European Parliament
2019-2024

Committee on Civil Liberties, Justice and Home Affairs

2016/0224(COD)

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AMENDMENTS
65 - 195

Draft report
Fabienne Keller
(PE697.689v01-00)

Proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU

Proposal for a regulation
(COM(2020)0611 – C9-xxxx/xxxx – 2016/0224(COD))

Amendment 65
Sira Rego

Proposal for a regulation
–

Text proposed by the Commission	*Amendment*
	The European Parliament rejects the Commission proposal.

Or. en

Amendment 66
Domènec Ruiz Devesa
Proposal for a regulation
Recital 7

Text proposed by the Commission	*Amendment*
(7) This Regulation should apply to all applications for international protection made in the territory of the Member States, including those made at the external border, on the territorial sea or in the transit zones of Member States, and the withdrawal of international protection. Persons seeking international protection who are present on the territorial sea of a Member State should be disembarked on land and have their applications examined in accordance with this Regulation.	(7) This Regulation should apply to all applications for international protection made in the territory of the Member States, including those made at the external border, on the territorial sea or in the transit zones of Member States ***and in representations of Member States***, and the withdrawal of international protection. Persons seeking international protection who are present on the territorial sea of a Member State should be disembarked on land and have their applications examined in accordance with this Regulation.

Or. en

Justification

The right to asylum should be guaranteed independently of territoriality criteria. Moreover, guaranteeing a common procedure for international protection in the Union would reduce the loss of lives and the dangers of migratory routes and discrepancies when granting asylum on asylum submitted applications lodged in representations of Member States.

Amendment 67
Sira Rego

Proposal for a regulation
Recital 20a (new)

Text proposed by the Commission	*Amendment*
	(20a) In applying this Regulation, Member States must respect their international obligations towards stateless persons, including under the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954, and in accordance with other international human rights law instruments, and take into account their particular protection needs and circumstances.

Or. en

Justification

This new recital is necessary because of the inextricable links with article 41.

Amendment 68
Sira Rego

Proposal for a regulation
Recital 20 b new

Text proposed by the Commission	*Amendment*
	(20b) In order to guarantee a fair procedure, applicants should be have the right to free legal assistance at all stages of the procedure, as soon as the application for international protection is made. In case of individuals residing or being held in facilities operated by Member States, there should be immediate and unhindered access of legal practitioners to individuals in such facilities, including in quarantine sites. Free legal aid should also be guaranteed to challenge any detention order or

restriction of movement restrictions. The information handled in these cases must be processed in accordance with the relevant data protection legislation.

Or. en

Justification

This new recital is necessary because of the inextricable links with article 41.

Amendment 69
Erik Marquardt

Proposal for a regulation
Recital 30 a new

Text proposed by the Commission	*Amendment*
	(30a) Applicants shall have effective access to free legal assistance throughout the procedures described in this Regulation, including during the border procedure.

Or. en

Amendment 70
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 31

Text proposed by the Commission	*Amendment*
(31) **'**In order to guarantee the rights of the applicant, a decision concerning his or her application should be given in writing. Where the decision does not grant international protection, the applicant should be given reasons in fact and in law, information on the consequences of the decision and the modalities for challenging	(31) In order to guarantee the rights of the applicant, a decision concerning his or her application should be given in writing. Where the decision does not grant international protection, the applicant should be given reasons in fact and in law, information on the consequences of the decision and the modalities for challenging

it.	it. ***Without prejudice to the applicant's right to remain and to the principle of non-refoulement, such a decision may include, or may be issued together with, a return decision issued in accordance with Article 6 of Directive 2008/115/EC of the European Parliament and of the Council.***

Or. en

Amendment 71
Sira Rego

Proposal for a regulation
Recital 31a

Text proposed by the Commission	*Amendment*
(31a) In order to increase the efficiency of procedures and to reduce the risk of absconding and the likelihood of unauthorised movements, there should be no procedural gaps between the issuance of a negative decision on an application for international protection and of a return decision. A return decision should immediately be issued to applicants whose applications are rejected. Without prejudice to the right to an effective remedy, the return decision should either be part of the negative decision on an application for international protection or, if it is a separate act, be issued at the same time and together with the negative decision.'	***deleted***

Or. en

Amendment 72
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 31a

Text proposed by the Commission	*Amendment*
(31a) In order to increase the efficiency of procedures and to reduce the risk of absconding and the likelihood of unauthorised movements, there should be no procedural gaps between the issuance of a negative decision on an application for international protection and of a return decision. A return decision should immediately be issued to applicants whose applications are rejected. Without prejudice to the right to an effective remedy, the return decision should either be part of the negative decision on an application for international protection or, if it is a separate act, be issued at the same time and together with the negative decision***.'***	(31a) In order to increase the efficiency of procedures and to reduce the risk of absconding and the likelihood of unauthorised movements, there should be no procedural gaps between the issuance of a negative decision on an application for international protection and of a return decision. A return decision should immediately be issued to applicants whose applications are rejected. Without prejudice to the right to an effective remedy, the return decision should either be part of the negative decision on an application for international protection or, if it is a separate act, be issued at the same time and together with the negative decision ***in order to fulfil the time limits provided for in this regulation.' The competent authorities shall take the necessary measures to ensure that the applicant is personally available to receive the decisions.***

Or. en

Amendment 73
Erik Marquardt

Proposal for a regulation
Recital 31a

Text proposed by the Commission	*Amendment*
(31a) ***In order to increase the efficiency of procedures and to reduce the risk of absconding and the likelihood of unauthorised movements, there should be no procedural gaps between the issuance of a negative decision on an application for international protection and of a return decision.*** A return decision should ***immediately*** be issued to applicants whose applications are rejected. Without prejudice to the right to an effective remedy, the return decision ***should either be part of the***	(31a) A return decision should ***swiftly*** be issued ***in a separate decision*** to applicants whose applications are rejected***, provided that the decision rejecting the claim is final, the applicant does not fulfil the conditions to apply for a residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other grounds under national law and that their return would not lead to risks of violations of the principle of non-refoulement or the provisions of the***

negative decision on an application for international protection or, if it is a separate act, be issued at the same time ***and together with the*** negative decision.'

Charter of Fundamental Rights and other EU and international obligations. Without prejudice to the right to an effective remedy, the return decision ***may*** be issued at the same time ***as the final*** negative decision***, in a separate decision***.'

Or. en

Amendment 74
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 31a

Text proposed by the Commission	*Amendment*
(31a) ***In order to*** increase the efficiency of procedures and ***to*** reduce the risk of absconding and the likelihood of unauthorised movements, there ***should be*** no procedural ***gaps*** between the issuance of a negative decision on an application for international protection and of a return decision***.*** A return decision ***should immediately be issued*** to applicants whose applications are rejected. ***Without prejudice to the*** right to ***an effective remedy, the return decision should either be part of the negative decision on an application for international protection or, if it is a separate act, be issued at the same time and together with the negative decision.'***	(31a) ***Where a Member State considers that it would*** increase the efficiency of procedures and reduce the risk of absconding and the likelihood of unauthorised movements, ***if*** there ***are*** no procedural ***steps*** between the issuance of a negative decision on an application for international protection and of a return decision***, it may issue*** a return decision to applicants whose applications are rejected. ***This possibility should in no way restrict Member States' discretion as regards the use of Article 6(5) of Regulation (EU) 2016/399 [1a] or their discretion to issue residence permits or other authorisations under national law granting a*** right to ***stay on the territory.***

_____

[1a] Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

Or. en

Justification

Member States currently use other resident permits and types of authorisations outside asylum which are available under national law, and access to those should remain open for third country nationals. The provisions of Article 6(5) of the SBC are the only provisions which allow MS to let people access the territory, even if they do not fulfil the conditions of entry. After that the MS is free to grant whatever permit/status to the person it wants under its national law. This is approach we are taking in the Screening.

Amendment 75
Jadwiga Wiśniewska, Patryk Jaki

Proposal for a regulation
Recital 31a

Text proposed by the Commission	*Amendment*
(31a) In order to increase the efficiency of procedures and to reduce the risk of absconding and the likelihood of unauthorised movements, there should be no procedural gaps between the issuance of a negative decision on an application for international protection and of a return decision. A return decision should ***immediately*** be issued to applicants whose applications are rejected. Without prejudice to the right to an effective remedy, the return decision should either be part of the negative decision on an application for international protection or, if it is a separate act, be issued at the same time and together with the negative decision.'	(31a) In order to increase the efficiency of procedures and to reduce the risk of absconding and the likelihood of unauthorised movements, there should be no procedural gaps between the issuance of a negative decision on an application for international protection and of a return decision. A return decision should ***simultaneously*** be issued to applicants whose applications are rejected. Without prejudice to the right to an effective remedy, the return decision should either be part of the negative decision on an application for international protection or, if it is a separate act, be issued at the same time and together with the negative decision.'

Or. pl

Amendment 76
Sira Rego

Proposal for a regulation
Recital 31a a (new)

Text proposed by the Commission	*Amendment*

(31a a) In the interest of a full examination of the specific situation of each applicant, in the case of a final rejection of an application for international protection, Member States should check whether the applicant fulfils the conditions to apply for a residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other grounds under the applicable national legal framework. Particular attention should be paid to vulnerable persons including victims of torture and inhumane and degrading treatment, gender-based violence, minors when it is not in their best interest to be returned, persons with PTSD symptoms and stateless persons.

Or. en

Amendment 77
Laura Ferrara

Proposal for a regulation
Recital 39 a

Text proposed by the Commission	*Amendment*
(39a) In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than 20% of the total number of decisions for that third country. Where a significant change has	***deleted***

occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. it

Amendment 78
Sira Rego

Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) 'In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than 20% of the total	***deleted***

number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. en

Amendment 79
Erik Marquardt

Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) 'In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of	***deleted***

decisions granting international protection is lower than 20% of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. en

Amendment 80
Balázs Hidvéghi Loránt Vincze
Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) ‘In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a	(39a) 'In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a

third country for which the share of decisions granting international protection is lower than ***20%*** of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.	third country for which the share of decisions granting international protection is lower than ***50%*** of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. en

Amendment 81
Elissavet Vozemberg-Vrionidi, Juan Ignacio Zoido Álvarez, Loucas Fourlas

Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) **'**In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States ***should*** accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a	(39a) In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States ***may*** accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a

third country for which the share of decisions granting international protection is lower than 20% of the total number of decisions for that third country. ***Where*** a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data ***and taking into account*** the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency***, or where the*** applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, ***examination of the application*** should ***not be*** accelerated. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.	third country for which the share of decisions granting international protection is lower than 20% of the total number of decisions for that third country. ***By way of exception , the examination procedure should not be accelerated when*** a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data ***on the basis of*** the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency***. An*** applicant ***who*** belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, should ***also be exempt from the*** accelerated ***examination procedure, including after it has begun, where the competent authorities find that the grounds for such a procedure do not apply. Vulnerability of applicants should be assessed throughout the border procedure and where applicable cause the exclusion from the border procedure***. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. en

Amendment 82
Nadine Morano

Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in	(39a) In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in

the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than ***20***% of the total number of decisions for that third country***. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated***. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.	the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than ***40***% of the total number of decisions for that third country. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. fr

Amendment 83
Maite Pagazaurtundúa

Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) ‘In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do	(39a) ‘ In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do

not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than 20% of the total number of decisions for that third country. ***Where*** a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency***, or where the*** applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, ***examination of the application*** should ***not be*** accelerated. Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than 20% of the total number of decisions for that third country. ***By way of exception, the examination procedure should not be accelerated when*** a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency***. An*** applicant ***who*** belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, should ***also be exempt from the*** accelerated ***examination procedure, including after it has begun, where the competent authorities find that the grounds for such a procedure do not apply. Vulnerability of applicants should be assessed throughout the border procedure and where applicable cause the exclusion from the border procedure*** . Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. en

Amendment 84
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz

Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) 'In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals ***or, in the case of stateless persons, formerly habitual residents*** of a third country for which the share of decisions granting international protection is lower than ***20%*** of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant ***Eurostat*** data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated. ***Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation*** should ***remain applicable as a separate ground for respectively the*** accelerated ***examination procedure or the inadmissible procedure.***	(39a) ' In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should ***be able to*** accelerate the examination of applications of applicants who are nationals of a third country for which the share of decisions granting international protection ***in that Member State*** is lower than ***10%*** of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated. ***Applications from unaccompanied minors, families with children, and other vulnerable applicants including those with special procedural or reception needs*** should ***also not be*** accelerated***.***

Or. en

Justification

Stateless persons should not have their cases examined in the accelerated or border procedures due to the complexity of their circumstances and requirement to refer them to a procedure to determine their statelessness and rights under the 1954 Convention. All children and other vulnerable groups should be clearly exempted from this provision. This is in line with amendments suggested to Article 40 (i).

Amendment 85
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) **'**In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than 20% of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated**.** Cases where a third country may be considered as a safe country of origin or a	(39a) In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than 20% of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated***, unless the applicant is a danger to national security or public order.*** Cases

safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.	where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. en

Amendment 86
Jadwiga Wiśniewska, Patryk Jaki

Proposal for a regulation
Recital 39a

Text proposed by the Commission	*Amendment*
(39a) In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than ***20***% of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated.	(39a) In the interest of swift and fair procedures for all applicants, whilst also ensuring that the stay of applicants who do not qualify for international protection in the Union is not unduly prolonged, including those who are nationals of third countries exempt from the requirement to be in a possession of a visa pursuant to Regulation (EU) No 2018/1806, Member States should accelerate the examination of applications of applicants who are nationals or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is lower than ***40***% of the total number of decisions for that third country. Where a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data and taking into account the guidance note pursuant to Article 10 of Regulation XX/XX on the European Asylum Agency, or where the applicant belongs to a specific category of persons for whom the low recognition rate cannot be considered as representative of their protection needs due to a specific persecution ground, examination of the application should not be accelerated.

Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.	Cases where a third country may be considered as a safe country of origin or a safe third country for the applicant within the meaning of this Regulation should remain applicable as a separate ground for respectively the accelerated examination procedure or the inadmissible procedure.

Or. pl

Amendment 87
Fabienne Keller

Proposal for a regulation
Recital 39 a a (new)

Text proposed by the Commission	*Amendment*
	(39aa) The threshold of decisions granting international protection should be based on data representing the final decision stage, as long as such data is made available by Member States to Eurostat. By [five years after the entry into force of the Regulation], Member States should collect and send the relevant data to Eurostat for this purpose.

Or. en

Amendment 88
Erik Marquardt

Proposal for a regulation
Recital 40

Text proposed by the Commission	*Amendment*
(40) ***'Many applications for international protection are made at the external border or in a transit zone of a Member State, often by persons apprehended in connection with unauthorised crossings of the external border or disembarked following a search***	(40) There should be efficient links between all stages of the relevant procedures for all arrivals. Third-country nationals and stateless persons should ***swiftly*** be channelled to the appropriate procedure, ***including*** asylum***,*** return***, or a residence permit or other authorisation***

and rescue operation. In order to conduct identification, security and health screening at the external border and direct the third-country nationals and stateless persons concerned to the relevant procedures, a screening is necessary. There should be ***seamless and*** efficient links between all stages of the relevant procedures for all ***irregular*** arrivals. ***After the screening,*** third-country nationals and stateless persons should be channelled to the appropriate ***asylum or return*** procedure, ***or refused entry. A pre-entry phase consisting of screening and border procedures for*** asylum ***and*** return ***should therefore be established****.'*

offering a right to stay for compassionate, humanitarian or other reasons.

Or. en

Amendment 89
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40

Text proposed by the Commission	*Amendment*
(40) ***'***Many applications for international protection are made at the external border or in a transit zone of a Member State, often by persons apprehended in connection with ***unauthorised*** crossings of the external border or disembarked following a search and rescue operation. ***In order to conduct identification, security and health screening at the external border and direct the third-country nationals and stateless persons concerned to the relevant procedures, a screening is necessary.*** There should be seamless and efficient links between ***all stages of*** the relevant procedures for all irregular arrivals. ***After the screening,*** third-country nationals ***and stateless persons*** should be channelled to the appropriate ***asylum or***	(40) Many applications for international protection are made at the external border or in a transit zone of a Member State, often by persons apprehended in connection with ***irregular*** crossings of the external border or disembarked following a search and rescue operation. There should be seamless and efficient links between the relevant procedures for all irregular arrivals. Third-country nationals should be channelled to the appropriate procedure, refused entry***, or granted entry in accordance with Article 6(5) of the Schengen Borders Code***.

return procedure, ***or*** refused entry***. A pre-entry phase consisting of screening and border procedures for asylum and return should therefore be established****.'***

Or. en

Justification

The language of the recital presupposes the existence of a screening procedure and its purpose. This will be dealt with by the negotiations on the Screening Regulation.

Amendment 90
Sira Rego

Proposal for a regulation
Recital 40

Text proposed by the Commission	*Amendment*
(40) **'**Many applications for international protection are made at the external border or in a transit zone of a Member State***, often*** by persons apprehended in connection with unauthorised crossings of the external border or disembarked following a search and rescue operation. In ***order to conduct identification, security and health screening at the external border and direct the third-country nationals and stateless persons*** concerned ***to the relevant procedures, a screening is necessary. There*** should ***be seamless and efficient links between all stages*** of the ***relevant procedures for all irregular arrivals. After the screening, third-country nationals and stateless persons should be channelled to the appropriate asylum or return*** procedure***, or refused entry. A pre-entry phase consisting of screening and border procedures for asylum and return should therefore be established.'***	(40) Many applications for international protection are made at the external border or in a transit zone of a Member ***State including*** by persons apprehended in connection with unauthorised crossings of the external border or disembarked following a search and rescue operation. In ***compliance with the principle of non-refoulement, upon a claim to ask for international protection, the applicants shall be allowed entry to the territory of the Member State and apply for international protection on the territory of the Member State. When a minor is*** concerned***, a return decision*** should ***only be adopted if the return is found to be in the best interests*** of the ***child according to a best interests*** procedure***.***

Or. en

Amendment 91
Hilde Vautmans, Sophia in 't Veld, Jan-Christoph Oetjen

Proposal for a regulation
Recital 40

Text proposed by the Commission	*Amendment*
(40) **'**Many applications for international protection are made at the external border or in a transit zone of a Member State, often by persons apprehended in connection with unauthorised crossings of the external border or disembarked following a search and rescue operation. In order to conduct identification, security and health screening at the external border and direct the third-country nationals and stateless persons concerned to the relevant procedures, a screening is necessary. There should be seamless and efficient links between all stages of the relevant procedures for all irregular arrivals. ***After the screening,*** third-country nationals and stateless persons should be channelled to the appropriate asylum ***or*** return procedure, or refused entry. A pre-entry phase consisting of screening and border procedures for asylum and return should therefore be established.'	(40) Many applications for international protection are made at the external border or in a transit zone of a Member State, often by persons apprehended in connection with unauthorised crossings of the external border or disembarked following a search and rescue operation. In order to conduct identification, security and health screening at the external border and direct the third-country nationals and stateless persons concerned to the relevant procedures, a screening is necessary. There should be seamless and efficient links between all stages of the relevant procedures for all irregular arrivals. Third-country nationals and stateless persons***, where applicable after screening*** should be channelled to the appropriate asylum***,*** return ***or national protection*** procedure, or refused entry. A pre-entry phase consisting of screening and border procedures for asylum and return should therefore be established.'

Or. en

Amendment 92
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 40

Text proposed by the Commission	*Amendment*
(40) **'**Many applications for international protection are made at the external border or in a transit zone of a Member State, often by persons apprehended in connection with unauthorised crossings of	(40) Many applications for international protection are made at the external border or in a transit zone of a Member State, often by persons apprehended in connection with unauthorised crossings of

the external border or disembarked following a search and rescue operation. In order to conduct identification, security and health screening at the external border and direct the third-country nationals and stateless persons concerned to the relevant procedures, a screening is necessary. There should be seamless and efficient links between all stages of the relevant procedures for all irregular arrivals. After the screening, third-country nationals and stateless persons should be channelled to the appropriate asylum or return procedure, or refused entry. ***A pre-entry phase consisting of screening and border procedures for asylum and return*** should ***therefore be established***.'	the external border or disembarked following a search and rescue operation. In order to conduct identification, security and health screening at the external border and direct the third-country nationals and stateless persons concerned to the relevant procedures, a screening is necessary. There should be seamless and efficient links between all stages of the relevant procedures for all irregular arrivals. After the screening, third-country nationals and stateless persons should be channelled to the appropriate asylum or return procedure, or refused entry. ***No applicant*** should ***be allowed to enter the territory of the Member State before a final decision is rendered granting them international protection***.
	Or. en

Amendment
Sira Rego

Proposal for a regulation
Recital 40 – a(new)

Text proposed by the Commission	*Amendment*
	(40-a) All the procedural steps relating to the implementation of this regulation should be designed and applied in a way that is in line with fundamental rights, including the prohibition of inhuman and degrading treatment as prescribed for in Articles 3 ECHR and 4 Charter, the right to asylum as enshrined in Article 18 Charter and the principle of non-refoulement in Article 19 Charter.
	Or. en

Amendment 94
Erik Marquardt
Proposal for a regulation

Recital 40 – a (new)

Text proposed by the Commission	*Amendment*
	(40-a) In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application at the external borders.

Or. en

Amendment 95
Sira Rego

Proposal for a regulation
Recital 40a

Text proposed by the Commission	*Amendment*
(40a) **'** The purpose of the border procedure for asylum ***and return*** should be to quickly assess at the external borders ***whether applications are unfounded or inadmissible and to swiftly return those with no right to stay, while ensuring that those with well-founded claims are*** channelled into the regular procedure and provided quick access to international protection. ***Member States*** should ***therefore be able to require applicants for*** international protection to ***stay at the external border or in a transit zone*** in order to ***assess the admissibility of*** applications. In well-defined circumstances, Member States ***should be able to*** provide for the examination of the merits of an application ***and, in the event of rejection of the application, for the return*** of the third-country nationals ***and stateless persons*** concerned at the external borders.	(40a) The purpose of the border procedure for asylum should be to quickly assess at the external borders ***the Member State responsible for the application for international protection. After the determination of the Member State responsible, applicants should be*** channelled into the regular procedure and provided quick access to international protection. ***In situations of crisis, the border procedure*** should ***be expanded to grant prima facie*** international protection to ***applicants of a specific country of origin or part(s) of it or with regard to specific groups of applicants*** in order to ***fast-track their well-founded*** applications. In well-defined circumstances, Member States ***may*** provide ***exceptionally*** for the examination of the merits of an application of the third-country nationals concerned at the external borders. ***During the examination period of asylum applications subject to a border procedure, liberty should be the norm. If a Member State would restrict the movement of third country nationals in a border procedure, it must be determined to be necessary, reasonable and proportionate to a legitimate purpose and***

a measure of last resort. The decision of a Member State to restrict movement or place in detention must be reviewed with the least possible delay by a judicial or other independent authority and be subject to the right to appeal. The necessity to restrict movements or maintain in detention must be reviewed periodically. Individuals should have access to free legal aid to challenge any decision concerning their detention or any restriction of movements.

Or. en

Amendment 96
Jan-Christoph Oetjen
Proposal for a regulation
Recital 40a

Text proposed by the Commission	*Amendment*
(40a) ‘ The purpose of the border procedure for asylum and return should be to quickly assess ***at the external borders*** whether applications are unfounded or inadmissible and to swiftly return those with no right to stay, while ensuring that those with well-founded claims are channelled into the regular procedure and provided quick access to international protection. Member States should therefore be able to require applicants for international protection to stay at the external border or in a transit zone in order to assess the admissibility of applications. In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for the return of the third-country nationals and stateless persons concerned ***at the external borders***.	(40a) The purpose of the border procedure for asylum and return should be to quickly assess whether applications are unfounded or inadmissible and to swiftly return those with no right to stay, while ensuring that those with well-founded claims are channelled into the regular procedure and provided quick access to international protection. Member States should therefore be able to require applicants for international protection to stay at ***any appropriate location within the territory of a Member State, including at or in the proximity to*** the external border or in a transit zone ***provided that they are in full compliance with Directive XXX/XXX/EU (Reception Conditions Directive) and that the applicants' specific needs are properly safeguarded*** in order to assess the admissibility of applications. In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for the return of the third-

country nationals and stateless persons concerned ***in a border procedure***.

Or. en

Amendment 97
Erik Marquardt

Proposal for a regulation
Recital 40a

Text proposed by the Commission	*Amendment*
(40a) **'** The purpose of the border procedure for asylum ***and return*** should be to quickly assess at the external borders ***whether applications are unfounded or inadmissible and to swiftly return those with no right to stay,*** while ensuring that ***those with well-founded claims are*** channelled into the regular procedure and provided quick access to international protection. Member States ***should*** therefore ***be able to*** require applicants for international protection to stay at the external border or in a transit zone in order to assess ***the admissibility of*** applications***. In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for the return of the third-country nationals and stateless persons concerned at the external borders***.	(40a) ***The purpose*** of the ***border procedure for asylum should be to quickly assess asylum claims*** at the external borders while ensuring that ***all applicants in a vulnerable situation are immediately*** channelled into the regular procedure and ***that all applicants in need*** are provided quick access to international protection. Member States ***may*** therefore require applicants for international protection to stay at the external border or in a transit zone in order to assess ***their*** applications ***for international protection.***

8Or. en

Amendment 98
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 40a

Text proposed by the Commission	*Amendment*
(40a) ‘ The purpose of the border procedure for asylum and return should be to quickly assess at the external borders ***whether*** applications ***are unfounded or inadmissible*** and to swiftly return those with no right to stay, while ensuring that those ***with well-founded claims are channelled into the regular procedure and provided*** quick access to international protection. Member States should therefore ***be able to*** require applicants for international protection to stay at the external border or in a transit zone in order to assess the ***admissibility of*** applications. ***In well-defined circumstances,*** Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for the return of the third-country nationals and stateless persons concerned at the external borders.	(40a) The purpose of the border procedure for asylum and return should be to quickly assess at the external borders ***the*** applications ***for international protection*** and to swiftly return those with no right to stay, while ensuring that those ***entitled to protection have*** quick access to international protection. Member States should therefore require applicants for international protection to stay at the external border or in a transit zone in order to assess the applications. Member States should be able to provide for the examination of the merits of an application ***in the border procedure*** and, in the event of rejection of the application, for the return of the third-country nationals and stateless persons concerned at the external borders.

Or. en

Amendment 99
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40a

Text proposed by the Commission	*Amendment*
(40a) ‘ The purpose of the border procedure for asylum ***and return*** should be to quickly assess at the external borders whether ***applications are*** unfounded ***or inadmissible and to swiftly*** return those with no right to stay, while ensuring that those with well-founded claims are ***channelled into the regular procedure and*** provided quick access to international protection***. Member States should therefore be able to require applicants for***	(40a) The purpose of the border procedure for asylum should be to quickly assess ***applications,*** at the external borders***, to determine*** whether ***they are well founded or*** unfounded***. If unfounded, the procedure should allow for a swift*** return ***of*** those with no right to stay ***and who have been issued a return decision***, while ensuring that those with well-founded claims are provided quick access to international protection. In well-defined

international protection to stay at the external border or in a transit zone in order to assess the admissibility of applications. In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for ***the*** return of the third-country nationals ***and stateless persons*** concerned ***at the external borders***.

circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for ***a decision on the possible*** return of the third-country nationals concerned ***in a border procedure***. ***However a border procedures should not be applied to unaccompanied minors, families with children, and other vulnerable applicants including those with special procedural or reception needs.***

Or. en

Justification

Where used the border procedure should simply speed up the asylum procedure. Only in merit examinations should take place in a border procedure.

Amendment 100
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 40a

Text proposed by the Commission	*Amendment*
(40a) ‘ The purpose of the border procedure for asylum and return should be to quickly assess at the external borders whether applications are unfounded or inadmissible and to swiftly return those with no right to stay, while ensuring that those with well-founded claims are channelled into the regular procedure and provided quick access to international protection. Member States should therefore be able to ***require*** applicants for international protection to stay at the external border or in a transit zone in order to assess the admissibility of applications. In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for the return of the third-	(40a) The purpose of the border procedure for asylum and return should be to quickly assess at the external borders whether applications are unfounded or inadmissible and to swiftly return those with no right to stay, while ensuring that those with well-founded claims are channelled into the regular procedure and provided quick access to international protection. Member States should therefore be able to ***oblige*** applicants for international protection to stay***, inter alia,*** at the external border or in a transit zone in order to assess the admissibility of applications. In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for the return

country nationals and stateless persons concerned at the external borders.

of the third-country nationals and stateless persons concerned at the external borders.

Or. en

Amendment 101
Nadine Morano

Proposal for a regulation
Recital 40a

Text proposed by the Commission	*Amendment*
(40a) The purpose of the border procedure for asylum and return should be to quickly assess at the external borders whether applications are unfounded or inadmissible and to swiftly return those with no right to stay, while ensuring that those with well-founded claims are channelled into the regular procedure and provided quick access to international protection. Member States should therefore be able to require applicants for international protection to stay at the external border or in a transit zone in order to assess the admissibility of applications. In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for the return of the third-country nationals and stateless persons concerned at the external borders.	(40a) The purpose of the border procedure for asylum and return should be to quickly assess at the external borders whether applications are unfounded or inadmissible and to swiftly return those with no right to stay, while ensuring that those with well-founded claims are channelled into the regular procedure and provided quick access to international protection. Member States should therefore be able to require applicants for international protection to stay at the external border or in a transit zone in order to assess the admissibility of applications. In well-defined circumstances, Member States should be able to provide for the examination of the merits of an application and, in the event of rejection of the application, for the ***immediate*** return of the third-country nationals and stateless persons concerned at the external borders.

Or. fr

Amendment 102
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*

(40b) Member State should assess applications in a border procedure ***where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than 20% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for*** the Member ***States***.	(40b) Member State should assess ***all*** applications in a border procedure ***without allowing entry into the territory of*** the Member ***State during the procedure***.

Or. en

Amendment 103
Laura Ferrara

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*
(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision ***and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than 20% of the total number of decisions for that***	(40b) Member State should ***be able to choose whether to*** assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision when the applicant is from a safe country of origin or a safe third country.

third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country***, the use of the border procedure should be optional for the Member States***.

Or. it

Amendment 104
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*
(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had ***a negative*** impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than 20% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States.	(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had ***an*** impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than 20% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States. ***Member States should ensure that applications in a border procedure are examined in facilities designated at their discretion that allow for a necessary restriction of movement to prevent absconding.***

Or. en

Amendment 105

Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*
(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, ***where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision*** and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than ***20%*** of the total number of decisions for that third country. In ***other cases, such as*** when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States.	(40b) Member State should ***be able to*** assess applications in a border procedure where the applicant is a danger to national security or public order, and where it is likely that the application is unfounded because the applicant is of a nationality for whom ***the number of*** decisions granting international protection ***in that Member State*** is lower than ***10%*** of the total number of decisions for that third country. In ***the same way,*** when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States.

Or. en

Justification

See Recital 42 of the 2016 proposal - "A lack of documents on entry or the use of forged documents should not entail an automatic recourse to an accelerated examination procedure or a border procedure."

Amendment 106
Erik Marquardt

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*
(40b) Member ***State should*** assess	(40b) Member ***States may*** assess

applications in a border procedure where the applicant is a danger to national security ***or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than 20% of the total number of decisions for that third country***. In other cases, such as when the applicant is from a safe country of origin or a safe third country, ***the use of the*** border procedure should ***be optional for the Member States***.

applications in a border procedure where the applicant is a danger to national security . In other cases, such as when the applicant is from a safe country of origin or a safe third country, ***Member States should not apply a border procedure. When applying the border procedure, Member States may not simultaneously apply the accelerated procedure or inadmissible procedure. A*** border procedure should ***never be applied to minors or other applicants in a vulnerable situation***.

Or. en

Amendment 107
Sira Rego

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*
(40b) Member State ***should*** assess applications in a border procedure where the applicant is a danger to national security ***or public order, where*** the applicant ***has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the*** decision and ***where it is likely that the application is unfounded because*** the applicant ***is of a nationality for whom decisions granting international protection is lower than 20% of the total number of decisions for that third***	(40b) Member State ***may*** assess applications in a border procedure where the applicant is a danger to national security. The applicant ***should be able to challenge this*** decision and ***their legal representative be able to access the key elements from their files in order to guarantee the right to effective remedy of*** the applicant***. In*** cases when the applicant is ***assessed by the Member state as being*** from a safe country of origin or a safe third country, the ***border procedure should not be applied by the Member State. A*** border procedure should ***never be applied to minors or other applicants in a vulnerable***

country. In other cases***, such as*** when the applicant is from a safe country of origin or a safe third country, the ***use of the*** border procedure should ***be optional for the Member States***.	***situation***.

Or. en

Amendment 108
Assita Kanko

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*
(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than 20% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States.	(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than 20% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, ***as established by that Member State or by the Union,*** the use of the border procedure should be optional for the Member States.

Or. en

Amendment 109
Nadine Morano

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*
(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than ***20***% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States.	(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international protection is lower than ***40***% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States.

Or. fr

Amendment 110
Jadwiga Wiśniewska, Patryk Jaki

Proposal for a regulation
Recital 40b

Text proposed by the Commission	*Amendment*
(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international	(40b) Member State should assess applications in a border procedure where the applicant is a danger to national security or public order, where the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity or nationality that could have had a negative impact on the decision and where it is likely that the application is unfounded because the applicant is of a nationality for whom decisions granting international

protection is lower than ***20***% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States.	protection is lower than ***40***% of the total number of decisions for that third country. In other cases, such as when the applicant is from a safe country of origin or a safe third country, the use of the border procedure should be optional for the Member States.

Or. pl

Amendment 111
Erik Marquardt

Proposal for a regulation
Recital 40b a (new)

Text proposed by the Commission	*Amendment*
	(40b a) When determining whether there is a direct connection to an unauthorised border crossing for the purpose of applying a border procedure, Member States should apply a strict interpretation and take into account the guidance found in the Return Handbook which specifies that this may concern for example persons arriving irregularly by boat who are apprehended upon or shortly after arrival; persons arrested by the police after climbing a border fence; or irregular entrants who are leaving the train/ bus that brought them directly into the territory of a Member State.

Or. en

Amendment 112
Juan Ignacio Zoido Álvarez, Elissavet Vozemberg-Vrionidi, Loucas Fourlas

Proposal for a regulation
Recital 40b a (new)

Text proposed by the Commission	*Amendment*

(40b a) Prior to the examination of the merits of an application for international protection, the Member State in which the application has been registered should determine the Member State responsible under Regulation (EU) No XXX/XXX [Regulation on Asylum and Migration Management].

Or. en

Amendment 113
Erik Marquardt

Proposal for a regulation
Recital 40c

Text proposed by the Commission	*Amendment*
(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants at ***or close to*** the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. ***Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location at or in the proximity of the external border of that Member States where appropriate facilities exist***. Member States should ***retain discretion in deciding at which specific locations at the external borders such facilities should be set up. However, Member States should seek to limit the need for transferring applicants for this purpose, and*** therefore aim at setting up such facilities with sufficient capacity at border crossing points***, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the***	(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants at the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States should therefore aim at setting up such facilities with sufficient capacity at border crossing points. They should notify the Commission of the specific border ***crossing points or*** transit zones where the border procedures will be carried out.

external border and the number of border crossing points or transit zones. They should notify the Commission of the specific ***locations at the external*** border***,*** transit zones ***or proximity of the external border*** where the border procedures will be carried out. ***In cases where the border procedure is applied and the capacity of the locations at or in proximity of the external border as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.***

Or. en

Amendment 114
Jan-Christoph Oetjen, Sophia in 't Veld, Hilde Vautmans, Michal Šimečka

Proposal for a regulation
Recital 40c

Text proposed by the Commission	*Amendment*
(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location at or in the proximity of the external border of that Member States where appropriate facilities exist. Member States should retain discretion in deciding at which specific locations at the external borders such facilities should be set up. However, Member States should seek to limit the need for transferring applicants for this purpose, and therefore aim at	(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location at or in the proximity of the external border of that Member States where appropriate facilities exist***.*** ***Vulnerable groups and applicants such as children should receive specific procedural safeguards and should be immediately referred to adequate accommodation***. Member States should retain discretion in deciding at which

setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations at the external border, transit zones or proximity of the external border where the border procedures will be carried out. In cases where the border procedure is applied and the capacity of the locations at or in proximity of the external border as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.

specific locations at the external borders such facilities should be set up. However, Member States should seek to limit the need for transferring applicants for this purpose, and therefore aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations at the external border, transit zones or proximity of the external border where the border procedures will be carried out. ***Member States should ensure that necessary arrangements are made to accommodate vulnerable applicants such as children, in accordance with, among others, the Reception Conditions Directive. The area assigned shall not affect their right to family life and shall guarantee the access to all rights and benefits under this Directive.*** In cases where the border procedure is applied and the capacity of the locations at or in proximity of the external border as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.

Or. en

Amendment 115
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 40c

Text proposed by the Commission	*Amendment*
(40c) ***When applying*** the border procedure for the examination of an application for international protection,	(40c) ***In*** the border procedure***,*** for the examination of an application for international protection, Member States

Member States should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location at or in the proximity of the external border of that Member States where appropriate facilities exist. Member States should retain discretion in deciding at which specific locations at the external borders such facilities should be set up. However, Member States should seek to limit the need for transferring applicants for this purpose, and therefore aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations at the external border, transit zones or proximity of the external border where the border procedures will be carried out. In cases where ***the border procedure is applied*** and the capacity of the locations at or in proximity of the external border as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.

should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location at or in the proximity of the external border of that Member States where appropriate facilities exist***. Member States may also transfer those illegally staying nationals who were apprehended on the territory of the Member States to such appropriate facilities in order to conduct the border procedure***. Member States should retain discretion in deciding at which specific locations at the external borders such facilities should be set up. However, Member States should seek to limit the need for transferring applicants for this purpose, and therefore aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations at the external border, transit zones or proximity of the external border where the border procedures will be carried out. In cases where the border procedure is applied and the capacity of the locations at or in proximity of the external border as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.

Or. en

Amendment 116
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40c

Text proposed by the Commission	*Amendment*
(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure ***that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with*** Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location ***at or in the proximity of the external border of*** that Member ***States*** where appropriate facilities exist. Member States should retain discretion in deciding at which specific locations ***at the external borders*** such facilities should be set up***. However, Member States should seek to limit the need for transferring applicants for this purpose, and therefore aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones***. They should notify the Commission of the specific locations at ***the external border, transit zones or proximity of the external border where*** the border procedures will be carried out. In cases where the border procedure is applied and the capacity of the locations ***at or in proximity of the external border*** as notified by a Member State is temporarily exceeded, Member States may	(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure ***compliance with the provisions of*** Directive XXX/XXX/EU [Reception Conditions Directive] ***as regards accommodation for applicants***. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location ***in*** that Member ***State*** where appropriate facilities exist. Member States should retain discretion in deciding at which specific locations such facilities should be set up. They should notify the Commission of the specific locations at ***which*** the border procedures will be carried out. ***In cases where the border procedure is applied and the capacity of the locations as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.*** In cases where the border procedure is applied and the capacity of the locations as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.

process those applications at another location within its territory, for the shortest time possible.

Or. en

Amendment 117
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 40c

Text proposed by the Commission	*Amendment*
(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location ***at or in the proximity of the external border of that Member States*** where appropriate facilities exist. Member States should retain discretion in deciding at which specific locations at the external borders such facilities should be set up. However, Member States should seek to limit the need for transferring applicants for this purpose, and therefore aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations at the external border, transit zones or proximity of the external	(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location where appropriate facilities exist. Member States should retain discretion in deciding at which specific locations at the external borders such facilities should be set up***, provided that appropriate capacities are guaranteed to prevent unauthorised movements***. However, Member States should seek to limit the need for transferring applicants for this purpose, and therefore aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations at the external border,

border where the border procedures will be carried out. In cases where the border procedure is applied and the capacity of the locations at or in proximity of the external border as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.

transit zones or proximity of the external border where the border procedures will be carried out. In cases where the border procedure is applied and the capacity of the locations at or in proximity of the external border as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.

Or. en

Amendment 118
Sira Rego

Proposal for a regulation
Recital 40c

Text proposed by the Commission	*Amendment*
(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants ***at or close to the external border or transit zones,*** in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location ***at or in the proximity of the external border of that Member States*** where appropriate facilities exist. ***Member States should retain discretion in deciding at which specific locations at the external borders such facilities*** should be ***set up. However,*** Member States ***should seek to limit the need for transferring applicants for this purpose, and therefore aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for***	(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location where appropriate facilities ***exist. Vulnerable groups and applicants with special procedural guarantees, especially children,*** should be ***immediately referred to adequate accommodation.*** Member States should notify the Commission of the specific locations where the border procedures will be carried out. ***Member States should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with article 7 of the Reception Conditions Directive, which states that applicants***

international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations ***at the external border, transit zones or proximity of the external border*** where the border procedures will be carried out. In cases where the border procedure is applied ***and the capacity of the locations*** at or in proximity of the external border ***as notified by a Member State*** is temporarily exceeded, Member States ***may*** process those applications at another location within its territory***, for the shortest time possible.***

may move freely within the territory of the host Member State or within an area assigned to them by that Member State. The assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under this Directive. In cases where the border procedure is applied at or in proximity of the external border ***and that the capacity of the locations*** is temporarily exceeded, Member States ***should*** process those applications at another location within its territory**.**

Or. en

Amendment 119
Assita Kanko

Proposal for a regulation
Recital 40c

Text proposed by the Commission	*Amendment*
(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location ***at or in the proximity of the external border of that Member States*** where appropriate facilities exist. Member States should retain discretion in deciding at which specific locations ***at the external borders*** such facilities should be set up. However, Member States should seek to	(40c) When applying the border procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants at or close to the external border or transit zones, in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Member States may process the applications at a different location at the external border than that where the asylum application is made by transferring applicants to a specific location where appropriate facilities exist. Member States should retain discretion in deciding at which specific locations such facilities should be set up. However, Member States should seek to limit the need for transferring applicants for this purpose, and therefore

limit the need for transferring applicants for this purpose, and therefore aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations ***at the external border, transit zones or proximity of the external border*** where the border procedures will be carried out. .***In cases where the border procedure is applied and the capacity of the locations at or in proximity of the external border as notified by a Member State is temporarily exceeded, Member States may process those applications at another location within its territory, for the shortest time possible.***

aim at setting up such facilities with sufficient capacity at border crossing points, or sections of the external border, where the majority of the number of applications for international protection are made, also taking into account the length of the external border and the number of border crossing points or transit zones. They should notify the Commission of the specific locations where the border procedures will be carried out.

Or. en

Amendment 120
Jadwiga Wiśniewska, Patryk Jaki

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) In case where the use of the border procedure is an obligation, Member States should by way of exception not be required to apply it for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of	***deleted***

Regulation (EC) No 810/2009.

Or. pl

Amendment 121
Nadine Morano

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) In case where the use of the border procedure is an obligation, Member States should by way of exception not be required to apply it for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.	***deleted***

Or. fr

Amendment 122
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) In case where the use of the border procedure is an obligation, Member States should by way of exception not be required to apply it for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on	***deleted***

readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.

Or. en

Amendment 123
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) In case where the use of the border procedure is an obligation, Member States should by way of exception not be required to apply it for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.	***deleted***

Or. en

Amendment 124
Laura Ferrara

Proposal for a regulation
Recital 40d

Text proposed by the Commission *Amendment*

(40d) In case where the use of the border procedure is an obligation, Member States should by way of exception not be required to apply it for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.	***deleted***

Or. it

Amendment 125
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) ***In case where the use of*** the border procedure ***is an obligation, Member States should by way of exception not be required to apply it*** for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.	(40d) ***Member States should not apply*** the border procedure for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.

Or. en

Amendment 126
Erik Marquardt

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) ***In case where the use of*** the border procedure ***is an obligation, Member States should by way of exception not be required to apply it*** for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.	(40d) ***Member States should not apply*** the border procedure for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.

Or. en

Amendment 127
Sira Rego

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) ***In case where the use of*** the border procedure ***is an obligation, Member States should by way of exception not be required to apply it*** for the examination of applications for international protection from nationals of a third country that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the	(40d) ***Member States should not apply*** the border procedure for the examination of applications for international protection from nationals of a third country ***or a "safe" third country*** that does not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of

procedures set out in Article 25a of Regulation (EC*)* No 810/2009.	Regulation (EC) No 810/2009.

Or. en

Amendment 128
Juan Ignacio Zoido Álvarez, Elissavet Vozemberg-Vrionidi, Loucas Fourlas

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) ***In case where the use of the border procedure is an obligation,*** Member States ***should by way of exception not be required to apply it for the examination of applications for international protection from*** nationals of a third country that does not cooperate sufficiently on readmission, since ***a swift return of*** the persons concerned***,*** following rejection of their applications***, would be unlikely in that case***. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.	(40d) Member States ***might not subject*** nationals of a third country that does not cooperate sufficiently on readmission ***to the border procedures*** , since ***it would be unlikely in that case that*** the persons concerned ***could be swiftly returned*** following rejection of their applications ***during the border procedure for the examination of applications for international protection***. The determination of whether a third country is cooperating sufficiently on readmission should be based on the procedures set out in Article 25a of Regulation (EC) No 810/2009.

Or. en

Amendment 129
Assita Kanko

Proposal for a regulation
Recital 40d

Text proposed by the Commission	*Amendment*
(40d) In case where the use of the border procedure is an obligation, Member States should by way of exception not be required to apply it for the examination of applications for international protection from nationals of a third country that does	(40d) In case where the use of the border procedure is an obligation, Member States should by way of exception not be required to apply it for the examination of applications for international protection from nationals of a third country that does

not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. ***The determination of whether a third*** country ***is cooperating*** sufficiently on readmission ***should be based on the procedures set out in*** Article 25a of Regulation (EC) No 810/2009.

not cooperate sufficiently on readmission, since a swift return of the persons concerned, following rejection of their applications, would be unlikely in that case. ***A*** country ***should be considered to cooperate*** sufficiently on readmission ***if it is in the process of being sanctioned under*** Article 25a of Regulation (EC) No 810/2009.

Or. en

Amendment 130
Erik Marquardt

Proposal for a regulation
Recital 40e

Text proposed by the Commission	*Amendment*
(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the ***first level of*** appeal, if applicable***. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision on the first level of appeal is issued within this maximum 12 week***. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should ***in principle be authorised to enter the territory of the Member State. Entry*** into the ***territory should however not be authorised where the applicant has no***	(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the appeal, if applicable. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should ***be channelled*** into the ***regular*** asylum procedure.

right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure ***and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding 12 weeks****. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.***

Or. en

Amendment 131
Sira Rego

Proposal for a regulation
Recital 40e

Text proposed by the Commission	*Amendment*
(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision	(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision

on the first level of appeal is issued within this maximum 12 week. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should ***in principle*** be authorised to enter the territory of the Member State. ***Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding 12 weeks. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.***	on the first level of appeal is issued within this maximum 12 week. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should be authorised to enter the territory of the Member State.

Or. en

Amendment 132
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40e

Text proposed by the Commission	*Amendment*
(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure,	(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure,

encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ***ensure that*** the examination procedure ***is*** concluded and ***that*** subsequently, if relevant, ***the*** decision on the first level of appeal ***is*** issued within ***this maximum 12 week. After that period***, ***if the Member State nevertheless failed to take the relevant decisions,*** the applicant ***should in principle be authorised*** to enter the territory of the Member State. ***Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding 12 weeks. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.***	encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, ***and without prejudice to the independence of the judiciary,*** Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ***enable*** the examination procedure ***to be*** concluded and subsequently, if relevant, ***a*** decision on the first level of appeal ***to be*** issued within ***12 weeks. Where a final decision is not taken within 12 weeks***, ***the border procedure shall end and*** the applicant ***shall be allowed*** to enter the territory of the Member State.

Or. en

Justification

This addition is unclear. If an applicant has not had a decision on either her initial application for international protection, or on an appeal where it has been made during the 12-week period, then s/he should be allowed to enter the territory. The right to remain should always apply for the first level appeal.

Amendment 133
Jadwiga Wiśniewska, Patryk Jaki

Proposal for a regulation
Recital 40e

Text proposed by the Commission	*Amendment*
(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. ***It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision on the first level of appeal is issued within this maximum 12 week.*** After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State. Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure ***for a period not exceeding 12 weeks***. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to	(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State. Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.

remain or is no longer allowed to remain.

Or. pl

Amendment 134
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 40e

Text proposed by the Commission	*Amendment*
(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed ***12*** weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision on the first level of appeal is issued within this maximum ***12 week. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State***. Entry into the territory should ***however*** not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return	(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed ***25*** weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision on the first level of appeal is issued within this maximum ***25 week***. Entry into the territory should not be authorised ***without a positive decision on the application and*** where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding ***4 months***. This

procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding ***12 weeks***. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.

period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.

Or. en

Amendment 135
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 40e

Text proposed by the Commission	*Amendment*
(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision on the first level of appeal is issued within this maximum 12 week. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State. Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not	(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision on the first level of appeal is issued within this maximum 12 week. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State. Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not

requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding 12 weeks. This period should be counted starting from ***the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.***

requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding 12 weeks. This period should be counted starting from ***when the return decision have gained legal force.***

Or. en

Amendment 136
Assita Kanko

Proposal for a regulation
Recital 40e

Text proposed by the Commission	*Amendment*
(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed ***12*** weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision on the first level of appeal is issued within this maximum ***12*** week. After that period,	(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed ***16*** weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision of the first level of appeal, if applicable. Within this period, Member States are entitled to set the deadline in national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision on the first level of appeal is issued within this maximum ***16*** week. After that period,

if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State. Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding ***12*** weeks. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.	if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State. Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding ***16*** weeks. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.

Or. en

Amendment 137
Nadine Morano

Proposal for a regulation
Recital 40e

Text proposed by the Commission	*Amendment*
(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the decision ***of the first*** level ***of appeal***, if applicable. Within this period, Member States are entitled to set the deadline in	(40e) The duration of the border procedure for examination of applications for international protection should be as short as possible while at the same time guaranteeing a complete and fair examination of the claims. It should in any event not exceed 12 weeks. This deadline should be understood as a stand-alone deadline for the asylum border procedure, encompassing both the decision on the examination of the application as well as the ***appeal*** decision***, at a single*** level, if applicable. Within this period, Member States are entitled to set the deadline in

national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision ***on the first level of appeal*** is issued within this maximum 12 ***week***. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State. Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding 12 weeks. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.

national law both for the administrative and for the appeal stage, but should set them in a way so as to ensure that the examination procedure is concluded and that subsequently, if relevant, the decision***, appeal included,*** is issued within this maximum 12 ***weeks***. After that period, if the Member State nevertheless failed to take the relevant decisions, the applicant should in principle be authorised to enter the territory of the Member State. Entry into the territory should however not be authorised where the applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure, or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding 12 weeks. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.

Or. fr

Amendment 138
Sira Rego

Proposal for a regulation
Recital 40f

Text proposed by the Commission	*Amendment*
(40f) While the border procedure for the examination of an application for international protection ***can*** be applied without recourse to detention, Member States ***should nevertheless be able to*** apply the grounds for detention during the border procedure in accordance with the	(40f) While the border procedure for the examination of an application for international protection ***should*** be applied without recourse to detention, Member States ***may exceptionally*** apply the grounds for detention during the border procedure in accordance with the provisions of the

provisions of the [Reception Conditions] Directive (EU) XXX/XXX in order to decide on the right of the applicant to enter the territory. If detention is used during such procedure, the provisions on detention of the [Reception Conditions] Directive (EU) XXX/XXX should apply, including the guarantees for detained applicants and the fact that an individual assessment of each case is necessary, judicial control and conditions of detention.	[Reception Conditions] Directive (EU) XXX/XXX in order to decide on the right of the applicant to enter the territory***, based on an individualised assessment of its necessity and proportionality and if no other sufficient but less coercive measures can be applied effectively in a specific case. Minors and individuals in a situation of vulnerability should never be detained***. If detention is used during such procedure, the provisions on detention of the [Reception Conditions] Directive (EU) XXX/XXX should apply, including the guarantees for detained applicants and the fact that an individual assessment of each case is necessary, judicial control and conditions of detention. ***A decision to detain an applicant during a border procedure should never be automatic. Such decisions should always be based on an individual assessment of each case that shows that detention is necessary and proportionate, that detention would not disproportionately harm the applicant and that less coercive measures would not be effective in the individual case. Such decisions should be subject to judicial oversight. Applicants should be granted access to free legal aid to challenge the detention decision.***

Or. en

Justification

Under international and EU law, the right to liberty can only be infringed upon in exceptional circumstances and if no other less coercive measure is effective. This requires that each case is assessed individually and that alternatives to detention are always prioritised. Asylum seekers who are detained during an accelerated asylum procedure are particularly likely to see their right to an effective remedy violated, a situation which has required the intervention of the European Court of Human Rights in the past. See, e.g., I.M. v France.

Amendment 139
Erik Marquardt

Proposal for a regulation
Recital 40f

Text proposed by the Commission	*Amendment*
(40f) ***While*** the border procedure ***for the examination of an application for international protection can be applied without recourse to detention, Member States*** should ***nevertheless be able to apply the grounds for*** detention during the border procedure ***in accordance with the provisions of the [Reception Conditions] Directive (EU) XXX/XXX in order to decide on the right of the applicant to enter the territory***. If detention is used during such procedure, the provisions on detention of the [Reception Conditions] Directive (EU) XXX/XXX should apply, including the guarantees for detained applicants and the fact that an individual assessment of each case is necessary, judicial control and conditions of detention.	(40f) ***During the examination of asylum applications subject to*** the border procedure ***liberty*** should ***be the norm. Any*** detention during the border procedure ***must be a measure of last resort and must be necessary, reasonable and proportionate to a legitimate aim. If there are grounds to deprive a person of their liberty, alternatives to detention should always be considered first. Minors and other individuals in a situation of vulnerability should never be detained***. If detention is used during such procedure, the provisions on detention of the [Reception Conditions] Directive (EU) XXX/XXX should apply, including the guarantees for detained applicants and the fact that an individual assessment of each case is necessary, judicial control and conditions of detention. ***The necessity to maintain an applicant in detention must be reviewed periodically.***

Or. en

Amendment 140
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40f

Text proposed by the Commission	*Amendment*
(40f) ***While the border procedure for*** the examination of an application for international protection ***can be applied without recourse to*** detention, Member States should nevertheless be able to apply the grounds for detention during the border procedure in accordance with the provisions of the [Reception Conditions] Directive (EU) XXX/XXX ***in order to***	(40f) ***Administrative detention during*** the examination of an application for international protection ***should remain a measure of last resort. Any*** detention ***decision must be based on an individual assessment and determined to be necessary***, ***reasonable and proportionate to a legitimate purpose.*** Member States should nevertheless be able to apply the

decide on the right of the applicant to enter the territory. If detention is used during such procedure, the provisions on detention of the [Reception Conditions] Directive (EU) XXX/XXX should apply, including the guarantees for detained applicants and the fact that an individual assessment of each case is necessary, judicial control and conditions of detention.	grounds for detention during the border procedure in accordance with the provisions of the [Reception Conditions] Directive (EU) XXX/XXX**.**

Or. en

Justification

Detention should remain a measure of last resort even with regards to border procedures. The RCD does not determine the right of applicants to enter the territory of the Member States. The SBC lays down those provisions. The changes are to better reflect current asylum language. As defined by the current QD, "international protection" both includes asylum and subsidiary protection statuses. Wording on detention as to be "necessary, reasonable and proportionate" is to better reflect RCD language as per the compromise text of 2017. Changes to the second sentence (deletion of "While the border procedure...") are to clarify that the use of detention should not be used by default, but a result of a due assessment.

Amendment 141
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 40f

Text proposed by the Commission	*Amendment*
(40f) While the border procedure for the examination of an application for international protection can be applied without recourse to detention, Member States should nevertheless be able to apply the grounds for detention during the border procedure in accordance with the provisions of the [Reception Conditions] Directive (EU) XXX/XXX in order to decide on the right of the applicant to enter the territory. If detention is used during such procedure, the provisions on detention of the [Reception Conditions] Directive (EU) XXX/XXX should apply, including the guarantees for detained applicants and	(40f) While the border procedure for the examination of an application for international protection can be applied without recourse to detention, Member States should nevertheless be able to apply the grounds for detention during the border procedure in accordance with the provisions of the [Reception Conditions] Directive (EU) XXX/XXX in order to decide on the right of the applicant to enter the territory. If detention is used during such procedure, the provisions on detention of the [Reception Conditions] Directive (EU) XXX/XXX should apply, including the guarantees for detained applicants and

the fact that an individual assessment of each case is necessary, judicial control and conditions of detention.	the fact that an individual assessment of each case is necessary, judicial control and conditions of detention. ***A Member State may, in accordance with national law, impose additional obligations on the applicant in order to prevent unauthorised movements.***

Or. en

Amendment 142
Erik Marquardt

Proposal for a regulation
Recital 40f a (new)

Text proposed by the Commission	*Amendment*
	(40f a) A decision to restrict freedom of movement or to detain an applicant during a border procedure should be made in writing stating reasons for the use of such measures in fact and law, and should never be automatic. A decision to detain an applicant should always be based on an individual assessment of each case which shows that detention is necessary and proportionate, that detention would not disproportionately harm the applicant and that less coercive measures would not be effective in the individual case. Decisions to detain an applicant should be subject to judicial oversight and applicants should be granted access to free legal aid to challenge the detention decision.

Or. en

Amendment 143
Sira Rego

Proposal for a regulation
Recital 40 g

Text proposed by the Commission	*Amendment*
(40g) When an application is rejected in the context of the border procedure, the applicant, third-country national or stateless person concerned should be immediately subject to a return decision or, where the conditions of Article 14 of Regulation (EU) No 2016/399 of the European Parliament and of the Council[10] are met, to a refusal of entry. To guarantee the equal treatment of all third-country nationals whose application has been rejected in the context of the border procedure, where a Member State has decided not to apply the provisions of Directive XXX/XXX/EU [Return Directive] by virtue of Article 2(2), point (a), of that Directive and does not issue a return decision to the third-country national concerned, the treatment and level of protection of the applicant, third-country national or stateless person concerned should be in accordance with Article 4(4) of Directive XXX/XXX/EU [Return Directive] and be equivalent to those applicable to persons subject to a return decision.	***deleted***
[10] Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 077 23.3.2016, p. 1).	

Or. en

Amendment 144
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40 g

Text proposed by the Commission	*Amendment*
(40g) When an application is rejected in the context of the border procedure, the applicant***, third-country national or stateless person concerned should be immediately subject to*** a return decision ***or***, where the conditions of Article 14 of Regulation (EU) No 2016/399 of the European Parliament and of the Council***[10]*** are met, ***to*** a refusal of entry***. To guarantee the equal treatment of all third-country nationals whose application has been rejected in the context of the border procedure, where a Member State has decided not to apply the provisions of Directive XXX/XXX/EU [Return Directive] by virtue of*** Article ***2(2), point (a),*** of that ***Directive and does not issue a return decision to the third-country national concerned, the treatment and level of protection of the applicant, third-country national or stateless person concerned should be in accordance with Article 4(4) of Directive XXX/XXX/EU [Return Directive] and be equivalent to those applicable to persons subject to a return decision***.	(40g) When an application is rejected in the context of the border procedure, the ***Member State in question may issue the*** applicant a return decision ***provided that it respects Article 5 of the Directive on common standards and procedures in Member States for returning illegally staying third-country nationals ('the Returns Directive')[2a] and due consideration has been given in the individual case to the application of Article 8, paragraphs 2 to 5 of that Directive. The Member State may also***, where the conditions of Article 14 of Regulation (EU) No 2016/399 of the European Parliament and of the Council are met, ***issue*** a refusal of entry ***without prejudice to*** Article ***6(5)*** of that ***Regulation***.
[10] Regulation (EU) 2016/399 of the European Parliament and of the Council ***of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code*** ***(OJ L 077 23.3.2016, p. 1).***	***[2a] Directive (EU) xxx/xxx of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (recast).***

Or. en

Amendment 145
Erik Marquardt

Proposal for a regulation
Recital 40 g

Text proposed by the Commission	*Amendment*
(40g) When an application is rejected in the context of the border procedure, the applicant, third-country national or stateless person concerned should be ***immediately*** subject to a return decision ***or, where the conditions of Article 14 of Regulation (EU) No 2016/399 of the European Parliament and of the Council[10] are met, to a refusal of entry. To guarantee the equal treatment of all third-country nationals whose application has been rejected in the context of the border procedure, where a Member State has decided not to apply the provisions of*** Directive XXX/XXX/EU [Return Directive] ***by virtue of Article 2(2), point (a), of that Directive and does not issue a return decision to the third-country national concerned, the treatment and level of protection of the applicant, third-country national or stateless person concerned should be in accordance with Article 4(4) of Directive XXX/XXX/EU [Return Directive] and be equivalent to those applicable to persons subject to a return decision.***	(40g) When an application is rejected in the context of the border procedure ***and the Member State has determined that the applicant does not fulfil the conditions to apply for a residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other grounds under the applicable national legal framework and that their return would not lead to risks of violations of the principle of non-refoulement and other fundamental rights obligations under the Charter of Fundamental Rights and other EU and international obligations***, the applicant, third-country national or stateless person concerned should be subject to a ***swift*** return decision ***in accordance with*** Directive XXX/XXX/EU [Return Directive].

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10 Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 077 23.3.2016, p. 1).

Or. en

Amendment 146
Erik Marquardt

Proposal for a regulation

Recital 40 h

Text proposed by the Commission	*Amendment*
(40h) When applying the border procedure for carrying out return, certain provisions of the [recast Return Directive] should apply as these regulate elements of the return procedure that are not determined by this Regulation, notably those on definitions, more favourable provisions, non-refoulement, best interests of the child, family life and state of health, risk of absconding, obligation to cooperate, period for voluntary departure, return decision, removal, postponement of removal, return and removal of unaccompanied minors, entry bans, safeguards pending return, detention, conditions of detention, detention of minors and families and emergency situations. To reduce the risk of unauthorised entry and movement of illegally staying third-country nationals subject to the border procedure for carrying out return, a period for voluntary departure not exceeding 15 days may be granted to illegally staying third-country nationals, without prejudice for the possibility to voluntarily comply with the obligation to return at any moment.	***deleted***

Or. en

Amendment 147
Sira Rego

Proposal for a regulation
Recital 40 h

Text proposed by the Commission	*Amendment*
(40h) When applying the border procedure for carrying out return, certain provisions of the [recast Return Directive] should apply as these regulate elements of the return procedure that are not	***deleted***

determined by this Regulation, notably those on definitions, more favourable provisions, non-refoulement, best interests of the child, family life and state of health, risk of absconding, obligation to cooperate, period for voluntary departure, return decision, removal, postponement of removal, return and removal of unaccompanied minors, entry bans, safeguards pending return, detention, conditions of detention, detention of minors and families and emergency situations. To reduce the risk of unauthorised entry and movement of illegally staying third-country nationals subject to the border procedure for carrying out return, a period for voluntary departure not exceeding 15 days may be granted to illegally staying third-country nationals, without prejudice for the possibility to voluntarily comply with the obligation to return at any moment.

Or. en

Amendment 148
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 40 h

Text proposed by the Commission	*Amendment*
(40h) When applying the border procedure for carrying out return, ***certain provisions of the [recast*** Return Directive***]*** should apply ***as these regulate*** elements of the return procedure that are not determined by this Regulation***, notably those on definitions, more favourable provisions, non-refoulement, best interests of the child, family life and state of health, risk of absconding, obligation to cooperate, period for voluntary departure, return decision, removal, postponement of***	(40h) When applying the border procedure for carrying out return, ***the*** Return Directive should apply ***to all*** elements of the return procedure that are not determined by this Regulation.

removal, return and removal of unaccompanied minors, entry bans, safeguards pending return, detention, conditions of detention, detention of minors and families and emergency situations. To reduce the risk of unauthorised entry and movement of illegally staying third-country nationals subject to the border procedure for carrying out return, a period for voluntary departure not exceeding 15 days may be granted to illegally staying third-country nationals, without prejudice for the possibility to voluntarily comply with the obligation to return at any moment.

Or. en

Justification

Unless APR lays down specific rules on Return, the Return Directive should apply. This is a clearer legislative outcome than defining certain specific provisions of the Directive which apply.

Amendment 149
Nadine Morano

Proposal for a regulation
Recital 40 h

Text proposed by the Commission	*Amendment*
(40h) When applying the border procedure for carrying out return, certain provisions of the [recast Return Directive] should apply as these regulate elements of the return procedure that are not determined by this Regulation, notably those on definitions, more favourable provisions, non-refoulement, best interests of the child, family life and state of health, risk of absconding, obligation to cooperate, period for voluntary departure, return decision, removal, postponement of removal, return and removal of unaccompanied minors, entry bans, safeguards pending return, detention,	(40h) When applying the border procedure for carrying out return, certain provisions of the [recast Return Directive] should apply as these regulate elements of the return procedure that are not determined by this Regulation, notably those on definitions, more favourable provisions, non-refoulement, best interests of the child, family life and state of health, risk of absconding, obligation to cooperate, period for voluntary departure, return decision, removal, postponement of removal, return and removal of unaccompanied minors, entry bans, safeguards pending return, detention,

conditions of detention, detention of minors and families and emergency situations. To reduce the risk of unauthorised entry and movement of illegally staying third-country nationals subject to the border procedure for carrying out return, a period for voluntary departure not exceeding 15 days may be granted to illegally staying third-country nationals***, without prejudice for the possibility to voluntarily comply with the obligation to return at any moment***.	conditions of detention, detention of minors and families and emergency situations. To reduce the risk of unauthorised entry and movement of illegally staying third-country nationals subject to the border procedure for carrying out return, a period for voluntary departure not exceeding 15 days may be granted to illegally staying third-country nationals.

Or. fr

Amendment 150
Jan-Christoph Oetjen, Sophia in 't Veld, Hilde Vautmans

Proposal for a regulation
Recital 40h a (new)

Text proposed by the Commission	*Amendment*
	(40h a) Minors, whether accompanied or unaccompanied, shall be considered applicants in need of special procedural guarantees as specified in Article 19 (I);

Or. en

Amendment 151
Jan-Christoph Oetjen, Sophia in 't Veld, Hilde Vautmans, Michal Šimečka

Proposal for a regulation
Recital 40h b (new)

Text proposed by the Commission	*Amendment*
	(40h b) The appointed guardians of non-accompanied minors as referred to in Article 22 (4) of this Directive shall have the necessary qualifications and expertise and receive continuous and appropriate training to that end, and shall not have a

verified criminal record, with particular regard to any of child-related crimes or offences. After his or her appointment, the guardian's criminal record shall be regularly reviewed by the competent authorities to identify potential incompatibilities with his or her role.

Or. en

Amendment 152
Jan-Christoph Oetjen, Sophia in 't Veld, Hilde Vautmans, Michal Šimečka

Proposal for a regulation
Recital 40h c (new)

Text proposed by the Commission	*Amendment*
	(40h c) Given the possibility for unaccompanied minors to file complaints against their guardians referred to in Article 22.5, all unaccompanied minors shall be given information, in a child-friendly manner and in a language that they understand, about who the supervising and monitoring entities or persons are and how to report complaints against their guardians in confidence and safety.

Or. en

Amendment 153
Jan-Christoph Oetjen, Sophia in 't Veld, Hilde Vautmans, Michal Šimečka

Proposal for a regulation
Recital 40h d (new)

Text proposed by the Commission	*Amendment*
	(40h d) Age assessment procedures as referred to in Article 24, should apply the least intrusive method and the least intrusive process, following the EASO Practical Guide on Age Assessment and

must be gender- and culturally appropriate. Pending age assessment results, the applicant is to be treated as a minor and accommodated in the appropriate reception structures provided for under national law. Age assessments should take place in an adequate environment by independent, adequately trained and qualified professionals who are familiar with the applicant's ethnic and cultural background and employ a multi-disciplinary approach which takes into account physical, developmental, psychological, environmental and cultural factors, thereby allowing for the most reliable result possible. Experts in children's development, such as paediatricians, social workers and psychologists, shall be involved throughout the assessment procedure. Cultural-linguistic mediators or, where not possible, qualified interpreters shall support these professionals. Guardians shall be present during the examination if requested to attend by the applicant. Minors shall be informed in a language they understand and in a way that is consistent with their age and degree of maturity. They shall have the right to an effective remedy against the decision determining their age.

Or. en

Amendment 154
Jan-Christoph Oetjen, Sophia in 't Veld, Hilde Vautmans, Michal Šimečka

Proposal for a regulation
Recital 40h e (new)

Text proposed by the Commission	*Amendment*
	(40h e) if a minor does not have the legal capacity to act in asylum procedures referred to in Article 31 (8 & 9) and the responsible adult does not make an application, the determining

authority shall lodge an application on behalf of the minor, with due regard to his or her views.

Or. en

Amendment 155
Erik Marquardt

Proposal for a regulation
Recital 40i

Text proposed by the Commission	*Amendment*
(40i) Where an applicant, third-country national or stateless person who was detained during the border procedure for the examination of their application for international protection no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention for the purpose of preventing entry into the territory and carrying out the return procedure, respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant, third-country national or stateless person who was not detained during the border procedure for the examination of an application for international protection, and who no longer has a right to remain and has not been allowed to remain, could also be detained if there is a risk of absconding, if he or she avoids or hampers return, or if he or she poses a risk to public policy, public security or national security. Detention should be for as short a period as possible and should not exceed the maximum duration of the border procedure for carrying out return. When the illegally staying third-country national does not return or is not removed within that period and the border procedure for carrying out return ceases to apply, the provisions of the [recast Return Directive]	***deleted***

should apply. The maximum period of detention set by Article 15 of that Directive should include the period of detention applied during the border procedure for carrying our return.

Or. en

Amendment 156
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo, Petar Vitanov

Proposal for a regulation
Recital 40i

Text proposed by the Commission	*Amendment*
(40i) Where an applicant***, third-country national or stateless person*** who was detained during the border procedure for the examination of ***their*** application for international protection no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention for the purpose of preventing entry into the territory and carrying out the return procedure, respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant***, third-country national or stateless person who*** was not detained during the border procedure for the examination of an application for international protection, and ***who*** no longer has a right to remain and has not been allowed to remain, ***could also be detained if there is a risk of absconding, if he or she avoids or hampers*** return***, or if he or she poses a risk to public policy, public security or national security. Detention*** should ***be*** for as short a period as possible and ***should not exceed*** the maximum duration of the border procedure for carrying out return. ***When the illegally staying third-country national does not***	(40i) Where an applicant who was detained during the border procedure for the examination of ***his/her*** application for international protection no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention for the purpose of preventing entry into the territory and carrying out the return procedure, respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. ***Where*** an applicant was not detained during the border procedure for the examination of an application for international protection, and ***where that application was unsuccessful, and that applicant*** no longer has a right to remain and has not been allowed to remain, ***the*** Return ***Directive*** should ***apply. Member States may detain an applicant where other sufficient but less coercive measures cannot be applied effectively,*** for as short a period as possible and ***not exceeding*** the maximum duration of the border procedure for carrying out return.

return or is not removed within that period and the border procedure for carrying out return ceases to apply, the provisions of the [recast Return Directive] should apply. The maximum period of detention set by Article 15 of that Directive should include the period of detention applied during the border procedure for carrying our return.

Or. en

Amendment 157
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 40i

Text proposed by the Commission	*Amendment*
(40i) Where an applicant, third-country national or stateless person who was detained during the border procedure for the examination of their application for international protection no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention for the purpose of preventing entry into the territory and carrying out the return procedure, respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant, third-country national or stateless person who was not detained during the border procedure for the examination of an application for international protection, and who no longer has a right to remain and has not been allowed to remain, could also be detained if there is a risk of absconding, if he or she avoids or hampers return, or if he or she poses a risk to public policy, public security or national security. Detention should be for as short a period as possible and should not exceed the maximum duration of the ***border procedure for***	(40i) Where an applicant, third-country national or stateless person who was detained during the border procedure for the examination of their application for international protection no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention for the purpose of preventing entry into the territory and carrying out the return procedure, respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant, third-country national or stateless person who was not detained during the border procedure for the examination of an application for international protection, and who no longer has a right to remain and has not been allowed to remain, could also be detained if there is a risk of absconding, if he or she avoids or hampers return, or if he or she poses a risk to public policy, public security or national security. Detention should be for as short a period as possible and should not exceed the maximum duration of the ***time set out in Article 15 of***

carrying out return. When the illegally staying third-country national does not return or is not removed within that period and the border procedure for carrying out return ceases to apply, the provisions of the [recast Return Directive] should apply. ***The maximum period of detention set by Article 15 of that Directive should include the period of detention applied during the border procedure for carrying our return.***

Directive 2008/115 [Return ***Directive]***. When the illegally staying third-country national does not return or is not removed within that period and the border procedure for carrying out return ceases to apply, the provisions of the [recast Return Directive] should apply.

Or. en

Amendment 158
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 40i

Text proposed by the Commission	*Amendment*
(40i) Where an applicant, third-country national or stateless person who was detained during the border procedure for the examination of their application for international protection no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention for the purpose of preventing entry into the territory and carrying out the return procedure, respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant, third-country national or stateless person who was not detained during the border procedure for the examination of an application for international protection, and who no longer has a right to remain and has not been allowed to remain, could also be detained if there is a risk of absconding, if he or she avoids or hampers return, or if he or she poses a risk to public policy, public security or national security. Detention should be for as short a period as possible and should not exceed the maximum	(40i) Where an applicant, third-country national or stateless person who was detained during the border procedure for the examination of their application for international protection no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention for the purpose of preventing entry into the territory and carrying out the return procedure, respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant, third-country national or stateless person who was not detained during the border procedure for the examination of an application for international protection, and who no longer has a right to remain and has not been allowed to remain, could also be detained ***for the purpose of preventing entry into the territory of the Member State,*** if there is a risk of absconding, if he or she avoids or hampers return, or if he or she poses a risk to public policy, public security or national security. Detention should be for

duration of the border procedure for carrying out return. When the illegally staying third-country national does not return or is not removed within that period and the border procedure for carrying out return ceases to apply, the provisions of the [recast Return Directive] should apply. ***The maximum period of detention set by*** Article ***15 of that*** Directive ***should include the period of detention applied during the border procedure for carrying our return***.

as short a period as possible and should not exceed the maximum duration of the border procedure for carrying out return. When the illegally staying third-country national does not return or is not removed within that period and the border procedure for carrying out return ceases to apply, the provisions of the [recast Return Directive] should apply. ***When the return decision cannot be enforced within 4 months, the third country national may further be detained in accordance with*** Article ***18 [recast Return*** Directive***]***.

Or. en

Amendment 159
Sira Rego

Proposal for a regulation
Recital 40i

Text proposed by the Commission	*Amendment*
(40i) Where an applicant, third-country national or stateless person who was detained during the border procedure for the examination of their application for international protection no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention ***for the purpose of preventing entry into the territory and carrying out the return procedure,*** respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant, third-country national or stateless person who was not detained during the border procedure for the examination of an application for international protection, and who no longer has a right to remain and has not been allowed to remain, could also be detained if there is a risk of absconding, if he or she avoids or hampers return***, or if he or she poses a risk to public policy, public***	(40i) Where an applicant, third-country national or stateless person who was detained during the border procedure for the examination of their application for international protection no longer has a right to remain and has not been allowed to remain, Member States should ***only*** be able to continue the detention ***based on an individual assessment of the circumstances and*** respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant, third-country national or stateless person who was not detained during the border procedure for the examination of an application for international protection, and who no longer has a right to remain and has not been allowed to remain, ***may only be*** detained ***unless other sufficient but less coercive measures can be applied effectively in a specific case. Member States may only keep in detention a third-***

security or national security. Detention should be for as short a period as possible and ***should*** not exceed ***the maximum duration of the border procedure for carrying out return. When the illegally staying third-country national does not return or is not removed within that period and the border procedure for carrying out return ceases to apply, the provisions of the [recast Return Directive] should apply. The maximum period of detention set by Article 15 of that Directive should include the period of detention applied during the border procedure for carrying our return***.

country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process, in particular if there is a risk of absconding, ***or*** if he or she avoids or hampers return***. Minors and individuals in a situation of vulnerability should never be detained***. Detention should be for as short a period as possible and not exceed ***15 days***.

Or. en

Justification

Under international and EU law, the right to liberty can only be infringed upon in exceptional circumstances and if no other less coercive measure is effective. This requires that each case is assessed individually and that alternatives to detention are always prioritised. The suggested amendment is consistent with language from the Return Directive, CJEU jurisprudence and Council of Europe guidance. It is important to clarify that "Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process, in particular when" to ensure that people are released when there is no reasonable prospect of removal (see art. 15(4) of the Return Directive and El Dridi). Detention based on public order or national security should be regulated through a criminal procedure providing proper judicial safeguards.

Amendment 160
Sira Rego

Proposal for a regulation
Recital 40j

Text proposed by the Commission	*Amendment*
(40j) It should be possible for a Member State to which an applicant is relocated in accordance with Regulation (EU) No XXX/XXX [Asylum and Migration Management Regulation] to examine the application in a border procedure provided that the applicant has not yet	***deleted***

been authorised to enter the territory of the Member States and the conditions for the application of such a procedure by the Member State from which the applicant was relocated are met.'

Or. en

Amendment 161
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 40j

Text proposed by the Commission	*Amendment*
(40j) It should be possible for a Member State to which an applicant is relocated in accordance with Regulation (EU) No XXX/XXX [Asylum and Migration Management Regulation] to examine the application in a border procedure provided that the applicant has not yet been authorised to enter the territory of the Member States and the conditions for the application of such a procedure by the Member State from which the applicant was relocated are met.'	***deleted***

Or. en

Amendment 162
Erik Marquardt

Proposal for a regulation
Recital 40j

Text proposed by the Commission	*Amendment*
(40j) ***It should be possible for*** a Member State to which an applicant is relocated in accordance with Regulation (EU) No XXX/XXX [Asylum and Migration Management Regulation] to examine the application in a border procedure ***provided***	(40j) A Member State to which an applicant is relocated in accordance with Regulation (EU) No XXX/XXX [Asylum and Migration Management Regulation] ***shall not be entitled*** to examine the

***that the applicant has not yet been authorised to enter the territory of the Member States and the conditions for the application of such a procedure by the Member State from which the applicant was relocated are met**.'*	application in a border procedure **.**

Or. en

Amendment 163
Erik Marquardt

Proposal for a regulation
Recital 40j a (new)

Text proposed by the Commission	*Amendment*
	(40j a) To ensure that border procedures are carried out in full compliance with EU law including the Charter of Fundamental Rights, humanitarian actors, international organisations, non-governmental organisations and other relevant stakeholders should be granted unhindered access to applicants subject to border procedures as well as to the facilities in which they take place.

Or. en

Amendment 164
Erik Marquardt

Proposal for a regulation
Recital 40j b (new)

Text proposed by the Commission	*Amendment*
	(40j b) An independent monitoring mechanism should be set up and effective remedies shall be made available to the victims of human rights violations that occur in the course of border procedures.

Or. en

Amendment 165
Sira Rego

Proposal for a regulation
Recital 44a

Text proposed by the Commission	*Amendment*
(44a) 'An applicant who lodges a subsequent application at the last minute merely in order to delay or frustrate his or her removal should not be authorised to remain pending the finalisation of the decision declaring the application inadmissible in cases where it is immediately clear to the determining authority that no new elements have been presented and there is no risk of refoulement and provided that the application is made within one year of the decision by the determining authority on the first application. The determining authority shall issue a decision under national law confirming that these criteria are fulfilled in order for the applicant not to be authorised to remain. '	***deleted***

Or. en

Amendment 166
Erik Marquardt

Proposal for a regulation
Recital 44a

Text proposed by the Commission	*Amendment*
(44a) 'An applicant who lodges a subsequent application at the last minute merely in order to delay or frustrate his or her removal should not be authorised to remain pending the finalisation of the decision declaring the application inadmissible in cases where it is immediately clear to the determining	***deleted***

authority that no new elements have been presented and there is no risk of refoulement and provided that the application is made within one year of the decision by the determining authority on the first application. The determining authority shall issue a decision under national law confirming that these criteria are fulfilled in order for the applicant not to be authorised to remain. '

Or. en

Amendment 167
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 44a

Text proposed by the Commission	*Amendment*
(44a) 'An applicant who lodges a subsequent application at the last minute merely in order to delay or frustrate his or her removal should not be authorised to remain pending the finalisation of the decision declaring the application inadmissible in cases where it is immediately clear to the determining authority that no new elements have been presented and there is no risk of refoulement ***and provided that the application is made within one year of the decision by the determining authority on the first application***. The determining authority shall issue a decision under national law confirming that these criteria are fulfilled in order for the applicant not to be authorised to remain. '	(44a) 'An applicant who lodges a subsequent application at the last minute merely in order to delay or frustrate his or her removal should not be authorised to remain pending the finalisation of the decision declaring the application inadmissible in cases where it is immediately clear to the determining authority that no new elements have been presented and there is no risk of refoulement. The determining authority shall issue a decision under national law confirming that these criteria are fulfilled in order for the applicant not to be authorised to remain. '

Or. en

Amendment 168
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 44a

Text proposed by the Commission	*Amendment*
(44a) **‘**An applicant who lodges a subsequent application at the last minute merely in order to delay or frustrate his or her removal should not be authorised to remain pending the finalisation of the decision declaring the application inadmissible in cases where it is immediately clear to the determining authority that no new elements have been presented and there is no risk of refoulement ***and provided that the application is made within one year of the decision by the determining authority on the first application***. The determining authority shall issue a decision under national law confirming that these criteria are fulfilled in order for the applicant not to be authorised to remain. **’**	(44a) An applicant who lodges a subsequent application at the last minute merely in order to delay or frustrate his or her removal should not be authorised to remain pending the finalisation of the decision declaring the application inadmissible in cases where it is immediately clear to the determining authority that no new elements have been presented and there is no risk of refoulement. The determining authority shall issue a decision under national law confirming that these criteria are fulfilled in order for the applicant not to be authorised to remain.

Or. en

Amendment 169
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 44a

Text proposed by the Commission	*Amendment*
(44a) ‘An applicant who lodges a subsequent application at the last minute merely in order to delay or frustrate his or her removal should not be authorised to remain pending the finalisation of the decision declaring the application inadmissible in cases where it is immediately clear to ***the determining authority*** that no new elements have been presented and there is no risk of refoulement and provided that the	(44a) ‘An applicant who lodges a subsequent application at the last minute merely in order to delay or frustrate his or her removal should not be authorised to remain pending the finalisation of the decision declaring the application inadmissible in cases where it is immediately clear to ***a court or tribunal*** that no new elements have been presented and there is no risk of refoulement and provided that the application is made

application is made within one year of the decision by the determining authority on the first application. The determining authority ***shall issue a decision under national law confirming that these criteria are fulfilled in order for the applicant not to be authorised*** to remain***. '***	within one year of the decision by the determining authority on the first application. The determining authority ***may request a court or tribunal to revoke an applicant's right*** to remain ***in such cases.***

Or. en

Justification

The determining authority cannot be the arbiter of both the asylum decision and on the right of applicant to remain pending an asylum decision or appeal. The decision to revoke the right to remain should be reserved for a judge.

Amendment 170
Sira Rego

Proposal for a regulation
Recital 65

Text proposed by the Commission	*Amendment*
(65) 'For an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection, ***all effects of the return*** decision should ***be automatically suspended for as long as*** the applicant ***has the*** right to remain ***or has been allowed to remain on the territory of a Member State. To improve the effectiveness of procedures at the external border, while ensuring the respect of the right to an effective remedy, appeals against decisions taken in the context of the border procedure should take place only before a single level of jurisdiction of a court or tribunal.***	(65) 'For an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection, ***appeals against such*** decision should ***have automatic suspensive effect and*** the applicant ***have an automatic*** right to remain***.***

Or. en

Amendment 171
Nadine Morano

Proposal for a regulation
Recital 65

Text proposed by the Commission	*Amendment*
(65) For an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection, ***all effects of the return decision should be automatically suspended for as long as the applicant has the right to remain or has been allowed to remain on the territory of a Member State. To improve the effectiveness of procedures at the external border, while ensuring the respect of the right to an effective remedy,*** appeals against decisions taken in the context of the border procedure should take place only before a single level of jurisdiction of a court or tribunal.	(65) For an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection, appeals against decisions taken in the context of the border procedure should take place only before a single level of jurisdiction of a court or tribunal.

Or. fr

Amendment 172
Erik Marquardt

Proposal for a regulation
Recital 65

Text proposed by the Commission	*Amendment*
(65) ‘For an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection***, all effects of the return decision should be automatically suspended for as long as the applicant has the right to remain or has been allowed to remain on the territory of a Member State.*** To improve the effectiveness of procedures at the external border, ***while ensuring the respect of the right to an effective remedy,*** appeals against decisions ***taken in the context of the border procedure*** should ***take place***	(65) For an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection ***and*** to improve the effectiveness of procedures at the external border, ***all*** appeals against ***such*** decisions should ***have automatic suspensive effect***.

only before a single level of jurisdiction of a court or tribunal.

Or. en

Amendment 173
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 65

Text proposed by the Commission	*Amendment*
(65) **'**For an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection, all effects of ***the*** return decision should be automatically suspended for as long as the applicant has the right to remain or has been allowed to remain on the territory of a Member State. ***To improve the effectiveness of procedures at the external border, while ensuring the respect of the right to an effective remedy, appeals against decisions taken in the context of the border procedure should take place only before a single level of jurisdiction of a court or tribunal.***	(65) For an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection, ***and where a return decision has also been issued to the applicant,*** all effects of ***that*** return decision should be automatically suspended for as long as the applicant has the right to remain or has been allowed to remain on the territory of a Member State.

Or. en

Justification

The return decision remains separate from a decision not to grant international protection to an applicant. The organisation of national judicial systems is not an EU competence and, in any case, to ensure the independence of the judiciary, it should be for national judicial bodies to determine in what way they organise their courts.

Amendment 174
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation

Recital 65

Text proposed by the Commission	*Amendment*
(65) ‘***For*** an applicant to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection***, all effects of the return decision should be automatically suspended for as long as the applicant has the right to remain or has been allowed to remain on the territory of a Member State***. To improve the effectiveness of procedures at the external border, while ensuring the respect of the right to an effective remedy, appeals against decisions taken in the context of the border procedure should take place only before a single level of jurisdiction of a court or tribunal.	(65) 'An applicant ***has*** to be able to exercise his or her right to an effective remedy against a decision rejecting an application for international protection. To improve the effectiveness of procedures at the external border, while ensuring the respect of the right to an effective remedy, appeals against decisions taken in the context of the border procedure should take place only before a single level of jurisdiction of a court or tribunal.

Or. en

Amendment 175
Sira Rego

Proposal for a regulation
Recital 66

Text proposed by the Commission	*Amendment*
(66) Applicants should, in principle, have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. It is only in the limited cases set out in this Regulation, where applications are likely to be unfounded, that the applicant should not have an automatic right to remain for the purpose of the appeal.	***deleted***

Or. en

Amendment 176
Nadine Morano

Proposal for a regulation
Recital 66

Text proposed by the Commission	*Amendment*
(66) Applicants should, in principle, have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. It is only in the limited cases set out in this Regulation, where applications are likely to be unfounded, that the applicant should not have an automatic right to remain for the purpose of the appeal.	(66) Applicants should, in principle, have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. It is only in the limited cases set out in this Regulation, where applications are likely to be unfounded, that the applicant should not have an automatic right to remain for the purpose of the appeal. ***To avoid possible misuse of rights and procedures, a maximum period not exceeding two days should be granted to appeal to a court or tribunal against a return decision.***

Or. fr

Amendment 177
Erik Marquardt

Proposal for a regulation
Recital 66

Text proposed by the Commission	*Amendment*
(66) Applicants should***, in principle,*** have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. ***It is only in the limited cases set out in this Regulation, where applications are likely to be unfounded, that the applicant should***	(66) Applicants should have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal.

not have an automatic right to remain for the purpose of the appeal.

Or. en

Amendment 178
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 66

Text proposed by the Commission	*Amendment*
(66) Applicants should***, in principle,*** have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. ***It is only in the limited cases set out in this Regulation, where applications are likely to be unfounded, that the applicant should not have an automatic right to remain for the purpose of the appeal.***	(66) Applicants should have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal.

Or. en

Amendment 179
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 66

Text proposed by the Commission	*Amendment*
(66) Applicants should, in principle, have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. It is	(66) Applicants should, in principle, have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. It is

only in the limited cases set out in this Regulation, where applications are likely to be unfounded, that the applicant should not have an automatic right to remain for the purpose of the appeal.	only in the limited cases set out in this Regulation, where applications are likely to be ***inadmissible, unfounded or manifestly*** unfounded, that the applicant should not have an automatic right to remain for the purpose of the appeal.

Or. en

Amendment 180
Balázs Hidvéghi, Loránt Vincze

Proposal for a regulation
Recital 66

Text proposed by the Commission	*Amendment*
(66) Applicants should, in principle, have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. ***It is only in the limited cases set out in this Regulation,*** where applications are likely to be unfounded, ***that*** the applicant should not have an automatic right to remain for the purpose of the appeal.	(66) Applicants should, in principle, have the right to remain on the territory of a Member State until the time-limit for lodging an appeal before a court or tribunal of first instance expires, and, where such a right is exercised within the set time-limit, pending the outcome of the appeal. Where applications are likely to be unfounded, the applicant should not have an automatic right to remain for the purpose of the appeal.

Or. en

Amendment 181
Sira Rego

Proposal for a regulation
Recital 66a

Text proposed by the Commission	*Amendment*
(66a) 'In cases where the applicant has no automatic right to remain for the purpose of the appeal, a court or tribunal should still be able to allow the applicant to remain on the territory of the Member	***deleted***

State pending the outcome of the appeal, upon the applicant's request or acting of its own motion. In such cases, applicants should have a right to remain until the time-limit for requesting a court or tribunal to be allowed to remain has expired and, where the applicant has presented such a request within the set time-limit, pending the decision of the competent court or tribunal. In order to discourage abusive or last minute subsequent applications, Member States should be able to provide in national law that applicants should have no right to remain during that period in the case of rejected subsequent applications, with a view to preventing further unfounded subsequent applications. In the context of the procedure for determining whether or not the applicant should be allowed to remain pending the appeal, the applicant's rights of defence should be adequately guaranteed by providing him or her with the necessary interpretation and legal assistance. Furthermore, the competent court or tribunal should be able to examine the decision refusing to grant international protection in terms of facts and points of law.

Or. en

Amendment 182
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Pietro Bartolo, Javier Moreno Sánchez

Proposal for a regulation
Recital 66a

Text proposed by the Commission	*Amendment*
(66a) **'**In cases where ***the applicant has no automatic*** right to remain for the purpose of the appeal***, a court or tribunal should still be able to allow the applicant to remain on the territory of the Member***	(66a) In cases where ***a court or tribunal is requested to revoke the applicant's*** right to remain for the purpose of the appeal, the applicant's rights of defence should be adequately guaranteed by providing him or

State pending the outcome of the appeal, upon the applicant's request or acting of its own motion**. **In such cases, applicants should have a right to remain until the time-limit for requesting a court or tribunal to be allowed to remain has expired and, where the applicant has presented such a request within the set time-limit, pending the decision of the competent court or tribunal. In order to discourage abusive or last minute subsequent applications, Member States should be able to provide in national law that applicants should have no right to remain during that period in the case of rejected subsequent applications, with a view to preventing further unfounded subsequent applications. In the context of the procedure for determining whether or not the applicant should be allowed to remain pending the appeal, the applicant's rights of defence should be adequately guaranteed by providing him or her with the necessary interpretation and legal assistance. Furthermore, the competent court or tribunal should be able to examine the decision refusing to grant international protection in terms of facts and points of law.

her with the necessary interpretation and legal assistance. Furthermore, the competent court or tribunal should be able to examine the decision refusing to grant international protection in terms of facts and points of law.

Or. en

Justification

It should always be for a Court or Tribunal to determine, on the facts, whether a right to remain should be granted. This is equally applicable to subsequent applications.

Amendment 183
Erik Marquardt

Proposal for a regulation
Recital 66a

Text proposed by the Commission	*Amendment*
(66a) ***'In cases where the applicant has no automatic right to remain for the***	(66a) In the context of the procedure for determining whether or not the applicant

purpose of the appeal, a court or tribunal should still be able to allow the applicant to remain on the territory of the Member State pending the outcome of the appeal, upon the applicant's request or acting of its own motion. In such cases, applicants should have a right to remain until the time-limit for requesting a court or tribunal to be allowed to remain has expired and, where the applicant has presented such a request within the set time-limit, pending the decision of the competent court or tribunal. In order to discourage abusive or last minute subsequent applications, Member States should be able to provide in national law that applicants should have no right to remain during that period in the case of rejected subsequent applications, with a view to preventing further unfounded subsequent applications. In the context of the procedure for determining whether or not the applicant should be allowed to remain pending the appeal, the applicant's rights of defence should be adequately guaranteed by providing him or her with the necessary interpretation and legal assistance. Furthermore, the competent court or tribunal should be able to examine the decision refusing to grant international protection in terms of facts and points of law.

should be allowed to remain pending the appeal ***at the second or further level***, the applicant's rights of defence should be adequately guaranteed by providing him or her with the necessary interpretation and legal assistance. Furthermore, the competent court or tribunal should be able to examine the decision refusing to grant international protection in terms of facts and points of law.

Or. en

Amendment 184
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 66a

Text proposed by the Commission	*Amendment*
(66a) 'In cases where the applicant has no automatic right to remain for the purpose of the appeal, a court or tribunal should still be able to allow the applicant to	(66a) In cases where the applicant has no automatic right to remain for the purpose of the appeal, a court or tribunal should still be able to allow the applicant to

remain on the territory of the Member State pending the outcome of the appeal, upon the applicant's request or acting of its own motion. In such cases, applicants should have a right to remain until the time-limit for requesting a court or tribunal to be allowed to remain has expired and, where the applicant has presented such a request within the set time-limit, pending the decision of the competent court or tribunal. In order to discourage abusive or last minute subsequent applications, Member States should be able to provide in national law that applicants should have no right to remain during that period in the case of rejected subsequent applications, with a view to preventing further unfounded subsequent applications. In the context of the procedure for determining whether or not the applicant should be allowed to remain pending the appeal, the applicant's rights ***of defence*** should be adequately guaranteed by providing him or her with the necessary interpretation and legal assistance. Furthermore, the competent court or tribunal should be able to examine the decision refusing to grant international protection in terms of facts and points of law.

remain on the territory of the Member State pending the outcome of the appeal, upon the applicant's request or acting of its own motion. In such cases, applicants should have a right to remain until the time-limit for requesting a court or tribunal to be allowed to remain has expired and, where the applicant has presented such a request within the set time-limit, pending the decision of the competent court or tribunal. In order to discourage abusive or last minute subsequent applications, Member States should be able to provide in national law that applicants should have no right to remain during that period in the case of rejected subsequent applications, with a view to preventing further unfounded subsequent applications. In the context of the procedure for determining whether or not the applicant should be allowed to remain pending the appeal, the applicant's rights should be adequately guaranteed by providing him or her with the necessary interpretation and legal assistance. Furthermore, the competent court or tribunal should be able to examine the decision refusing to grant international protection in terms of facts and points of law.

Or. en

Amendment 185
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 66b

Text proposed by the Commission	*Amendment*
(66b) In order to ensure ***effective returns, applicants*** should ***not have a*** right to remain on the Member State's territory at the stage of a second or further level of appeal before a court or tribunal against a	(66b) In order to ensure ***the efficacy of the asylum and return procedures, a court or tribunal*** should ***be able to revoke an applicant's*** right to remain on the Member State's territory at the stage of a second or

negative decision on the application for international protection***, without prejudice to the possibility for a court or tribunal to allow the applicant to remain***. ***Furthermore, Member States should not grant applicants the possibility to lodge a further appeal against a first appeal decision in respect of a decision taken in a border procedure.***	further level of appeal before a court or tribunal against a negative decision on the application for international protection.

Or. en

Amendment 186
Sira Rego

Proposal for a regulation
Recital 66b

Text proposed by the Commission	*Amendment*
(66b) In order to ensure effective ***returns***, applicants should ***not have*** a right to remain on the Member State's territory at the stage of a second or further level of appeal before a court or tribunal against a negative decision on the application for international protection***, without prejudice to the possibility*** for a ***court or tribunal to allow the applicant to remain***. ***Furthermore, Member States should not grant applicants the possibility to lodge a further appeal against a first appeal decision in respect of a decision taken in a border procedure.***	(66b) In order to ensure ***the right to*** effective ***remedy***, applicants should ***receive*** a right to remain on the Member State's territory at the stage of a second or further level of appeal before a court or tribunal against a negative decision on the application for international protection ***or an application*** for a ***residence permit on compassionate, humanitarian or other grounds***.

Or. en

Amendment 187
Erik Marquardt

Proposal for a regulation
Recital 66b

Text proposed by the Commission	*Amendment*

(66b) In order to ensure effective ***returns***, applicants should ***not have*** a right to remain on the Member State's territory at the stage of a second or further level of appeal before a court or tribunal against a negative decision on the application for international protection, without prejudice to the possibility for a court or tribunal to ***allow*** the applicant ***to remain. Furthermore, Member States*** should not ***grant applicants the possibility to lodge a further appeal against a first appeal decision in respect of a decision taken in a border procedure.***	(66b) In order to ensure ***the right to an*** effective ***remedy***, applicants should ***maintain*** a right to remain on the Member State's territory at the stage of a second or further level of appeal before a court or tribunal against a negative decision on the application for international protection, without prejudice to the possibility for a court or tribunal to ***decide that*** the applicant should not ***have the right to remain at that stage.***

Or. en

Amendment 188
Sira Rego

Proposal for a regulation
Recital 66c

Text proposed by the Commission	*Amendment*
(66c) To ensure the consistency of the legal review carried out by a court or tribunal on a decision rejecting an application for international protection and the accompanying return decision, and with a view to accelerating the examination of the case and reducing the burden on the competent judicial authorities, such decisions should be subject to common proceedings before the same court or tribunal.	***deleted***

Or. en

Amendment 189
Erik Marquardt

Proposal for a regulation
Recital 66c

Text proposed by the Commission	*Amendment*
(66c) To ensure the consistency of the legal review carried out by a court or tribunal on a decision rejecting an application for international protection and the accompanying return decision, and with a view to accelerating the examination of the case and reducing the burden on the competent judicial authorities, such decisions should be subject to common proceedings before the same court or tribunal.	***deleted***

Or. en

Amendment 190
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 66c

Text proposed by the Commission	*Amendment*
(66c) To ensure the consistency of the legal review carried out by a court or tribunal on a decision rejecting an application for international protection and the accompanying return decision, and with a view to accelerating the examination of the case and reducing the burden on the competent judicial authorities, such decisions should be subject to common proceedings before the same court or tribunal.	(66c) To ensure the consistency of the legal review carried out by a court or tribunal on a decision rejecting an application for international protection and the accompanying return decision, and with a view to accelerating the examination of the case and reducing the burden on the competent judicial authorities, such decisions should be subject to common proceedings before the same court or tribunal ***in order to fulfil the time-limits provided for in this regulation***.

Or. en

Amendment 191
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation

Recital 66c

Text proposed by the Commission	*Amendment*
(66c) To ensure the consistency of the legal review carried out by a court or tribunal on a decision rejecting an application for international protection and ***the accompanying*** return decision, and with a view to accelerating the examination of the case and reducing the burden on the competent judicial authorities, such decisions ***should be*** subject to common proceedings before the same court or tribunal.	(66c) To ensure the consistency of the legal review carried out by a court or tribunal on a decision rejecting an application for international protection and ***any related*** return decision, and with a view to accelerating the examination of the case and reducing the burden on the competent judicial authorities, ***it should be possible that*** such decisions ***are*** subject to common proceedings before the same court or tribunal.

Or. en

Amendment 192
Sira Rego

Proposal for a regulation
Recital 66d

Text proposed by the Commission	*Amendment*
(66d) In order to ensure fairness and objectivity in the management of applications and effectiveness in the common procedure for international protection, time-limits should be set for the administrative procedure.	***deleted***

Or. en

Amendment 193
Bettina Vollath, Sylvie Guillaume, Juan Fernando López Aguilar, Domènec Ruiz Devesa, Elena Yoncheva, Petar Vitanov, Giuliano Pisapia, Birgit Sippel, Javier Moreno Sánchez, Pietro Bartolo

Proposal for a regulation
Recital 66d a (new)

Text proposed by the Commission	*Amendment*

(66d a) In order to ensure compliance with EU and international law, including the Charter of Fundamental Rights, upon irregular arrival at the EU's external borders, during border surveillance, screening, the asylum procedure or the return procedure, each Member State should establish a monitoring mechanism and put in place adequate safeguards for the independence of that mechanism, in particular by involving national human rights institutions, national ombudspersons, international organisations or relevant non-governmental organisations in the management and operation of the mechanism. The monitoring mechanism should cover in particular the respect for fundamental rights in relation to border surveillance, the screening, asylum and return procedures, as well as the respect for the applicable rules regarding detention and compliance with the principle of non-refoulement as referred to in Article 3(b) of Regulation (EU) 2016/399. The Fundamental Rights Agency (FRA) should establish general guidance as to the establishment and the independent functioning of such monitoring mechanism. Member States should furthermore be allowed to request the support of the FRA for developing their national monitoring mechanism. Member States should also be allowed to seek advice from the FRA with regard to establishing the methodology for this monitoring mechanism and with regard to appropriate training measures. The independent monitoring mechanism should be in addition and without prejudice to the monitoring of fundamental rights provided by the European Border and Coast Guard Agency's fundamental rights monitors provided for in Regulation (EU) 2019/1896, the monitoring mechanism for the purpose of monitoring the operational and technical application of the Common European Asylum System (CEAS) as set

out in Article 14 of Regulation (EU) xxxx/xxxx [EU Asylum Agency Regulation] and without prejudice to monitoring of fundamental rights carried out by existing national or international monitoring bodies. The Member States should investigate allegations of the breach of fundamental rights during border surveillance, the screening, asylum and return procedures, including by ensuring that complaints are dealt with promptly, expeditiously and capable of leading to the identification and sanction of those responsible in an appropriate manner.

Or. en

Amendment 194
Jeroen Lenaers, Tomas Tobé, Lena Düpont

Proposal for a regulation
Recital 66d a (new)

Text proposed by the Commission	*Amendment*
	(66d a) The Commission should regularly monitor and evaluate whether this Regulation is being properly applied and implemented. To this end, the Commission should make use of its power to initiate a monitoring exercise by the European Asylum Agency in accordance with Article 14 (2) of [EUAA Regulation].

Or. en

Amendment 195
Juan Ignacio Zoido Álvarez, Elissavet Vozemberg-Vrionidi, Loucas Fourlas

Proposal for a regulation
Recital 66d a (new)

Text proposed by the Commission	*Amendment*

(66d a) The Commission should regularly monitor and evaluate whether this Regulation is being properly applied and implemented. To this end, the Commission should make use of its power to initiate a monitoring exercise by the European Asylum Agency in accordance with Article 14 (2) of [EUAA Regulation].

Or. en