

DIRECTIVE ON ASYLUM PROCEDURES

State of play

The recast directive on common procedures for granting and withdrawing international protection was adopted on 26 June 2013 and published in the Official Journal of the EU on 29 June 2013. Deadline of transposition is 20 July 2015.

The United Kingdom, Ireland and Denmark are not bound by this directive.

The new Asylum Procedures Directive is much more precise. It creates a coherent system, which ensures that asylum decisions are made more efficiently and more fairly and that all Member States examine applications with a common high quality standard.

What's new?

- Applications for asylum and subsidiary protection are brought to the same level and are now covered as 'international protection'; the same rules apply without distinction. Granting and withdrawing international protection must be based on a single procedure.
- Clearer rules on how to apply for asylum.
- Some aspects of the examination of the application are pointed out more concrete. For example, persons conducting the interview must be highly trained and, on request of the applicant, must be of the same sex as the applicant.
- All applicants have the right to receive free legal assistance in appeal procedures.
- Some provisions regarding applicants with special procedural needs are added to the directive, comprising the assessment of those needs and provision of adequate support. For example, when an applicant for international protection is identified as unaccompanied minor, a representative must be appointed. Both must receive legal and procedural information.
- Procedural rules are specified in a way to provide better guarantees to applicants (stricter terms, rules on interviews, more elaborate set of rules on appeal procedures) and speed up the procedure and prevent time loss (accelerated and prioritized procedures, preliminary examination and cases of inadmissibility, subsequent applications and border procedures).

Background information:

Directive of 1 December 2005 (minimum standards)

- **Official name:** Council [directive 2005/85/EC](#) of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status
- **Objective of the directive.** To establish a minimum level playing field on procedures for granting or withdrawing refugee status throughout the EU and to reduce differences between national systems. More information on this [link](#).
- **Transposition deadline:** 1 December 2008
- **Transposition into Belgian law:** The Commission decided in June 2010 to refer Belgium to the Court of Justice for failure to communicate measures fully transposing

the Asylum Procedures Directive further to infringement proceeding initiated in 2008. In September 2010, the Commission received notification of full transposition, so the infringement proceeding was closed ([source](#)).

- **Evaluation:** [Evaluation report](#) of 8 September 2010 of the European Commission on the application of the directive.
 - The report concluded that differences between asylum legislation and practices persist. Some minimum standards are vague, which leaves room for disparate implementation of agreed standards. Certain standards also seem insufficient to ensure coherence with the evolving case law of the European Court of Justice and the European Court of Human Rights.

Improving directive 2005/85/EC: Ongoing negotiations on a recast proposal of the directive

- **21 October 2009 - Commission proposal on recast**
 - [Proposal](#) for a directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (Recast).
 - The modifications to the proposal aimed at providing for a single procedure for refugee and subsidiary protection status determination, enhance the efficiency of the application examination process, facilitate access to examination procedures, improve the quality of asylum decisions and ensure that an asylum applicant can appeal a decision.
- **1 June 2011 – The Commission tabled a revised proposal on recast**
 - Amended proposal for a directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (recast). [Detailed explanation](#).
 - Changes aim to simplify and clarify rules, in order to make implementation easier for Member States; better address potential abuse; increase the quality of decision-making at first instance; guarantee access to protection; to deal with repeated applications; enhance coherence with other instruments of the EU asylum acquis.
 - The modified proposal should be viewed together with the modified proposal on the Reception Conditions directive. More information: [EP](#) or [EC](#).
- **Progress of negotiations:**
 - *JHA Council 26 April 2012:* progress has been made, in particular regarding access to the procedure, applicants with special procedural needs and the applicability of accelerated procedures. Discussions in the Council preparatory bodies are continuing on other key elements such as guarantees for unaccompanied minors, subsequent applications and the right to an effective remedy.
 - *JHA Council 8 June 2012:* the Danish Presidency received a mandate to start negotiations with the EP as soon as possible.
 - *JHA Council, 25 October 2012:* further progress has been made in negotiations with the European Parliament.
 - *JHA Council, 6 and 7 December 2012:* A state of play is given. Further progress has been made in negotiations with the European Parliament. On 27 November the Committee of Permanent Representatives (Coreper) adopted a revised compromise package.
 - *Council position, 7 June 2013:* The Council and the European Parliament have reached a compromise on the amendments, adapting Directive 2005/85/EC. The Council position fully reflects the compromise reached in the negotiations between the Council and the European Parliament.
- **12 June 2013 – European Parliament adopts [resolution](#):**
 - The European Parliament approves the Council position at first reading with a view to the adoption of a Directive of the European Parliament and of the Council on common

procedures for granting and withdrawing international protection (recast), following the Committee recommendation of 10 June 2013.

- **26 June 2013 – Final act is signed**
- **29 June 2013 – Final act is published in the Official Journal of the European Union**, L 180, p. 60-95.

The recast Directive (common standards)

- **Official name:** Directive [2013/32/EU](#) of the European Parliament and the Council of 26 June 2013 on common procedures for granting and withdrawing international protection
- The former directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status will be repealed for all Member States with effect from 21 July 2015, the latest date of transposition of the recast directive.
- **Objective:** setting common standards for national asylum systems at the level of the European Union, providing applicants for international protection with a high level of safeguards and enabling Member States to operate asylum procedures that are cost-effective and capable of tackling potential abusive claims, while taking into account the differences amongst national legal systems. Additionally, the new directive aims to validate case law of the European Court of Justice and European Court of Human Rights.
- **Content:** The directive fixes common procedural standards on the treatment of applicants and applications for international protection. At the side of the applicants, procedural guarantees are set; including: fixed terms, course of interviews, information, counsel and representation, possibility to lodge an application, etc. At the side of the Member States, the directive provides for measures to prevent abusive applications and to speed up the procedures.

More information:

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