

## RECEPTION CONDITIONS DIRECTIVE

**State of play.** Informal agreement between EP and Council on the recast of the directive from 2003. Final approval of the recast is expected by the beginning of 2013. Once formally adopted by both co-legislators, member states will need to transpose the new provisions into national law within two years. Denmark, Ireland and the United Kingdom are not bound by the recast directive (Denmark and Ireland were also not bound by directive 2003/9).

The amended reception conditions directive aim to provide better and more harmonised standards of living to applicants for international protection throughout the EU, irrespective in which member state the application has been made. There are new rules concerning detention and better standards for vulnerable persons including (unaccompanied) minors. Member states that wish to do so can provide for more favourable rules.

The new EU rules aim to take better into account the different national legal systems, avoid unnecessary administrative and financial burden and enable member states to fight abuse of their asylum systems more effectively.

What's new?

- An extensive set of rules governing detention of applicants for international protection. These rules provide that detention is only possible on the basis of an individual assessment which has to show that other less coercive alternative measures cannot be applied effectively. Moreover, an applicant for international protection can only be detained if at least one of the grounds listed in the directive applies. The new rules on detention also provide important guarantees for detained applicants, in particular in relation to the review of their detention order and access to free legal assistance and representation. Furthermore, as a rule, applicants for international protection must be detained in special reception facilities. If this is not possible prison accommodation is allowed, but only under the condition that the applicants is kept separate from criminals. Finally, a regime providing additional safeguards is established in relation to the detention of vulnerable persons and persons with special reception needs. The amended directive specifies for instance that unaccompanied minors can be detained only in exceptional circumstances and never in prison accommodation.
- The time limit for granting access to the labour market is shortened from the currently applicable twelve month to at the latest, nine months after the lodging of the application. The goal is to enhance self-sufficiency as well as integration of applicants for international protection.
- More specific rules on granting, reducing and withdrawing material reception conditions for applicants for international protection. On the basis of the new rules there are more restrictions for member states to reduce or, in exceptional and duly justified cases, withdraw material reception conditions.
- More clear and specific rules as regards the conditions under which applicants for international protection can benefit from free legal assistance and representation in appeal procedures. Member states may provide that such legal assistance and representation is not made available in case the appeal is considered to have no tangible prospect of success. Such a "merits test" is, however, not possible in case of an appeal against a detention order.
- A more specific regime concerning the assessment of special reception needs of vulnerable persons such as minors and victims of torture. This assessment need not take the form of an administrative procedure and may be integrated in existing national procedures.

## Background information:

### Directive of 27 January 2003 (minimum standards):

- **Official name:** [Council directive 2003/9/EC](#) of 27 January 2003 laying down minimum standards for the reception of asylum seekers.
- **Objective of the directive.** To ensure appropriate and comparable reception conditions for asylum seekers throughout the Union and thus discouraging applicants moving from one EU State to another in the hope of receiving more generous treatment.
- **Transposition deadline:** 6 February 2005
- **Evaluation:** [Evaluation report](#) of 26 November 2006 of the European Commission on the application of the directive: the report concluded that the wide discretion allowed by the Directive in a number of areas undermined the objective of creating a level playing field in the area of reception conditions.

### Improving directive 2003/9/EC: recast proposal nearly approved

- **3 December 2008 - Commission proposal on recast**
  - [Amended proposal](#) of 3 December 2008 for a Directive laying down standards for the reception of asylum seekers (recast)
  - The proposal sought to:
    - extend the scope of the Directive's application to include those applying for subsidiary protection
    - limit the time restrictions for accessing the labour market
    - guarantee an adequate level of material reception conditions
    - ensure that detention is used only in exceptional cases and in connection with certain procedural guarantees
    - ensure that mechanisms are established in order to immediately identify special needs and provide the necessary support.
  - Council was unable to reach a position on the 2008 proposal.
- **1 June 2011 – The Commission tabled a revised proposal on recast:**
  - [Amended proposal](#) of 1 June 2011 for a Directive laying down standards for the reception of asylum seekers (recast). (The amended proposal should be viewed together with the modified proposal on the directive on asylum procedures).
- **Progress of negotiations:**
  - *JHA Council 9-10 June 2011:* The Council had a first exchange of views on the revised Commission proposal tabled on 1 June 2011.
  - *JHA Council 3 March 2012:* Significant progress has been made. Negotiations with the EP are expected to start soon. The main outstanding issues here concern the grounds for detention and access to labour market for asylum applicants.
  - *JHA Council 8 June 2012:* Negotiations between the Council and the EP are ongoing. It is the goal of the Danish Presidency to obtain political agreement by the end of June.
  - *Informal agreement reached in July 2012:* [more information](#) and [agreed text](#).
  - *LIBE Commission, European Parliament:* The EP's Committee on Civil Liberties (LIBE) gave the green light to an agreement to recast the directive. Member states will now have to endorse the agreed text, which would then come back to Parliament. The final text is expected to be voted in plenary before the end of 2012. [More information.](#)
  - *JHA Council 25 October 2012:* The JHA Council endorsed the agreed text as an 'A point' without discussion. See above. [More information.](#) Council's

position at first reading is communicated to the European Parliament with a view to approval without amendments in second reading.

**More information:**

- **Positions taken by other stakeholders on the matter: ECRE, ...**
- General information on the content of directive on the site of the European Commission. [Link](#).
- [Procedure file](#) of the Legislative Observatory (European Parliament).