11. gr.

Fjölskyldumálsmeðferð

Ef nokkrir aðstandendur og/eða einhleyp systkini ólögráða barns leggja fram umsóknir um alþjóðlega vernd í sama aðildarríki á sama tíma, eða á svo stuttum tíma að unnt sé að láta málsmeðferð við að ákvarða hvaða aðildarríki skuli bera ábyrgð fara fram samtímis, og ef beiting viðmiðananna, sem mælt er fyrir um í þessari reglugerð, myndi leiða til aðskilnaðar þeirra skal ákveða hvaða aðildarríki ber ábyrgð á grundvelli eftirfarandi ákvæða:

a) það aðildarríki, sem samkvæmt viðmiðununum skal taka yfir umsjá flestra í fjölskyldunni, skal bera ábyrgð á meðferð umsókna um alþjóðlega vernd frá öllum aðstandendunum og/eða ólögráða einhleypu systkinunum,

b) að öðrum kosti skal ábyrgðin hvíla á aðildarríkinu sem samkvæmt viðmiðununum ber ábyrgð á meðferð umsóknar þess sem elstur er í fjölskyldunni.

12. gr.

Útgáfa dvalarskjala eða vegabréfsáritana

1. Ef umsækjandi er handhafi gilds dvalarskjals skal aðildarríkið, sem gaf út skjalið, bera ábyrgð á meðferð umsóknar hans um alþjóðlega vernd.

2. Ef umsækjandi er handhafi gildrar vegabréfsáritunar skal aðildarríkið, sem gaf út vegabréfsáritunina, bera ábyrgð á meðferð umsóknar um alþjóðlega vernd nema það hafi gefið út vegabréfsáritunina fyrir hönd annars aðildarríkis samkvæmt samkomulagi um fyrirsvar, eins og kveðið er á um í 8. gr. reglugerðar Evrópuþingsins og ráðsins (EB) nr. 810/2009 frá 13. júlí 2009 um Bandalagsreglur um vegabréfsáritanir ([1]). Í því tilviki skal aðildarríkið sem nýtur fyrirsvars bera ábyrgð á meðferð umsóknar um alþjóðlega vernd.

3. Ef umsækjandi er handhafi fleiri en eins gilds dvalarskjals eða vegabréfsáritunar, sem gefin eru út í mismunandi aðildarríkjum, skal ábyrgðin á meðferð umsóknar um alþjóðlega vernd falla á aðildarríkin í eftirfarandi röð:

a) aðildarríkið, sem gaf út það dvalarskjal sem veitir rétt til lengstrar dvalar, eða, ef gildistímabil eru jafnlöng, þá það aðildarríki sem gaf út dvalarskjalið sem síðast rennur út,

b) aðildarríkið sem gaf út vegabréfsáritunina sem síðast rennur út ef fleiri en ein vegabréfsáritun eru sömu gerðar,

c) ef vegabréfsáritanir eru ólíkrar gerðar, aðildarríkið sem gaf út vegabréfsáritun með lengstan gildistíma eða, ef gildistímabil eru jafnlöng, aðildarríkið sem gaf út vegabréfsáritunina sem síðast rennur út.

4. Ef umsækjandi er handhafi eins eða fleiri dvalarskjala, sem hafa runnið út á síðustu tveimur árum, eða einnar eða fleiri vegabréfsáritana, sem hafa runnið út á síðustu sex mánuðum og sem gerðu honum kleift að koma inn á yfirráðasvæði aðildarríkis, gilda 1., 2. og 3. mgr. um þann tíma sem umsækjandi hefur ekki yfirgefið yfirráðasvæði aðildarríkjanna.

Ef umsækjandi er handhafi eins eða fleiri dvalarskjala, sem hafa runnið út fyrir meira en tveimur árum, eða einnar eða fleiri vegabréfsáritana, sem hafa runnið út fyrir meira en sex mánuðum, sem gerðu honum kleift að koma inn á yfirráðasvæði aðildarríkis og hafi hann ekki yfirgefið yfirráðasvæði aðildarríkjanna skal aðildarríkið, þar sem umsóknin um alþjóðlega vernd er lögð fram, bera ábyrgð.

5. Hafi dvalarskjal eða vegabréfsáritun verið gefin út til handa einhverjum sem gefur upp falskt nafn eða nafn annars manns eða lagði fram frumfölsuð, grunnfölsuð eða ógild skjöl skal það ekki koma í veg fyrir að aðildarríkið, sem gaf það/hana út, beri ábyrgð. Þó skal aðildarríkið, sem gefur út dvalarskjalið eða vegabréfsáritunina, ekki bera ábyrgð ef það getur sannað að svik hafi átt sér stað eftir útgáfu skjalsins eða vegabréfsáritunarinnar.

13. gr.

Koma og/eða dvöl

1. Ef fastsett hefur verið, á grundvelli sannana eða sannana sem byggðar eru á líkum, eins og lýst er í skránum tveimur sem um getur í 3. mgr. 22. gr. þessarar reglugerðar, þ.m.t. gögn sem um getur í reglugerð (ESB) nr. 603/2013, að umsækjandi hafi komið ólöglega yfir landamæri aðildarríkis, á landi, sjó eða í lofti, frá þriðja landi skal aðildarríkið, sem komið var inn í með þeim hætti, bera ábyrgð á meðferð umsóknar um alþjóðlega vernd. Ábyrgð þessi fellur niður 12 mánuðum eftir að farið var ólöglega yfir landamærin.

2. Ef ekki er hægt eða ekki er lengur hægt að draga aðildarríki til ábyrgðar í samræmi við 1. mgr. þessarar greinar og ef fastsett hefur verið, á grundvelli sannana eða sannana sem byggðar eru á líkum, eins og lýst er í skránum tveimur sem um getur í 3. mgr. 22. gr., að umsækjandi, sem komið hefur ólöglega inn á yfirráðasvæði aðildarríkjanna eða á einhvern þann hátt sem ekki er hægt að staðfesta, hafi búið óslitið í aðildarríki í a.m.k. fimm mánuði áður en umsókn um alþjóðlega vernd er lögð fram, skuli það aðildarríki bera ábyrgð á meðferð umsóknar hans um alþjóðlega vernd.

Hafi umsækjandi búið lengur en um fimm mánaða skeið í nokkrum aðildarríkjum skal aðildarríkið, þar sem hann bjó síðast, bera ábyrgð á meðferð umsóknarinnar um alþjóðlega vernd.

([1]) Stjtið. ESB L 243, 15.9.2009, bls. 1.

14. gr.

Koma eftir að kvöð um vegabréfsáritun hefur verið felld niður

1. Komi ríkisborgari þriðja lands eða ríkisfangslaus einstaklingur inn á yfirráðasvæði aðildarríkis, þar sem kvöð um vegabréfsáritun hefur verið felld niður, ber það aðildarríki ábyrgð á meðferð umsóknar viðkomandi um alþjóðlega vernd.

2. Meginreglan í 1. mgr. gildir ekki ef ríkisborgari þriðja lands eða ríkisfangslaus einstaklingur leggur fram umsókn um alþjóðlega vernd í öðru aðildarríki þar sem kvöð um að viðkomandi hafi vegabréfsáritun til að komast inn á yfirráðasvæðið hefur einnig verið felld niður. Í því tilviki skal síðarnefnda aðildarríkið bera ábyrgð á meðferð umsóknar um alþjóðlega vernd.

15. gr.

Umsókn á alþjóðlegu gegnumferðarsvæði flughafnar

Ef ríkisborgari þriðja lands eða ríkisfangslaus einstaklingur leggur fram umsókn um alþjóðlega vernd á alþjóðlegu gegnumferðarsvæði flughafnar í aðildarríki, ber það aðildarríki ábyrgð á meðferð umsóknarinnar.

IV. KAFLI

EINSTAKLINGAR Á FRAMFÆRI ANNARRA OG ÁKVÆÐI UM ÁKVÖRÐUNARRÉTT

16. gr.

Einstaklingar á framfæri annarra

1. Ef umsækjandi er, sakir meðgöngu, nýfædds barns, alvarlegra veikinda, mikillar fötlunar eða elli, háður aðstoð barns síns, systkinis eða foreldris, sem er með lagalega búsetu í einu aðildarríkjanna, eða ef barn hans, systkini eða foreldri, sem er með lagalega búsetu í einu aðildarríkjanna, er háð aðstoð umsækjanda skulu aðildarríkin að jafnaði halda saman eða sameina umsækjanda og viðkomandi barn, systkini eða foreldri, að því tilskildu að fjölskyldutengsl þeirra hafi þegar verið mynduð í upprunalandinu, að barnið, systkinið, foreldrið eða umsækjandi hafi getu til að annast viðkomandi einstakling og að viðkomandi einstaklingar óski þess skriflega.

2. Ef barn, systkini eða foreldri, sem um getur í 1. mgr., er með lagalega búsetu í öðru aðildarríki en því sem umsækjandi er staddur í, skal aðildarríkið þar sem barnið, systkinið eða foreldrið er með lagalega búsetu bera ábyrgðina nema heilsa umsækjanda komi í veg fyrir að hann geti ferðast til þess aðildarríkis í umtalsverðan tíma. Í því tilviki skal aðildarríkið, þar sem umsækjandi er staddur, bera ábyrgð. Því aðildarríki ber ekki skylda til að sameina barn, systkini eða foreldri og umsækjanda á yfirráðasvæði sínu.

3. Framkvæmdastjórnin skal hafa heimild til að samþykkja framseldar gerðir, í samræmi við 45. gr., að því er varðar þætti sem taka þarf tillit til við að meta framfærslutengsl, viðmiðanir til að færa sönnur á að fjölskyldutengsl séu fyrir hendi, viðmiðanir til að meta getu einstaklings til að annast einstakling á framfæri og til hvaða þátta þarf að taka tillit við að meta hvort einstaklingur sé óferðafær í umtalsverðan tíma.

4. Framkvæmdastjórnin skal, með framkvæmdargerðum, setja samræmd skilyrði um samráð og skipti á upplýsingum milli aðildarríkja. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

17. gr.

Ákvæði um ákvörðunarrétt

1. Þrátt fyrir ákvæði 1. mgr. 3. gr. er hverju aðildarríki heimilt að taka til meðferðar umsókn um alþjóðlega vernd sem ríkisborgari þriðja lands eða ríkisfangslaus einstaklingur leggur fram hjá því, jafnvel þótt það beri ekki ábyrgð á slíkri meðferð samkvæmt viðmiðunum sem mælt er fyrir um í þessari reglugerð.

Aðildarríki sem ákveður að taka umsókn um alþjóðlega vernd til meðferðar samkvæmt þessari málsgrein skal verða aðildarríkið sem ber ábyrgð og taka á sig þær skuldbindingar sem sú ábyrgð hefur í för með sér. Þar sem við á skal það tilkynna það aðildarríkinu, sem áður bar ábyrgðina, aðildarríkinu, sem fer með málsmeðferðina til að ákvarða hvaða aðildarríki beri ábyrgð eða aðildarríkinu sem beiðni hefur verið beint til um að taka yfir umsjá umsækjanda eða taka við honum aftur, með Dyflinnarnetinu („DubliNet“), rafrænu fjarskiptaneti sem komið var á fót með 18. gr. reglugerðar (EB) nr. 1560/2003.

Aðildarríkið sem tekur við ábyrgðinni samkvæmt þessari málsgrein skal þegar í stað auðkenna það í evrópska fingrafaragrunninum, í samræmi við reglugerð (ESB) nr. 603/2013, með því að færa inn dagsetningu ákvörðunar um að taka umsóknina til meðferðar.

2. Aðildarríki, þar sem lögð er fram umsókn um alþjóðlega vernd og sem er í því ferli að ákvarða hvaða aðildarríki ber ábyrgð, eða aðildarríkið sem ber ábyrgðina, mega hvenær sem er, áður en fyrsta ákvörðun hefur verið tekin, fara fram á að annað aðildarríki taki yfir umsjá með umsækjanda í því skyni að sameina fólk sem tengt er fjölskylduböndum, af mannúðarástæðum, einkum að teknu tilliti til fjölskyldu- eða menningartengdra þátta, jafnvel þótt hitt aðildarríkið beri ekki ábyrgð samkvæmt þeim viðmiðunum sem mælt er fyrir um í 8.–11. gr. og í 16. gr. Viðkomandi einstaklingar verða að gefa samþykki sitt skriflega.

Beiðni um að taka yfir umsjá með umsækjanda skal innihalda allt það efni sem aðildarríkið, sem leggur fram beiðni, hefur með höndum til að gera aðildarríkinu, sem beiðni er beint til, kleift að meta stöðuna.

Aðildarríkið, sem beiðni er beint til, skal gera nauðsynlegar kannanir til að rannsaka mannúðarástæðurnar sem vísað er til og svara aðildarríkinu, sem leggur fram beiðnina, innan tveggja mánaða frá viðtöku beiðninnar um Dyflinnarnetið, rafrænt fjarskiptanet sem komið var á fót með 18. gr. reglugerðar (EB) nr. 1560/2003. Sé beiðninni synjað skulu ástæður synjunarinnar koma fram í svarinu.

Samþykki aðildarríkið, sem beiðni er beint til, hana færist ábyrgðin á meðferð umsóknarinnar til þess.

V. KAFLI

SKYLDUR AÐILDARRÍKISINS SEM BER ÁBYRGÐ

18. gr.

Skyldur aðildarríkisins sem ber ábyrgð

1. Aðildarríki, sem ber ábyrgð samkvæmt þessari reglugerð, skal vera skuldbundið til að:

a) taka yfir, samkvæmt skilyrðunum sem mælt er fyrir um í 21., 22. og 29. gr., umsjá umsækjanda sem lagt hefur fram umsókn í öðru aðildarríki,

b) taka aftur við, samkvæmt skilyrðunum sem mælt er fyrir um í 23., 24., 25. og 29. gr., umsækjanda sem hefur lagt fram umsókn sem er til meðferðar og sem lagt hefur fram umsókn í öðru aðildarríki eða sem er staddur á yfirráðasvæði annars aðildarríkis án dvalarskjals,

c) taka aftur við, samkvæmt skilyrðunum sem mælt er fyrir um í 23., 24., 25. og 29. gr., ríkisborgara þriðja lands eða ríkisfangslausum einstaklingi sem hefur dregið til baka umsókn sem var til meðferðar og lagt fram umsókn í öðru aðildarríki eða sem er staddur á yfirráðasvæði annars aðildarríkis án dvalarskjals,

d) taka aftur við, samkvæmt skilyrðunum sem mælt er fyrir um í 23., 24., 25. og 29. gr., ríkisborgara þriðja lands eða ríkisfangslausum einstaklingi, sem fengið hefur synjun við umsókn sinni og hefur lagt fram umsókn í öðru aðildarríki eða sem er staddur á yfirráðasvæði annars aðildarríkis án dvalarskjals,

2. Í tilvikum sem falla undir a- og b-lið 1. mgr. skal aðildarríkið sem ber ábyrgðina taka til meðferðar eða ljúka meðferð umsóknar umsækjanda um alþjóðlega vernd.

Þegar aðildarríki sem ber ábyrgð hefur hætt meðferð umsóknar, í kjölfar þess að umsækjandi dregur hana til baka, áður en ákvörðun er tekin á fyrsta stigi, skal það aðildarríki tryggja að í tilvikum, sem falla undir c-lið 1. mgr., eigi umsækjandi rétt á að fara fram á að lokið verði við meðferð umsóknar hans eða að leggja fram nýja umsókn um alþjóðlega vernd, sem ekki skal meðhöndluð sem síðari umsókn, eins og kveðið er á um í tilskipun 2013/32/ESB. Í slíkum tilvikum skulu aðildarríkin tryggja að lokið sé við meðferð umsóknarinnar.

Þegar umsókn hefur verið synjað á fyrsta stigi eingöngu, skal aðildarríkið sem ber ábyrgð tryggja, í tilvikum sem falla undir d-lið 1. mgr., að viðkomandi einstaklingur eigi eða hafi átt möguleika á raunhæfu úrræði til að leita réttar síns skv. 46. gr. tilskipunar 2013/32/ESB.

19. gr.

Ábyrgð fellur niður

1. Ef aðildarríki gefur út dvalarskjal til handa umsækjanda flytjast skuldbindingarnar, sem um getur í 1. mgr. 18. gr., til þess aðildarríkis.

2. Skuldbindingarnar, sem um getur í 1. mgr. 18. gr., skulu falla niður ef aðildarríkið sem ber ábyrgð getur sannað, þegar það er beðið um að taka í umsjá eða taka aftur við umsækjanda eða öðrum einstaklingi eins og um getur í c- eða d-lið 1. mgr. 18. gr., að ríkisborgari þriðja lands hafi yfirgefið yfirráðasvæði aðildarríkjanna um a.m.k. þriggja mánaða skeið, nema hann hafi undir höndum gilt dvalarskjal, gefið út af aðildarríkinu sem ber ábyrgð.

Litið skal á umsókn, sem lögð er fram eftir fjarverutímabil eins og um getur í fyrstu undirgrein, sem nýja umsókn sem leiðir til nýrrar málsmeðferðar til að ákvarða hvaða aðildarríki ber ábyrgð.

3. Skuldbindingarnar, sem um getur í c- og d-lið 1. mgr. 18. gr., skulu falla niður ef aðildarríkið sem ber ábyrgð getur sannað, þegar það er beðið um að taka aftur við umsækjanda eða öðrum einstaklingi eins og um getur í c- eða d-lið 1. mgr. 18. gr., að viðkomandi einstaklingur hafi yfirgefið yfirráðasvæði aðildarríkjanna í samræmi við endursendingarákvörðun eða skipun um brottvísun sem gefin var út í kjölfar þess að umsókn var dregin til baka eða henni synjað.

Litið skal á umsókn, sem lögð er fram eftir að brottflutningur hefur farið fram, sem nýja umsókn sem leiðir til nýrrar málsmeðferðar til að ákvarða hvaða aðildarríki ber ábyrgð.

VI. KAFLI

MÁLSMEÐFERÐ ÞEGAR UMSÆKJANDI ER TEKINN Í UMSJÁ OG VIÐ ENDURVIÐTÖKU

I. ÞÁTTUR

Upphaf málsmeðferðar

20. gr.

Upphaf málsmeðferðar

1. Um leið og umsókn um alþjóðlega vernd er fyrst lögð fram hjá aðildarríki hefst það ferli sem miðar að því að ákvarða hvaða aðildarríki beri ábyrgð.

2. Umsókn um alþjóðlega vernd telst hafa verið lögð fram þegar lögbærum yfirvöldum viðkomandi aðildarríkis hefur borist eyðublað, sem umsækjandi leggur fram, eða skýrsla frá yfirvöldum. Sé umsóknin ekki skrifleg skal líða sem stystur tími frá viljayfirlýsingu umsækjanda til þess að skýrsla er gerð.

3. Að því er þessa reglugerð varðar skal staða ólögráða barns, sem er í fylgd umsækjanda og uppfyllir skilyrði skilgreiningar um aðstandanda, vera óaðskiljanleg stöðu aðstandanda þess og heyra undir aðildarríkið sem ber ábyrgð á meðferð umsóknar þess aðstandanda um alþjóðlega vernd, jafnvel þótt ólögráða barnið sé ekki umsækjandi sjálft, að því tilskildu að slíkt samræmist hagsmunum barnsins. Sama meðferð á við um börn sem fædd eru eftir að umsækjandi kemur á yfirráðasvæði aðildarríkjanna án þess að hefja þurfi nýja málsmeðferð varðandi umsjá þeirra.

4. Ef umsækjandi, sem er staddur á yfirráðasvæði aðildarríkis, leggur fram umsókn um alþjóðlega vernd hjá lögbærum yfirvöldum annars aðildarríkis skal aðildarríkið, þar sem umsækjandi er staddur, taka ákvörðun um það hvaða ríki beri ábyrgðina. Aðildarríkið, sem tók við umsókninni, skal án tafar tilkynna síðarnefnda aðildarríkinu um það og skal upp frá því litið á það aðildarríki sem aðildarríkið þar sem umsókn um alþjóðlega vernd var lögð fram, að því er varðar þessa reglugerð.

Tilkynna ber umsækjanda skriflega um þessa breytingu á því hvaða aðildarríki tekur ákvörðun og hvaða dag hún fór fram.

5. Aðildarríkið, þar sem fyrst er lögð fram umsókn um alþjóðlega vernd, skal, samkvæmt þeim skilyrðum sem mælt er fyrir um í 23., 24., 25. og 29. gr. og með það fyrir augum að ljúka ferlinu sem miðar að því að ákvarða hvaða aðildarríki beri ábyrgð, taka aftur við umsækjanda, sem er staddur í öðru aðildarríki án dvalarskjals eða sem leggur þar fram umsókn um alþjóðlega vernd eftir að hafa dregið til baka fyrstu umsókn sína, sem lögð var fram í öðru aðildarríki, á meðan verið var að ákveða hvaða aðildarríki bæri ábyrgð.

Þessi kvöð fellur niður ef aðildarríkið, sem farið er fram á að ljúki ferlinu sem miðar að því að ákvarða hvaða aðildarríki beri ábyrgð, getur sannað að umsækjandi hafi á meðan yfirgefið yfirráðasvæði aðildarríkjanna um þriggja mánaða skeið eða lengur eða hann hefur fengið dvalarskjal frá öðru aðildarríki.

Litið skal á umsókn, sem lögð er fram eftir fjarverutímabil eins og um getur í annarri undirgrein, sem nýja umsókn sem leiðir til nýrrar málsmeðferðar til að ákvarða hvaða aðildarríki ber ábyrgð.

II. ÞÁTTUR

Málsmeðferð beiðna um að einstaklingur sé tekinn í umsjá

21. gr.

Beiðni lögð fram um að einstaklingur sé tekinn í umsjá

1. Ef aðildarríki, þar sem lögð hefur verið fram umsókn um alþjóðlega vernd, telur að annað aðildarríki beri ábyrgð á meðferð umsóknarinnar getur það, eins fljótt og auðið er og ávallt innan þriggja mánaða frá þeim degi sem umsóknin var lögð fram í skilningi 2. mgr. 20. gr., farið fram á að hitt aðildarríkið taki yfir umsjá umsækjandans.

Ef jákvæð samsvörun finnst í evrópska fingrafaragrunninum við gögn, sem skráð eru skv. 14. gr. reglugerðar (ESB) nr. 603/2013, skal, þrátt fyrir fyrstu undirgrein, senda beiðnina innan tveggja mánaða frá því að sú samsvörun barst í samræmi við 2. mgr. 15. gr. þeirrar reglugerðar.

Ef beiðni um að umsækjandi verði tekinn í umsjá er ekki lögð fram innan þess frests sem mælt er fyrir um í fyrstu og annarri undirgrein skal aðildarríkið, þar sem umsóknin var lögð fram, bera ábyrgð á meðferð umsóknarinnar um alþjóðlega vernd.

2. Aðildarríkið, sem leggur fram beiðni, getur farið fram á að fá svar í skyndi ef lögð hefur verið fram umsókn um alþjóðlega vernd eftir að leyfi til að koma inn í landið eða dvelja þar áfram hefur verið synjað, eftir handtöku vegna ólöglegrar dvalar eða eftir að gefin hefur verið út skipun um brottvísun eða henni hefur verið framfylgt.

Í beiðninni skulu koma fram ástæður þess að svar þurfi að berast í skyndi og innan hvaða frests búist er við svari. Fresturinn skal vera a.m.k. ein vika.

3. Í þeim tilvikum sem um getur í 1. og 2. mgr. skal beiðni um að annað aðildarríki taki yfir umsjá umsækjanda lögð fram á stöðluðu eyðublaði ásamt sönnunum eða sönnunum, byggðum á líkum, eins og lýst er í skránum tveimur sem um getur í 3. mgr. 22. gr. og/eða viðeigandi þáttum í yfirlýsingu umsækjanda, sem gera yfirvöldum aðildarríkisins, sem tekur við beiðninni, kleift að kanna hvort það beri ábyrgð í samræmi við viðmiðanirnar sem mælt er fyrir um í þessari reglugerð.

Framkvæmdastjórnin skal, með framkvæmdargerðum, setja samræmd skilyrði um undirbúning og framlagningu beiðna um að einstaklingur sé tekinn í umsjá. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

22. gr.

Svar við beiðni um að einstaklingur sé tekinn í umsjá

1. Aðildarríkið, sem beiðni er beint til, skal gera nauðsynlegar kannanir og taka ákvörðun um beiðni um að taka umsækjanda í umsjá innan tveggja mánaða frá móttöku hennar.

2. Í málsmeðferðinni við að ákveða hvaða aðildarríki ber ábyrgð skal notast við sannanir eða sannanir, byggðar á líkum.

3. Framkvæmdastjórnin skal, með framkvæmdargerðum, láta vinna tvær skrár og endurskoða þær reglulega, þar sem gefnar eru upplýsingar um hvaða sannanir eða sannanir, byggðar á líkum, er að ræða í samræmi við viðmiðanirnar sem settar eru fram í a- og b-lið þessarar málsgreinar. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

a) Sannanir:

i. Hér er átt við formlegar sannanir sem ákvarða ábyrgð samkvæmt þessari reglugerð, að því tilskildu að þær sé ekki hraktar með sönnunum um hið gagnstæða.

ii. Aðildarríkin skulu sjá nefndinni, sem kveðið er á um í 44. gr., fyrir fyrirmyndum að mismunandi gerðum opinberra skjala í samræmi við flokkun sem komið er á í skránni yfir formlegar sannanir.

b) Sannanir, byggðar á líkum:

i. Hér er átt við leiðbeinandi þætti sem, þrátt fyrir að vera hrekjanlegir, kunna að vera fullnægjandi í vissum tilvikum vegna sönnunargildis þeirra.

ii. Sönnunargildi þeirra í tengslum við ábyrgð á meðferð umsóknar um alþjóðlega vernd skal metið í hverju tilviki fyrir sig.

4. Krafan um sönnun má ekki vera meiri en nauðsynlegt er fyrir rétta beitingu þessarar reglugerðar.

5. Ef engar formlegar sannanir eru fyrir hendi skal aðildarríkið, sem beiðni er beint til, viðurkenna ábyrgð sína reynist sannanir, byggðar á líkum, vera samfelldar, sannreynanlegar og nægilega ítarlegar til að ákvarða hvar ábyrgðin liggur.

6. Ef aðildarríkið, sem leggur fram beiðni, hefur sagt að mikið liggi við í samræmi við ákvæði 2. mgr. 21. gr. skal aðildarríkið, sem beiðni er beint til, gera allt sem í þess valdi stendur til að virða frestinn sem gefinn er. Í undantekningartilvikum, þar sem sýna má fram á að meðferð beiðni um að umsækjandi verði tekinn í umsjá sé sérstaklega flókin, er aðildarríkinu, sem beiðni er beint til, heimilt að svara eftir að fresturinn, sem gefinn er, er útrunninn, en þó innan mánaðar. Við slíkar aðstæður verður aðildarríkið, sem beiðni er beint til, að tilkynna aðildarríkinu, sem leggur fram beiðni, um ákvörðun sína um að fresta svarinu, innan frestsins sem gefinn var upphaflega.

7. Sé beiðninni ekki svarað áður en tveggja mánaða fresturinn, sem um getur í 1. mgr., og eins mánaðar fresturinn, sem um getur í 6. mgr., renna út er það talið jafngilda því að beiðnin hafi verið samþykkt og hefur það í för með sér skuldbindingu um að taka yfir umsjá umsækjanda, þ.m.t. að gera viðeigandi ráðstafanir við komu.

III. ÞÁTTUR

Málsmeðferð beiðna um endurviðtöku

23. gr.

Beiðni um endurviðtöku lögð fram þegar ný umsókn hefur verið lögð fram í aðildarríkinu sem leggur fram beiðnina

1. Ef aðildarríki, þar sem einstaklingur, sem um getur í b-, c- eða d-lið 1. mgr. 18. gr. hefur lagt fram nýja umsókn um alþjóðlega vernd, telur að annað aðildarríki beri ábyrgð í samræmi við 5. mgr. 20. gr. og b-, c- eða d-lið 1. mgr. 18. gr., getur það farið fram á að það aðildarríki taki aftur við einstaklingnum.

2. Beiðni um endurviðtöku skal lögð fram eins fljótt og auðið er og ávallt innan tveggja mánaða frá því að jákvæð samsvörun úr evrópska fingrafaragrunninum berst, í samræmi við 5. mgr. 9. gr. reglugerðar (ESB) nr. 603/2013.

Ef beiðnin um endurviðtöku er byggð á öðrum sönnunum en gögnum úr evrópska fingrafaragrunnskerfinu, skal hún send til aðildarríkisins, sem beiðni er beint til, innan þriggja mánaða frá þeim degi þegar umsóknin um alþjóðlega vernd var lögð fram í skilningi 2. mgr. 20. gr.

3. Ef beiðni um endurviðtöku er ekki lögð fram innan þess frests sem mælt er fyrir um í 2. mgr. skal aðildarríkið, þar sem nýja umsóknin var lögð fram, bera ábyrgð á meðferð umsóknarinnar um alþjóðlega vernd.

4. Umsókn um endurviðtöku skal lögð fram á stöðluðu eyðublaði ásamt sönnunum eða sönnunum, byggðum á líkum, eins og lýst er í skránum tveimur, sem um getur í 3. mgr. 22. gr., og/eða viðeigandi þáttum í yfirlýsingum viðkomandi einstaklings, sem gerir yfirvöldum aðildarríkisins, sem beiðninni er beint til, kleift að kanna hvort það beri ábyrgð í samræmi við viðmiðanirnar sem mælt er fyrir um í þessari reglugerð.

Framkvæmdastjórnin skal, með framkvæmdargerðum, setja samræmd skilyrði um undirbúning og framlagningu beiðna um endurviðtöku. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

24. gr.

Beiðni um endurviðtöku lögð fram þegar ekki hefur verið lögð fram ný umsókn í aðildarríkinu sem leggur fram beiðnina

1. Ef aðildarríki, þar sem einstaklingur sem um getur í b-, c- eða d-lið 1. mgr. 18. gr., dvelst án dvalarskjals og ný umsókn um alþjóðlega vernd hefur ekki verið lögð fram, telur að annað aðildarríki beri ábyrgð í samræmi við 5. mgr. 20. gr. og b-, c- eða d-lið 1. mgr. 18. gr., getur það farið fram á að það aðildarríki taki aftur við einstaklingnum.

2. Ef aðildarríki, þar sem einstaklingur dvelst án dvalarskjals, ákveður að leita í evrópska fingrafaragrunnskerfinu í samræmi við 17. gr. reglugerðar (ESB) nr. 603/2013, skal, þrátt fyrir 2. mgr. 6. gr. tilskipunar

Evrópuþingsins og ráðsins 2008/115/EB frá 16. desember 2008 um sameiginlega staðla og málsmeðferð í aðildarríkjunum varðandi endursendingu ríkisborgara þriðju landa ([1]) sem dvelja þar ólöglega, taka ákvörðun um endurviðtöku einstaklings, eins og um getur í b- eða c-lið 1. mgr. 18. gr. þessarar reglugerðar, eða einstaklings eins og um getur í d-lið 1. mgr. 18. gr., sem hefur lagt fram umsókn um alþjóðlega vernd sem hefur ekki verið synjað með endanlegri ákvörðun, eins fljótt og auðið er og ávallt innan tveggja mánaða frá því að jákvæð samsvörun úr evrópska fingrafaragrunninum berst, skv. 5. mgr. 17. gr. reglugerðar (ESB) nr. 603/2013.

Ef beiðnin um endurviðtöku er byggð á öðrum sönnunum en gögnum úr evrópska fingrafaragrunnskerfinu, skal hún send til aðildarríkisins sem beiðni er beint til innan þriggja mánaða frá þeim degi þegar aðildarríkið sem leggur fram beiðni verður þess áskynja að annað aðildarríki gæti átt að bera ábyrgð á viðkomandi einstaklingi.

3. Ef beiðni um endurviðtöku er ekki lögð fram innan þess frests sem mælt er fyrir um í 2. mgr. skal aðildarríkið þar sem hlutaðeigandi einstaklingur dvelur án dvalarskjals, gefa honum tækifæri til að leggja fram nýja umsókn.

4. Ef einstaklingur, eins og um getur í d-lið 1. mgr. 18. gr. þessarar reglugerðar, sem hefur lagt fram umsókn um alþjóðlega vernd sem hefur verið synjað með endanlegri ákvörðun í einu aðildarríki, er staddur á yfirráðasvæði annars aðildarríkis án dvalarskjals, getur síðarnefnda aðildarríkið annaðhvort farið fram á að fyrrnefnda aðildarríkið taki aftur við hlutaðeigandi einstaklingi eða framfylgi málsmeðferð til endursendingar í samræmi við tilskipun 2008/115/EB.

Ef síðarnefnda aðildarríkið ákveður að fara fram á að fyrrnefnda aðildarríkið taki aftur við hlutaðeigandi einstaklingi skulu reglurnar sem mælt er fyrir um í tilskipun 2008/115/EB, ekki gilda.

5. Beiðni um endurviðtöku einstaklings sem um getur í b-, c- eða d-lið 1. mgr. 18. gr., skal lögð fram á stöðluðu eyðublaði ásamt sönnunum eða sönnunum, byggðum á líkum, eins og lýst er í skránum tveimur sem um getur í 3. mgr. 22. gr. og/eða viðeigandi þáttum í yfirlýsingum einstaklingsins, sem gerir yfirvöldum aðildarríkisins, sem beiðninni er beint til, kleift að kanna hvort það beri ábyrgð í samræmi við viðmiðanirnar sem mælt er fyrir um í þessari reglugerð.

Framkvæmdastjórnin skal, með framkvæmdargerðum, láta vinna tvær skrár og endurskoða þær reglulega þar sem gefnar eru upplýsingar um hvaða sannanir eða sannanir, byggðar á líkum, er að ræða í samræmi við viðmiðanirnar sem settar eru fram í a- og b-lið 3. mgr. 22. gr. og setja samræmd skilyrði um undirbúning og framlagningu beiðna um endurviðtöku. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

25. gr.

Svar við beiðni um endurviðtöku

1. Aðildarríkið, sem beiðni er beint til, skal gera nauðsynlegar kannanir og taka ákvörðun um beiðni um endurviðtöku viðkomandi einstaklings eins fljótt og auðið er og ávallt innan eins mánaðar frá móttöku hennar. Ef beiðnin byggist á gögnum, sem fengin eru úr evrópska fingrafaragrunninum, styttist fresturinn í tvær vikur.

2. Sé beiðninni ekki svarað áður en frestur til eins mánaðar eða tveggja vikna, sem um getur í 1. mgr., rennur út er það talið jafngilda því að beiðnin hafi verið samþykkt og hefur það í för með sér skuldbindingu um að taka aftur við umsækjanda, þ.m.t. um að gera viðeigandi ráðstafanir við komu.

IV. ÞÁTTUR

Réttarfarsreglur

26. gr.

Ákvörðun um flutning tilkynnt

1. Þegar aðildarríki sem beiðni er beint til samþykkir að taka í umsjá eða taka aftur við umsækjanda eða öðrum einstaklingi, eins og um getur í c- eða d-lið 1. mgr. 18. gr., skal aðildarríkið sem leggur fram beiðnina tilkynna hlutaðeigandi einstaklingi um ákvörðun þess efnis að hann verði fluttur til aðildarríkisins sem ber ábyrgð og, ef við á, ákvörðunina um að taka ekki umsókn hans um alþjóðlega vernd til meðferðar. Ef lögfræðingur eða annar ráðgjafi kemur fram fyrir hönd hlutaðeigandi einstaklings geta aðildarríkin kosið að tilkynna slíkum lögfræðingi eða ráðgjafa um ákvörðunina í stað hlutaðeigandi einstaklings og, eftir atvikum, skýra hlutaðeigandi einstaklingi frá ákvörðuninni.

2. Í ákvörðuninni, sem um getur í 1. mgr., skulu koma fram upplýsingar um lagaleg úrræði sem standa til boða, þ.m.t. rétt til að óska eftir áhrifum til frestunar, eftir atvikum, og tíundaður frestur til að leita slíkra úrræða og fresturinn til að flytja viðkomandi, og ef nauðsyn ber til, upplýsingar um hvar og hvenær hlutaðeigandi einstaklingur á að mæta ef hann ferðast á eigin vegum til aðildarríkisins sem ber ábyrgð.

Aðildarríkin skulu tryggja að með ákvörðuninni, sem um getur í 1. mgr., sé hlutaðeigandi einstaklingi veittar upplýsingar um einstaklinga eða aðila sem geta veitt honum lögfræðiaðstoð ef þessar upplýsingar hafa ekki þegar verið látnar í té.

3. Njóti hlutaðeigandi einstaklingur ekki aðstoðar eða fyrirsvars lögfræðings eða annars ráðgjafa skulu aðildarríkin tilkynna honum um meginatriði ákvörðunarinnar og skulu þau ávallt fela í sér upplýsingar um lagaleg úrræði sem standa til boða og fresti til að leita slíkra úrræða, á tungumáli sem hlutaðeigandi einstaklingur skilur eða sem raunhæft er að ætla að hann skilji.

27. gr.

Úrræði

1. Umsækjandi eða annar einstaklingur, eins og um getur í c- eða d-lið 1. mgr. 18. gr., skal eiga rétt til raunhæfs úrræðis til að leita réttar síns, í formi kæru eða endurskoðunar fyrir dómstóli á málsatvikum og lagaatriðum vegna ákvörðunar um flutning.

2. Aðildarríki skulu kveða á um hæfilegan frest fyrir hlutaðeigandi einstakling til að notfæra sér rétt sinn til raunhæfs úrræðis til að leita réttar síns skv. 1. mgr.

([1]) Stjtíð. ESB L 348, 24.12.2008, bls. 98.

3. Að því er varðar kærur eða endurskoðun ákvarðana um flutning skulu aðildarríkin kveða á um eftirfarandi í landslögum sínum:

a) að kæra eða endurskoðun veiti hlutaðeigandi einstaklingi rétt til að dvelja í viðkomandi aðildarríki meðan beðið er niðurstöðu kærunnar eða endurskoðunarinnar eða

b) að flutningi skuli frestað sjálfvirkt og að slík frestun falli úr gildi eftir tiltekinn, hæfilega langan tíma og að dómstóll skuli, að undanfarinni nákvæmri og strangri grannskoðun, þá hafa tekið ákvörðun um það hvort kæran eða endurskoðunin skuli hafa áhrif til frestunar eða

c) að hlutaðeigandi einstaklingur hafi tækifæri til að fara fram á það innan hæfilegs frests að dómstóll fresti framkvæmd ákvörðunar um flutning meðan beðið er niðurstöðu kærunnar eða endurskoðunarinnar. Aðildarríkin skulu tryggja að raunhæft úrræði til að leita réttar síns sé fyrir hendi með því að fresta flutningi uns ákvörðun hefur verið tekin um fyrstu frestunarbeiðnina. Sérhver ákvörðun um hvort fresta beri framkvæmd ákvörðunar um flutning skal tekin innan hæfilegs frests, til að fram geti farið nákvæm og ströng grannskoðun á frestunarbeiðninni. Rökstyðja skal ákvörðun um að fresta ekki framkvæmd ákvörðunar um flutning.

4. Aðildarríkjunum er heimilt að kveða á um að lögbær yfirvöld geti ákveðið, í krafti embættis síns, að fresta framkvæmd ákvörðunar um flutning meðan beðið er niðurstöðu kæru eða endurskoðunar.

5. Aðildarríkin skulu tryggja að hlutaðeigandi einstaklingur hafi aðgang að lögfræðiaðstoð og, ef nauðsyn krefur, tungumálaaðstoð.

6. Aðildarríkin skulu tryggja að lögfræðiaðstoð sé veitt án endurgjalds ef hlutaðeigandi einstaklingur hefur ekki efni á henni. Aðildarríkjunum er heimilt að kveða á um að umsækjendur skuli ekki fá hagstæðari meðferð, að því er varðar gjöld og annan kostnað, en ríkisborgarar landsins fá almennt í málum er lúta að lögfræðiaðstoð.

Aðildarríkjunum er heimilt, án þess að það hafi í för með sér geðþóttabundnar takmarkanir á lögfræðiaðstoð, að kveða á um að ekki skuli veitt lögfræðiaðstoð eða séð fyrir málsvara endurgjaldslaust ef lögbæra yfirvaldið eða dómstóll telur engar raunhæfar líkur á að kæran eða endurskoðunin beri árangur.

Ef annað yfirvald en dómstóll tekur ákvörðun um að veita ekki lögfræðiaðstoð og sjá viðkomandi fyrir málsvara endurgjaldslaust samkvæmt þessari málsgrein, skal aðildarríkið sjá til þess að viðkomandi geti leitað réttar síns með því að skjóta þeirri ákvörðun til dómstóls.

Þegar farið er að kröfum þessarar málsgreinar skulu aðildarríkin tryggja að ekki séu geðþóttabundnar takmarkanir á lögfræðiaðstoð og málsvara og að ekki sé staðið í vegi fyrir skilvirkum aðgangi umsækjanda að réttarkerfinu.

Lögfræðiaðstoð skal a.m.k. taka til undirbúnings tilskilinna málsskjala og fyrirsvars fyrir dómstóli og kann að vera takmörkuð við lögfræðinga eða ráðgjafa sem sérstaklega eru tilnefndir samkvæmt landslögum til að veita aðstoð og fyrirsvar.

Í landslögum skal mæla fyrir um málsmeðferðarreglur um aðgang að lögfræðiaðstoð.

V. ÞÁTTUR

VARÐHALD VEGNA FLUTNINGS

28. gr.

Varðhald

1. Aðildarríki skulu ekki halda neinum í varðhaldi af þeirri ástæðu einni að hann sætir málsmeðferðinni sem komið er á með þessari reglugerð.

2. Ef veruleg hætta er talin á að viðkomandi hlaupist á brott geta aðildarríkin hneppt hlutaðeigandi einstakling í varðhald til að tryggja málsmeðferð um flutning hans í samræmi við þessa reglugerð, á grundvelli mats á hverju tilviki fyrir sig og einungis ef meðalhófs er gætt og beiting vægari þvingunarráðstafana dugir ekki.

3. Varðhald skal vara í eins skamman tíma og kostur er og ekki lengur en telja má nauðsynlegt til að inna megi af hendi tilskilda stjórnsýslumeðferð af tilhlýðilegri kostgæfni þar til flutningur samkvæmt þessari reglugerð fer fram.

Ef einstaklingur er hnepptur í varðhald samkvæmt þessari grein skal fresturinn til að leggja fram beiðni um að hann verði tekinn í umsjá eða beiðni um endurviðtöku ekki vera lengri en einn mánuður frá því að umsókn er lögð fram. Aðildarríkið, sem annast málsmeðferðina í samræmi við þessa reglugerð, skal óska eftir svari með hraði í slíkum tilvikum. Svar skal gefið innan tveggja vikna frá viðtöku beiðninnar. Sé beiðninni ekki svarað áður en tveggja vikna fresturinn er útrunninn er það talið jafngilda því að beiðnin hafi verið samþykkt og hefur það í för með sér skuldbindingu um að taka einstaklinginn í umsjá eða taka aftur við honum, þ.m.t. um að gera viðeigandi ráðstafanir við komu.

Ef einstaklingur er hnepptur í varðhald samkvæmt þessari grein skal flutningur viðkomandi frá aðildarríkinu, sem leggur fram beiðni, til aðildarríkisins, sem ber ábyrgð, fara fram eins fljótt og við verður komið og í síðasta lagi innan sex vikna frá því að annað aðildarríki samþykkir, beint eða óbeint, beiðni um að taka umsækjanda í umsjá eða taka við honum aftur, eða þeirri stundu þegar kæra eða endurskoðun hefur ekki lengur áhrif til frestunar í samræmi við 3. mgr. 27. gr.

Ef aðildarríki, sem leggur fram beiðni, virðir ekki fresti til að leggja fram beiðni um að umsækjandi verði tekinn í umsjá eða beiðni um endurviðtöku innan tilskilins frests eða ef flutningur á sér ekki stað innan sex vikna frestsins sem um getur í þriðju undirgrein, skal viðkomandi látinn laus úr varðhaldi. Ákvæði 21., 23., 24. og 29. gr. gilda áfram til samræmis við það.

4. Að því er varðar varðhaldsskilyrði og ábyrgðir varðandi fólk í varðhaldi skulu 9., 10. og 11. gr. tilskipunar 2013/33/ESB gilda til að tryggja málsmeðferð um flutning til aðildarríkisins sem ber ábyrgð.

VI. ÞÁTTUR

Flutningur

29. gr.

Fyrirkomulag og frestir

1. Flutningur umsækjanda eða annars einstaklings, eins um getur í c- eða d-lið 1. mgr. 18. gr., frá aðildarríki, sem leggur fram beiðni, til aðildarríkisins, sem ber ábyrgð, skal fara fram í samræmi við innlend lög aðildarríkisins, sem leggur fram beiðnina, að undangengnu samráði milli viðkomandi ríkja, eins fljótt og við verður komið og í síðasta lagi innan sex mánaða frá því að annað aðildarríki samþykkir beiðni um að taka viðkomandi í umsjá eða taka við honum aftur, eða lokaákvörðun tekin um kæru eða endurskoðun ef um er að ræða áhrif til frestunar í samræmi við 3. mgr. 27. gr.

Ef flutningur einstaklings til aðildarríkis fer fram undir eftirliti eða með fylgd skulu aðildarríkin tryggja að það sé gert með mannúðlegum hætti og í fullu samræmi við grundvallarréttindi og virðingu fyrir mannlegri reisn.

Ef nauðsyn ber til gefur aðildarríkið, sem leggur fram beiðni, út ferðabréf til handa umsækjanda. Framkvæmdastjórnin skal ákveða form ferðabréfanna með framkvæmdargerðum. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

Aðildarríkið, sem ber ábyrgð, skal tilkynna aðildarríkinu, sem leggur fram beiðni, eftir því sem við á, að hlutaðeigandi einstaklingur sé kominn heilu og höldnu eða að hann hafi ekki komið innan frestsins sem gefinn var.

2. Ef flutningurinn fer ekki fram innan sex mánaða frestsins fellur niður sú skylda aðildarríkisins, sem ber ábyrgð, að taka hlutaðeigandi einstakling í umsjá eða taka við honum aftur og færist ábyrgðin þá til aðildarríkisins sem lagði fram beiðnina. Þennan frest má framlengja í eitt ár að hámarki ef ekki getur orðið af flutningnum vegna þess að hlutaðeigandi einstaklingur er í fangelsi eða í átján mánuði að hámarki ef hann hleypst á brott.

3. Ef einstaklingur hefur verið fluttur fyrir mistök eða ef ákvörðun um flutning er snúið við sakir kæru eða endurskoðunar eftir að flutningur hefur farið fram skal aðildarríkið sem annaðist flutninginn tafarlaust taka við honum aftur.

4. Framkvæmdastjórnin skal, með framkvæmdargerðum, setja samræmd skilyrði um samráð og skipti á upplýsingum milli aðildarríkja, einkum þegar um er að ræða flutning sem er frestað eða seinkað, flutning í kjölfar sjálfgefins samþykkis, flutning ólögráða barna eða einstaklinga á framfæri annarra og flutning undir eftirliti. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

30. gr.

Kostnaður við flutning

1. Aðildarríkið, sem annast flutning umsækjanda eða annars einstaklings, eins og um getur í c- eða d-lið 1. mgr. 18. gr., til aðildarríkisins sem ber ábyrgð, skal bera nauðsynlegan kostnað af honum.

2. Ef flytja þarf einstakling aftur til aðildarríkis, vegna þess að hann hefur verið fluttur fyrir mistök eða vegna þess að ákvörðun um flutning hefur verið snúið við sakir kæru eða endurskoðunar eftir að flutningur hefur farið fram, skal aðildarríkið sem upphaflega annaðist flutninginn taka á sig kostnað við flutning hlutaðeigandi einstaklings aftur á yfirráðasvæði þess.

3. Þess skal ekki krafist að einstaklingar, sem flytja á samkvæmt þessari reglugerð, beri sjálfir kostnað af slíkum flutningi.

31. gr.

Skipti á viðeigandi upplýsingum áður en flutningur fer fram

1. Aðildarríkið, sem annast flutning umsækjanda eða annars einstaklings, eins og um getur í c-eða d-lið 1. mgr. 18. gr., skal láta aðildarríkinu, sem ber ábyrgð, í té persónuupplýsingar um hann sem eru viðeigandi, varða málið og eru ekki of ítarlegar, í þeim tilgangi einum að tryggja að lögbær yfirvöld, í samræmi við innlend lög aðildarríkisins sem ber ábyrgð, séu í aðstöðu til að veita einstaklingnum viðeigandi aðstoð, þ.m.t. brýna heilbrigðisþjónustu sem þörf er á til að gæta grundvallarhagsmuna viðkomandi og til að tryggja samfellu í vernd og réttindum sem hlutaðeigandi nýtur samkvæmt þessari reglugerð og öðrum viðeigandi lagagerningum um hæli. Þessi gögn skulu send aðildarríkinu sem ber ábyrgð innan hæfilegs tíma áður en flutningur fer fram til að tryggja að lögbær yfirvöld samkvæmt landslögum hafi nægan tíma til að gera nauðsynlegar ráðstafanir.

2. Aðildarríkið sem annast flutninginn skal, að því marki sem slíkar upplýsingar eru aðgengilegar lögbærum yfirvöldum í samræmi við landslög, senda aðildarríkinu sem ber ábyrgð hverjar þær upplýsingar sem nauðsynlegar eru til að standa vörð um réttindi og brýnar sérþarfir einstaklingsins sem flytja á, einkum:

a) um tafarlausar aðgerðir sem aðildarríkið, sem ber ábyrgð, þarf að grípa til í því skyni að tryggja að sérþörfum einstaklingsins, sem flytja á, sé mætt á viðeigandi hátt, þ.m.t. með hvers konar brýnni heilbrigðisþjónustu sem kann að vera þörf á,

b) samskiptaupplýsingar aðstandenda, skyldmenna eða annarra sem eru tengdir hlutaðeigandi fjölskylduböndum í aðildarríkinu sem tekur við honum, eftir atvikum,

c) þegar um er að ræða ólögráða börn, upplýsingar um menntun þeirra,

d) mat á aldri umsækjanda.

3. Upplýsingaskipti samkvæmt þessari grein skulu einungis fara fram milli þeirra yfirvalda sem framkvæmdastjórninni hefur verið tilkynnt um, í samræmi við 35. gr. þessarar reglugerðar og þau skulu fara fram um Dyflinnarnetið, rafrænt fjarskiptanet sem komið var á fót með 18. gr. reglugerðar (EB) nr. 1560/2003. Upplýsingar, sem skipst er á, skulu einungis notaðar í þeim tilgangi sem mælt er fyrir um í 1. mgr. þessarar greinar og skulu ekki unnar frekar.

4. Í því skyni að greiða fyrir upplýsingaskiptum milli aðildarríkjanna skal framkvæmdastjórnin, með framkvæmdargerðum, útbúa staðlað eyðublað til að flytja tilskilin gögn samkvæmt þessari reglugerð. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

5. Reglurnar, sem mælt er fyrir um í 8.–12. mgr. 34. gr. skulu gilda um skipti á upplýsingum í samræmi við þessa grein.

32. gr.

Skipti á heilbrigðisupplýsingum áður en flutningur fer fram

1. Aðildarríkið sem annast flutninginn skal, að því marki sem lögbært yfirvald hefur aðgengi að slíkum upplýsingum í samræmi við landslög, í þeim tilgangi einum að veita læknishjálp eða -meðferð, einkum þegar um er að ræða fatlaða, aldraða, þungaðar konur, ólögráða börn og þá sem sætt hafa pyntingum, nauðgunum eða öðru alvarlegu andlegu, líkamlegu og kynferðislegu ofbeldi, senda aðildarríkinu, sem ber ábyrgð, upplýsingar um hvers konar sérþarfir einstaklingsins sem á að flytja, sem í tilteknum tilvikum geta innihaldið upplýsingar um líkamlegt heilbrigði eða geðheilbrigði hans. Upplýsingarnar skulu sendar í sameiginlegu heilbrigðisvottorði og skulu nauðsynleg skjöl fylgja með. Aðildarríkið sem ber ábyrgð skal tryggja að þessum sérþörfum sé mætt á viðeigandi hátt, þ.m.t. einkum með hvers konar brýnni heilbrigðisþjónustu sem kann að vera þörf á.

Framkvæmdastjórnin skal, með framkvæmdargerðum, semja sameiginlega heilbrigðisvottorðið. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

2. Aðildarríkið, sem annast flutninginn, skal einungis senda upplýsingarnar sem um getur í 1. mgr. til aðildarríkisins, sem ber ábyrgð, að fengnu ótvíræðu samþykki umsækjanda og/eða fulltrúa hans eða, ef umsækjandi er líkamlega eða löglega ófær um að veita samþykki sitt, ef slíkt er nauðsynlegt til að vernda grundvallarhagsmuni umsækjandans eða annars einstaklings. Ekki skal standa í vegi fyrir flutningi þótt samþykki hafi ekki fengist, þ.m.t. ef samþykki er synjað.

3. Einungis sérfræðingi á heilbrigðissviði, sem er bundinn þagnarskyldu samkvæmt landslögum eða reglum sem innlend, lögbær yfirvöld hafa sett, eða öðrum einstaklingi sem er bundinn sambærilegri þagnarskyldu, er heimilt að vinna persónulegar heilbrigðisupplýsingar eins og um getur í 1. mgr.

4. Upplýsingaskipti samkvæmt þessari grein skulu einungis fara fram milli þeirra heilbrigðisstarfsmanna eða annarra einstaklinga sem um getur í 3. mgr. Upplýsingarnar sem skipst er á skulu einungis notaðar í þeim tilgangi sem mælt er fyrir um í 1. mgr. og skulu ekki unnar frekar.

5. Framkvæmdastjórnin skal, með framkvæmdargerðum, samþykkja samræmd skilyrði og fyrirkomulag skipta á upplýsingum sem um getur í 1. mgr. þessarar greinar. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

6. Reglurnar, sem mælt er fyrir um í 8.–12. mgr. 34. gr. skulu gilda um upplýsingaskipti í samræmi við þessa grein.

33. gr.

Kerfi fyrir tímanlega viðvörun, viðbúnað og hættustjórnun

1. Komist framkvæmdastjórnin að þeirri niðurstöðu, einkum á grundvelli upplýsinga sem Evrópska stuðningsskrifstofan í hælismálefnum aflar samkvæmt reglugerð (ESB) nr. 439/2010, að beitingu þessarar reglugerðar kunni að vera stofnað í hættu, vegna raunverulegrar hættu á sérstöku álagi á hæliskerfi aðildarríkis og/eða vandamála í starfsemi hæliskerfis aðildarríkis, skal hún, í samvinnu við Evrópsku stuðningsskrifstofuna í hælismálefnum, beina tilmælum til hlutaðeigandi aðildarríkis og hvetja það til að útbúa áætlun um fyrirbyggjandi aðgerðir.

Hlutaðeigandi aðildarríki skal upplýsa ráðið og framkvæmdastjórnina um hvort það hefur í hyggju að leggja fram áætlun um fyrirbyggjandi aðgerðir til að vinna bug á álaginu og/eða vandræðunum í starfsemi hæliskerfis þess, jafnframt því að tryggja vernd grundvallarréttinda umsækjenda um alþjóðlega vernd.

Aðildarríki er heimilt, að eigin vild og frumkvæði, að útbúa áætlun um fyrirbyggjandi aðgerðir og síðari endurskoðanir á henni. Aðildarríki getur beðið framkvæmdastjórnina, önnur aðildarríki, Evrópsku stuðningsskrifstofuna í hælismálefnum og aðrar viðeigandi sérstofnanir Sambandsins um aðstoð við gerð áætlunar um fyrirbyggjandi aðgerðir.

2. Þegar gerð er áætlun um fyrirbyggjandi aðgerðir skal hlutaðeigandi aðildarríki leggja hana fyrir ráðið og framkvæmdastjórnina og reglulega gefa þeim skýrslu um framkvæmd hennar. Framkvæmdastjórnin skal síðan upplýsa Evrópuþingið um lykilatriði í áætluninni um fyrirbyggjandi aðgerðir. Framkvæmdastjórnin skal leggja skýrslur um framkvæmd hennar fyrir ráðið og senda skýrslur um framkvæmd hennar til Evrópuþingsins.

Hlutaðeigandi aðildarríki skal gera allar viðeigandi ráðstafanir til að bregðast við sérstöku álagi á hæliskerfi þess eða tryggja að tekið sé á þeim annmörkum, sem koma í ljós, áður en staðan versnar. Ef áætlun um fyrirbyggjandi aðgerðir felur í sér aðgerðir, sem miða að því að bregðast við sérstöku álagi á hæliskerfi aðildarríkis sem kann að tefla beitingu þessarar reglugerðar í tvísýnu, skal framkvæmdastjórnin leita ráða hjá Evrópsku stuðningsskrifstofunni í hælismálefnum áður en hún gefur Evrópuþinginu og ráðinu skýrslu.

3. Ef framkvæmdastjórnin kemst að þeirri niðurstöðu, á grundvelli greiningar Evrópsku stuðningsskrifstofunnar í hælismálefnum, að framkvæmd áætlunar um fyrirbyggjandi aðgerðir hafi ekki bætt úr þeim annmörkum sem greindust eða ef alvarleg hætta er á að hættuástand skapist í hælismálum í hlutaðeigandi aðildarríki, sem ekki er líklegt að áætlun um fyrirbyggjandi aðgerðir bæti úr, getur framkvæmdastjórnin, í samstarfi við Evrópsku stuðningsskrifstofuna í hælismálefnum, eftir því sem við á, óskað eftir því við hlutaðeigandi aðildarríki að það semji aðgerðaáætlun um hættustjórnun og, ef nauðsyn krefur, endurskoðanir á henni. Aðgerðaáætlunin um hættustjórnun skal tryggja samræmi við réttarreglur Sambandsins um hæli, í öllu ferlinu, einkum að því er varðar grundvallarréttindi umsækjenda um alþjóðlega vernd.

Þegar óskað hefur verið eftir að gerð sé aðgerðaáætlun um hættustjórnun skal hlutaðeigandi aðildarríki, í samstarfi við framkvæmdastjórnina og Evrópsku stuðningsskrifstofuna í hælismálefnum, bregðast tafarlaust við þeirri ósk og í síðasta lagi innan þriggja mánaða frá því að hún er lögð fram.

Viðkomandi aðildarríki skal leggja fram aðgerðaáætlun sína um hættustjórnun og gefa framkvæmdastjórninni og öðrum viðeigandi hagsmunaaðilum, s.s. Evrópsku stuðningsskrifstofunnar í hælismálefnum, eins og við á, skýrslu um framkvæmd hennar, a.m.k. á þriggja mánaða fresti.

Framkvæmdastjórnin skal upplýsa Evrópuþingið og ráðið um aðgerðaáætlunina um hættustjórnun, hugsanlegar endurskoðanir hennar og framkvæmd. Í þessum skýrslum skal hlutaðeigandi aðildarríki skýra frá gögnum sem gera kleift að fylgjast með því að farið sé að aðgerðaáætluninni um hættustjórnun, s.s. lengd málsmeðferðar, varðhaldsskilyrði og getu til að taka á móti fólki með tilliti til innstreymis umsækjenda.

4. Meðan allt ferlið í tengslum við tímanlega viðvörun, viðbúnað og hættustjórnun, sem komið er á með þessari grein, fer fram skal ráðið fylgjast grannt með ástandinu og getur það óskað eftir frekari upplýsingum og veitt pólitíska leiðsögn, einkum að því er varðar hve brýnt og alvarlegt ástandið er og þar af leiðandi þörfin á að aðildarríki semji annaðhvort áætlun um fyrirbyggjandi aðgerðir eða, ef nauðsyn krefur, aðgerðaáætlun um hættustjórnun. Evrópuþingið og ráðið mega, meðan allt ferlið fer fram, fjalla um og veita leiðsögn um hvers kyns samstöðuráðstafanir sem þau telja viðeigandi.

VII. KAFLI

SAMVINNA Á SVIÐI STJÓRNSÝSLU

34. gr.

Upplýsingamiðlun

1. Sérhvert aðildarríki skal láta hverju hinna aðildarríkjanna í té, að beiðni þeirra, persónuupplýsingar um umsækjanda sem eru viðeigandi, varða málið og eru ekki of ítarlegar, í þeim tilgangi að:

a) ákvarða hvaða aðildarríki beri ábyrgð,

b) taka viðkomandi umsókn um alþjóðlega vernd til meðferðar,

c) efna þær skuldbindingar sem leiðir af þessari reglugerð.

2. Upplýsingarnar, sem um getur í 1. mgr., mega einungis ná yfir:

a) persónuupplýsingar um umsækjanda og, þar sem við á, aðstandendur hans, skyldmenni eða aðra sem eru tengdir honum fjölskylduböndum (fullt nafn og, ef við á, fyrra nafn, viðurnefni eða dulnefni, núverandi og fyrrverandi ríkisfang, fæðingardag og -ár og fæðingarstað),

b) persónuskilríki og ferðaskilríki (númer, gildistíma, útgáfustað og útgáfudag, yfirvald sem gaf út skilríkin o.s.frv.),

c) aðrar upplýsingar sem eru nauðsynlegar til að staðfesta hver umsækjandi er, þ.m.t. fingraför sem greind eru í samræmi við reglugerð (ESB) nr. 603/2013,

d) dvalarstaði og ferðaleiðir,

e) dvalarskjöl eða vegabréfsáritanir sem aðildarríki hefur gefið út,

f) staðinn þar sem umsókn er lögð fram,

g) dagsetningu fyrri umsóknar um alþjóðlega vernd, ef við á, dagsetningu núverandi umsóknar, upplýsingar um stöðu málsins og hvaða ákvörðun hefur verið tekin, ef við á.

3. Auk þess getur aðildarríkið, sem ber ábyrgð á meðferð umsóknar um alþjóðlega vernd, að því tilskildu að það sé nauðsynlegt við meðferð umsóknarinnar, farið þess á leit við annað aðildarríki að það gefi upplýsingar um ástæðurnar, sem umsækjandi hefur lagt fram til stuðnings umsókn sinni, og, eftir atvikum, ástæður þeirra ákvarðana sem teknar hafa verið varðandi umsækjanda. Hitt aðildarríkið getur neitað að verða við slíkri beiðni ef slíkar upplýsingar geta skaðað mikilvæga hagsmuni aðildarríkisins eða haft áhrif á verndun frelsis og grundvallarréttinda viðkomandi einstaklings eða annarra. Í öllum tilvikum er skriflegt samþykki umsækjanda um alþjóðleg vernd, sem aðildarríkið sem leggur fram beiðnina útvegar, skilyrði fyrir því að umbeðnar upplýsingar séu látnar í té. Í því tilviki verður umsækjanda að vera ljóst hverjar þær tilteknu upplýsingar eru sem hann samþykkir að látnar séu í té.

4. Sérhver beiðni um upplýsingar skal einungis send með skírskotun til einstakrar umsóknar um alþjóðlega vernd. Hún skal rökstudd og, sé tilgangur hennar að kanna hvort fyrir hendi sé viðmiðun sem gæti haft í för með sér ábyrgð aðildarríkisins sem beiðni er beint til, skulu henni fylgja þær sannanir, þ.m.t. viðeigandi upplýsingar frá áreiðanlegum heimildum um það hvernig umsækjendur komu inn á yfirráðasvæði aðildarríkjanna, eða þeir tilteknu og sannprófanlegu þættir í yfirlýsingum umsækjandans sem hún byggist á. Litið er svo á að slíkar viðeigandi upplýsingar frá áreiðanlegum heimildum séu ekki fullnægjandi í sjálfu sér til að ákvarða ábyrgð og valdsvið aðildarríkis samkvæmt þessari reglugerð en þær geta komið að gagni við að meta aðrar vísbendingar sem varða einstaka umsækjendur.

5. Aðildarríkinu, sem beiðni er beint til, ber skylda til að svara henni innan fimm vikna. Allar tafir á svari skulu tilhlýðilega rökstuddar. Þótt aðildarríkið, sem beiðni er beint til, virði ekki fimm vikna frestinn ber því engu að síður skylda til að svara. Ef aðildarríkið, sem beiðni er beint til og sem virti ekki hámarksfrestinn, lætur ekki í té, við rannsókn sína á málinu, upplýsingar sem sýna fram á að það sé ábyrgt, getur það aðildarríki ekki skírskotað til frestsins, sem kveðið er á um í 21., 23. og 24. gr., sem ástæðu til að neita að hlíta beiðni um að taka einstakling í umsjá eða taka við honum aftur. Í því tilviki skal fresturinn, sem kveðið er á um í 21., 23. og 24. gr. til að leggja fram beiðni um að taka einstakling í umsjá eða beiðni um endurviðtöku, lengdur í samræmi við töfina á svari frá aðildarríkinu sem beiðni er beint til.

6. Skipst skal á framangreindum upplýsingum að beiðni aðildarríkis og fara upplýsingaskiptin einungis fram á milli þeirra yfirvalda sem hvert aðildarríki um sig hefur tilnefnt og tilkynnt framkvæmdastjórninni um í samræmi við 1. mgr. 35. gr.

7. Upplýsingarnar, sem sendar eru, má aðeins nota í þeim tilgangi sem mælt er fyrir um í 1. mgr. Í hverju aðildarríki má aðeins senda slíkar upplýsingar, eftir gerð þeirra og valdsviði yfirvaldsins sem tekur við þeim, til þeirra yfirvalda og dómstóla sem hafa það verkefni að:

a) ákvarða hvaða aðildarríki beri ábyrgð,

b) taka viðkomandi umsókn um alþjóðlega vernd til meðferðar,

c) efna hverja þá skuldbindingu sem leiðir af þessari reglugerð.

8. Aðildarríkið, sem sendir upplýsingarnar áfram, gætir þess að þær séu réttar og uppfærðar. Komi í ljós að það hefur látið í té rangar upplýsingar, eða upplýsingar sem ekki hefði átt að senda, skal tilkynna það tafarlaust þeim aðildarríkjum sem tóku við þeim upplýsingum. Þeim ber skylda til að leiðrétta eða eyða upplýsingunum.

9. Umsækjandi hefur rétt á því, ef hann óskar eftir því, að fá að sjá upplýsingar sem fjallað er um og varða hann.

Telji umsækjandi að vinnsla þessara upplýsinga brjóti í bága við þessa reglugerð eða tilskipun 95/46/EB, einkum ef þær eru ófullnægjandi eða ónákvæmar, hefur hann rétt til að krefjast þess að þær verði leiðréttar eða þeim verði eytt.

Yfirvaldið, sem leiðréttir gögnin eða eyðir þeim skal tilkynna það aðildarríkinu, sem sendir upplýsingarnar eða tekur við þeim, eins og við á.

Umsækjandi skal hafa rétt til þess að höfða mál eða leggja fram kæru frammi fyrir lögbærum yfirvöldum eða dómstólum þess aðildarríkis sem hefur neitað honum um rétt til að hafa aðgang að gögnum um sig eða rétt til að leiðrétta viðkomandi gögn eða eyða þeim.

10. Hverju hlutaðeigandi aðildarríki ber skylda til að halda skrá um þær upplýsingar, sem það sendir eða fær frá öðrum, í sérstakri gagnaskrá fyrir viðkomandi einstakling og/eða í almennri skrá.

11. Upplýsingar, sem skipst hefur verið á, skulu ekki geymdar lengur en nauðsynlegt er vegna þeirra ástæðna sem leiddu til upplýsingaskiptanna.

12. Ef upplýsingarnar eru ekki unnar vélrænt, eru ekki geymdar eða ekki stendur til að geyma þær í skrá skal hvert aðildarríki um sig gera viðeigandi ráðstafanir til þess að tryggja með skilvirku eftirliti að farið sé að ákvæðum þessarar greinar.

35. gr.

Lögbær yfirvöld og úrræði

1. Aðildarríkin skulu tilkynna framkvæmdastjórninni án tafar hvaða tilteknu yfirvöld beri ábyrgð á að efna skuldbindingarnar sem leiðir af þessari reglugerð og síðari breytingum á henni. Aðildarríkin skulu sjá til þess að þessi yfirvöld hafi nægileg úrræði til að sinna verkefnum sínum, einkum til að svara beiðnum um upplýsingar, beiðnum um að umsækjandi verði tekinn í umsjá og beiðnum um endurviðtöku umsækjenda innan tilskilins frests.

2. Framkvæmdastjórnin skal birta sameinaða skrá yfir yfirvöldin, sem um getur í 1. mgr., í Stjórnartíðindum Evrópusambandsins. Þegar breytingar verða á skránni birtir framkvæmdastjórnin einu sinni á ári uppfærða, sameinaða skrá.

3. Yfirvöldin, sem um getur í 1. mgr., skulu fá nauðsynlega þjálfun að því er varðar beitingu þessarar reglugerðar.

4. Framkvæmdastjórnin skal, með framkvæmdargerðum, koma á fót öruggum, rafrænum rásum til gagnasendinga milli yfirvaldanna, sem um getur í 1. mgr., til að senda beiðnir, svör og öll skrifleg bréfaskipti og tryggja að sendendur fái sjálfvirkt rafræna staðfestingu á því að þær hafi komist til skila. Samþykkja skal þessar framkvæmdargerðir í samræmi við rannsóknarmálsmeðferðina sem um getur í 2. mgr. 44. gr.

36. gr.

Stjórnvaldsráðstafanir

1. Aðildarríkjunum er heimilt að gera stjórnvaldsráðstafanir sín á milli varðandi tilhögun við framkvæmd þessarar reglugerðar í því skyni að greiða fyrir beitingu hennar og auka skilvirkni. Slíkar ráðstafanir geta falist í:

a) gagnkvæmum skiptum á tengifulltrúum,

b) einföldun málsmeðferðar og styttingu frests til sendingar og meðferðar á beiðnum um að umsækjandi verði tekinn í umsjá eða um endurviðtöku umsækjenda.

2. Aðildarríkin geta einnig viðhaldið þeim stjórnvaldsráðstöfunum sem gerðar eru samkvæmt reglugerð (EB) nr. 343/2003. Ef slíkar ráðstafanir samrýmast ekki þessari reglugerð skulu hlutaðeigandi aðildarríki breyta þeim með því að eyða því ósamræmi sem gætir.

3. Áður en gerð er ráðstöfun, sem um getur í b-lið 1. mgr., eða henni er breytt skulu hlutaðeigandi aðildarríki ráðfæra sig við framkvæmdastjórnina um það hvort ráðstöfunin samrýmist reglugerðinni.

4. Ef framkvæmdastjórnin telur að ráðstafanirnar, sem um getur í b-lið 1. mgr., séu ósamrýmanlegar þessari reglugerð skal hún tilkynna hlutaðeigandi aðildarríkjum það innan hæfilegs tíma. Aðildarríkin skulu gera allar viðeigandi ráðstafanir til að breyta hlutaðeigandi ráðstöfun innan hæfilegra tímamarka með því að eyða því ósamræmi sem gætir.

5. Aðildarríkin skulu tilkynna framkvæmdastjórninni um allar ráðstafanir, sem um getur í 1. gr., og um allar uppsagnir á slíkum ráðstöfunum eða breytingar á þeim.

VIII. KAFLI

SÁTTAUMLEITANIR

37. gr.

Sáttaumleitanir

1. Geti aðildarríkin ekki leyst deilumál um hvert það málefni sem tengist beitingu þessarar reglugerðar geta þau gripið til sáttameðferðarinnar sem kveðið er á um í 2. mgr.

2. Til að hefja sáttameðferð skal annað aðildarríkjanna, sem eiga í deilum, senda beiðni þar að lútandi til formanns nefndarinnar, sem komið er á fót með 44. gr. Með því að samþykkja að beita sáttameðferðinni skuldbinda hlutaðeigandi aðildarríki sig til þess að hlíta í hvívetna lausninni sem lögð er til.

Formaður nefndarinnar skal tilnefna þrjá nefndarmenn sem eru fulltrúar þriggja aðildarríkja sem ekki tengjast málinu. Þeim skulu fengin rök málsaðila, annaðhvort skriflega eða munnlega, og þeir leggja til lausn, að ígrunduðu máli, innan eins mánaðar, að undangenginni atkvæðagreiðslu ef nauðsyn ber til.

Nefndarformaður eða varamaður hans skal stýra umræðum. Honum er heimilt að segja sína skoðun en hefur ekki atkvæðisrétt.

Hvort sem málsaðilar viðurkenna lausnina, sem lögð er til, eða hafna henni skal hún vera endanleg og óafturkallanleg.

IX. KAFLI

BRÁÐABIRGÐAÁKVÆÐI OG LOKAÁKVÆÐI

38. gr.

Gagnavernd og gagnaöryggi

Aðildarríkin skulu gera allar viðeigandi ráðstafanir til að tryggja öryggi persónuupplýsinga sem sendar eru, einkum til að forðast ólögmætan eða óheimilan aðgang að eða birtingu á persónuupplýsingum sem unnar eru, að þeim sé breytt eða að þær glatist.

Sérhvert aðildarríki skal sjá til þess að innlent eftirlitsyfirvald eða -yfirvöld, sem tilnefnd eru skv. 1. mgr. 28. gr. tilskipunar 95/46/EB, skuli hafa sjálfstætt eftirlit, í samræmi við landslög sín, með því hvort vinnsla viðkomandi aðildarríkis á persónuupplýsingum sé með lögmætum hætti.

39. gr.

Þagnarskylda

Aðildarríki skulu tryggja að yfirvöldin, sem um getur í 35. gr., séu bundin reglum um þagnarskyldu, eins og kveðið er á um í landslögum, varðandi allar upplýsingar sem þau fá við störf sín.

40. gr.

Viðurlög

Aðildarríkin skulu gera nauðsynlegar ráðstafanir til að tryggja að misnotkun gagna, sem unnin eru í samræmi við þessa reglugerð, varði viðurlögum, þ.m.t. stjórnsýslu- og refsiviðurlögum í samræmi við landslög, sem eru skilvirk, í réttu hlutfalli við brot og letjandi.

41. gr.

Umbreytingarráðstafanir

Ef umsókn var lögð fram eftir þann dag sem getið er í annarri málsgrein 49. gr., skal taka tillit til atburða sem gætu haft í för með sér ábyrgð aðildarríkis samkvæmt þessari reglugerð, jafnvel frá því fyrir áðurgreinda dagsetningu, að undanskildum þeim aðstæðum sem um getur í 2. mgr. 13. gr.

42. gr.

Útreikningur á frestum

Eftirfarandi gildir við útreikninga allra fresta sem kveðið er á um í þessari reglugerð:

a) eigi frestur, mældur í dögum, vikum eða mánuðum, að reiknast frá þeirri stundu er atburður gerist eða aðgerðir eru framkvæmdar, telst ekki með í frestinum sá dagur þegar atburður á sér stað eða aðgerðir eru framkvæmdar,

b) frestur, mældur í vikum eða mánuðum, rennur út í lok þess vikudags eða mánaðardags síðustu viku eða síðasta mánaðar frestsins, sem ber upp á sama vikudag eða sama mánaðardag og sá dagur þegar atburður á sér stað eða aðgerðirnar voru framkvæmdar sem mörkuðu upphaf frestsins. Ef síðasta dag frests, sem mældur er í mánuðum, vantar í þann mánuð sem er síðasti mánuður hans skal fresturinn renna út í lok síðasta dags þess mánaðar.

c) laugardagar, sunnudagar og opinberir frídagar í hlutaðeigandi aðildarríkjum reiknast inn í fresti.

43. gr.

Gildissvæði

Að því er varðar Lýðveldið Frakkland gildir þessi reglugerð eingöngu á yfirráðasvæðum þess í Evrópu.

44. gr.

Nefnd

1. Framkvæmdastjórnin skal njóta aðstoðar nefndar. Þessi nefnd skal vera nefnd í skilningi reglugerðar (ESB) nr. 182/2011.

2. Þegar vísað er til þessarar málsgreinar gilda ákvæði 5. gr. reglugerðar (ESB) nr. 182/2011.

Skili nefndin ekki áliti skal framkvæmdastjórnin ekki samþykkja drögin að framkvæmdargerðinni og þriðja undirgrein 4. mgr. 5. gr. reglugerðar (ESB) nr. 182/2011 skal gilda.

45. gr.

Beiting framsals

1. Framkvæmdastjórninni er falið vald til að samþykkja framseldar gerðir, sbr. þó skilyrðin sem mælt er fyrir um í þessari grein.

2. Framkvæmdastjórninni skal falið vald til að samþykkja framseldar gerðir sem um getur í 5. mgr. 8. gr. og 3. mgr. 16. gr. á fimm ára tímabili frá gildistökudegi þessarar reglugerðar. Framkvæmdastjórnin skal taka saman skýrslu að því er varðar framsal valds eigi síðar en níu mánuðum fyrir lok fimm ára tímabilsins. Tímabilið, sem tekur til framsals valds, skal framlengt með þegjandi samkomulagi um jafnlangan tíma, nema Evrópuþingið eða ráðið andmæli slíkri framlengingu, eigi síðar en þremur mánuðum fyrir lok hvers tímabils.

3. Evrópuþinginu eða ráðinu er, hvenær sem er, heimilt að afturkalla framsal valdsins sem um getur í 5. mgr. 8. gr. og 3. mgr. 16. gr. Með ákvörðun um afturköllun skal bundinn endi á framsal valdsins sem tilgreint er í þeirri ákvörðun. Ákvörðunin öðlast gildi daginn eftir birtingu hennar í Stjórnartíðindum Evrópusambandsins eða síðar, eftir því sem tilgreint er í ákvörðuninni. Hún skal ekki hafa áhrif á gildi framseldra gerða sem þegar eru í gildi.

4. Um leið og framkvæmdastjórnin samþykkir framselda gerð skal hún samtímis tilkynna það Evrópuþinginu og ráðinu.

5. Framseld gerð, sem er samþykkt skv. 5. mgr. 8. gr. og 3. mgr. 16. gr., skal því aðeins öðlast gildi að Evrópuþingið eða ráðið hafi ekki haft uppi nein andmæli innan fjögurra mánaða frá tilkynningu um gerðina til Evrópuþingsins og ráðsins eða ef bæði Evrópuþingið og ráðið hafa upplýst framkvæmdastjórnina, áður en fresturinn er liðinn, um þá fyrirætlan sína að hreyfa ekki andmælum. Þessi frestur skal framlengdur um tvo mánuði að frumkvæði Evrópuþingsins eða ráðsins.

46. gr.

Eftirlit og mat

Framkvæmdastjórnin skal, eigi síðar en 21. júlí 2016, leggja skýrslu fyrir Evrópuþingið og ráðið um beitingu þessarar reglugerðar og gera tillögur að nauðsynlegum breytingum þar sem við á. Aðildarríkin skulu framsenda til framkvæmdastjórnarinnar allar viðeigandi upplýsingar til undirbúnings skýrslunni í síðasta lagi sex mánuðum fyrir lok frestsins.

Eftir að hafa lagt fram þá skýrslu skal framkvæmdastjórnin leggja skýrslu fyrir Evrópuþingið og ráðið um beitingu þessarar reglugerðar um leið og það leggur fram skýrslur um framkvæmd evrópska fingrafaragrunnsins sem kveðið er á um í 40. gr. reglugerðar (ESB) nr. 603/2013.

47. gr.

Tölfræðilegar upplýsingar

Í samræmi við 4. mgr. 4. gr. reglugerðar Evrópuþingsins og ráðsins (EB) nr. 862/2007 frá 11. júlí 2007 um hagskýrslur Bandalagsins um fólksflutninga og alþjóðlega vernd (16), skulu aðildarríkin veita framkvæmdastjórninni (Hagstofu Evrópusambandsins) tölfræðilegar upplýsingar varðandi beitingu þessarar reglugerðar og reglugerðar (EB) nr. 1560/2003.

48. gr.

Niðurfelling

Reglugerð (EB) nr. 343/2003 er felld úr gildi.

Ákvæði 11. gr. (1. mgr.), 13., 14. og 17. gr. reglugerðar (EB) nr. 1560/2003 eru felld úr gildi.

Líta ber á tilvísanir í niðurfelldu reglugerðina sem tilvísanir í þessa reglugerð og skulu þær lesnar með hliðsjón af samsvörunartöflunni í II. viðauka.

49. gr.

Gildistaka og beiting

Reglugerð þessi öðlast gildi á tuttugasta degi eftir að hún birtist í *Stjórnartíðindum Evrópusambandsins*.

Hún gildir um umsóknir um alþjóðlega vernd sem lagðar eru fram frá og með fyrsta degi sjötta mánaðar eftir gildistöku hennar og frá og með þeim degi gildir hún um allar beiðnir um að umsækjandi verði tekinn í umsjá eða um endurviðtöku umsækjenda, óháð því hvenær umsóknin var lögð fram. Tekin skal ákvörðun um hvaða aðildarríki beri ábyrgð á meðferð umsóknar um alþjóðlega vernd, sem lögð er fram fyrir þann dag, í samræmi við viðmiðanir reglugerðar (EB) nr. 343/2003.

Líta ber á tilvísanir í þessari reglugerð til reglugerðar (ESB) nr. 603/2013, tilskipunar 2013/32/ESB og tilskipunar 2013/33/ESB fram að þeim degi er þær koma til framkvæmda, sem tilvísanir í reglugerð (EB) nr. 2725/2000 (17), tilskipun 2003/9/EB (18) og tilskipun 2005/85/EB (19), eftir því sem við á.

Reglugerð þessi er bindandi í heild sinni og gildir í öllum aðildarríkjunum án frekari lögfestingar í samræmi við sáttmálana.

Gjört í Brussel 26. júní 2013.

Fyrir hönd Evrópuþingsins,

M. Schulz

forseti.

Fyrir hönd ráðsins,

A. Shatter

forseti.

(1) Stjtið. ESB L 199, 31.7.2007, bls. 23.

(2) Reglugerð ráðsins (EB) nr. 2725/2000 frá 11. desember 2000 um stofnun „Eurodac“ til að bera saman fingraför í því skyni að stuðla að skilvirkri beitingu Dyflinnarsamningsins (Stjtið. EB L 316, 15.12.2000, bls. 1).

(3) Tilskipun ráðsins 2003/9/EB frá 27. janúar 2003 um lágmarkskröfur varðandi móttöku hælisleitenda (Stjtið. ESB L 31, 6.2.2003, bls. 18).

(4) Tilskipun ráðsins 2005/85/EB frá 1. desember 2005 um lágmarkskröfur varðandi málsmeðferðir í aðildarríkjunum við veitingu og afturköllun réttarstöðu flóttamanns (Stjtið. ESB L 326, 13.12.2005, bls. 13).

I. VIÐAUKI

Reglugerðir sem eru felldar úr gildi (sem um getur í 48. gr.)

Reglugerð ráðsins (EB) nr. 343/2003

(Stjtíð. ESB L 50, 25.2.2003, bls. 1)

Reglugerð framkvæmdastjórnarinnar (EB) nr. 1560/2003, einungis 11. gr. (1. mgr.), 13., 14. og 17. gr.

(Stjtíð. ESB L 222, 5.9.2003, bls. 3)

II. VIÐAUKI

Samsvörunartafla

Reglugerð (EB) nr. 343/2003	Þessi reglugerð
1. gr.	1. gr.
a-liður 2. gr.	a-liður 2. gr.
b-liður 2. gr.	—
c-liður 2. gr.	b-liður 2. gr.
d-liður 2. gr.	c-liður 2. gr.
e-liður 2. gr.	d-liður 2. gr.
f-liður 2. gr.	e-liður 2. gr.
g-liður 2. gr.	f-liður 2. gr.
—	h-liður 2. gr.
—	i-liður 2. gr.
h-liður 2. gr.	j-liður 2. gr.
i-liður 2. gr.	g-liður 2. gr.
—	k-liður 2. gr.
j- og k-liður 2. gr.	l- og m-liður 2. gr.
—	n-liður 2. gr.
1. mgr. 3. gr.	1. mgr. 3. gr.
2. mgr. 3. gr.	1. mgr. 17. gr.
3. mgr. 3. gr.	3. mgr. 3. gr.
4. mgr. 3. gr.	Inngangsorð 1. mgr. 4. gr.
—	a- til f-liður 1. mgr. 4. gr.
—	2. og 3. mgr. 4. gr.
1.–5. mgr. 4. gr.	1.–5. mgr. 20. gr.
—	Þriðja undirgrein 5. mgr. 20. gr.
—	5. gr.
—	6. gr.
1. mgr. 5. gr.	1. mgr. 7. gr.
2. mgr. 5. gr.	2. mgr. 7. gr.
—	3. mgr. 7. gr.
Fyrsta málsgrein 6. gr.	1. mgr. 8. gr.
—	3. mgr. 8. gr.
Önnur málsgrein 6. gr.	4. mgr. 8. gr.
7. gr.	9. gr.

Reglugerð (EB) nr. 343/2003	Þessi reglugerð
8. gr.	10. gr.
9. gr.	12. gr.
10. gr.	13. gr.
11. gr.	14. gr.
12. gr.	15. gr.
—	16. gr.
13. gr.	2. mgr. 3. gr.
14. gr.	11. gr.
1. mgr. 15. gr.	Fyrsta undirgrein 2. mgr. 17. gr.
2. mgr. 15. gr.	1. mgr. 16. gr.
3. mgr. 15. gr.	2. mgr. 8. gr.
4. mgr. 15. gr.	Fjórða undirgrein 2. mgr. 17. gr.
5. mgr. 15. gr.	5. og 6. mgr. 8. gr. og 2. mgr. 16. gr.
a-liður 1. mgr. 16. gr.	a-liður 1. mgr. 18. gr.
b-liður 1. mgr. 16. gr.	2. mgr. 18. gr.
c-liður 1. mgr. 16. gr.	b-liður 1. mgr. 18. gr.
d-liður 1. mgr. 16. gr.	c-liður 1. mgr. 18. gr.
e-liður 1. mgr. 16. gr.	d-liður 1. mgr. 18. gr.
2. mgr. 16. gr.	1. mgr. 19. gr.
3. mgr. 16. gr.	Fyrsta undirgrein 2. mgr. 19. gr.
—	Önnur undirgrein 2. mgr. 19. gr.
4. mgr. 16. gr.	3. mgr. 19. gr.
—	Önnur undirgrein 3. mgr. 19. gr.
17. gr.	21. gr.
18. gr.	22. gr.
1. mgr. 19. gr.	1. mgr. 26. gr.
2. mgr. 19. gr.	2. mgr. 26. gr. og 1. mgr. 27. gr.
—	2.–6. mgr. 27. gr.
3. mgr. 19. gr.	1. mgr. 29. gr.
4. mgr. 19. gr.	2. mgr. 29. gr.
—	3. mgr. 29. gr.
5. mgr. 19. gr.	4. mgr. 29. gr.
Inngangsorð 1. mgr. 20. gr.	1. mgr. 23. gr.
—	2. mgr. 23. gr.
—	3. mgr. 23. gr.

Reglugerð (EB) nr. 343/2003	Þessi reglugerð
—	4. mgr. 23. gr.
a-liður 1. mgr. 20. gr.	Fyrsta undirgrein 5. mgr. 23. gr.
—	24. gr.
b-liður 1. mgr. 20. gr.	1. mgr. 25. gr.
c-liður 1. mgr. 20. gr.	2. mgr. 25. gr.
d-liður 1. mgr. 20. gr.	Fyrsta undirgrein 1. mgr. 29. gr.
e-liður 1. mgr. 20. gr.	26. gr. (1. og 2. mgr.), 27. gr. (1. mgr.) og 29. gr. (önnur og þriðja undirgrein 1. mgr.)
2. mgr. 20. gr.	2. mgr. 29. gr.
3. mgr. 20. gr.	Önnur undirgrein 5. mgr. 23. gr.
4. mgr. 20. gr.	4. mgr. 29. gr.
—	28. gr.
—	30. gr.
—	31. gr.
—	32. gr.
—	33. gr.
1.–9. mgr. 21. gr.	Fyrsta til þriðja undirgrein 1.–9. mgr. 34. gr.
—	Fjórða undirgrein 9. mgr. 34. gr.
10.–12. mgr. 21. gr.	10.–12. mgr. 34. gr.
1. mgr. 22. gr.	1. mgr. 35. gr.
—	2. mgr. 35. gr.
—	3. mgr. 35. gr.
2. mgr. 22. gr.	4. mgr. 35. gr.
23. gr.	36. gr.
—	37. gr.
—	40. gr.
1. mgr. 24. gr.	—
2. mgr. 24. gr.	41. gr.
3. mgr. 24. gr.	—
1. mgr. 25. gr.	42. gr.
2. mgr. 25. gr.	—
26. gr.	43. gr.

Reglugerð (EB) nr. 343/2003	Þessi reglugerð
1. og 2. mgr. 27. gr.	1. og 2. mgr. 44. gr.
3. mgr. 27. gr.	—
—	45. gr.
28. gr.	46. gr.
—	47. gr.
—	48. gr.
29. gr.	49. gr.

Reglugerð (EB) nr. 1560/2003	Þessi reglugerð
1. mgr. 11. gr.	—
1. mgr. 13. gr.	Fyrsta undirgrein 2. mgr. 17. gr.
2. mgr. 13. gr.	Önnur undirgrein 2. mgr. 17. gr.
3. mgr. 13. gr.	Þriðja undirgrein 2. mgr. 17. gr.
4. mgr. 13. gr.	Fyrsta undirgrein 2. mgr. 17. gr.
14. gr.	37. gr.
1. mgr. 17. gr.	9. gr., 10. gr. og 17. gr. (fyrsta undirgrein 2. mgr.)
2. mgr. 17. gr.	3. mgr. 34. gr.

YFIRLÝSING RÁÐSINS, EVRÓPUÞINGINS OG FRAMKVÆMDASTJÓRNARINNAR

Ráðið og Evrópuþingið hvetja framkvæmdastjórnina til að íhuga, án þess að það hafi áhrif á rétt hennar til frumkvæðis, endurskoðun á 4. mgr. 8. gr. endurútgefinnar Dyflinnarreglugerðar þegar Evrópudómstóllinn hefur úrskurðað í máli C-648/11, MA o.fl. gegn innanríkisráðherra, og í síðasta lagi áður en frestirnir, sem settir eru í 46. gr. Dyflinnarreglugerðarinnar, renna út. Evrópuþingið og ráðið munu þá bæði beita löggjafarheimildum sínum með tilliti til hagsmuna barnsins.

Í anda málamiðlunar og til að tryggja tafarlausa samþykkt tillögunnar samþykkir framkvæmdastjórnin að íhuga þessa hvatningu, sem hún lítur svo á að takmarkist við þessar tilteknu aðstæður og sé ekki fordæmisgefandi.

REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 June 2013

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2)(e) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Having regard to the opinion of the Committee of the Regions [2],

Acting in accordance with the ordinary legislative procedure [3],

Whereas:

(1) A number of substantive changes are to be made to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [4]. In the interests of clarity, that Regulation should be recast.

(2) A common policy on asylum, including a Common European Asylum System (CEAS), is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Union.

(3) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, agreed to work towards establishing the CEAS, based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967 ('the Geneva Convention'), thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of *non-refoulement*. In this respect, and without the responsibility criteria laid down in this Regulation being affected, Member States, all respecting the principle of *non-refoulement*, are considered as safe countries for third-country nationals.

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

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

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

(7) In the Stockholm Programme, the European Council reiterated its commitment to the objective of establishing a common area of protection and solidarity in accordance with Article 78 of the Treaty on the Functioning of the European Union (TFEU), for those granted

[1] OJ C 317, 23.12.2009, p. 115.
[2] OJ C 79, 27.3.2010, p. 58.
[3] Position of the European Parliament of 7 May 2009 (OJ C 212 E, 5.8.2010, p. 370) and position of the Council at first reading of 6 June 2013 (not yet published in the Official Journal). Position of the European Parliament of 10 June 2013 (not yet published in the Official Journal).
[4] OJ L 50, 25.2.2003, p. 1.

international protection, by 2012 at the latest. Furthermore it emphasised that the Dublin system remains a cornerstone in building the CEAS, as it clearly allocates responsibility among Member States for the examination of applications for international protection.

(8) The resources of the European Asylum Support Office (EASO), established by Regulation (EU) No 439/2010 of the European Parliament and of the Council [1], should be available to provide adequate support to the relevant services of the Member States responsible for implementing this Regulation. In particular, EASO should provide solidarity measures, such as the Asylum Intervention Pool with asylum support teams, to assist those Member States which are faced with particular pressure and where applicants for international protection ('applicants') cannot benefit from adequate standards, in particular as regards reception and protection.

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

(10) In order to ensure equal treatment for all applicants and beneficiaries of international protection, and consistency with the current Union asylum *acquis*, in particular with Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted [2], the scope of this Regulation encompasses applicants for subsidiary protection and persons eligible for subsidiary protection.

(11) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection [3] should apply to the procedure for the determination of the Member State responsible as regulated under this Regulation, subject to the limitations in the application of that Directive.

(12) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection [4] should apply in addition and without prejudice to the provisions concerning the procedural safeguards regulated under this Regulation, subject to the limitations in the application of that Directive.

(13) In accordance with the 1989 United Nations Convention on the Rights of the Child and with the Charter of Fundamental Rights of the European Union, the best interests of the child should be a primary consideration of Member States when applying this Regulation. In assessing the best interests of the child, Member States should, in particular, take due account of the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity, including his or her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability.

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

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

(16) 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.

[1] OJ L 132, 29.5.2010, p. 11.
[2] OJ L 337, 20.12.2011, p. 9.
[3] See page 96 of this Official Journal.
[4] See page 60 of this Official Journal.

(17) Any Member State should be able to derogate from the responsibility criteria, in particular on humanitarian and compassionate grounds, in order to bring together family members, relatives or any other family relations and examine an application for international protection lodged with it or with another Member State, even if such examination is not its responsibility under the binding criteria laid down in this Regulation.

(18) 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. As soon as the application for international protection is lodged, the applicant should be informed of the application of this Regulation and of the possibility, during the interview, of providing information regarding the presence of family members, relatives or any other family relations in the Member States, in order to facilitate the procedure for determining the Member State responsible.

(19) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred.

(20) 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.

(21) Deficiencies in, or the collapse of, asylum systems, often aggravated or contributed to by particular pressures on them, can jeopardise the smooth functioning of the system put in place under this Regulation, which could lead to a risk of a violation of the rights of applicants as set out in the Union asylum *acquis* and the Charter of Fundamental Rights of the European Union, other international human rights and refugee rights.

(22) A process for early warning, preparedness and management of asylum crises serving to prevent a deterioration in, or the collapse of, asylum systems, with EASO playing a key role using its powers under Regulation (EU) No 439/2010, should be established in order to ensure robust cooperation within the framework of this Regulation and to develop mutual trust among Member States with respect to asylum policy. Such a process should ensure that the Union is alerted as soon as possible when there is a concern that the smooth functioning of the system set up by this Regulation is being jeopardised as a result of particular pressure on, and/or deficiencies in, the asylum systems of one or more Member States. Such a process would allow the Union to promote preventive measures at an early stage and pay the appropriate political attention to such situations. Solidarity, which is a pivotal element in the CEAS, goes hand in hand with mutual trust. By enhancing such trust, the process for early warning, preparedness and management of asylum crises could improve the steering of concrete measures of genuine and practical solidarity towards Member States, in order to assist the affected Member States in general and the applicants in particular. In accordance with Article 80 TFEU, Union acts should, whenever necessary, contain appropriate measures to give effect to the principle of solidarity, and the process should be accompanied by such measures. The conclusions on a Common Framework for genuine and practical solidarity towards Member States facing particular pressures on their asylum systems, including through mixed migration flows, adopted by the Council on 8 March 2012, provide for a 'tool box' of existing and potential new measures, which should be taken into account in the context of a mechanism for early warning, preparedness and crisis management.

(23) Member States should collaborate with EASO in the gathering of information concerning their ability to manage particular pressure on their asylum and reception systems, in particular within the framework of the application of this Regulation. EASO should regularly report on the information gathered in accordance with Regulation (EU) No 439/2010.

(24) In accordance with Commission Regulation (EC) No 1560/2003 [1], transfers to the Member State responsible for examining an application for international protection may be carried out on a voluntary basis, by supervised departure or under escort. Member States should promote voluntary transfers by providing adequate information to the applicant and should ensure that supervised or escorted transfers are undertaken in a humane manner, in full compliance with fundamental rights and respect for human dignity, as well as the

[1] OJ L 222, 5.9.2003, p. 3.

best interests of the child and taking utmost account of developments in the relevant case law, in particular as regards transfers on humanitarian grounds.

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

(26) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1] applies to the processing of personal data by the Member States under this Regulation.

(27) The exchange of an applicant's personal data, including sensitive data on his or her health, prior to a transfer, will ensure that the competent asylum authorities are in a position to provide applicants with adequate assistance and to ensure continuity in the protection and rights afforded to them. Special provisions should be made to ensure the protection of data relating to applicants involved in that situation, in accordance with Directive 95/46/EC.

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

(29) Continuity between the system for determining the Member State responsible established by Regulation (EC) No 343/2003 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparisons with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes [2].

(30) The operation of the Eurodac system, as established by Regulation (EU) No 603/2013, should facilitate the application of this Regulation.

(31) The operation of the Visa Information System, as established by Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas [3], and in particular the implementation of Articles 21 and 22 thereof, should facilitate the application of this Regulation.

(32) With respect to the treatment of persons falling within the scope of this Regulation, Member States are bound by their obligations under instruments of international law, including the relevant case-law of the European Court of Human Rights.

(33) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers [4].

(34) 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 and take back requests; 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.

[1] OJ L 281, 23.11.1995, p. 31.

[2] See page 1 of this Official Journal.

[3] OJ L 218, 13.8.2008, p. 60.

[4] OJ L 55, 28.2.2011, p. 13.

(35) In order to provide for supplementary rules, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the identification of family members, siblings or relatives of an unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State; the elements for assessing a dependency link; the criteria for assessing the capacity of a person to take care of a dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 6(3) of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

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

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

(38) The effective monitoring of the application of this Regulation requires that it be evaluated at regular intervals.

(39) This Regulation respects the fundamental rights and observes the principles which are acknowledged, in particular, in the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full observance of the right to asylum guaranteed by Article 18 of the Charter as well as the rights recognised under Articles 1, 4, 7, 24 and 47 thereof. This Regulation should therefore be applied accordingly.

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

(41) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the TEU and to the TFEU, those Member States have notified their wish to take part in the adoption and application of this Regulation.

(42) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down 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 ('the Member State responsible').

Article 2

Definitions

For the purposes of this Regulation:

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

(b) 'application for international protection' means an application for international protection as defined in Article 2(h) of Directive 2011/95/EU;

(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;

(d) 'examination of an application for international protection' means any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with Directive 2013/32/EU and Directive 2011/95/EU, except for procedures for determining the Member State responsible in accordance with this Regulation;

(e) 'withdrawal of an application for international protection' means the actions by which the applicant terminates the procedures initiated by the submission of his or her application for international protection, in accordance with Directive 2013/32/EU, either explicitly or tacitly;

(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;

(g) 'family members' means, insofar as the family already existed in the country of origin, the following members of the applicant's family who are present on the territory of the Member States:

— the spouse of the applicant or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals,

— 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,

— 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,

— 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;

(h) 'relative' means the applicant's adult aunt or uncle or grandparent who is present in the territory of a Member State, regardless of whether the applicant was born in or out of wedlock or adopted as defined under national law;

(i) 'minor' means a third-country national or a stateless person below the age of 18 years;

(j) 'unaccompanied minor' means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States;

(k) 'representative' 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;

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

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

— 'long-stay visa' means an authorisation or decision issued by one of the Member States in accordance with its national law or Union law required for entry for an intended stay in that Member State of more than three months,

— 'short-stay visa' means an authorisation or decision of a Member State with a view to transit through or an intended stay on the territory of one or more or all the Member States of a duration of no more than three months in any six-month period beginning on the date of first entry on the territory of the Member States,

— 'airport transit visa' means a visa valid for transit through the international transit areas of one or more airports of the Member States;

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

CHAPTER II

GENERAL PRINCIPLES AND SAFEGUARDS

Article 3

Access to the procedure for examining an application for international protection

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

2. 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.

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.

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.

3. Any Member State shall retain the right to send an applicant to a safe third country, subject to the rules and safeguards laid down in Directive 2013/32/EU.

Article 4

Right to information

1. As soon as an application for international protection is lodged within the meaning of Article 20(2) in a Member State, its competent authorities shall inform the applicant of the application of this Regulation, and in particular of:

(a) the objectives of this Regulation and the consequences of making another application in a different Member State as well as the consequences of moving from one Member State to another during the phases in which the Member State responsible under this Regulation is being determined and the application for international protection is being examined;

(b) the criteria for determining the Member State responsible, the hierarchy of such criteria in the different steps of the procedure and their duration, including the fact that an application for international protection lodged in one Member State can result in that Member State becoming responsible under this Regulation even if such responsibility is not based on those criteria;

(c) the personal interview pursuant to Article 5 and the possibility of submitting information 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;

(d) the possibility to challenge a transfer decision and, where applicable, to apply for a suspension of the transfer;

(e) the fact that the competent authorities of Member States can exchange data on him or her for the sole purpose of implementing their obligations arising under this Regulation;

(f) the right of access to data relating to him or her and the right to request that such data be corrected if inaccurate or be deleted if unlawfully processed, as well as the procedures for exercising those rights, including the contact details of the authorities referred to in Article 35 and of the national data protection authorities responsible for hearing claims concerning the protection of personal data.

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

Where necessary for the proper understanding of the applicant, the information shall also be supplied orally, for example in connection with the personal interview as referred to in Article 5.

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) 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 44(2) of this Regulation.

Article 5

Personal interview

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 accordance with Article 4.

2. The personal interview may be omitted if:

(a) the applicant has absconded; or

(b) after having received the information referred to in Article 4, the applicant has already provided the information relevant to determine the Member State responsible by other means. The Member State omitting the interview shall give the applicant the opportunity to present all further information which is relevant to correctly determine the Member State responsible before a decision is taken to transfer the applicant to the Member State responsible pursuant to Article 26(1).

3. The personal interview shall take place in a timely manner and, in any event, before any decision is taken to transfer the applicant to the Member State responsible pursuant to Article 26(1).

4. 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.

5. The personal interview shall take place under conditions which ensure appropriate confidentiality. It shall be conducted by a qualified person under national law.

6. 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.

Article 6

Guarantees for minors

1. The best interests of the child shall be a primary consideration for Member States with respect to all procedures provided for in this Regulation.

2. Member States shall ensure that a representative represents and/or assists an unaccompanied minor with respect to all 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.

This paragraph shall be without prejudice to the relevant provisions in Article 25 of Directive 2013/32/EU.

3. In assessing the best interests of the child, Member States shall closely cooperate with each other and shall, in particular, take due account of the following factors:

(a) family reunification possibilities;

(b) the minor's well-being and social development;

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;

(d) the views of the minor, in accordance with his or her age and maturity.

4. For the purpose of applying Article 8, 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, siblings or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.

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

The staff of the competent authorities referred to in Article 35 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors.

5. With a view to facilitating the appropriate action to identify the family members, siblings or relatives of the unaccompanied minor living in the territory of another Member State pursuant to paragraph 4 of this Article, the Commission shall adopt implementing acts including a standard form for the exchange of relevant information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

CHAPTER III

CRITERIA FOR DETERMINING THE MEMBER STATE RESPONSIBLE

Article 7

Hierarchy of criteria

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

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.

3. In view of the application of the criteria referred to in Articles 8, 10 and 16, 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.

Article 8

Minors

1. Where the applicant is an unaccompanied minor, the Member State responsible shall be that where a family member or a sibling 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.

2. Where the applicant is an unaccompanied minor who has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, provided that it is in the best interests of the minor.

3. Where family members, siblings or relatives as referred to in paragraphs 1 and 2, stay in more than one Member State, the Member State responsible shall be decided on the basis of what is in the best interests of the unaccompanied minor.

4. In the absence of a family member, a sibling or a relative as referred to in paragraphs 1 and 2, the Member State responsible shall be that where the unaccompanied minor has lodged his or her application for international protection, provided that it is in the best interests of the minor.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 45 concerning the identification of family members, siblings or relatives of the unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of the unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 6(3).

6. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and the exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 9

Family members who are beneficiaries of international protection

Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who has been allowed to reside as a beneficiary of international protection in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Article 10

Family members who are applicants for international protection

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

Article 11

Family procedure

Where several family members and/or minor unmarried siblings submit applications for international protection in the same Member State simultaneously, or on dates close enough for the procedures for determining the Member State responsible to be conducted together, and where the application of the criteria set out in this Regulation would lead to their being separated, the Member State responsible shall be determined on the basis of the following provisions:

(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 responsible for taking charge of the largest number of them;

(b) failing this, responsibility shall lie with the Member State which the criteria indicate is responsible for examining the application of the oldest of them.

Article 12

Issue of residence documents or visas

1. Where the applicant is in possession of a valid residence document, the Member State which issued the document shall be responsible for examining the application for international protection.

2. Where the applicant is in possession of a valid visa, the Member State which issued the visa shall be responsible for examining the application for international protection, unless the visa was issued on behalf of another Member State under a representation arrangement as provided for in Article 8 of Regulation (EC) No 810/2009 of the European Parliament and of the Council, of 13 July 2009, establishing a Community Code on Visas [1]. In such a case, the represented Member State shall be responsible for examining the application for international protection.

3. Where the applicant is in possession of more than one valid residence document or visa issued by different Member States, the responsibility for examining the application for international protection shall be assumed by the Member States in the following order:

(a) the Member State which issued the residence document conferring the right to the longest period of residency or, where the periods of validity are identical, the Member State which issued the residence document having the latest expiry date;

(b) the Member State which issued the visa having the latest expiry date where the various visas are of the same type;

(c) where visas are of different kinds, the Member State which issued the visa having the longest period of validity or, where the periods of validity are identical, the Member State which issued the visa having the latest expiry date.

4. Where the applicant is in possession only of one or more residence documents which have expired less than two years previously or one or more visas which have expired less than six months previously and which enabled him or her actually to enter the territory of a Member State, paragraphs 1, 2 and 3 shall apply for such time as the applicant has not left the territories of the Member States.

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

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

Article 13

Entry and/or stay

1. Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) of this Regulation, including the data referred to in 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. That responsibility shall cease 12 months after the date on which the irregular border crossing took place.

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

If the applicant has been living for periods of time of at least five months in several Member States, the Member State where he or she has been living most recently shall be responsible for examining the application for international protection.

[1] OJ L 243, 15.9.2009, p. 1.

Article 14

Visa waived entry

1. If a third-country national or a stateless person enters into the territory of a Member State in which the need for him or her to have a visa is waived, that Member State shall be responsible for examining his or her application for international protection.

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

Article 15

Application in an international transit area of an airport

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

CHAPTER IV

DEPENDENT PERSONS AND DISCRETIONARY CLAUSES

Article 16

Dependent persons

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.

2. Where the child, sibling or parent referred to in paragraph 1 is legally resident in a Member State other than the one where the applicant is present, the Member State responsible shall be the one where the child, sibling or parent is legally resident unless the applicant's health prevents him or her from travelling to that Member State for a significant period of time. In such a case, the Member State responsible shall be the one where the applicant is present. Such Member State shall not be subject to the obligation to bring the child, sibling or parent of the applicant to its territory.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 45 concerning the elements to be taken into account in order to assess the dependency link, the criteria for establishing the existence of proven family links, the criteria for assessing the capacity of the person concerned to take care of the dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time.

4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 17

Discretionary clauses

1. 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.

The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. Where applicable, it shall inform, using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003, the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of, or to take back, the applicant.

The Member State which becomes responsible pursuant to this paragraph shall forthwith indicate it in Eurodac in accordance with Regulation (EU) No 603/2013 by adding the date when the decision to examine the application was taken.

2. The Member State in which an application for international protection is made and which is carrying out the process of determining the Member State responsible, or the Member State responsible, may, at any time before a first decision regarding the substance is taken, request another Member State to take charge of an applicant in order to bring together any family relations, on humanitarian grounds based in particular on family or cultural considerations, even where that other Member State is not responsible under the criteria laid down in Articles 8 to 11 and 16. The persons concerned must express their consent in writing.

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

The requested Member State shall carry out any necessary checks to examine the humanitarian grounds cited, and shall reply to the requesting Member State within two months of receipt of the request using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003. A reply refusing the request shall state the reasons on which the refusal is based.

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

CHAPTER V

OBLIGATIONS OF THE MEMBER STATE RESPONSIBLE

Article 18

Obligations of the Member State responsible

1. The Member State responsible under this Regulation shall be obliged to:

(a) take charge, under the conditions laid down in Articles 21, 22 and 29, of an applicant who has lodged an application in a different Member State;

(b) take back, under the conditions laid down in Articles 23, 24, 25 and 29, an applicant whose application is under examination and who made an application in another Member State or who is on the territory of another Member State without a residence document;

(c) take back, under the conditions laid down in Articles 23, 24, 25 and 29, a third-country national or a stateless person who has withdrawn the application under examination and made an application in another Member State or who is on the territory of another Member State without a residence document;

(d) take back, under the conditions laid down in Articles 23, 24, 25 and 29, a third-country national or a stateless person whose application has been rejected and who made an application in another Member State or who is on the territory of another Member State without a residence document.

2. In the cases falling within the scope of paragraph 1(a) and (b), the Member State responsible shall examine or complete the examination of the application for international protection made by the applicant.

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.

In the cases falling within the scope of paragraph 1(d), where the application has been rejected at first instance only, the Member State responsible shall ensure that the person concerned has or has had the opportunity to seek an effective remedy pursuant to Article 46 of Directive 2013/32/EU.

Article 19

Cessation of responsibilities

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

2. The obligations specified in Article 18(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 18(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 18(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 18(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.

CHAPTER VI

PROCEDURES FOR TAKING CHARGE AND TAKING BACK

SECTION I

Start of the procedure

Article 20

Start of the procedure

1. The process of determining the Member State responsible shall start as soon as an application for international protection is first lodged with a Member State.

2. An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or a report prepared by the authorities has reached the competent authorities of the Member State concerned. Where an application is not made in writing, the time elapsing between the statement of intention and the preparation of a report should be as short as possible.

3. For the purposes of this Regulation, the situation of a minor who is accompanying the applicant and meets the definition of family member shall be indissociable from that of his or her family member and shall be a matter for the Member State responsible for examining the application for international protection of that family member, even if the minor is not individually an applicant, provided that it is in the minor's best interests. The same treatment shall be applied to children born after the applicant arrives on the territory of the Member States, without the need to initiate a new procedure for taking charge of them.

4. Where an application for international protection is lodged with the competent authorities of a Member State by an applicant who is on the territory of another Member State, the determination of the Member State responsible shall be made by the Member State in whose territory the applicant is present. The latter Member State shall be informed without delay by the Member State which received the application and shall then, for the purposes of this Regulation, be regarded as the Member State with which the application for international protection was lodged.

The applicant shall be informed in writing of this change in the determining Member State and of the date on which it took place.

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 23, 24, 25 and 29, 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.

SECTION II

Procedures for take charge requests

Article 21

Submitting a take charge request

1. 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 may, as quickly as possible and in any event within three months of the date on which the application was lodged within the meaning of Article 20(2), request that other Member State to take charge of the applicant.

Notwithstanding the first subparagraph, in the case of a Eurodac hit with data recorded pursuant to Article 14 of Regulation (EU) No 603/2013, the request shall be sent within two months of receiving that hit pursuant to Article 15(2) of that Regulation.

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.

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

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

3. In the cases referred to in paragraphs 1 and 2, the request that charge be taken by another Member State shall be made using a standard form and including proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) and/or relevant elements from the applicant's statement, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, adopt uniform conditions on the preparation and submission of take charge requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 22

Replying to a take charge request

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

2. In the procedure for determining the Member State responsible elements of proof and circumstantial evidence shall be used.

3. The Commission shall, by means of implementing acts, establish, and review periodically, two lists, indicating the relevant elements of proof and circumstantial evidence in accordance with the criteria set out in points (a) and (b) of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

(a) Proof:

(i) this refers to formal proof which determines responsibility pursuant to this Regulation, as long as it is not refuted by proof to the contrary;

(ii) the Member States shall provide the Committee provided for in Article 44 with models of the different types of administrative documents, in accordance with the typology established in the list of formal proofs;

(b) Circumstantial evidence:

(i) this refers to indicative elements which while being refutable may be sufficient, in certain cases, according to the evidentiary value attributed to them;

(ii) their evidentiary value, in relation to the responsibility for examining the application for international protection shall be assessed on a case-by-case basis.

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

5. If there is no formal proof, the requested Member State shall acknowledge its responsibility if the circumstantial evidence is coherent, verifiable and sufficiently detailed to establish responsibility.

6. Where the requesting Member State has pleaded urgency in accordance with the provisions of Article 21(2), the requested Member State shall make every effort to comply with the time limit requested. In exceptional cases, where it can be demonstrated that the examination of a request for taking charge of an applicant is particularly complex, the requested Member State may give its reply after the time limit requested, but in any event within one month. In such situations the requested Member State must communicate its decision to postpone a reply to the requesting Member State within the time limit originally requested.

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

SECTION III

Procedures for take back requests

Article 23

Submitting a take back request when a new application has been lodged in the requesting Member State

1. Where a Member State with which a person as referred to in Article 18(1)(b), (c) or (d) has lodged a new application for international protection considers that another Member State is responsible in accordance with Article 20(5) and Article 18(1)(b), (c) or (d), it may request that other Member State to take back that person.

2. A take back request shall be made as quickly as possible and in any event within two months of receiving the Eurodac hit, pursuant to Article 9(5) of Regulation (EU) No 603/2013.

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

3. Where the 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.

4. A take back request shall be made using a standard form and shall include proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) and/or relevant elements from the statements of the person concerned, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, adopt uniform conditions for the preparation and submission of take back requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 24

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

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

2. By way of derogation from Article 6(2) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country

nationals [1], where a Member State on whose territory a person is staying without a residence document decides to search the Eurodac system in accordance with Article 17 of Regulation (EU) No 603/2013, the request to take back a person as referred to in Article 18(1)(b) or (c) of this Regulation, or a person as referred to in its Article 18(1)(d) whose application for international protection has not been rejected by a final decision, shall be made as quickly as possible and in any event within two months of receipt of the Eurodac hit, pursuant to Article 17(5) of Regulation (EU) No 603/2013.

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

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

4. Where a person as referred to in Article 18(1)(d) of this Regulation whose application for international protection has been rejected by a final decision in one Member State is on the territory of another Member State without a residence document, the latter Member State may either request the former Member State to take back the person concerned or carry out a return procedure in accordance with Directive 2008/115/EC.

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

5. The request for the person referred to in Article 18(1)(b), (c) or (d) to be taken back shall be made using a standard form and shall include proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) and/or relevant elements from the person's statements, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, establish and review periodically two lists indicating the relevant elements of proof and circumstantial evidence in accordance with the criteria set out in Article 22(3)(a) and (b), and shall adopt uniform conditions for the preparation and submission of take back requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 25

Replying to a take back request

1. The requested Member State shall make the necessary checks and shall give a decision on the request to take back the person concerned as quickly as possible and in any event no later than one month from the date on which the request was received. When the request is based on data obtained from the Eurodac system, that time limit shall be reduced to two weeks.

2. Failure to act within the one month period or the two weeks period mentioned in paragraph 1 shall be tantamount to accepting the request, and shall entail the obligation to take back the person concerned, including the obligation to provide for proper arrangements for arrival.

SECTION IV

Procedural safeguards

Article 26

Notification of a transfer decision

1. Where the requested Member State accepts to take charge of or to take back an applicant or other person as referred to in Article 18(1)(c) or (d), the requesting Member State shall notify the person concerned 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. If a legal advisor or other counsellor is representing the person concerned, Member States may choose to notify the decision to such legal advisor or counsellor instead of to the person concerned and, where applicable, communicate the decision to the person concerned.

2. The decision referred to in paragraph 1 shall contain information on the legal remedies available, including on the right to apply for suspensive effect, where applicable, and on the time limits applicable for seeking such remedies and for carrying out the transfer, and shall, if necessary, contain information on the place where, and the date on which, the person concerned should appear, if that person is travelling to the Member State responsible by his or her own means.

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

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

Article 27

Remedies

1. The applicant or another person as referred to in Article 18(1)(c) or (d) shall have the right to an effective remedy, in the form of an appeal or a review, in fact and in law, against a transfer decision, before a court or tribunal.

2. Member States shall provide for a reasonable period of time within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.

[1] OJ L 348, 24.12.2008, p. 98.

3. For the purposes of appeals against, or reviews of, transfer decisions, Member States shall provide in their national law that:

(a) the appeal or review confers upon the person concerned the right to remain in the Member State concerned pending the outcome of the appeal or review; or

(b) the transfer is automatically suspended and such suspension lapses after a certain reasonable period of time, during which a court or a tribunal, after a close and rigorous scrutiny, shall have taken a decision whether to grant suspensive effect to an appeal or review; or

(c) the person concerned has the opportunity to request within a reasonable period of time a court or tribunal to suspend the implementation of the transfer decision pending the outcome of his or her appeal or review. Member States shall ensure that an effective remedy is in place by suspending the transfer until the decision on the first suspension request is taken. Any decision on whether to suspend the implementation of the transfer decision shall be taken within a reasonable period of time, while permitting a close and rigorous scrutiny of the suspension request. A decision not to suspend the implementation of the transfer decision shall state the reasons on which it is based.

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

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

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

Without arbitrarily restricting access to legal assistance, 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.

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 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.

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

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

SECTION V

Detention for the purpose of transfer

Article 28

Detention

1. Member States shall not hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation.

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.

3. Detention shall be for as short a period as possible and shall be for no longer than the time reasonably necessary to fulfil the required administrative procedures with due diligence until the transfer under this Regulation is carried out.

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

Where a person is detained pursuant to this Article, the transfer of that person from the requesting Member State to the Member State responsible shall be carried out as soon as practically possible, and at the latest within six weeks of the implicit or explicit acceptance of the request by another Member State to take charge or to take back the person concerned or of the moment when the appeal or review no longer has a suspensive effect in accordance with Article 27(3).

When the requesting Member State fails to comply with the deadlines for submitting a take charge or take back request or where the transfer does not take place within the period of six weeks referred to in the third subparagraph, the person shall no longer be detained. Articles 21, 23, 24 and 29 shall continue to apply accordingly.

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.

SECTION VI

Transfers

Article 29

Modalities and time limits

1. The transfer of the applicant or of another person as referred to in Article 18(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 six months of acceptance of the request by another Member State to take charge or to take back the person concerned or of the final decision on an appeal or review where there is a suspensive effect in accordance with Article 27(3).

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

If necessary, the applicant shall be supplied by the requesting Member State with a *laissez passer*. The Commission shall, by means of implementing acts, establish the design of the *laissez passer*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

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

2. Where the transfer does not take place within the six months' time limit, the Member State responsible shall be relieved of its obligations to take charge or to take back the person concerned and responsibility shall then be transferred to the requesting Member State. This time limit may be extended up to a maximum of one year if the transfer could not be carried out due to imprisonment of the person concerned or up to a maximum of eighteen months if the person concerned absconds.

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

4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States, in particular in the event of postponed or delayed transfers, transfers following acceptance by default, transfers of minors or dependent persons, and supervised transfers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 30

Costs of transfer

1. The costs necessary to transfer an applicant or another person as referred to in Article 18(1)(c) or (d) to the Member State responsible shall be met by the transferring Member State.

2. Where the person concerned has to be transferred back to a Member State as a result of an erroneous transfer or of a transfer decision that has been overturned on appeal or review after the transfer has been carried out, the Member State which initially carried out the transfer shall be responsible for the costs of transferring the person concerned back to its territory.

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

Article 31

Exchange of relevant information before a transfer is carried out

1. The Member State carrying out the transfer of an applicant or of another person as referred to in Article 18(1)(c) or (d) shall communicate to the Member State responsible such personal data concerning the person to be transferred as is appropriate, relevant and non-excessive for the sole purposes of ensuring that the competent authorities, in accordance with national law in the Member State responsible, are in a position to provide that person with adequate assistance, including the provision of immediate health care required in order to protect his or her vital interests, and to ensure continuity in the protection and rights afforded by this Regulation and by other relevant asylum legal instruments. Those data shall be communicated to the Member State responsible within a reasonable period of time before a transfer is carried out, in order to ensure that its competent authorities in accordance with national law have sufficient time to take the necessary measures.

2. The transferring Member State shall, in so far as such information is available to the competent authority in accordance with national law, transmit to the Member State responsible any information that is essential in order to safeguard the rights and immediate special needs of the person to be transferred, and in particular:

(a) any immediate measures which the Member State responsible is required to take in order to ensure that the special needs of the person to be transferred are adequately addressed, including any immediate health care that may be required;

(b) contact details of family members, relatives or any other family relations in the receiving Member State, where applicable;

(c) in the case of minors, information on their education;

(d) an assessment of the age of an applicant.

3. The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with Article 35 of this Regulation using the 'DubliNet' electronic communication network set-up under Article 18 of Regulation (EC) No 1560/2003. The information exchanged shall only be used for the purposes set out in paragraph 1 of this Article and shall not be further processed.

4. With a view to facilitating the exchange of information between Member States, the Commission shall, by means of implementing acts, draw up a standard form for the transfer of the data required pursuant to this Article. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 44(2).

5. The rules laid down in Article 34(8) to (12) shall apply to the exchange of information pursuant to this Article.

Article 32

Exchange of health data before a transfer is carried out

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

The Commission shall, by means of implementing acts, draw up the common health certificate. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 44(2).

2. The transferring Member State shall only transmit the information referred to in paragraph 1 to the Member State responsible after having obtained the explicit consent of the applicant and/or of his or her representative or, if the applicant is physically or legally incapable of giving his or her consent, when such transmission is necessary to protect the vital interests of the applicant or of another person. The lack of consent, including a refusal to consent, shall not constitute an obstacle to the transfer.

3. The processing of personal health data referred to in paragraph 1 shall only be carried out by a health professional who is subject, under national law or rules established by national competent bodies, to the obligation of professional secrecy or by another person subject to an equivalent obligation of professional secrecy.

4. The exchange of information under this Article shall only take place between the health professionals or other persons referred to in paragraph 3. The information exchanged shall only be used for the purposes set out in paragraph 1 and shall not be further processed.

5. The Commission shall, by means of implementing acts, adopt uniform conditions and practical arrangements for exchanging the information referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 44(2).

6. The rules laid down in Article 34(8) to (12) shall apply to the exchange of information pursuant to this Article.

Article 33

A mechanism for early warning, preparedness and crisis management

1. Where, on the basis of, in particular, the information gathered by EASO pursuant to Regulation (EU) No 439/2010, the Commission establishes that the application of this Regulation may be jeopardised due either to a substantiated risk of particular pressure being placed on a Member State's asylum system and/or to problems in the functioning of the asylum system of a Member State, it shall, in cooperation with EASO, make recommendations to that Member State, inviting it to draw up a preventive action plan.

The Member State concerned shall inform the Council and the Commission whether it intends to present a preventive action plan in order to overcome the pressure and/or problems in the functioning of its asylum system whilst ensuring the protection of the fundamental rights of applicants for international protection.

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

2. Where a preventive action plan is drawn up, the Member State concerned shall submit it and shall regularly report on its implementation to the Council and to the Commission. The Commission shall subsequently inform the European Parliament of the key elements of the preventive action plan. The Commission shall submit reports on its implementation to the Council and transmit reports on its implementation to the European Parliament.

The Member State concerned shall take all appropriate measures to deal with the situation of particular pressure on its asylum system or to ensure that the deficiencies identified are addressed before the situation deteriorates. Where the preventive action plan includes measures aimed at addressing particular pressure on a Member State's asylum system which may jeopardise the application of this Regulation, the Commission shall seek the advice of EASO before reporting to the European Parliament and to the Council.

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

Following the request to draw up a crisis management action plan, the Member State concerned shall, in cooperation with the Commission and EASO, do so promptly, and at the latest within three months of the request.

The Member State concerned shall submit its crisis management action plan and shall report, at least every three months, on its implementation to the Commission and other relevant stakeholders, such as EASO, as appropriate.

The Commission shall inform the European Parliament and the Council of the crisis management action plan, possible revisions and the implementation thereof. In those reports, the Member State concerned shall report on data to monitor compliance with the crisis management action plan, such as the length of the procedure, the detention conditions and the reception capacity in relation to the inflow of applicants.

4. Throughout the entire process for early warning, preparedness and crisis management established in this Article, the Council shall closely monitor the situation and may request further information and provide political guidance, in particular as regards the urgency and severity of the situation and thus the need for a Member State to draw up either a preventive action plan or, if necessary, a crisis management action plan. The European Parliament and the Council may, throughout the entire process, discuss and provide guidance on any solidarity measures as they deem appropriate.

CHAPTER VII

ADMINISTRATIVE COOPERATION

Article 34

Information sharing

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

(a) determining the Member State responsible;

(b) examining the application for international protection;

(c) implementing any obligation arising under this Regulation.

2. The information referred to in paragraph 1 may only cover:

(a) personal details of the applicant, and, where appropriate, his or her family members, relatives or any other family relations (full name and where appropriate, former name; nicknames or pseudonyms; nationality, present and former; date and place of birth);

(b) identity and travel papers (references, validity, date of issue, issuing authority, place of issue, etc.);

(c) other information necessary for establishing the identity of the applicant, including fingerprints processed in accordance with Regulation (EU) No 603/2013;

(d) places of residence and routes travelled;

(e) residence documents or visas issued by a Member State;

(f) the place where the application was lodged;

(g) the date on which any previous application for international protection was lodged, the date on which the present application was lodged, the stage reached in the proceedings and the decision taken, if any.

3. Furthermore, provided it is necessary for the examination of the application for international protection, the Member State responsible may request another Member State to let it know on what grounds the applicant bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. The other Member State may refuse to respond to the request submitted to it, if the communication of such information is likely to harm its essential interests or the protection of the liberties and fundamental rights of the person concerned or of others. In any event, communication of the information requested shall be subject to the written approval of the applicant for international protection, obtained by the requesting Member State. In that case, the applicant must know for what specific information he or she is giving his or her approval.

4. Any request for information shall only be sent in the context of an individual application for international protection. It shall set out the grounds on which it is based and, where its purpose is to check whether there is a criterion that is likely to entail the responsibility of the requested Member State, shall state on what evidence, including relevant information from reliable sources on the ways and means by which applicants enter the territories of the Member States, or on what specific and verifiable part of the applicant's statements it is based. It is understood that such relevant information from reliable sources is not in itself sufficient to determine the responsibility and the competence of a Member State under this Regulation, but it may contribute to the evaluation of other indications relating to an individual applicant.

5. The requested Member State shall be obliged to reply within five weeks. Any delays in the reply shall be duly justified. Non-compliance with the five week time limit shall not relieve the requested Member State of the obligation to reply. If the research carried out by the requested Member State which did not respect the maximum time limit withholds information which shows that it is responsible, that Member State may not invoke the expiry of the time limits provided for in Articles 21, 23 and 24 as a reason for refusing to comply with a request to take charge or take back. In that case, the time limits provided for in Articles 21, 23 and 24 for submitting a request to take charge or take back shall be extended by a period of time which shall be equivalent to the delay in the reply by the requested Member State.

6. The exchange of information shall be effected at the request of a Member State and may only take place between authorities whose designation by each Member State has been communicated to the Commission in accordance with Article 35(1).

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

(a) determining the Member State responsible;

(b) examining the application for international protection;

(c) implementing any obligation arising under this Regulation.

8. The Member State which forwards the information shall ensure that it is accurate and up-to-date. If it transpires that it has forwarded information which is inaccurate or which should not have been forwarded, the recipient Member States shall be informed thereof immediately. They shall be obliged to correct such information or to have it erased.

9. The applicant shall have the right to be informed, on request, of any data that is processed concerning him or her.

If the applicant finds that the data have been processed in breach of this Regulation or of Directive 95/46/EC, in particular because they are incomplete or inaccurate, he or she shall be entitled to have them corrected or erased.

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

The applicant shall have the right to bring an action or a complaint before the competent authorities or courts or tribunals of the Member State which refused the right of access to or the right of correction or erasure of data relating to him or her.

10. In each Member State concerned, a record shall be kept, in the individual file for the person concerned and/or in a register, of the transmission and receipt of information exchanged.

11. The data exchanged shall be kept for a period not exceeding that which is necessary for the purposes for which they are exchanged.

12. Where the data are not processed automatically or are not contained, or intended to be entered, in a file, each Member State shall take appropriate measures to ensure compliance with this Article through effective checks.

Article 35

Competent authorities and resources

1. Each Member State shall notify the Commission without delay of the specific authorities responsible for fulfilling the obligations arising under this Regulation, and any amendments thereto. The Member States shall ensure that those authorities have the necessary resources for carrying out their tasks and in particular for replying within the prescribed time limits to requests for information, requests to take charge of and requests to take back applicants.

2. The Commission shall publish a consolidated list of the authorities referred to in paragraph 1 in the *Official Journal of the European Union*. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated list.

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

4. The Commission shall, by means of implementing acts, establish secure electronic transmission channels between the authorities referred to in paragraph 1 for transmitting requests, replies and all written correspondence and for ensuring that senders automatically receive an electronic proof of delivery. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 36

Administrative arrangements

1. Member States may, on a bilateral basis, establish administrative arrangements between themselves concerning the practical details of the implementation of this Regulation, in order to facilitate its application and increase its effectiveness. Such arrangements may relate to:

(a) exchanges of liaison officers;

(b) simplification of the procedures and shortening of the time limits relating to transmission and the examination of requests to take charge of or take back applicants.

2. Member States may also maintain the administrative arrangements concluded under Regulation (EC) No 343/2003. To the extent that such arrangements are not compatible with this Regulation, the Member States concerned shall amend the arrangements in such a way as to eliminate any incompatibilities observed.

3. Before concluding or amending any arrangement referred to in paragraph 1(b), the Member States concerned shall consult the Commission as to the compatibility of the arrangement with this Regulation.

4. If the Commission considers the arrangements referred to in paragraph 1(b) to be incompatible with this Regulation, it shall, within a reasonable period, notify the Member States concerned. The Member States shall take all appropriate steps to amend the arrangement concerned within a reasonable time in such a way as to eliminate any incompatibilities observed.

5. Member States shall notify the Commission of all arrangements referred to in paragraph 1, and of any denunciation thereof, or amendment thereto.

CHAPTER VIII

CONCILIATION

Article 37

Conciliation

1. Where the Member States cannot resolve a dispute on any matter related to the application of this Regulation, they may have recourse to the conciliation procedure provided for in paragraph 2.

2. The conciliation procedure shall be initiated by a request from one of the Member States in dispute to the Chairman of the Committee set up by Article 44. By agreeing to use the conciliation procedure, the Member States concerned undertake to take the utmost account of the solution proposed.

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

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

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

CHAPTER IX

TRANSITIONAL PROVISIONS AND FINAL PROVISIONS

Article 38

Data security and data protection

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

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

Article 39

Confidentiality

Member States shall ensure that the authorities referred to in Article 35 are bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

Article 40

Penalties

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

Article 41

Transitional measures

Where an application has been lodged after the date mentioned in the second paragraph of Article 49, the events that are likely to entail the responsibility of a Member State under this Regulation shall be taken into consideration, even if they precede that date, with the exception of the events mentioned in Article 13(2).

Article 42

Calculation of time limits

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

(a) where a period expressed in days, weeks or months is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) a period expressed in weeks or months shall end with the expiry of whichever day in the last week or month is the same day of the week or falls on the same date as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) time limits shall include Saturdays, Sundays and official holidays in any of the Member States concerned.

Article 43

Territorial scope

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

Article 44

Committee

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

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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

Article 45

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 8(5) and 16(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 Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 8(5) and 16(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5. A delegated act adopted pursuant to Articles 8(5) and 16(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of four months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 46

Monitoring and evaluation

By 21 July 2016, the Commission shall report to the European Parliament and to the Council on the application of this Regulation and, where appropriate, shall propose the necessary amendments. Member States shall forward to the Commission all information appropriate for the preparation of that report, at the latest six months before that time limit expires.

After having submitted that report, the Commission shall report to the European Parliament and to the Council on the application of this Regulation at the same time as it submits reports on the implementation of the Eurodac system provided for by Article 40 of Regulation (EU) No 603/2013.

Article 47

Statistics

In accordance with Article 4(4) of Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection [1], Member States shall communicate to the Commission (Eurostat), statistics concerning the application of this Regulation and of Regulation (EC) No 1560/2003.

Article 48

Repeal

Regulation (EC) No 343/2003 is repealed.

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

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

Article 49

Entry into force and applicability

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

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

References in this Regulation to Regulation (EU) No 603/2013, Directive 2013/32/EU and Directive 2013/33/EU shall be construed, until the dates of their application, as references to Regulation (EC) No 2725/2000 [2], Directive 2003/9/EC [3] and Directive 2005/85/EC [4] respectively.

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

Done at Brussels, 26 June 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
A. SHATTER

[1] OJ L 199, 31.7.2007, p. 23.

[2] Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L 316, 15.12.2000, p. 1).

[3] Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (OJ L 31, 6.2.2003, p. 18).

[4] Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures for granting and withdrawing refugee status (OJ L 326, 13.12.2005, p. 13).

ANNEX I

Repealed Regulations (referred to in Article 48)

Council Regulation (EC) No 343/2003

(OJ L 50, 25.2.2003, p. 1)

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

(OJ L 222, 5.9.2003, p. 3)

ANNEX II

Correlation table

Regulation (EC) No 343/2003	This Regulation
Article 1	Article 1
Article 2(a)	Article 2(a)
Article 2(b)	—
Article 2(c)	Article 2(b)
Article 2(d)	Article 2(c)
Article 2(e)	Article 2(d)
Article 2(f)	Article 2(e)
Article 2(g)	Article 2(f)
—	Article 2(h)
—	Article 2(i)
Article 2(h)	Article 2(j)
Article 2(i)	Article 2(g)
—	Article 2(k)
Article 2(j) and (k)	Article 2(l) and (m)
—	Article 2(n)
Article 3(1)	Article 3(1)
Article 3(2)	Article 17(1)
Article 3(3)	Article 3(3)
Article 3(4)	Article 4(1), introductory wording
—	Article 4(1)(a) to (f)
—	Article 4(2) and (3)
Article 4(1) to (5)	Article 20(1) to (5)
—	Article 20(5), third subparagraph
—	Article 5
—	Article 6
Article 5(1)	Article 7(1)
Article 5(2)	Article 7(2)
—	Article 7(3)
Article 6, first paragraph	Article 8(1)
—	Article 8(3)
Article 6, second paragraph	Article 8(4)
Article 7	Article 9

Regulation (EC) No 343/2003	This Regulation
Article 8	Article 10
Article 9	Article 12
Article 10	Article 13
Article 11	Article 14
Article 12	Article 15
—	Article 16
Article 13	Article 3(2)
Article 14	Article 11
Article 15(1)	Article 17(2), first subparagraph
Article 15(2)	Article 16(1)
Article 15(3)	Article 8(2)
Article 15(4)	Article 17(2), fourth subparagraph
Article 15(5)	Articles 8(5) and (6) and Article 16(2)
Article 16(1)(a)	Article 18(1)(a)
Article 16(1)(b)	Article 18(2)
Article 16(1)(c)	Article 18(1)(b)
Article 16(1)(d)	Article 18(1)(c)
Article 16(1)(e)	Article 18(1)(d)
Article 16(2)	Article 19(1)
Article 16(3)	Article 19(2), first subparagraph
—	Article 19(2), second subparagraph
Article 16(4)	Article 19(3)
—	Article 19(3), second subparagraph
Article 17	Article 21
Article 18	Article 22
Article 19(1)	Article 26(1)
Article 19(2)	Article 26(2) and Article 27(1)
—	Article 27(2) to (6)
Article 19(3)	Article 29(1)
Article 19(4)	Article 29(2)
—	Article 29(3)
Article 19(5)	Article 29(4)
Article 20(1), introductory wording	Article 23(1)
—	Article 23(2)
—	Article 23(3)

Regulation (EC) No 343/2003	This Regulation
—	Article 23(4)
Article 20(1)(a)	Article 23(5), first subparagraph
—	Article 24
Article 20(1)(b)	Article 25(1)
Article 20(1)(c)	Article 25(2)
Article 20(1)(d)	Article 29(1), first subparagraph
Article 20(1)(e)	Article 26(1), (2), Article 27(1), Article 29(1), second and third subparagraphs
Article 20(2)	Article 29(2)
Article 20(3)	Article 23(5), second subparagraph
Article 20(4)	Article 29(4)
—	Article 28
—	Article 30
—	Article 31
—	Article 32
—	Article 33
Article 21(1) to (9)	Article 34(1) to (9), first to third subparagraphs
—	Article 34(9), fourth subparagraph
Article 21(10) to (12)	Article 34(10) to (12)
Article 22(1)	Article 35(1)
—	Article 35(2)
—	Article 35(3)
Article 22(2)	Article 35(4)
Article 23	Article 36
—	Article 37
—	Article 40
Article 24(1)	—
Article 24(2)	Article 41
Article 24(3)	—
Article 25(1)	Article 42
Article 25(2)	—
Article 26	Article 43

Regulation (EC) No 343/2003	This Regulation
Article 27(1), (2)	Article 44(1), (2)
Article 27(3)	—
—	Article 45
Article 28	Article 46
—	Article 47
—	Article 48
Article 29	Article 49

Regulation (EC) No 1560/2003	This Regulation
Article 11(1)	—
Article 13(1)	Article 17(2), first subparagraph
Article 13(2)	Article 17(2), second subparagraph
Article 13(3)	Article 17(2), third subparagraph
Article 13(4)	Article 17(2), first subparagraph
Article 14	Article 37
Article 17(1)	Articles 9, 10, 17(2), first subparagraph
Article 17(2)	Article 34(3)

STATEMENT BY THE COUNCIL, THE EUROPEAN PARLIAMENT AND THE COMMISSION

The Council and the European Parliament invite the Commission to consider, without prejudice to its right of initiative, a revision of Article 8(4) of the Recast of the Dublin Regulation once the Court of Justice rules on case C-648/11 MA and Others vs. Secretary of State for the Home Department and at the latest by the time limits set in Article 46 of the Dublin Regulation. The European Parliament and the Council will then both exercise their legislative competences, taking into account the best interests of the child.

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

C-deild – Útgáfud.: 30. maí 2014