***

(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 obliged to be present during the phases in which the Member State responsible under this Regulation is being determined and the application for international protection is being examined.

Or. en

Justification

The shadow rapporteur does not support the sanctions proposed by the EC, which would leave people without access to basic reception conditions. A more rights-based approach, with

incentives and disincentives to comply is suggested, in line with what proposed by the rapporteur.

Amendment 46
Elly Schlein

Proposal for a regulation
Article 6 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) of the provisions relating to family reunification, including the possibility provided by Article 13a, and in this regard on the applicable definition of family members and relatives as well as of the need for the applicant to disclose early in the procedure any relevant information that can help to establish the whereabouts of family members or relatives present in other Member States, as well as any assistance that the Member State can offer with regard to the tracing of family members, relatives, or other family relations.

Or. en

Justification

The shadow rapporteur supports the idea of the rapporteur to introduce this amendment in order to clarify the provisions of information on family reunification procedures, and would like to extend it to other family relations.

Amendment 47
Elly Schlein

Proposal for a regulation
Article 6 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) of the personal interview pursuant to Article 7 ***and the obligation of submitting and substantiating*** information

(d) ***of the purpose*** of the personal interview pursuant to Article 7 ***as well as what*** information ***the applicant will be***

regarding 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;

asked to submit for the purpose of determining responsibility, including for the application of the discretionary clause;

Or. en

Justification

The shadow rapporteur suggests this amendment to strengthen the provision of information in relation to the personal interview and the application of the discretionary clause.

Amendment 48
Elly Schlein

Proposal for a regulation
Article 6 – paragraph 1 – point e

Text proposed by the Commission

(e) of the possibility to challenge a transfer decision *within 7 days after notification and of the fact that this challenge shall be limited to an assessment of whether Articles 3(2) in relation to the existence of a risk of inhuman or degrading treatment or Articles 10 to 13 and 18 are infringed upon ;*

Amendment

(e) of the possibility *and modalities* to challenge a transfer decision *and the right to have an effective remedy before a court or tribunal in accordance with Article 28, including in a situation where no transfer decision is taken.*

Or. en

Justification

The shadow rapporteur supports the amendment proposed by the rapporteur which intends to take into account the modifications proposed in article 28.

Amendment 49
Elly Schlein

Proposal for a regulation
Article 6 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(e a) of the right to request free legal assistance and representation at all stages of the procedure.

Or. en

Justification

The shadow rapporteur believes that the applicant should be informed of the possibility to be provided with free legal assistance at all stages of the procedure.

Amendment 50
Elly Schlein

Proposal for a regulation
Article 6 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

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 ***leaflet*** drawn up pursuant to paragraph 3 for that purpose.

The information referred to in paragraph 1 shall be provided in writing in a language that the applicant understands ***and in an easily understandable form. Specific material should be provided for minors***. Member States shall use the common ***information material*** drawn up pursuant to paragraph 3 for that purpose. ***The information shall be provided as soon as the application is made. The information shall be provided both in written and oral form, where appropriate with the support of multimedia equipment.***

Or. en

Justification

It is important for the shadow rapporteur to ensure that applicants, and in particular unaccompanied minors, are provided with easily understandable information material at the earliest stage of the procedure.

Amendment 51
Elly Schlein

Proposal for a regulation
Article 6 – paragraph 3

Text proposed by the Commission

3. The *Commission* shall, *by means of implementing acts*, draw up *a common leaflet, as well as a specific leaflet for unaccompanied minors*, containing at least the information referred to in paragraph 1 of this Article. *This common leaflet* shall also include information regarding the application of Regulation (EU) [Proposal for a Regulation recasting Regulation No 603/2013] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common *leaflet* shall be established in such a manner as to enable Member States to complete it with additional Member State-specific information. *Those implementing acts* shall *be adopted in accordance with the examination procedure referred to in Article 56(2) of this Regulation*.

Amendment

3. The *European Asylum Agency* shall, *in close cooperation with the responsible national agencies*, draw up common *information materials* containing at least the information referred to in paragraph 1 of this Article. *That common information material* shall also include information regarding the application of Regulation (EU) [Proposal for a Regulation recasting Regulation No 603/2013] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common *information material shall include information on Member States for the purposes of the allocation mechanism under Chapter VII, and* shall be established in such a manner as to enable Member States to complete it with additional Member State-specific information. *The European Asylum Agency shall create specific information material intended particularly for the following target groups:*

- a) adult applicants;*
- b) unaccompanied minors;*
- c) accompanied minors.*

Or. en

Justification

The shadow rapporteur believes that asylum seekers should be provided with all the necessary and accurate information about the procedures that they are expected to follow. The shadow rapporteur supports the amendment of the rapporteur, and the idea of giving responsibility to the European asylum agency in developing information material, and believes that the general information should also cover the functioning of the allocation mechanism.

Amendment 52
Elly Schlein

Proposal for a regulation
Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The competent authorities of the Member States shall keep the applicants informed on the progress of the procedures carried out under this Regulation with regard to their application. Such information shall be provided in writing at regular intervals, at least every two weeks. In the case of minors, the competent authorities shall inform both the minor and the guardian with the same modalities. The Commission shall be empowered to adopt an implementing act to establish the modalities for the provision of such information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Or. en

Justification

The shadow rapporteur supports the idea of the rapporteur that it is essential that the applicants are kept informed about the progress of their application in order to secure the trust in the asylum system.

Amendment 53
Elly Schlein

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant, ***unless the applicant has absconded or the information provided by the applicant pursuant to Article 4(2) is***

1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant. The interview shall also allow the proper understanding of the information supplied to the applicant in

sufficient for determining the Member State responsible . The interview shall also allow the proper understanding of the information supplied to the applicant in accordance with Article 6.

accordance with Article 6.

Or. en

Amendment 54
Elly Schlein

Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The Member State may dispense with the personal interview where the information provided by the applicant pursuant to Article 4(2) is sufficient for determining the Member State responsible. The Member State dispensing with the interview shall give the applicant the opportunity to present all further information which is relevant for correctly determining the Member State responsible before a final decision is taken to transfer the applicant to the Member State responsible pursuant to Article 30(1). In the period between the final decision and the actual transfer to a designated Member State, Member States shall exceptionally take into consideration other elements provided by the applicant if the delay in submitting them is due to force majeure.

Or. en

Justification

It is suggested by the shadow rapporteur to give the applicants the opportunity to submit further evidence until a final decision is taken, and in addition that some relevant information could be provided in the phase immediately after the adoption of the decision if the delay is due to force majeure.

Amendment 55

Elly Schlein

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

2. The personal interview shall take place in a timely manner and, in any event, before any ***take charge request pursuant to Article 24 is made*** .

Amendment

2. The personal interview shall take place in a timely manner and, in any event, before any ***decision on the substance is taken***.

Or. en

Amendment 56

Elly Schlein

Proposal for a regulation

Article 7 – paragraph 3

Text proposed by the Commission

3. The personal interview shall be conducted in a language that the applicant understands or is reasonably supposed to understand and in which he or she is able to communicate. Where necessary, Member States shall have recourse to ***an*** interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.

Amendment

3. The personal interview shall be conducted in a language that the applicant understands or is reasonably supposed to understand and in which he or she is able to communicate. ***When the applicant is a minor, the personal interview shall be conducted in a child-friendly manner and with the presence of the guardian and, where applicable, the legal advisor or counsellor*** . Where necessary, Member States shall have recourse to ***a qualified*** interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.

Or. en

Justification

It is suggested by the shadow rapporteur to give the applicant, in particular the minor, to be provided of all necessary legal and linguistic guarantees at all stages of the interview.

Amendment 57

Elly Schlein

Proposal for a regulation

Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The person conducting the interview shall be competent to take account of the personal and general circumstances surrounding the application, including the applicant's cultural origin, age, gender, sexual orientation, gender identity, and vulnerability. Personnel interviewing applicants shall also have acquired general knowledge of problems which could adversely affect the applicant's ability to be interviewed, such as indications that the person may have been tortured in the past. The applicant may request to be interviewed and assisted by personnel of the same sex, provided that this is possible.

Or. en

Justification

It is important that the interview shall be conducted in the most professional and accurate manner. Therefore the shadow rapporteur suggests this amendment, to ensure that the person conducting the interview is sufficiently qualified to support and understand the personal and general circumstances through which the applicant may have gone through.

Amendment 58

Elly Schlein

Proposal for a regulation

Article 7 – paragraph 5

Text proposed by the Commission

Amendment

5. The Member State conducting the personal interview shall make a written summary thereof which shall contain at least the main information supplied by the

5. The Member State conducting the personal interview shall make a written summary thereof which shall contain at least the main information supplied by the

applicant at the interview. This summary may either take the form of a report or a standard form. The Member State shall ensure that the applicant **and/or** the legal advisor or **other** counsellor who is representing the applicant have **timely** access to the summary.

applicant at the interview. ***The information in the summary shall be verified with the applicant and, where relevant, the guardian and/or legal advisor or counsellor, during the interview.*** This summary may either take the form of a report or a standard form. The Member State shall ensure that the applicant **and/ or the guardian**, the legal advisor or counsellor who is representing the applicant have access to the summary ***as soon as possible after the interview, and in any case before a transfer decision is taken.***

Or. en

Justification

Late access to the summary of the interview can mean that applicants cannot correct erroneous information before a transfer decision is taken. This means that only at appeals stage the applicant would be able to discover if the authorities recorded information in a wrong manner.

Amendment 59

Elly Schlein

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State where an unaccompanied minor is ***obliged to be*** present shall ensure that a ***representative*** represents and/or assists the unaccompanied minor with respect to ***the relevant*** procedures provided for in this Regulation. The ***representative*** shall have the qualifications ***and expertise*** to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such ***representative*** shall have access to the content of the relevant documents in the applicant's file including the specific ***leaflet*** for unaccompanied minors.

Amendment

Each Member State where an unaccompanied minor is present shall ensure that a ***guardian*** represents and/or assists the unaccompanied minor with respect to ***all*** procedures provided for in this Regulation. The ***guardian*** shall have the qualifications, ***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 a ***guardian*** shall have access to the content of the relevant documents in the applicant's file including the specific ***information materials*** for unaccompanied minors. ***The guardian shall be appointed as soon as***

possible, but at the latest within five days from the making of the application.

Or. en

Justification

A child should always have access to a qualified guardian independent from the authorities responsible for implementing the Dublin Regulation, that should be appointed as soon as possible, at the latest within five days from the making of the application.

Amendment 60
Elly Schlein

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The guardian shall be involved in the process of establishing Member State responsibility under this Regulation to the greatest extent possible. To that end, the guardian shall support the minor to provide information relevant to the assessment of their best interests in accordance with paragraph 3, including exercise their right to be heard, and shall support the minor's engagement with other actors, such as family tracing organisations, where appropriate for this purpose, and with due regard to confidentiality obligations to the child.

Such a guardian shall have access to the content of the relevant documents in the minor's file including the specific information material for unaccompanied minors and the forms provided for in Article 6.

The guardian shall ensure the minor has access to information, legal advice and representation concerning the procedures under this Regulation and shall keep the minor informed on the progress in the procedures under this Regulation concerning him or her.

Guardians shall receive regular training and support to undertake their tasks.

The Commission shall, by means of implementing acts, provide rules on the qualifications of and training for guardians, the modalities for their engagement with other actors, with due regard for confidentiality and data protection obligations.

Or. en

Justification

Member States shall ensure that guardians and staff of competent authorities working on cases involving children have the necessary qualifications, expertise and skills and receive the necessary training and support to work with children, including knowledge on child rights, psychology and development, communication with children and multidisciplinary best interests' assessments.

Amendment 61
Elly Schlein

Proposal for a regulation
Article 8 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. situations of vulnerability, including abuse, trauma, specific health needs and disability;

Or. en

Justification

It is important to include in the assessment of the best interests of the child the consideration of vulnerability, abuse, trauma, specific health needs and disability.

Amendment 62
Elly Schlein

Proposal for a regulation
Article 8 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. the need for decisions concerning children to be treated with priority;

Or. en

Justification

The rapporteur believes that the proposed amendment will reinforce the proper care for children which will allow authorities to build trust with the minors.

Amendment 63
Elly Schlein

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. ***Before transferring an unaccompanied minor to the Member State responsible or, where applicable, to the Member State of allocation, the transferring Member State shall make sure that the Member State responsible or the Member State of allocation takes the measures referred to in Articles 14 and 24 of Directive 2013/33/EU and Article 25 of Directive 2013/32/EU without delay. Any decision to transfer an unaccompanied minor shall be preceded by an assessment of his/her best interests. The assessment shall be based on the factors listed in paragraph 3. The assessment shall be done swiftly by staff with the qualifications and expertise to ensure that the best interests of the minor are taken into consideration.***

4. ***Any decision on the Member State responsible or, where applicable, on the Member State of allocation concerning an unaccompanied minor shall be preceded by a multidisciplinary assessment of his/her best interests, carried out by the competent judicial or administrative authorities according to the national law of the Member State. The assessment shall be based on the factors listed in paragraph 3 and the conclusions of the assessment on each of the factors shall be clearly stated in the decision on responsibility. The multidisciplinary assessment shall involve competent staff with expertise in child rights, psychology and development and shall involve, at a minimum, the minor's guardian and legal advisor or counsellor.***

Before any transfer of an unaccompanied minor, the transferring Member State shall make sure that the Member State responsible or the Member State of allocation takes the measures referred to in Articles 14 and 24 of Directive 2013/33/EU and Article 25 of Directive

Justification

The proposed wording reflects the idea that any decision to transfer of an unaccompanied minor shall be preceded by a multidisciplinary assessment of his/her the best interest. . At a minimum, the guardian and legal advisor should be involved in the multidisciplinary assessment.

Amendment 64
Elly Schlein

Proposal for a regulation
Article 8 – paragraph new5 – subparagraph 1

Text proposed by the Commission

For the purpose of applying **Article 10**, the Member State where the unaccompanied minor **lodged** an application for international protection shall, as soon as possible, 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.

Amendment

For the purpose of applying **Articles 10 and 19**, the Member State where the unaccompanied minor **made** an application for international protection shall, as soon as possible, take appropriate action to identify the family members, **relatives or any other family relations** of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.

Justification

It is suggested by the shadow rapporteur that family tracing can be initiated at the moment where an application is made to ensure that it starts as soon as possible. Further, family tracing should not be limited to family members and relatives, but should extend to other family relations present on the territory of the MS. In such cases, the child could be reunited with broader family also on the basis of the discretionary clauses (Art. 19).

Amendment 65
Elly Schlein

Proposal for a regulation
Article 8 – paragraph new5 – subparagraph 3

Text proposed by the Commission

The staff of the competent authorities referred to in Article 47 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors.

Amendment

The staff of the competent authorities referred to in Article 47 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors, ***including training on child rights, psychology and development.***

Or. en

Justification

This amendment is suggested to further specify what training the authorities dealing with children should receive to ensure that children's best interests are respected throughout the procedures under the Regulation.

Amendment 66

Elly Schlein

Proposal for a regulation

Article 8 – paragraph 6

Text proposed by the Commission

6. With a view to facilitating the appropriate action to identify the family members or relatives of the unaccompanied minor living in the territory of another Member State pursuant to paragraph 5 of this Article, the Commission shall adopt implementing 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 56(2).

Amendment

6. ***The Commission shall, by means of a delegated act in accordance with this Article lay down the rules and procedures with regards to the transnational cooperation for the assessment of the best interests of the child.*** With a view to facilitating the appropriate action to identify the family members or relatives of the unaccompanied minor living in the territory of another Member State pursuant to paragraph 5 of this Article, the Commission shall adopt implementing 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 56(2).

Or. en

Justification

It would be better to have a delegated act specifying the obligation and modalities for Member States to cooperate among them for the assessment of the best interests of the child.

Amendment 67

Elly Schlein

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The criteria for determining the Member State responsible shall be applied in the order in which they are set out in ***Chapter III, IV and VII of this Regulation***.

Or. en

Justification

In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the Resolution on migration and refugees in Europe approved in September 2015, the shadow rapporteur is proposing a centralised, permanent and automatic mechanism of fair distribution of responsibilities among Member States. In addition, the shadow rapporteur doesn't support the principle of permanent responsibility as proposed by the EC.

Amendment 68

Elly Schlein

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

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 applicant first lodged his or her application for international protection with a Member State.

Amendment

2. The Member State responsible in accordance with the criteria set out in ***these Chapters*** shall be determined on the basis of the situation obtaining when the applicant first lodged his or her application for international protection with a Member State.

Justification

The amendment is a consequence of the amendment on the first paragraph of the same Article.

Amendment 69

Elly Schlein

Proposal for a regulation

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. In view of the application of the criteria referred to in Articles 10 to 13a and 18, Member States shall take into consideration any available evidence regarding the presence, on the territory of a Member State, of family members, relatives or any other family relations of the applicant, on condition that such evidence is produced before another Member State accepts the request to take charge or take back the person concerned, pursuant to Articles 22 and 25 respectively, and that the previous applications for international protection of the applicant have not yet been the subject of a first decision regarding the substance.

Or. en

Justification

The amendment intends to strengthen the guarantees for family reunification procedures, in particular by stressing the need to take into consideration new elements that may arise on the presence of family members, relatives or other family relations in the Member states.

Amendment 70

Elly Schlein

Proposal for a regulation

Article 10 – paragraph 2

Text proposed by the Commission

2. The Member State responsible shall be that where a family member of the unaccompanied minor is legally present, ***provided that it is*** 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.

Amendment

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

Or. en

Justification

The amendment aligns the text to the extension of the definition of family members proposed by the shadow rapporteur at Article 2(g).

Amendment 71
Elly Schlein

Proposal for a regulation
Article 10 – paragraph 5

Text proposed by the Commission

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 ***first has lodged his or her application for international protection, unless it is demonstrated that this is not in*** the best interests of the minor.

Amendment

5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, ***and if no other criteria set out in Chapter III and IV apply, including Articles 19 and 20***, the Member State responsible shall be ***determined by the allocation mechanism set out in Chapter VII, provided that the*** minor ***should be always granted the choice among the Member States of possible allocation according to Article 36c. Any decision on the Member State responsible should be preceded by a multidisciplinary assessment of*** the best interests of the minor, ***including in case of allocation.***

Justification

The shadow rapporteur seeks a good balance to ensure the full respect of the child's rights and best interests, the case law of the ECJ (and particularly the crucial decision C648/11), and the need to ensure a fair distribution of responsibilities on asylum requests among Member States. The amendment proposes that the criteria for family reunification shall be fully prioritised, and only in the case there are no family members or relatives of the minor in the Member States, the other criteria as set out in Chapter III and IV would apply, including the discretionary clause (which would also allow a Member State to assume responsibility on a minor who has other family relations in its territory). As a last resort, if none of the previous criteria apply, the Member State responsible should be determined by the allocation mechanism, but ensuring always to the minor, assisted by the guardian, and following a multidisciplinary assessment of the best interests of the child, a certain degree of choice among the possible Member States of allocation according to Article 36.

Amendment 72**Elly Schlein****Proposal for a regulation****Article 10 – paragraph 5 a (new)***Text proposed by the Commission**Amendment*

5 a. Where a minor is accompanied by one parent, adult sibling or other adult responsible for the minor, whether by law or by the practice of that Member State, and one parent or other adult responsible for the minor, whether by law or by the practice of that Member State, is legally present in a Member State, the Member State responsible shall be that where the parent or other adult responsible for the minor is legally present, unless it is demonstrated that this is not in the best interests of the minor.

Or. en

Justification

The amendment intends to cover situations in which the minor could not be reunited with another family member, relative or other adult responsible for him or her, only because accompanied by another adult.

Amendment 73
Elly Schlein

Proposal for a regulation
Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10 a

Family member in a Member State

Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who is a third country national with a long-term residence permit residing 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.

Or. en

Justification

The amendment intends to cover the situations in which an applicant has a family member who is legally residing in a Member State with a long-term residence permit. If an applicant can reunite with a family member who is a beneficiary of international protection or an applicant, it should be a fortiori possible for him or her to reunite with a family member legally residing in one of the Member States.

Amendment 74
Elly Schlein

Proposal for a regulation
Article 13 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) responsibility for examining the applications for international protection of all the family members and/or minor ***unmarried*** siblings shall lie with the Member State which the criteria indicate is

(a) responsibility for examining the applications for international protection of all the family members and/or minor siblings shall lie with the Member State which the criteria indicate is responsible

responsible for taking charge of the largest number of them;

for taking charge of the largest number of them;

Or. en

Justification

This amendment intends to align the Article to the modifications proposed to the family member definition under Article 2(g).

Amendment 75
Elly Schlein

Proposal for a regulation
Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13 a

Family reunification procedure

1. The determining Member State shall be responsible for conducting a special family reunification procedure for the applicant in order to ensure swift family reunification and access to the asylum procedures for applicants where there are, prima facie, sufficient indications that they are likely to have the right to family reunification in accordance with Articles 10, 11, 12 or 13.

2. In establishing whether there are sufficient indications that the applicant has family in the Member State he or she claims the determining Member State shall ensure that the applicant has understood 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. The determining Member State shall also ensure that the applicant understands 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. 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, prima facie, there are sufficient indications that the applicant has family members and/or relatives in that Member State in order to meet the requirements of paragraph 1.

3. If it is determined pursuant to paragraph 1 and 2 that an applicant likely has, prima facie, the right of family reunification in accordance with Articles 10, 11, 12 or 13 the determining Member State shall notify the Member State concerned thereof and the applicant shall be transferred to that Member State.

4. The Member State receiving an applicant in accordance with the procedure referred to in paragraph 4 shall make the determination of whether the conditions for family reunifications in accordance with Article 10, 11, 12 or 13 are met. If it is determined that the conditions for family reunification are not met the receiving Member State shall ensure that the applicant is relocated to another Member State in accordance with the procedure in article 24a.

5. The authorities responsible of the Member State where the applicant claims to have family members and/or relatives present shall assist the authorities responsible of the determining Member State with answering any questions aimed at clarifying whether the alleged family links are correct. The absence of official documents issued by the State of origin cannot be the only reason for not declaring satisfied the requirements for family reunification, and other evidence should also be admitted, including the declarations from international organizations.

6. For the purposes of the procedures provided for in this Article, the Commission shall adopt an implementing act regarding the evidentiary requirements to prove relevant family links, including the type of proof or evidence required, including partial documentation issued by the State of origin or declarations from international organisations. A different understanding of such proof or evidence between the determining Member State and the Member State receiving the applicant shall not result in the applicant being subject to the procedure under Article 24a.

Or. en

Justification

The shadow rapporteur fully supports the light family reunification procedure as proposed by the rapporteur, and she thinks it should be always possible for a determining Member State to use it, in order to ensure a swift access to the asylum procedure.

Amendment 76

Elly Schlein

**Proposal for a regulation
Article 15 – paragraph 1**

Text proposed by the Commission

Amendment

Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 25(4) of this Regulation, including the data referred to in Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013], that an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for international protection.

deleted

Or. en

Justification

In line with the modifications proposed to Article 3, this Article should be deleted. In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the Resolution on migration and refugees in Europe approved in September 2015, the shadow rapporteur is proposing a centralised, permanent and automatic mechanism of fair distribution of responsibilities among Member States. For this purpose, the first country of entry criterion should be deleted, since it has placed over the years a disproportionate burden on front-line MS.

Amendment 77

Elly Schlein

Proposal for a regulation

Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Where it is established, on the basis of proof or circumstantial evidence, that an applicant has crossed the border into the Member State where the application was lodged having come through another Member State, the Member State responsible for examining the application for international protection shall be determined in accordance with the procedure in Article 24a.

Or. en

Justification

The shadow rapporteur supports the system proposed by the rapporteur, but aligns it to the deletion of the first country of entry criterion.

Amendment 78

Elly Schlein

Proposal for a regulation

Article 17 – paragraph 1

Text proposed by the Commission

Amendment

Where the application for international protection is made in the international

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.

transit area of an airport of a Member State by a third-country national or a stateless person, that Member State shall be **determining the Member State** responsible for examining the application **according to the criteria set out in Chapter III, IV and VII.**

Or. en

Justification

This amendment intends to align the text to the centralised system proposed by the shadow rapporteur.

Amendment 79
Elly Schlein

Proposal for a regulation
Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17 a

Centralised allocation mechanism

When it is not possible to determine a Member State responsible according to the previous criteria under Chapter III, and Articles 18, 18a and 19 do not apply, the Member State responsible shall be determined with the allocation mechanism set out in Chapter VII of this Regulation.

Or. en

Justification

In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the Resolution on migration and refugees in Europe approved in September 2015, the shadow rapporteur is proposing a centralised, permanent and automatic mechanism of fair distribution of responsibilities among Member States.

Amendment 80
Elly Schlein

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. Where, on account of pregnancy, a new-born child, serious illness, severe disability or old age, 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 *in the country of origin*, that the child, sibling or parent or the applicant is able to take care of the dependent person and that the persons concerned expressed their desire in writing.

Amendment

1. Where, on account of pregnancy, a new-born child, serious illness, severe disability or old age, 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 the persons concerned expressed their desire in writing.

When the applicant is affected by a serious disease or inability and it is not possible to determine a Member State responsible according to the criteria set out in Chapters III and IV of this regulation, Member States shall normally keep the applicant on the territory of the Member State in which the applicant is present, if the person concerned expressed his desire in writing.

Or. en

Justification

The amendments seeks to align the text to the extension of the family members definition as proposed by the EC.

Amendment 81
Elly Schlein

Proposal for a regulation
Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18 a

Sponsorship

1. European citizen or third country national legally residing in a Member State for a period of at least one year, or an organisation, association or firm, that respect specific requirements set out in the delegated act referred to in paragraph 3, have the possibility to become the sponsor of an applicant for international protection who lodged an application in the EU. The individual or organisation sponsoring an applicant should provide for his or her transfer and his or her stay in the Member State where the sponsor resides, until the final decision on his or her application is adopted.

2. On the basis of a written request by the sponsor, with the acceptance of the applicant, the determining Member State shall notify it to the Member State where the sponsor resides. If the Member State accepts to take charge of the applicant, it shall become the Member State responsible, and the application should be counted within its reference number as defined in Article 35.

3. A delegated act adopted according to the procedure described in Article 57, paragraph 2, shall determine the formalities and the eligibility requirements to be satisfied by a sponsor and the other necessary implementing measures.

Or. en

Justification

The shadow rapporteur believes that giving to private individuals or organisations, associations or firms, that respect certain requirements, the possibility to sponsor an applicant and take care of him or her until the final decision on the application, would help not only the prospects of a

good integration in the receiving society, but also, on the model of what is happening in other countries (such as Canada), would be a strong incentive to welcome applicants in a Member State, since the application will count within its reference number (reducing the number of applicants that might be automatically allocated to that Member State), while relieving the budget from substantial part of the costs of reception (since the applicant, who would benefit fully of the condition of asylum seeker, would be hosted by the sponsor).

Amendment 82
Elly Schlein

Proposal for a regulation
Article 19 – paragraph 1 – subparagraph 1

Text proposed by the Commission

By way of derogation from Article 3(1) ***and only as long as no Member State has been determined as responsible***, each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person ***based on family grounds in relation to wider family not covered by Article 2(g)***, even if such examination is not its responsibility under the criteria laid down in this Regulation.

Amendment

By way of derogation from Article 3(1) each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person, even if such examination is not its responsibility under the criteria laid down in this Regulation.

Or. en

Justification

The shadow rapporteur suggests to revert back to the wording in Dublin III, to avoid limiting the discretionary clause. If a Member State is willing to take more responsibility than it ought to, it should be able to do it.

Amendment 83
Elly Schlein

Proposal for a regulation
Article 20 – paragraph 1 – point e

Text proposed by the Commission

(e) ***take back, under the conditions laid down in Articles 26 and 30 a***

Amendment

(e) ***if*** a beneficiary of international protection ***makes*** an application in another

beneficiary of international protection, *who made* an application in another Member State than the Member State responsible which granted that protection status or who is on the territory of another Member State than the Member State responsible which granted that protection without a residence document.

Member State than the Member State responsible which granted that protection status or who is on the territory of another Member State than the Member State responsible which granted that protection without a residence document, *the Member State where he or she made the application should recognize its status of beneficiary of international protection granted by the other Member State.*

Or. en

Justification

The shadow rapporteur has always advocated for the mutual recognition of refugee status among Member States, therefore she could not support the wording proposed by the EC.

Amendment 84

Elly Schlein

Proposal for a regulation

Article 20 – paragraph 2

Text proposed by the Commission

2. In a situation referred to in point (a) of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection.

Amendment

2. In a situation referred to in point (a) **or (b)** of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection.

Or. en

Amendment 85

Elly Schlein

Proposal for a regulation

Article 20 – paragraph 3

Text proposed by the Commission

3. *In a situation referred to in point (b) of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection in an accelerated*

Amendment

deleted

*procedure in accordance with Article 31
paragraph 8 of Directive 2013/32/EU.*

Or. en

Amendment 86
Elly Schlein

Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. In *a situation referred to in point (c)* of paragraph 1, the Member State responsible shall *treat any further representations or a new application by the applicant as* subsequent application *in accordance with* Directive 2013/32/EU.

Amendment

4. In *the cases falling within the scope* of paragraph 1(c), *when* the Member State responsible *had discontinued the examination of an application following its withdrawal by the applicant before a decision on the substance has been taken at first instance*, that Member State shall ensure that the applicant is entitled to request that the examination of his or her application be completed or to lodge a new application *for international protection, which shall not be treated as a* subsequent application *as provided for in* Directive 2013/32/EU. *In such cases, Member States shall ensure that the examination of the application is completed.*

Or. en

Justification

The shadow rapporteur fully supports the amendment proposed by the rapporteur to revert back to the wording of Dublin III.

Amendment 87
Elly Schlein

Proposal for a regulation
Article 20 – paragraph 5

Text proposed by the Commission

5. In a situation referred to in point (d) of paragraph 1, *the decision taken by the*

Amendment

5. In a situation referred to in point (d) of paragraph 1, *where the applicant has*

responsible authority of the Member State responsible to reject the application shall no longer be subject to a remedy within the framework of Chapter V of Directive 2013/32/EU.

been rejected at first instance only, the Member State responsible shall ensure that the person concerned has or has had the opportunity to seek an effective remedy pursuant to Article 46 of Directive 2013/32/EU.

Or. en

Justification

The shadow rapporteur fully supports the amendment proposed by the rapporteur to revert back to the wording of Dublin III.

Amendment 88 **Elly Schlein**

Proposal for a regulation **Article 20 a (new)**

Text proposed by the Commission

Amendment

Article 20 a

Cessation of responsibilities

1. Where a Member State issues a residence document to the applicant, the obligations specified in Article 20(1) shall be transferred to that Member State.

2. The obligations specified in Article 20(1) 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 20(1)(c) or (d), that the person concerned has left the territory of the Member States for at least three months, unless the person concerned is in possession of a valid residence document issued by the Member State responsible.

An application lodged after the period of absence referred to in the first subparagraph shall be regarded as a new application giving rise to a new procedure for determining the Member State responsible.

3. The obligations specified in Article 20(1)(c) and (d) shall cease where the Member State responsible can establish, when requested to take back an applicant or another person as referred to in Article 20(1)(c) or (d), that the person concerned has left the territory of the Member States in compliance with a return decision or removal order issued following the withdrawal or rejection of the application.

An application lodged after an effective removal has taken place shall be regarded as a new application giving rise to a new procedure for determining the Member State responsible.

Or. en

Justification

The shadow rapporteur suggests to keep the cessation of responsibilities clause of Dublin III, because she doesn't support the principle of permanent responsibility as proposed by the EC.

Amendment 89

Elly Schlein

Proposal for a regulation

Article 21 – paragraph 5

Text proposed by the Commission

5. An applicant who is present in another Member State without a residence document or who there lodges an application for international protection after withdrawing his or her first application made in a different Member State during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles 26 and 30, by the Member State with which that application for international protection was first lodged.

Amendment

5. An applicant who is present in another Member State without a residence document or who there lodges an application for international protection after withdrawing his or her first application made in a different Member State during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles 26 and 30, by the Member State with which that application for international protection was first lodged, ***with a view to completing the process of determining the Member State responsible.***

That obligation shall cease where the Member State requested to complete the process of determining the Member State responsible can establish that the applicant has in the meantime left the territory of the Member States for a period of at least three months or has obtained a residence document from another Member State.

An application lodged after the period of absence referred to in the second subparagraph shall be regarded as a new application giving rise to a new procedure for determining the Member State responsible.

Or. en

Justification

The amendment is in line with the reintroduction of the cessation of responsibilities clause proposed by the shadow rapporteur.

Amendment 90

Elly Schlein

Proposal for a regulation

Article 24 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it shall , as quickly as possible and in any event within one month of the date on which the application was lodged within the meaning of Article 21(2), request that other Member State to take charge of the applicant.

Amendment

Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it shall , as quickly as possible and in any event within one month of the date on which the application was lodged within the meaning of Article 21(2), request that other Member State to take charge of the applicant.

If none of the criteria set out in Chapter III and IV apply, the determining Member State should determine the Member State responsible with the allocation mechanism according to the procedure

Justification

The amendment seeks to align the text to the permanent and automatic mechanism of allocation set out under Chapter VII.

Amendment 91

Elly Schlein

Proposal for a regulation

Article 24 – paragraph 1 – subparagraph 3

Text proposed by the Commission

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 in which the application was lodged*.

Amendment

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 *be determined by the allocation mechanism under Chapter VII*.

Or. en

Justification

In order to align the proposed changes suggested by the shadow rapporteur in Chapter VII, this part needs to be amended accordingly.

Amendment 92

Elly Schlein

Proposal for a regulation

Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24 a

Submitting a take charge notification

1. Where an applicant is to be transferred to another Member State pursuant to Article 15 (1a) or Article 13a the Member

State of allocation shall be determined randomly by the automated system referred to in Article 44 amongst the Member States according to Article 36c.

2. Once the Member State of allocation has been determined pursuant to paragraph 1, information to that effect shall be automatically entered into Eurodac and the Member State of allocation shall be informed by way of an automatic notification.

3. The Member State where the applicant is present shall inform the applicant of the determination pursuant to paragraph 2 and, in cooperation with the European Asylum Agency, of the modalities for the transfer.

4. The European Asylum Agency shall ensure the swift transfer of the applicant from the Member State where he or she is present to the Member State responsible.

5. The obligations set out in Article 39, 40, 41 and 42 shall apply mutatis mutandis

Or. en

Justification

The shadow rapporteur supports the system proposed by the rapporteur, and aligns it with her amendments.

Amendment 93 **Elly Schlein**

Proposal for a regulation **Article 25 – paragraph 1**

Text proposed by the Commission

1. The requested Member State shall make the necessary checks, and shall give a decision on the request to take charge of an applicant within **one month** of receipt of the request.

Amendment

1. The requested Member State shall make the necessary checks, and shall give a decision on the request to take charge of an applicant within **two weeks** of receipt of the request.

Or. en

Justification

The amendment seeks to reasonably shorten the time of the procedure. In line with the introduction of a light family reunification procedure, a deadline of two weeks to answer to a take charge request seems sufficient.

Amendment 94 **Elly Schlein**

Proposal for a regulation **Article 26 – paragraph 1**

Text proposed by the Commission

1. In a situation referred to in Article 20(1)(b), (c), **(d) or (e)** the Member State where the person is present shall make a take back notification at the latest within two weeks after receiving the Eurodac hit, and transfer that person to the Member State responsible .

Amendment

1. In a situation referred to in Article 20(1)(b), (c), **or (d)** the Member State where the person is present shall make a take back notification at the latest within two weeks after receiving the Eurodac hit, and transfer that person to the Member State responsible .

Or. en

Amendment 95 **Elly Schlein**

Proposal for a regulation **Article 26 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1 a. Where the take back request is not made within the periods laid down in paragraph 2, responsibility for examining the application for international protection shall lie with the Member State in which the new application was lodged.

Or. en

Justification

The amendment seeks to ensure the respect of the time deadlines set out in this Article.

Amendment 96

Elly Schlein

Proposal for a regulation

Article 27 – paragraph 1

Text proposed by the Commission

1. Where the requested Member State accepts to take charge of an applicant, the requesting Member State shall notify the applicant in writing **without delay** of the decision to transfer him or her to the Member State responsible and, where applicable, of not examining his or her application for international protection.

Amendment

1. Where the requested Member State accepts to take charge of an applicant, the requesting Member State shall notify the applicant in writing **within 5 days** of the decision to transfer him or her to the Member State responsible and, where applicable, of not examining his or her application for international protection.

Or. en

Amendment 97

Elly Schlein

Proposal for a regulation

Article 27 – paragraph 2

Text proposed by the Commission

2. Where the applicant or another person referred to in Article 20(1) (c), **(d) or (e)** is to be taken back, the Member State where the person concerned is present shall notify the person concerned in writing without undue delay the decision to transfer him or her to the Member State responsible.

Amendment

2. Where the applicant or another person referred to in Article 20(1) (c) **or (d)** is to be taken back, the Member State where the person concerned is present shall notify the person concerned in writing without undue delay the decision to transfer him or her to the Member State responsible.

Or. en

Amendment 98

Elly Schlein

Proposal for a regulation

Article 28 – paragraph 1

Text proposed by the Commission

1. The applicant or another person as referred to in Article 20(1)(c), **(d) or (e)**

Amendment

1. The applicant or another person as referred to in Article 20(1)(c) **or (d)** shall

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, before a court or tribunal.

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, before a court or tribunal.

Or. en

Amendment 99
Elly Schlein

Proposal for a regulation
Article 28 – paragraph 2

Text proposed by the Commission

2. Member States shall provide for a period **of 7 days** after the notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.

Amendment

2. Member States shall provide for a **reasonable** period, **of no less than 15 days**, after the notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.

Or. en

Justification

The shadow rapporteur suggests that a deadline of no less than 15 days is more suitable, because 7 days is too short.

Amendment 100
Elly Schlein

Proposal for a regulation
Article 28 – paragraph new4

Text proposed by the Commission

new4. The scope of the effective remedy laid down in paragraph 1 shall be limited to an assessment of whether Articles 3(2) in relation to the existence of a risk of inhuman or degrading treatment or Articles 10 to 13 and 18 are infringed upon.

Amendment

deleted

Or. en

Amendment 101

Elly Schlein

Proposal for a regulation

Article 28 – paragraph 5

Text proposed by the Commission

5. Where no transfer decision referred to in paragraph 1 is taken, Member States shall provide for an effective remedy before a court or tribunal, where the applicant claims that ***a family member or, in the case of unaccompanied minors, a relative is legally present in a Member State other than the one which is examining his or her application for international protection, and considers therefore that other Member State as Member State*** responsible for examining the application.

Amendment

5. Where no transfer decision referred to in paragraph 1 is taken, Member States shall provide for an effective remedy before a court or tribunal, where the applicant claims that ***another*** Member State ***is*** responsible for examining the application.

Or. en

Amendment 102

Elly Schlein

Proposal for a regulation

Article 28 – paragraph new6

Text proposed by the Commission

new6. Member States shall ensure that the person concerned has access to legal assistance and, where necessary, to linguistic assistance.

Amendment

new6. ***Without prejudice to the applicant's right to choose his or her own legal adviser or other counsellor at his or her own cost***, Member States shall ensure that the person concerned has access to legal assistance ***and representation*** and, where necessary, to linguistic assistance ***at all stages of the procedures provided for in this Regulation***.

Or. en

Justification

This amendment was suggested by the shadow rapporteur in coherence with the amendment on providing free legal assistance at all stages referred in article 6- paragraph 1- point e a (new)

Amendment 103
Elly Schlein

Proposal for a regulation
Article 28 – paragraph 7 – subparagraph 2

Text proposed by the Commission

Amendment

Without arbitrarily restricting access to legal assistance, Member States may provide that free legal assistance and representation not 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. **deleted**

Or. en

Justification

The shadow rapporteur wants to strengthen the provisions on the right to free legal assistance at all stages of the procedure, in line with what was already proposed in previous amendments.

Amendment 104
Elly Schlein

Proposal for a regulation
Article 28 – paragraph 7 – subparagraph 3

Text proposed by the Commission

Amendment

Where a decision not to grant free legal assistance and representation pursuant to this paragraph 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. In case the decision is challenged, this remedy shall be an integral part of the remedy referred to in paragraph 1. **deleted**

Or. en

Justification

The shadow rapporteur wants to strengthen the provisions on the right to free legal assistance at all stages of the procedure, in line with what was already proposed in previous amendments.

Amendment 105

Elly Schlein

Proposal for a regulation

Article 28 – paragraph 7 – subparagraph 4

Text proposed by the Commission

Amendment

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 the applicant's effective access to justice is not hindered.

deleted

Or. en

Justification

This subparagraph is connected with the two previous subparagraphs that were deleted. The shadow rapporteur wants to strengthen the provisions on the right to free legal assistance at all stages of the procedure, in line with what was already proposed in previous amendments.

Amendment 106

Elly Schlein

Proposal for a regulation

Article 28 – paragraph 7 – subparagraph 5

Text proposed by the Commission

Amendment

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.

Legal assistance shall include at least the ***provision of information on the procedure in the light of the applicant's individual circumstances, assistance in the preparation of relevant documentation and personal interview, including participation in the personal interview as necessary*** and 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.***

Or. en

Justification

The shadow rapporteur wants to strengthen the provisions on the right to free legal assistance at all stages of the procedure, in line with what was already proposed in previous amendments.

Amendment 107
Elly Schlein

Proposal for a regulation
Article 29 – paragraph 2

Text proposed by the Commission

2. ***When there is a significant 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.

Amendment

2. ***In exceptional cases*** Member States may detain ***a*** person in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment ***only where the applicant has been intercepted after having tried to abscond or where it appears evident on the basis of his or her concrete behavior that he or she intends to abscond, and in any case*** only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively.

Minors shall never be detained.

Or. en

Justification

The shadow rapporteur seeks to better clarify the circumstances under which Member States may detain a person according to this Regulation.

Amendment 108
Elly Schlein

Proposal for a regulation
Article 29 – paragraph 3 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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, **and in any case it shall not exceed 3 months.**

Or. en

Justification

The shadow rapporteur aims at putting adequate safeguards to the applicant's fundamental rights, by also putting a clear time limit to the cases of detention.

Amendment 109
Elly Schlein

Proposal for a regulation
Article 29 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where a person is detained pursuant to this Article, the period for submitting a take charge request or a take back notification shall not exceed two weeks from the lodging of the application. The Member State carrying out the procedure in accordance with this Regulation shall ask for an urgent reply on a take charge request. Such reply shall be given within one week of receipt of the take charge request. Failure to reply within the one-week period shall be tantamount to accepting the take charge request and shall entail the obligation to take the person in charge, including the obligation to provide for proper arrangements for arrival.

Amendment

deleted

Or. en

Justification

This paragraph is deleted as a consequence of having put a clear time limit to the cases of detention.

Amendment 110

Elly Schlein

Proposal for a regulation

Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Detention of applicants 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.

Or. en

Justification

The amendment seeks to align the text with the draft of the proposal of rapporteur Sophie In 't Veld on the recast of the Reception Conditions Regulation, at Article 9(2).

Amendment 111

Elly Schlein

Proposal for a regulation

Article 29 – paragraph 4

Text proposed by the Commission

Amendment

4. As regards the detention conditions and the guarantees applicable to persons detained, in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive 2013/33/EU shall apply.

4. As regards the detention conditions, **which shall fully respect the person's fundamental rights**, and the guarantees applicable to persons detained, in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive 2013/33/EU shall apply.

Justification

The shadow rapporteur believes it is important to recall the need to fully respect the person's fundamental rights.

Amendment 112

Elly Schlein

Proposal for a regulation**Article 30 – paragraph 1 – subparagraph 1***Text proposed by the Commission*

The determining Member State whose take charge request referred to in Article 20(1) (a) was accepted or who made a take back notification referred to in Article 20(1) (b) to **(e)** shall take a transfer decision at the latest within one week of acceptance or notification and transfer the applicant or the person concerned to the Member State responsible.

Amendment

The determining Member State whose take charge request referred to in Article 20(1) (a) was accepted or who made a take back notification referred to in Article 20(1) (b) to **(d)** shall take a transfer decision at the latest within one week of acceptance or notification and transfer the applicant or the person concerned to the Member State responsible.

Or. en

Amendment 113

Elly Schlein

Proposal for a regulation**Article 30 – paragraph 1 – subparagraph 2***Text proposed by the Commission*

newThe transfer of the applicant or of another person as referred to in Article 20(1)(c), **(d) or (e)** from the requesting Member State to the Member State responsible shall be carried out in accordance with the national law of the requesting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within four weeks from the final transfer decision .

Amendment

newThe transfer of the applicant or of another person as referred to in Article 20(1)(c) **or (d)** from the requesting Member State to the Member State responsible shall be carried out in accordance with the national law of the requesting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within four weeks from the final transfer decision .

Amendment 114
Elly Schlein

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. The costs necessary to transfer an applicant or another person as referred to in Article 20(1)(c), (d) or (e) to the Member State responsible shall be met by the ***transferring Member State***.

Amendment

1. The costs necessary to transfer an applicant or another person as referred to in Article 20(1)(c), (d) or (e) to the Member State responsible shall be met by the ***general budget of the Union***.

Or. en

Justification

The shadow rapporteur supports the proposal of the rapporteur, that goes in the direction of a progressive centralisation of responsibilities on asylum at European level, in line with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016

Amendment 115
Elly Schlein

Proposal for a regulation
Article 31 a (new)

Text proposed by the Commission

Amendment

Article 31 a
Costs of reception

The costs of reception of applicants covered by a determining Member State until the transfer to the Member State responsible (or until the moment in which it assumes responsibility on the application) should be refunded by the general budget of the Union.

Or. en

Justification

In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the objective of a progressive centralisation of responsibility on asylum at European level, the costs of reception of applicants should be covered by the general budget of the Union, that shall be increased for this purpose.

Amendment 116 **Elly Schlein**

Proposal for a regulation **Article 34 – paragraph 1**

Text proposed by the Commission

1. The allocation mechanism referred to in this Chapter shall be applied for ***the benefit of*** a Member State, ***where that Member State is confronted with a disproportionate number of applications for international protection for which it is the Member State responsible under this Regulation.***

Amendment

1. The allocation mechanism referred to in this Chapter shall be applied for ***all the applications for which*** a Member state ***responsible could not be determined according to the criteria set out in Chapter III and IV of this Regulation, and also in the cases in which Article 24a applies.***

Or. en

Justification

In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the Resolution on migration and refugees in Europe approved in September 2015, the shadow rapporteur is proposing a centralised, permanent and automatic mechanism of fair distribution of responsibilities among Member States.

Amendment 117 **Elly Schlein**

Proposal for a regulation **Article 34 – paragraph 2**

Text proposed by the Commission

2. ***Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of***

Amendment

deleted

applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) or (3), 18 and 19 , in addition to the number of persons effectively resettled, is higher than 150% of the reference number for that Member State as determined by the key referred to in Article 35.

Or. en

Justification

In order to be coherent with the Resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration approved by the Parliament in April 2016, and with the Resolution on migration and refugees in Europe approved in September 2015, the shadow rapporteur is proposing a centralised, permanent and automatic mechanism of fair distribution of responsibilities among Member States. Therefore it doesn't need to be triggered by a particular threshold, but should always be operating as a last resort if no other criteria under Chapter III and IV is applicable to determine a Member State responsible.

Amendment 118 **Elly Schlein**

Proposal for a regulation **Article 34 – paragraph 5**

Text proposed by the Commission

5. The automated system shall continuously monitor ***whether any of the Member States is above the threshold referred to in paragraph 2, and*** if so, notify the Member States and the Commission of this fact, indicating the number of applications above this threshold.

Amendment

5. The automated system shall continuously monitor ***the number of applications for which a Member State is responsible, to which the number of people effectively resettled to that Member State should be added, and check whether for any of the Member States this number is higher than the respective reference number.*** If so, ***the automated system shall*** notify the Member States and the Commission of this fact, indicating the number of applications above this threshold. ***No further allocation should be made towards these Member States until the number of applications for which they are responsible (including resettled persons) is below their reference number.***

Amendment 119
Elly Schlein

Proposal for a regulation
Article 34 – paragraph 6

Text proposed by the Commission

Amendment

6. *Upon the notification referred to in paragraph 5, the allocation mechanism shall apply.*

deleted

Or. en

Amendment 120
Elly Schlein

Proposal for a regulation
Article 35 – paragraph 1

Text proposed by the Commission

Amendment

1. For the purpose of the *corrective* mechanism, the reference number for each Member State shall be determined by a key.

1. For the purpose of the *allocation* mechanism, the reference number for each Member State shall be determined by a key.

Or. en

Amendment 121
Elly Schlein

Proposal for a regulation
Article 36

Text proposed by the Commission

Amendment

Article 36

deleted

Application of the reference key

1. *Where the threshold referred to in Article 34(2) is reached, the automated system referred to in Article 44(1) shall apply the reference key referred to in Article 35 to those Member States with a*

number of applications for which they are the Member States responsible below their share pursuant to Article 35(1) and notify the Member States thereof.

2. Applicants who lodged their application in the benefitting Member State after notification of allocation referred to in Article 34(5) shall be allocated to the Member States referred to in paragraph 1, and these Member States shall determine the Member State responsible;

3. Applications declared inadmissible or examined in accelerated procedure in accordance with Article 3(3) shall not be subject to allocation.

4. On the basis of the application of the reference key pursuant to paragraph 1, the automated system referred to in Article 44(1) shall indicate the Member State of allocation and communicate this information not later than 72 hours after the registration referred to in Article 22(1) to the benefitting Member State and to the Member State of allocation, and add the Member State of allocation in the electronic file referred to in Article 23(2).

Or. en

Amendment 122

Elly Schlein

Proposal for a regulation

Article 36 a (new)

Text proposed by the Commission

Amendment

Article 36 a

Application of the allocation mechanism

1. When it was not possible to determine a Member State responsible according to the criteria set out in Chapters III and IV of this regulation, the determining Member State shall communicate to the applicant that he will be allocated.

2. If the applicant has meaningful links with a Member State, the determining Member State should follow the procedure laid down in Article 36b.

3. When the procedure laid down in Article 36b does not apply, the determining Member State should follow the procedure of Article 36c.

Or. en

Amendment 123
Elly Schlein

Proposal for a regulation
Article 36 b (new)

Text proposed by the Commission

Amendment

Article 36 b

Meaningful links

1. In the framework of the allocation mechanism, and with a view to facilitate integration of the applicants into the Member States of allocation, their existing ties, needs, preferences and specific qualification should be taken into account to the extent possible.

2. An applicant for international protection has a meaningful link with a Member State under at least one of these conditions:

a) the applicant has previously resided in the Member State on the basis of a valid residence document, for a period of at least one year, for work, study or research purposes;

b) the applicant holds academic or professional qualifications or diplomas released by the Member State, or by a third country in the framework of programs of international cooperation in the field of education or training that were managed, promoted or financed by the Member State, including but not

limited to bilateral agreements on mutual recognition of diplomas or qualifications;

c) the applicant has a previous work experience with a company or an organisation of the Member State;

d) relatives or other family ties beyond the definition of family members under Article 2(g) of the applicant who are legally residing in the Member State for a period of at least one year;

e) the applicant holds a satisfactory knowledge of one of the official languages of a Member State, to be ascertained through certificates or a linguistic test;

3. When an applicant can demonstrate a meaningful link with a Member State, the determining Member State should make a take charge request to that Member State. That Member State should reply within two weeks, duly motivating in case of rejection. If the Member States accepts to take charge of the applicant, it should become the Member State responsible and the application should be counted within its reference number as defined in Article 34. In any other case the procedure set out in Article 36c shall apply.

4. It shall be in any case possible for Member States to accept applicants with meaningful links even beyond their reference number.

Or. en

Amendment 124
Elly Schlein

Proposal for a regulation
Article 36 c (new)

Text proposed by the Commission

Amendment

Article 36 c

Determination of the Member State of

allocation

- 1. On the basis of the reference key referred to in Article 35, the automated system referred to in Article 44(1) shall indicate the six Member States with the lowest number of applicants relative to their share of the fair distribution.*
- 2. The determining Member State shall consult the automated system and communicate the short list of six Member States to the applicant. The applicant shall be enabled to choose among the six Member States included in the list, within 7 days. For this purpose, the applicant shall receive information on the possible Member States of allocation. The determining Member State shall communicate immediately the choice to the automated system and the Member State of allocation, and add the Member State of allocation in the electronic file referred to in Article 23(2).*
- 3. When Article 24a applies, the applicant will not be able to make the choice provided by paragraph 2, and the Member State responsible will be determined randomly by the automated system. The automated system shall communicate that information to the determining Member State and to the Member State of allocation, and add the Member State of allocation in the electronic file referred to in Article 23(2).*
- 4. In cases of allocation of a minor, under the conditions set by Article 10, the choice provided by paragraph 2 shall always be granted and shall be accompanied by a multidisciplinary assessment of the best interests of the minor.*

Or. en

Amendment 125
Elly Schlein

Proposal for a regulation
Article 37

Text proposed by the Commission

Amendment

Article 37

deleted

Financial solidarity

- 1. A Member State may, at the end of the three-month period after the entry into force of this Regulation and at the end of each twelve-month period thereafter, enter in the automated system that it will temporarily not take part in the corrective allocation mechanism set out in Chapter VII of this Regulation as a Member State of allocation and notify this to the Member States, the Commission and the European Union Agency for Asylum.*
- 2. The automated system referred to in Article 44(1) shall in that case apply the reference key during this twelve-month period to those Member States with a number of applications for which they are the Member States responsible below their share pursuant to Article 35(1), with the exception of the Member State which entered the information, as well as the benefitting Member State. The automated system referred to in Article 44(1) shall count each application which would have otherwise been allocated to the Member State which entered the information pursuant to Article 36(4) for the share of that Member State.*
- 3. At the end of the twelve-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. That Member State shall thereafter make a solidarity contribution of EUR 250,000 per each applicant who would have otherwise been allocated to that Member State during the respective*

twelve-month period. The solidarity contribution shall be paid to the Member State determined as responsible for examining the respective applications.

4. The Commission shall, by means of implementing acts, adopt a decision in accordance with the examination procedure referred to in Article 56, lay down the modalities for the implementation of paragraph 3.

5. The European Union Agency for Asylum shall monitor and report to the Commission on a yearly basis on the application of the financial solidarity mechanism.

Or. en

Amendment 126
Elly Schlein

Proposal for a regulation
Article 38 – title

Text proposed by the Commission

Obligations of the *benefitting* Member State

Amendment

Obligations of the *determining* Member State *under the allocation mechanism*

Or. en

Amendment 127
Elly Schlein

Proposal for a regulation
Article 38 – paragraph 1

Text proposed by the Commission

The *benefitting* Member State shall:

Amendment

The *determining* Member State shall:

Or. en

Amendment 128
Elly Schlein

Proposal for a regulation
Article 38 – paragraph a

Text proposed by the Commission

(a) take a decision at the latest within one week from the communication referred to in Article **36(4)** to transfer the applicant to the Member State of allocation, unless the **benefitting** Member State can accept within the same time limit responsibility for examining the application pursuant to the criteria set out in Articles 10 to 13 and Article 18;

Amendment

(a) take a decision at the latest within one week from the communication referred to in Article **36c(2) or (3)** to transfer the applicant to the Member State of allocation, unless the **determining** Member State can accept within the same time limit responsibility for examining the application pursuant to the criteria set out in Articles 10 to 13 and Article 18 **or 19**;

Or. en

Amendment 129
Elly Schlein

Proposal for a regulation
Article 39 – paragraph 1 – point a

Text proposed by the Commission

(a) confirm to the **benefitting** Member State the receipt of the allocation communication and indicate the competent authority to which the applicant shall report following his or her transfer;

Amendment

(a) confirm to the **determining** Member State the receipt of the allocation communication and indicate the competent authority to which the applicant shall report following his or her transfer;

Or. en

Amendment 130
Elly Schlein

Proposal for a regulation
Article 39 – paragraph 1 – point b

Text proposed by the Commission

(b) communicate to the **benefitting** Member State the arrival of the applicant or the fact that he or she did not appear within the set time limit;

Amendment

(b) communicate to the **determining** Member State the arrival of the applicant or the fact that he or she did not appear within the set time limit;

Or. en

Amendment 131

Elly Schlein

Proposal for a regulation

Article 39 – paragraph 1 – point d

Text proposed by the Commission

(d) examine his or her application for international protection as Member State responsible, unless, according to the criteria set out in Articles 10 to 13 and 16 to 18, a different Member State is responsible for examining the application;

Amendment

(d) examine his or her application for international protection as Member State responsible, unless ***new elements demonstrate that*** according to the criteria set out in Articles 10 to 13 and 16 to 18, a different Member State is responsible for examining the application;

Or. en

Amendment 132

Elly Schlein

Proposal for a regulation

Article 40 – paragraph 1

Text proposed by the Commission

1. Where a transfer decision according to point (a) of Article 38 is taken, the ***benefiting*** Member State shall transmit, at the same time and for the sole purpose of verifying whether the applicant may for serious reasons be considered a danger to the national security or public order, the fingerprint data of the applicant taken pursuant to Regulation (Proposal for a Regulation recasting Regulation 603/2013/EU) to the Member State of allocation.

Amendment

1. Where a transfer decision according to point (a) of Article 38 is taken, the ***determining*** Member State shall transmit, at the same time and for the sole purpose of verifying whether the applicant may for serious reasons be considered a danger to the national security or public order, the fingerprint data of the applicant taken pursuant to Regulation (Proposal for a Regulation recasting Regulation 603/2013/EU) to the Member State of allocation.

Or. en

Amendment 133

Elly Schlein

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Where, following a security verification, information on an applicant reveals that he or she is for serious reasons considered to be a danger to the national security or public order, information on the nature of the alert shall be shared with the law enforcement authorities in the **benefitting** Member State and shall not be communicated via the electronic communication channels referred to in Article 47(4).

Amendment

Where, following a security verification, information on an applicant reveals that he or she is for serious reasons considered to be a danger to the national security or public order, information on the nature of the alert shall be **fully** shared with the law enforcement authorities in the **determining** Member State and shall not be communicated via the electronic communication channels referred to in Article 47(4).

Or. en

Amendment 134
Elly Schlein

Proposal for a regulation
Article 40 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Member State of allocation shall inform the **benefitting** Member State of the existence of such alert, specifying the law enforcement authorities in the Member State of application that have been fully informed, and record the existence of the alert in the automated system pursuant to point d of Article 23(2), within one week of receipt of the fingerprints.

Amendment

The Member State of allocation shall inform the **determining** Member State of the existence of such alert, specifying the law enforcement authorities in the Member State of application that have been fully informed, and **after a joint evaluation of the security risks by the competent authorities of both Member States, the Member State of allocation shall** record the existence of the alert in the automated system pursuant to point d of Article 23(2), within one week of receipt of the fingerprints.

Or. en

Amendment 135
Elly Schlein

Proposal for a regulation
Article 40 – paragraph 3

Text proposed by the Commission

3. Where the outcome of the security verification confirms that the applicant may for serious reasons be considered a danger to the national security or public order, the **benefitting** Member State of application shall be the Member State responsible and **shall** examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU.

Amendment

3. Where the outcome of the security verification confirms that the applicant may for serious reasons be considered a danger to the national security or public order, the **determining** Member State of application shall be the Member State responsible and **may** examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU.

Or. en

Amendment 136
Elly Schlein

Proposal for a regulation
Article 41 – paragraph 2

Text proposed by the Commission

2. Family members to whom the procedure for allocation applies shall be allocated to the same Member State.

Amendment

2. Family members to whom the procedure for allocation applies shall be allocated to the same Member State. ***In the case of minors, the same applies to relatives or other adults responsible for them.***

Or. en

Amendment 137
Elly Schlein

Proposal for a regulation
Article 42 – paragraph 1

Text proposed by the Commission

For the costs to transfer an applicant to the Member State of allocation, ***the benefitting Member State*** shall be refunded by a lump sum of EUR 500 for each person transferred pursuant to Article 38(c). This financial support shall be implemented by applying the procedures laid down in

Amendment

The costs to transfer an applicant to the Member State of allocation ***by the European Asylum Agency shall be met by the general budget of the Union and*** be refunded by a lump sum of EUR 500 for each person transferred pursuant to Article 38(c). This financial support shall be

Article 18 of Regulation (EU) No 516/2014.

implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.

Or. en

Justification

The shadow rapporteur supports the proposal of the rapporteur to give responsibility on transfers to the European Asylum Agency, in view of a progressive centralisation of asylum at European level.

Amendment 138
Elly Schlein

Proposal for a regulation
Article 43

Text proposed by the Commission

Amendment

Article 43

deleted

Cessation of corrective allocation

The automated system shall notify the Member States and the Commission as soon as the number of applications in the benefitting Member State for which it is the Member State responsible under this Regulation is below 150 % of its share pursuant to Article 35(1).

Upon the notification referred to in paragraph 2, the application of the corrective allocation shall cease for that Member State.

Or. en

Justification

Since the shadow rapporteur is proposing a permanent and automatic allocation mechanism, in line with what the Parliament proposed in previous Resolutions, there is no need for an Article on the cessation of the mechanism.

Amendment 139
Elly Schlein

Proposal for a regulation
Article 45 – paragraph 1

Text proposed by the Commission

1. The competent asylum authorities of the Member States referred to in Article 47 shall have access to the automated system referred to in Article 44(1) for entering the information referred to in Article 20(7), Article 22(1), (4) and (5), Article 37(1) and point (h) of Article 39.

Amendment

1. The competent asylum authorities of the Member States referred to in Article 47 shall have access to the automated system referred to in Article 44(1) for entering the information referred to in Article 20(7), Article 22(1), (4) and (5), Article 37(1) and point (h) of Article 39, **and for the procedure of Article 36c.**

Or. en

Amendment 140
Elly Schlein

Proposal for a regulation
Article 47 – paragraph 3

Text proposed by the Commission

3. The authorities referred to in paragraph 1 shall receive the necessary training with respect to the application of this Regulation.

Amendment

3. The authorities referred to in paragraph 1 shall receive the necessary **regular** training with respect to the application of this Regulation, **including as regards the operating procedures for gathering relevant information and assessing the best interests of the child. Member States shall ensure the availability of specially trained staff, or specialized support services for staff, dedicated to the assessment of the best interests of the child in cases involving unaccompanied minors.**

Or. en

Justification

The amendment aims at ensuring the presence of fully and specifically trained staff when dealing with particularly delicate issues such as the best interests of the child assessment.

Amendment 141
Elly Schlein

Proposal for a regulation
Article 53 – paragraph 2

Text proposed by the Commission

By way of derogation from Article 34(2), during the first three months after entry into force of this Regulation, the corrective allocation mechanism shall not be triggered. By way of derogation from Article 34(3), after ***the expiry of the three month period following*** the entry into force of this Regulation and until the expiry of one year following the entry into force of this Regulation, the reference period shall be the period which has elapsed since the entry into force of this Regulation.

Amendment

By way of derogation from Article 34(3), after the entry into force of this Regulation and until the expiry of one year following the entry into force of this Regulation, the reference period shall be the period which has elapsed since the entry into force of this Regulation.

Or. en

Justification

The amendment is a natural consequence to not considering the allotacion mechanism as "corrective" and only triggered at a certain threshold, but as permanent, centralised and automatic.

Amendment 142
Elly Schlein

Proposal for a regulation
Article 57 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Articles 10(6) ***and 18(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 European

Amendment

2. The power to adopt delegated acts referred to in Articles ***8(6),10(6) , 18(3) and 18a(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

Parliament or the Council opposes such extension not later than three months before the end of each period.

European Parliament or the Council opposes such extension not later than three months before the end of each period.

Or. en

Justification

Technical amendment to align the text to the modification proposed in Article 18a.

Amendment 143
Elly Schlein

Proposal for a regulation
Article 57 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Articles 10(6) **and 18(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.

Amendment

3. The delegation of power referred to in Articles **8(6), 10(6), 18(3) and 18a(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.

Or. en

Justification

Technical amendment to align the text to the modification proposed in Article 18a.

Amendment 144
Elly Schlein

Proposal for a regulation
Article 57 – paragraph new6

Text proposed by the Commission

new6. A delegated act adopted pursuant to

Amendment

new6. A delegated act adopted pursuant to

Articles 10(6) **and 18(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.

Articles **8(6), 10(6), 18(3) and 18a(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.

Or. en

Justification

Technical amendment to align the text to the modification proposed in Article 18a.

Amendment 145 **Elly Schlein**

Proposal for a regulation **Article 58 – paragraph 1**

Text proposed by the Commission

By [18 months after entry into force] and from then on annually, the Commission shall review the functioning of the **corrective** allocation mechanism set out in Chapter VII of this Regulation **and in particular the thresholds set out in Article 34(2) and Article 43 thereof.**

Amendment

By [18 months after entry into force] and from then on annually, the Commission shall review the functioning of the allocation mechanism set out in Chapter VII of this Regulation.

Or. en