

## RECEPTION CONDITIONS DIRECTIVE

### State of play.

The recast Reception Conditions Directive was adopted on 26 June of 2013. Deadline of transposition is 20 July 2015.

It does not apply to the United Kingdom, Ireland and Denmark.

The amended directive on reception conditions aims to provide better and more harmonized 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 favorable 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?

- The **personal scope** of the directive, not only comprises asylum seekers but every person who has lodged an application for international protection, including: asylum and subsidiary protection.
- An extensive set of rules governing **detention** of applicants for international protection. These rules provide that detention is only possible if necessary and 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. These facilities must comply to special conditions, such as access to open-air spaces and communication with lawyers, NGO's and family members. If reception in these special facilities is not possible, prison accommodation is allowed, but only under the condition that the applicants are 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:

- **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 on-going. 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.
  - *Council position, 7 June 2013*: The Council and European Parliament have reached a compromise on the text of the recast directive.
- **10 June 2013 – Committee recommendation tabled for plenary**
    - LIBE commission adopted the recommendation for second reading on the Council position at first reading. The Committee recommends the EP to approve, unamended, the Council position at first reading.
  - **12 June 2013 – Parliament adopts [resolution](#)**
    - The EP approved the Council position at first reading.
  - **26 June 2013 – Final act signed**
  - **29 June 2013 – Publication in the Official Journal of the European Union on, L 180, p. 96-116.**
  - **Transposition date**: 20 July 2015

### The recast directive (standards)

- **Official name**: Directive [2013/33/EU](#) of the European Parliament and the Council of 26 June 2013 laying down minimum standards for the reception of applicants for international protection
- The former Directive on Reception Conditions of 2003 will be repealed at 21 July 2015, the latest date of transposition.
- **Content**: The directive aims to put down common rules and standards on the reception of third country nationals and stateless persons, who lodge an application for international protection in a Member State of the European Union, as to guarantee an equivalent level of treatment as regards reception conditions throughout the Union, regardless of the Member State in which their application for international protection is made.

First, some general provisions regarding reception are set out, including a broad set of rules regarding detention (and its conditions), reception of families, access to education for minors, access to the labour market, material reception conditions and access to health care. Further, the directive provides situations that allow for reduction or withdrawal of material reception conditions. A complete chapter is devoted to provisions for vulnerable persons, including minors, unaccompanied minors and victims of torture and violence. Rules regarding appeal against decisions concerning the granting, reduction or withdrawal of benefits under the directive are fixed, including legal representation. Finally, some general provisions on evaluation and reporting mechanisms on the directive are given.

### [More information](#):

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