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Committee on Civil Liberties, Justice and Home Affairs

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AMENDMENTS
1 - 129

Updated mandate
Fabienne Keller
(PE697.689v01-00)

on the amended 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 1
Fabienne Keller
Proposal for a regulation
Recital 14

Text proposed by the Commission	*Amendment*
(14) It is in the interests of both Member States and applicants to ensure a correct recognition of international protection needs already at the stage of the administrative procedure by providing good quality information and legal support which leads to more efficient and better quality decision-making. For that purpose, access to legal assistance and representation should be an integral part of the common procedure for international protection. In order to ensure the effective protection of the applicant's rights, particularly the right of defence and the principle of fairness, and to ensure the economy of the procedure, applicants should, upon their request and subject to conditions set out in this Regulation, be provided with free legal assistance and representation during the administrative procedure and in the appeal procedure. The free legal assistance and representation should be provided by persons competent to provide them under national law.	(14) It is in the interests of both Member States and applicants to ensure a correct recognition of international protection needs already at the stage of the administrative procedure by providing good quality information and legal support which leads to more efficient and better quality decision-making. For that purpose, access to legal assistance and representation should be an integral part of the common procedure for international protection ***at all stages of the procedure***. In order to ensure the effective protection of the applicant's rights, particularly the right of defence and the principle of fairness, and to ensure the economy of the procedure, applicants should, upon their request and subject to conditions set out in this Regulation, be provided with free legal assistance and representation during the administrative procedure, ***including the accelerated procedure and the border procedure, as well during personal interviews,*** and in the appeal procedure. ***Applicants should have the right to an effective remedy before a court or tribunal against a decision not to grant free legal assistance and Member States should ensure that legal assistance and representation is not arbitrarily restricted and that the applicant's effective access to justice is not hindered***. The free legal assistance and representation should be provided ***as soon as an application for international protection has been registered and*** by persons competent to provide them under national law.

Or. en

Amendment 2
Fabienne Keller
Proposal for a regulation
Recital 20 a (new)

Text proposed by the Commission	*Amendment*
	(20a) In applying this Regulation, Member States should respect their international obligations towards stateless persons, including under the Convention relating to the Status of Stateless Persons of 28 September 1954.

Or. en

Amendment 3
Fabienne Keller
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 it.	(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. ***Without prejudice to the applicant's right to remain in the Member State responsible pending the examination of the application 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 Directive XXX/XXX/EU [Return Directive Recast].***

Or. en

Amendment 4
Fabienne Keller

Proposal for a regulation
Recital 31 a

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 ***the accelerated and the border*** procedures and to reduce the risk of absconding and the likelihood of unauthorised movements, ***Member States*** should ***strive to reduce*** procedural gaps between the issuance of a negative decision on an application for international protection and of a return decision. Without prejudice to the right to an effective remedy, ***where*** the return decision is ***issued in*** a separate act ***to a decision rejecting the application for international protection***, ***the former decision should*** be issued ***without undue delay thereafter, in order to fulfil the time-limits provided for in this Regulation. The competent authorities shall take the necessary measures to ensure that applicants are available to receive the decisions. That should in no way restrict Member States' discretion to apply Article 6(5) of Regulation (EU) 2016/399 of the European Parliament and of the Council[1a] or their discretion to issue residence permits or other authorisations under national law granting a right to stay on their territory, including for compassionate or humanitarian grounds.***
	[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

Amendment 5
Fabienne Keller
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 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 ***might*** 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 or, in the case of stateless persons, formerly habitual residents of a third country for which the share of decisions granting international protection is ***on a yearly Union-wide average*** lower than 20% of the total number of decisions for that third country. ***Member States should be able to accelerate the examination of applications of applicants who are unaccompanied minors and 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 on a yearly Union-wide average lower than 10 % of the total number of decisions for that third country. The examination procedure should not be accelerated 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 ***11*** of Regulation ***(EU) 2021/2303*** 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 exempted from the*** accelerated ***examination procedure, including where such a procedure has already started***.

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 inadmissibility procedure.

Or. en

Amendment 6
Fabienne Keller
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 ***irregular*** crossings of the external border or disembarked following a search and rescue operation. There should be seamless and efficient links between all stages of the relevant procedures for all irregular arrivals. After screening***, at the latest,*** third-country nationals and stateless persons should be channelled to the appropriate procedure, ***or granted entry in accordance with Article 6(5) of Regulation (EU) 2016/399.***.

Or. en

Amendment 7
Fabienne Keller
Proposal for a regulation

Recital 40 a

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 whether applications ***made during or at the end of the screening procedure*** are ***inadmissible or*** unfounded***, not only after the determination of the Member State responsible for an application for international protection in accordance with Regulation (EU) No XXX/XXX [Regulation on Asylum and Migration Management] but also during the border procedure***. ***If unfounded or inadmissible, Member States should be able to use a border procedure to allow for a swift*** return ***of*** those with no right to stay ***and who have been issued a return decision in compliance with the principle of non-refoulement***. Member States should therefore be able to require applicants for international protection to stay at ***locations, designated at their discretion, for the completion of the procedure, including at or in proximity to*** the external border or in a transit zone in order to assess the admissibility of applications***, provided that they are in compliance with Directive XXX/XXX/EU [Reception Conditions Directive]***. 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 8
Fabienne Keller
Proposal for a regulation

Recital 40 b

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) ***Where an application is to be subject to an accelerated procedure, a*** Member State should ***be able to*** assess applications in a border procedure***, except where an exemption applies. Member States should consider prioritising the border procedure*** where the applicant ***could be considered, for serious reasons,*** a ***threat to internal*** security.

Or. en

Amendment 9
Fabienne Keller
Proposal for a regulation
Recital 40 b a (new)

Text proposed by the Commission	*Amendment*
	(40ba) Member States should not apply a border procedure in particular in situations where the applicant is an unaccompanied minor or a minor below the age of 12, is a vulnerable person or has special procedural or reception needs and the necessary support cannot be provided, where there are medical reasons for not applying the border procedure or where conditions of detention are not met as provided for in the Directive XXX/XXX/EU [Reception Conditions

Directive] and should cease to apply a border procedure when the grounds or conditions for applying it cease to exist. Age assessment procedures should apply the least intrusive methods and processes. It is important that Member States take into account the European Union Agency for Asylum's practical guide on age assessment. Age assessment procedures should not include a medical assessment. Where the result of an age assessment is not conclusive or includes an age-range below the age of 12, Member States should assume that the minor is below the age of 12. Competent authorities should conduct appropriate and regular vulnerability checks throughout the border procedure.

Or. en

Amendment 10
Fabienne Keller
Proposal for a regulation
Recital 40 b b (new)

Text proposed by the Commission	*Amendment*
	(40bb) When determining whether there is a direct connection to an irregular border crossing for the purpose of applying a border procedure, it is important that Member States take into account the guidance found in the Return Handbook set out in Commission Recommendation (EU) 2017/2338.

[1a] Commission Recommendation (EU) 2017/2338 of 16 November 2017 establishing a common 'Return Handbook' to be used by Member States' competent authorities when carrying out return-related tasks (OJ L 339, 19.12.2017, p. 83).

Or. en

Amendment 11
Fabienne Keller
Proposal for a regulation
Recital 40 c

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 Directive XXX/XXX/EU [Reception Conditions Directive] ***as regards accommodation for applicants, including applicants with special needs or vulnerabilities, and that applicants remain available to the authorities***. ***Minors and families should be considered in need of special procedural and reception guarantees and be placed in adequate accommodation. Asylum personnel, legal representatives, non-governmental organisations, Union and international institutions, and socio-medical personnel should always be allowed to access facilities used for the border procedure.***

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

Or. en

Amendment 12
Fabienne Keller
Proposal for a regulation
Recital 40 c a (new)

Text proposed by the Commission	*Amendment*
	(40ca) Member States should retain discretion in deciding at which specific locations facilities for the border procedure should be set up. Member States should be able to situate such facilities at or in proximity of the external border or transit zones, provided that they guarantee appropriate reception conditions, access for personnel and essential services. Member States should notify the Commission of the specific locations where the border procedures will be carried out.
	Where the border procedure is applied and the capacity of the locations as notified by a Member State is temporarily exceeded, the capacity of personnel is insufficient or the reception conditions are not met, the Member State should be able, for the shortest time possible, to process applications at another location within its territory.

Or. en

Amendment 13
Fabienne Keller
Proposal for a regulation

Recital 40 d

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 14
Fabienne Keller
Proposal for a regulation
Recital 40 e

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	(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 determination of the Member State responsible for an application for international protection in accordance with Regulation (EU) No XXX/XXX [Regulation on Asylum and Migration Management] and*** 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. Within this period,

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.

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 that subsequently, if relevant, ***a*** decision on the appeal ***to be*** issued within this maximum 12 ***weeks***. 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 ***and be channelled to the appropriate procedure***. ***In the case of a decision rejecting the request for international protection in the border procedure, entry*** into the territory should 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 ***case***, 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. ***As soon as a border procedure is terminated and where the applicant is authorised to enter the territory, Member States should never apply a border procedure to that applicant again.***

Or. en

Amendment 15
Fabienne Keller
Proposal for a regulation

Recital 40 f

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) Member States should 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. ***Administrative detention during the examination of an application for international protection should remain a measure of last resort. A decision to detain an applicant during a border procedure should always be based on an individual assessment of each case and determined to be necessary, reasonnable and proportionate to a legitimate purpose and that it is not possible to effectively apply less coercive measures. Such decisions should be subject to judicial oversight. The necessity to maintain an applicant in detention should be reviewed regularly.***

Or. en

Amendment 16
Fabienne Keller
Proposal for a regulation
Recital 40 f a (new)

Text proposed by the Commission	*Amendment*
	(40fa) With a view to avoiding detention where less stringent measures might be applicable, Member States should apply restrcitions on freedom of movement or alternatives to detention as provided in the [Reception Conditions Directive] (EU) XXX/XXX. Such alternatives should be available both in law and fact at national level. Member States should prioritise non-custodial community-based placements for minors and their families and for applicants with vulnerabilities or special procedural or reception needs.

Or. en

Amendment 17
Fabienne Keller
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 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 should be able to issue*** the applicant a return decision ***provided that it respects Article 5 of Directive XXX/XXX/EU [Return Directive Recast] and due consideration has been given in the individual case to the application of Article 8(2) to (5) of that Directive.*** Where the conditions of Article 14 of Regulation (EU) No 2016/399 of the European Parliament and of the Council are met***, the Member State should also be able to issue*** a refusal of entry ***without prejudice to Article 6(5) of that Regulation***.

Or. en

Amendment 18
Fabienne Keller
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.	(40h) When applying the border procedure for carrying out return, ***the*** 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. ***A*** period for voluntary departure ***of 25*** days ***should*** be granted to ***the*** third-country nationals ***concerned***, without prejudice for the possibility to voluntarily comply with the obligation to return at any moment.

Or. en

Amendment 19
Fabienne Keller
Proposal for a regulation
Recital 40 h a (new)

Text proposed by the Commission	*Amendment*
	(40ha) The border procedure should be carried out in full compliance with the Charter of Fundamental Rights of the European Union and Union law. The proper functioning of the border procedure inherently depends on the

availability of adequate and qualified personnel at all stages of the procedure. In order to ensure that border procedures respect all individual procedural rights and are in compliance with reception conditions, the Member States should allocate qualified and well-trained personnel at the relevant locations. Member States should be able to seek, where necessary, support from Union agencies, international organisations and non-governmental organisations. The European Union Agency for Asylum can also assist the competent authorities in planning the allocation of qualified personnel.

Or. en

Amendment 20
Fabienne Keller
Proposal for a regulation
Recital 40 h b (new)

Text proposed by the Commission	*Amendment*
	(40hb) Within their respective mandates, Union agencies should be able to provide support to the Member States and the Commission, at their request, with a view to ensuring the proper implementation and functioning of this Regulation, including the provisions of this Regulation related to the accelerated and border procedures. Union agencies can propose specific support to a Member State. Where a Union agency proposes specific support to a Member State, that Member State should take due account of its proposal. Where that Member State refuses the request, it should explain its reasons therefor in a timely manner.

Or. en

Amendment 21
Fabienne Keller
Proposal for a regulation
Recital 40 i

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] 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.***	(40i) Where an applicant who was detained during the border procedure for the examination of ***her or his*** 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 ***Recast***]. An applicant ***whose application was not successful,*** 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 security or national security***, and provided that less coercive measures cannot be applied effectively***. Detention should be for as short a period as possible***,*** should not exceed the maximum duration of the border procedure for carrying out return ***and should not exceed the maximum period of detention set by Article 15 of Directive XXX/XXX/EU [Return Directive Recast]***. When the ***irregularly*** 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 [Return Directive ***Recast***] should ***continue to*** apply.

Or. en

Amendment 22
Fabienne Keller
Proposal for a regulation
Recital 40 j

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.	(40j) It should be possible for a Member State to which an applicant is relocated ***or transferred*** 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 ***and to which*** the applicant was relocated ***or transferred*** are met.

Or. en

Amendment 23
Fabienne Keller
Proposal for a regulation
Recital 64 a (new)

Text proposed by the Commission	*Amendment*
	(64a) It is essential that Member States lay down rules on time-limits for the submission and translation of documents in such a way as to guarantee that courts or tribunals can take them and information provided by the applicant into consideration, in accordance with Article 47 of the Charter of Fundamental Rights of the European Union.

Or. en

Amendment 24
Fabienne Keller
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. 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 25
Fabienne Keller
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. ***Only*** in the limited cases set out in this Regulation, ***Member States should be able to provide in national law*** that the applicant ***does*** not have an automatic right to remain for the ***purposes*** of the appeal.

Or. en

Amendment 26
Fabienne Keller
Proposal for a regulation
Recital 66 a

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 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.	(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 ***without prejudice to the principle of non-refoulement***. 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***, including the right*** 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 27
Fabienne Keller

Proposal for a regulation
Recital 66 b

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) ***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 be able to provide in national law that*** applicants ***do not have*** the possibility to lodge a further appeal against a first appeal decision in respect of a decision taken in a border procedure.

Or. en

Amendment 28
Fabienne Keller
Proposal for a regulation
Recital 66 c

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 to subject*** such decisions to common proceedings before the same court or tribunal ***in order to facilitate the fulfilment of time-limits provided for in this Regulation***.

Or. en

Amendment 29
Fabienne Keller
Proposal for a regulation
Recital 66 d a (new)

Text proposed by the Commission	*Amendment*
	(66da) The Commission should regularly monitor and evaluate whether this Regulation is being properly applied and implemented. To that end, the Commission should be assisted by the European Union Agency for Asylum, in accordance with its prerogatives under Article 14 of Regulation (EU) 2021/2303. To ensure compliance with Union and international law, including the Charter of Fundamental Rights of the European Union, each Member State should also establish or designate a monitoring mechanism for the border procedure and put in place adequate safeguards for the independence of that mechanism, in accordance with the Paris Principles, the Venice Principles, the UN General Assembly Resolution of 28 December 2020 entitled 'The role of Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law', and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 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 bodies responsible for the mechanism should establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor. The monitoring mechanism should cover, in particular, the respect for fundamental rights in relation to the asylum and return procedures and the respect for the applicable rules regarding detention and

compliance with the principle of non-refoulement. The European Union Agency for Fundamental Rights (FRA) should establish general guidance as to the establishment and the independent functioning of such monitoring mechanisms. 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 their 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, as 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) 2021/2303, and the monitoring of fundamental rights carried out by existing national or international monitoring bodies. The Member States should investigate allegations of breaches of fundamental rights during the asylum and return procedures, including by ensuring that complaints are dealt with promptly and expeditiously and by ensuring that it is possible to identify and sanction those found responsible for such breaches in an appropriate manner.

Or. en

Amendment 30
Fabienne Keller
Proposal for a regulation

Recital 66 d b (new)

Text proposed by the Commission	*Amendment*
	(66db) The obligations on Member States to establish or designate an existing independent monitoring mechanism during asylum and return procedures, set out in this Regulation, and during border surveillance and the screening procedures, set out in Regulation (EU) xxx/xxx [Screening Regulation], should be fulfilled through the establishment or designation of one mechanism that covers all relevant phases and procedures specified in the relevant Regulations.

Or. en

Amendment 31
Fabienne Keller
Proposal for a regulation
Article 4 – paragraph 1 – point i

Text proposed by the Commission	*Amendment*
(i) 'family member'	***deleted***

Or. en

Amendment 32
Fabienne Keller
Proposal for a regulation
Article 4 – paragraph 2 – point j a (new)

Text proposed by the Commission	*Amendment*
	(ja) 'working day' means any day of the year from Monday to Friday, except for public holidays;

Or. en

Amendment 33
Fabienne Keller
Proposal for a regulation

Article 4 – paragraph 2 – point j b (new)

Text proposed by the Commission	*Amendment*
	(jb) 'family members' means family members as defined in Article 2, point (3), of Directive XXX/XXX/EU [Reception Conditions Directive].

Or. en

Amendment 34
Fabienne Keller
Proposal for a regulation
Article 35 a – paragraph 1

Text proposed by the Commission	*Amendment*
Where an application is rejected as inadmissible, unfounded or manifestly unfounded with regard to both refugee status and subsidiary protection status, or as implicitly or explicitly withdrawn, Member States shall issue a return decision that respects Directive XXX/XXX/EU [Return Directive]. ***The return decision shall be issued as part of the decision rejecting the application for international protection or, in a separate act.*** Where the return decision is issued as a separate act, it shall be issued at the same time and together with the decision rejecting the application for international protection.	Where an application is rejected as inadmissible, unfounded or manifestly unfounded with regard to both refugee status and subsidiary protection status, or as implicitly or explicitly withdrawn, Member States shall issue a return decision that respects Directive XXX/XXX/EU [Return Directive], ***provided that the applicant does not fulfil the conditions to apply for a residence permit or other authorisation offering a right to stay on compassionate, humanitarian or other grounds under the applicable national legal framework and that her or his return would not lead to a risk of a breach*** of the ***principle of non-refoulement, of other fundamental rights under the Charter of Fundamental Rights of the European Union (the 'Charter') and of other Union and international obligations***. ***In the case of an accelerated procedure or a border procedure,*** where the return decision is issued as a separate act, it shall be issued at the same time and together with the decision rejecting the application for international protection ***or without undue delay thereafter.***

Or. en

Amendment 35
Fabienne Keller
Proposal for a regulation
Article 40 – paragraph 1 – point i

Text proposed by the Commission	*Amendment*
(i) the applicant is of a nationality or, in the case of stateless persons, a former habitual resident of a third country for which the proportion of decisions by the determining authority granting international protection is, according to the latest available yearly Union-wide average Eurostat data, 20% or lower, unless a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data or the applicant belongs to a category of persons for whom the proportion of 20% or lower cannot be considered as representative for their protection needs;	(i) the applicant is of a nationality or, in the case of stateless persons, a former habitual resident of a third country for which the proportion of ***final*** decisions by the determining authority granting international protection is, according to the latest available yearly Union-wide average Eurostat data, 20% or lower, unless a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data or the applicant belongs to a category of persons for whom the proportion of 20% or lower cannot be considered as representative for their protection needs. ***Where the European Union Agency for Asylum has provided a guidance note on a country of origin in accordance with Article 11 of Regulation (EU) 2021/2303 showing that a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data, Member States shall use that guidance note as a reference for the application of this point***;

Or. en

Amendment 36
Fabienne Keller
Proposal for a regulation
Article 40 – paragraph 5 – point c

Text proposed by the Commission	*Amendment*
(c) the applicant is of a nationality or, in the case of stateless persons, a former habitual residence of a third country for	(c) the applicant is of a nationality or, in the case of stateless persons, a former habitual residence of a third country for

which the proportion of decisions granting international protection by the determining authority is, according to the latest available yearly Union-wide average Eurostat data, ***20%*** or lower, unless a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data or the applicant belongs to a category of persons for whom the proportion of ***20%*** or lower cannot be considered as representative for their protection needs;	which the proportion of decisions granting international protection by the determining authority is, according to the latest available yearly Union-wide average Eurostat data, ***10%*** or lower, unless a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data or the applicant belongs to a category of persons for whom the proportion of ***10%*** or lower cannot be considered as representative for their protection needs. ***Where the European Union Agency for Asylum has provided a guidance note on a country of origin in accordance with Article 11 of Regulation (EU) 2021/2303 showing that a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data, Member States shall use that guidance note as a reference for the application of this point***;

Or. en

Amendment 37
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. Following the screening procedure carried out in accordance with Regulation (EU) No XXX/XXX [Screening Regulation], and provided that the applicant has not yet been authorised to enter Member States' territory, a Member State may examine an application in a border procedure where that application has been made by a third-country national or stateless person who does not fulfil the conditions for entry in the territory of a Member State as set out in Article 6 of Regulation (EU) 2016/399. The border procedure may take place:	1. Following the screening procedure carried out in accordance with Regulation (EU) No XXX/XXX [Screening Regulation], ***where applicable*** and provided that the applicant has not yet been authorised to enter Member States' territory, a Member State may examine an application in a border procedure where that application has been made by a third-country national or stateless person who does not fulfil the conditions for entry in the territory of a Member State as set out in Article 6 of Regulation (EU) 2016/399. The border procedure may take place:

Or. en

Amendment 38
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) following apprehension ***in*** connection with an ***unauthorised*** crossing of the external border;	(b) following ***the*** apprehension ***of that third-country national or stateless person by the competent authorities in the territory of a Member State in direct*** connection with an ***irregular*** crossing of the external border;

Or. en

Amendment 39
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) following relocation in accordance with Article [X] of Regulation (EU) No XXX/XXX [***Ex Dublin*** Regulation].	(d) following relocation in accordance with Article [X] of Regulation (EU) No XXX/XXX [Regulation ***on Asylum and Migration Management***].

Or. en

Amendment 40
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 2 – point b

Text proposed by the Commission	*Amendment*
(b) the merits of an application in an accelerated examination procedure in the cases referred to in Article 40(1)	(b) the merits of an application in an accelerated examination procedure in the cases referred to in Article 40(1)***, including where the applicant could be considered,***

for serious reasons, a threat to internal security, and in full compliance with paragraph 11 of this Article.

Or. en

Amendment 41
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Member State shall examine an application in a border procedure in the cases referred to in paragraph 1 where the circumstances referred to in Article 40(1), point (c), (f) or (i), apply.	***deleted***

Or. en

Amendment 42
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 3a – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	3a. Member States shall not apply or shall cease to apply the border procedure at any stage of the procedure where:
	(a) the determining authority considers that the grounds for rejecting an application as inadmissible or for applying the accelerated examination procedure are not applicable or are no longer applicable;
	(b) the applicant is an unaccompanied minor;
	(c) the applicant is a minor below the age of 12 or a family member of such a minor or an unmarried minor sibling of such a minor;

(d) the applicant has been identified as a vulnerable person or as a person with special procedural or reception needs and the necessary support cannot be provided in the locations referred to in paragraph 14;

(e) there are medical reasons for not applying the border procedure, including mental health reasons;

(f) the guarantees and conditions for detention as provided for in Articles 8 to 11 of Directive XXX/XXX/EU [Reception Conditions Directive] are not met or are no longer met and the border procedure cannot be applied to the applicant concerned without detention.

Or. en

Amendment 43
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 3a – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	In the cases referred to in the first subparagraph, the competent authority shall authorise the applicant to enter the territory of the Member State and apply the appropriate asylum procedure.

Or. en

Amendment 44
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 3a – subparagraph 3 (new)

Text proposed by the Commission	*Amendment*
	For the purpose of applying point (c) of the first subparagraph, Member States shall not carry out a medical examination.

Where the result of an age assessment is not conclusive, or includes an age-range below the age of 12, Member States shall assume that the minor is below the age of 12.

Or. en

Amendment 45
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 3b – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	3b. Member States shall regularly monitor the application of paragraph 3a. Member States may request support from Union agencies for that purpose.

Or. en

Amendment 46
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 3b – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	The Commission shall regularly assess the application of this paragraph, with the support of the European Union Agency for Asylum, and shall report the conclusions of its assessments to the European Parliament and to the Council on a yearly basis.

Or. en

Amendment 47
Fabienne Keller
Proposal for a regulation

Article 41 – paragraph 4 – subparagraph 1

Text proposed by the Commission	*Amendment*
4. A Member State ***may decide*** not ***to*** apply paragraph ***3*** to nationals or stateless persons who are habitual residents of third countries for which that Member State has submitted a notification to the Commission in accordance with Article 25a(3) of Regulation (EC) No 810/2009.	4. A Member State ***shall*** not apply paragraph ***1*** to nationals or stateless persons who are habitual residents of third countries for which that Member State has submitted a notification to the Commission in accordance with Article 25a(3) of Regulation (EC) No 810/2009.

Or. en

Amendment 48
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 4 – subparagraph 2

Text proposed by the Commission	*Amendment*
Where, following the examination carried out in accordance with Article 25a(4) of Regulation (EC) No 810/2009, the Commission considers that the third country is cooperating sufficiently, the Member State ***shall*** again apply the provisions of paragraph ***3***.	Where, following the examination carried out in accordance with Article 25a(4) of Regulation (EC) No 810/2009, the Commission considers that the third country is cooperating sufficiently, the Member State ***may*** again apply the provisions of paragraph ***1***.

Or. en

Amendment 49
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 4 – subparagraph 3 – introductory part

Text proposed by the Commission	*Amendment*
Where the Commission considers that the third country concerned is not cooperating sufficiently, the Member State ***may*** continue not to apply paragraph ***3***:	Where the Commission considers that the third country concerned is not cooperating sufficiently, the Member State ***shall*** continue not to apply paragraph ***1***:

Or. en

Amendment 50
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 5

Text proposed by the Commission	*Amendment*
5. The border procedure may only be applied to unaccompanied minors and to minors below the age of 12 and their family members in the cases referred to in Article 40(5) (b).	***deleted***

Or. en

Amendment 51
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Applicants subject to the border procedure shall not be authorised to enter the territory of the Member State, without prejudice to paragraphs ***9*** and 11.	6. Applicants subject to the border procedure shall not be authorised to enter the territory of the Member State, without prejudice to paragraphs ***3a*** and 11.

Or. en

Amendment 52
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 6a – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	6a. Any restriction of an applicant's freedom of movement or any application of detention as part of the border procedure shall be in accordance with Directive XXX/XXX/EU [Reception Conditions Directive recast]. Minors shall, as a rule, not be detained in

accordance with Article 11(2) of that Directive.

Or. en

Amendment 53
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 6a – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	By ... [six months after the date of entry into force of this Regulation], the European Union Agency for Asylum shall, in accordance with Article 13(2) of Regulation (EU) 2021/2303, develop guidelines on different practices as regards alternatives to detention that could be used in the context of a border procedure.

Or. en

Amendment 54
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 6a – subparagraph 3 (new)

Text proposed by the Commission	*Amendment*
	By ... [18 months after the date of entry into force of this Regulation], the Commission shall evaluate the application of this paragraph.

Or. en

Amendment 55
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 7

Text proposed by the Commission	*Amendment*
7. When applying the border procedure, Member States ***may*** carry out	7. When applying the border procedure, Member States ***shall*** carry out

the procedure for determining the Member State responsible for examining the application as laid down in Regulation (EU) No XXX/XXX [Regulation on Asylum and Migration Management], without prejudice to the deadlines established in paragraph 11.	the procedure for determining the Member State responsible for examining the application as laid down in Regulation (EU) No XXX/XXX [Regulation on Asylum and Migration Management], without prejudice to the deadlines established in paragraph 11.

Or. en

Amendment 56
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 8

Text proposed by the Commission	*Amendment*
8. Where the conditions for applying the border procedure are met in the Member State from which the applicant is relocated, ***a border procedure may be applied by the*** Member State to which the applicant is relocated in accordance with Article ***[x]*** of Regulation EU (No) XXX/XXX [Regulation on Asylum and Migration Management], including in the cases referred to in paragraph 1, point (d).	8. Where the conditions for applying the border procedure are met in the Member State from which the applicant is relocated ***and in the*** Member State to which the applicant is relocated in accordance with Article ***57*** of Regulation EU (No) XXX/XXX [Regulation on Asylum and Migration Management], ***a border procedure may be applied by the Member State to which the applicant is relocated***, including in the cases referred to in paragraph 1, point (d).

Or. en

Amendment 57
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 8a (new)

Text proposed by the Commission	*Amendment*
	8a. Where the conditions for applying the border procedure are met in the Member State from which the applicant is transferred and in the Member State to which the applicant is transferred in accordance with Article 35 of Regulation

EU (No) XXX/XXX [Regulation on Asylum and Migration Management], a border procedure may be applied by the Member State to which the applicant is transferred.

Or. en

Amendment 58
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 9

Text proposed by the Commission	*Amendment*
9. Member States shall not apply or shall cease to apply the border procedure at any stage of the procedure where:	***deleted***
(a) the determining authority considers that the grounds for rejecting an application as inadmissible or for applying the accelerated examination procedure are not applicable or no longer applicable;	
(a) the determining authority considers that the grounds for rejecting an application as inadmissible or for applying the accelerated examination procedure are not applicable or no longer applicable;	
(b) the necessary support cannot be provided to applicants with special procedural needs in the locations referred to in paragraph 14;	
(c) there are medical reasons for not applying the border procedure,;	
(d) detention is used in individual cases and the guarantees and conditions for detention as provided for in Articles 8 to 11 of Directive XXX/XXX/EU [Reception Conditions Directive] are not met or no longer met and the border procedure cannot be applied to the	

applicant concerned without detention.

In such cases, the competent authority shall authorise the applicant to enter the territory of the Member State.

Or. en

Amendment 59
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 10

Text proposed by the Commission	*Amendment*
10. By way of derogation from Article 28 of this Regulation, applications subject to a border procedure shall be lodged no later than five days from registration for the first time or, following a relocation in accordance with Article [x] of Regulation EU (No) XXX/XXX [Regulation on Asylum and Migration Management], five days from when the applicant arrives in the Member State responsible following a transfer pursuant to Article 56(1), point (e), of that Regulation.	10. By way of derogation from Article 28 of this Regulation, applications subject to a border procedure shall be lodged no later than five ***working*** days from registration for the first time or, following a relocation in accordance with Article [x] of Regulation EU (No) XXX/XXX [Regulation on Asylum and Migration Management], five ***working*** days from when the applicant arrives in the Member State responsible following a transfer pursuant to Article 56(1), point (e), of that Regulation***, provided that she or he is given an effective opportunity to do so within those time-limits***.

Or. en

Amendment 60
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 11 – subparagraph 1

Text proposed by the Commission	*Amendment*
11. The border procedure shall be as short as possible while at the same time enabling a complete and fair examination of the claims. It shall encompass the decision referred to in paragraph 2 ***and 3***	11. The border procedure shall be as short as possible while at the same time enabling a complete and fair examination of the claims. It shall encompass the decision referred to in paragraph 2 and any

and any decision on an appeal if applicable and shall be completed within 12 weeks from when the application is registered. ***Following*** that period, the applicant shall be authorised to enter the Member State's territory ***except when Article 41a(1) is applicable.***	decision on an appeal if applicable and shall be completed within 12 weeks from when the application is registered, ***including where the border procedure is applied in another Member State following a relocation in accordance with paragraph 8 or a transfer in accordance with paragraph 8a***. ***Where,*** following that period, ***the first instance decision and the decision on appeal, if applicable, have not been taken***, the applicant shall be authorised to enter the Member State's territory.

Or. en

Amendment 61
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 12 – subparagraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) the applicant's right to remain has been revoked in accordance with Article 9(3), point (a);	(a) the applicant's right to remain ***on the territory of a Member State*** has been revoked in accordance with Article 9(3), point (a);

Or. en

Amendment 62
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 12 – subparagraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) the applicant has no right to remain in accordance with Article 54 and has not requested to be allowed to remain for the purposes of an appeal procedure within the applicable time-limit;	(b) the applicant has no right to remain ***on the territory of a Member State*** in accordance with Article 54 and has not requested to be allowed to remain for the purposes of an appeal procedure within the applicable time-limit;

Or. en

Amendment 63
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 12 – subparagraph 1 – point c

Text proposed by the Commission	*Amendment*
(c) the applicant has no right to remain in accordance with Article 54 and a court or tribunal has decided that the applicant is not to be allowed to remain pending the outcome of an appeal procedure.	(c) the applicant has no right to remain ***on the territory of a Member State*** in accordance with Article 54 and a court or tribunal has decided that the applicant is not to be allowed to remain pending the outcome of an appeal procedure.

Or. en

Amendment 64
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 12 – subparagraph 2

Text proposed by the Commission	*Amendment*
In such cases, where the applicant has been subject to a return decision issued in accordance with the Directive XXX/XXX/EU [Return Directive] or a refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399, Article 41a ***shall*** apply.	In such cases, where the applicant has been subject to a return decision issued in accordance with the Directive XXX/XXX/EU [Return Directive] or a refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399, Article 41a ***may*** apply.

Or. en

Amendment 65
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 13

Text proposed by the Commission	*Amendment*
13. During the examination of applications subject to a border procedure, the applicants shall be ***kept*** at or in	13. During the examination of applications subject to a border procedure, the applicants shall be ***accommodated in***

proximity to the external border or transit zones. Each Member State shall notify to the Commission, [*two months after the date of the application of this Regulation]* at the latest, the locations where the border procedure will be carried out, at the external borders, in the proximity to the external border or transit zones, including when applying paragraph ***3*** and ensure that the capacity of those locations is sufficient to process the applications covered by that paragraph. Any changes in the identification of the locations at which the border procedure is applied, shall be notified to the Commission two ***months*** in advance of the changes taking effect.

accordance with Directive XXX/XXX/EU [Reception Conditions Directive recast]. The competent national authorities may require applicants to stay at locations, designated at their discretion, for completing the border procedure on the Member States' territory. A border procedure may take place at or in proximity to the external border or transit zones ***on the Member State's territory, provided that the conditions under this paragraph are fully respected and applicants' special needs are properly safeguarded***. Each Member State shall notify to the Commission, [two months after the date of the application of this Regulation] at the latest, the locations where the border procedure will be carried out, at the external borders, in the proximity to the external border or transit zones, including when applying paragraph ***1*** and ensure that the capacity of those locations is sufficient to process the applications covered by that paragraph. Any changes in the identification of the locations at which the border procedure is applied ***on the basis of a decision from competent national authorities*** shall be notified to the Commission ***as early as possible and at least two weeks*** in advance of the changes taking effect.

Or. en

Amendment 66
Fabienne Keller
Proposal for a regulation
Article 41 – paragraph 14

Text proposed by the Commission	*Amendment*
14. In situations where the capacity of ***the locations*** notified by ***Member States*** pursuant to paragraph ***14*** is temporarily insufficient to process the applicants covered by paragraph *3*, ***Member States may*** designate other locations within ***the***	14. In situations where, ***on the basis of an assessment by the Commission or a competent national authority of the Member State concerned, it is found that*** the capacity of ***a location as*** notified by ***that Member State*** pursuant to paragraph

territory ***of the Member State*** and upon notification to the Commission accommodate applicants ***there, on a temporary basis and for the shortest time necessary.***

13 is temporarily insufficient to process the applicants covered by paragraph ***1***, ***that Member State shall*** designate other locations within ***its*** territory and, upon notification to the Commission, ***shall*** accommodate applicants***, under the conditions provided for in Directive XXX/XXX/EU [Reception Conditions Directive recast]***.

Or. en

Amendment 67
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 1 – subparagraph 1

Text proposed by the Commission	*Amendment*
1. ***Third-country nationals and stateless persons whose*** application ***is rejected*** in the context of the procedure referred to in Article 41 ***shall not be authorised to enter the territory of the Member State.***	1. ***Following the rejection of the*** application ***of a third-country national*** in the context of the procedure referred to in Article 41***, Member States may carry out the return of the third-country national in a border procedure.***

Or. en

Amendment 68
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 1 – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	Where a Member State carries out the return of a third country national in a border procedure, the third-country national shall not be authorised to enter the territory of that Member State, without prejudice to Article 6(5) of the Regulation (EU) 2016/39.

Or. en

Amendment 69
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 2

Text proposed by the Commission	*Amendment*
2. Persons referred to in paragraph 1 shall be ***kept*** for a period not exceeding 12 weeks in locations at or in proximity to the external border or transit zones***; where a Member State cannot accommodate them in those locations, it can resort to the use of other locations within its territory.*** The 12-week period shall start from when the applicant***, third-country national or stateless person*** no longer has a right to remain ***and*** is not allowed to remain.	2. Persons referred to in paragraph 1 shall be ***accommodated*** for a period not exceeding 12 weeks in locations ***designated at the discretion of the Member States. Such locations may be situated*** at or in proximity to the external border or transit zones ***in the territory of the Union. The conditions in those locations shall meet standards equivalent to those of the material reception conditions and health care provided to applicants in accordance with Articles 16 and 17 of Directive XXX/XXX/EU [Reception Conditions Directive recast]***. The 12-week period shall start from when the applicant no longer has a right to remain ***or*** is not allowed to remain.

Or. en

Amendment 70
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 3

Text proposed by the Commission	*Amendment*
3. For the purposes of this Article, Article 3, Article 4(1), Articles 5 to 7, Article 8(1) to (5), Article 9(2) to (4), Articles 10 to 13, Article 15, Article 17***(1)***, Article 18(2) to (4) and Articles 19 to 21 of Directive XXX/XXX/EU [recast Return Directive] shall apply.	3. For the purposes of this Article, Article 3, Article 4(1), Articles 5 to 7, Article 8(1) to (5), Article 9(2) to (4), Articles 10 to 13, Article 15, Article 17, Article 18(2) to (4) and Articles 19 to 21 of Directive XXX/XXX/EU [recast Return Directive] shall apply.

Or. en

Amendment 71
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 4

Text proposed by the Commission	*Amendment*
4. Without prejudice to the possibility to return voluntarily at any moment, persons referred to in paragraph 1 ***may*** be granted a period for voluntary departure ***not exceeding 15*** days.	4. Without prejudice to the possibility to return voluntarily at any moment, persons referred to in paragraph 1 ***shall*** be granted a period for voluntary departure ***of 25*** days.

Or. en

Amendment 72
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 5

Text proposed by the Commission	*Amendment*
5. Persons referred to in paragraph 1 who have been detained during the procedure referred to in Article 41 ***and*** who no longer have a right to remain and are not allowed to remain may continue to be detained for the purpose of preventing entry into the territory of the Member State, preparing the return or carrying out the removal process.	5. Persons referred to in paragraph 1 who have been detained during the procedure referred to in Article 41 who no longer have a right to remain and are not allowed to remain may continue to be detained for the purpose of preventing entry into the territory of the Member State, preparing the return or carrying out the removal process.

Or. en

Amendment 73
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 6

Text proposed by the Commission	*Amendment*
6. Persons referred to in paragraph 1 who no longer have a right to remain and are not allowed to remain, and who were not detained during the procedure referred	6. Persons referred to in paragraph 1 who no longer have a right to remain and are not allowed to remain, and who were not detained during the procedure referred

to in Article 41, may be detained if there is a risk of absconding within the meaning of Directive XXX/XXX/EU [Return Directive], if they avoid or hamper the preparation of return or the removal process or they pose a risk to ***public policy,*** public security or national security.

to in Article 41, may be detained if there is a risk of absconding within the meaning of Directive XXX/XXX/EU [Return Directive], if they avoid or hamper the preparation of return or the removal process or they pose a risk to public security or national security.

Or. en

Amendment 74
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 7

Text proposed by the Commission	*Amendment*
7. Detention shall be maintained for as short a period as possible, as long as removal arrangements are in progress and executed with due diligence. The period of detention shall not exceed the period referred to in paragraph 2 and shall be included in the maximum periods of detention set in Article 15 (5) and (6) of Directive XXX/XXX/EU [Return Directive].	7. Detention shall be maintained for as short a period as possible, ***and only*** as long as ***a reasonable prospect of*** removal ***exists and*** arrangements are in progress and executed with due diligence. The period of detention shall not exceed the period referred to in paragraph 2 and shall be included in the maximum periods of detention set in Article 15 (5) and (6) of Directive XXX/XXX/EU [Return Directive].

Or. en

Amendment 75
Fabienne Keller
Proposal for a regulation
Article 41 a – paragraph 8

Text proposed by the Commission	*Amendment*
8. Member States that, following the rejection of an application in the context of the procedure referred to in Article 41, issue a refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399, ***and that have decided not to apply*** Directive XXX/XXX/EU [Return	8. Member States that, following the rejection of an application in the context of the procedure referred to in Article 41, issue a refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399, ***shall not apply Article 2(2), point (a), of*** Directive XXX/XXX/EU [Return

Directive] ***in such cases pursuant to Article 2(2), point (a), of that Directive, shall ensure that the treatment and level of protection of the third-country nationals and stateless persons subject to a refusal of entry are in accordance with Article 4(4) of Directive XXX/XXX/EU [Return Directive] and are equivalent to the ones set out in paragraphs 2, 4 and 7 of this Article.***	Directive].

Or. en

Amendment 76
Fabienne Keller
Proposal for a regulation
Article 41 b – title (new)

Text proposed by the Commission	*Amendment*
	Personnel in the border procedure

Or. en

Amendment 77
Fabienne Keller
Proposal for a regulation
Article 41 b – paragraph 1 (new)

Text proposed by the Commission	*Amendment*
	1. In accordance with Article 5 of this Regulation, Member States shall provide the determining authority with sufficient personnel who have the appropriate knowledge and have received the necessary training, including on fundamental rights, to carry out its tasks in the context of the border procedure.

Or. en

Amendment 78
Fabienne Keller
Proposal for a regulation

Article 41 b – paragraph 2 (new)

Text proposed by the Commission	*Amendment*
	2. By ... [six months after the date of entry into force of this Regulation] the European Union Agency for Asylum shall issue guidelines, in cooperation with national authorities and other Union bodies, offices and agencies, to assist Member States with the planning and allocation of the appropriate level of personnel, for the purposes of paragraph 1 of this Article, in accordance with Article 13 of Regulation (UE) 2021/2303. Those guidelines shall specify the requirements for personnel in order to be able to comply with procedural and reception requirements, in terms of number, type and qualifications.

Or. en

Amendment 79
Fabienne Keller
Proposal for a regulation
Article 41 b – paragraph 3 (new)

Text proposed by the Commission	*Amendment*
	3. Where the European Union Agency for Asylum considers that the availability and capacity of personnel is insufficient on the basis of Article 14(3), point (b), of Regulation (EU) 2021/2303, Member States may request the assistance of the Union in accordance with Article 57a of this Regulation.

Or. en

Amendment 80
Fabienne Keller
Proposal for a regulation

Article 43 – paragraph 1 – point a a (new)

Text proposed by the Commission	*Amendment*
	(aa) a first subsequent application has been lodged within one year of the decision of the determining authority on the first application merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from the Member State, pending the finalisation of the decision declaring that application inadmissible in cases where it is immediately clear to the determining authority that no new elements have been presented in accordance with Article 42(4);

Or. en

Amendment 81
Fabienne Keller
Proposal for a regulation
Article 43 – paragraph 1 – point c

Text proposed by the Commission	*Amendment*
(c) a first subsequent application has been lodged within one year of the decision of the determining authority on the first application merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from the Member State, pending the finalisation of the decision declaring that application inadmissible in cases where it is immediately clear to the determining authority that no new elements have been presented in accordance with Article 42(4)	***deleted***

Or. en

Amendment 82
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. Applicants shall have the right to an effective remedy before a court or tribunal against:	1. Applicants shall have the right to an effective remedy before a court or tribunal ***in accordance with the basic principles and guarantees provided for in Chapter II*** against ***the following***:

Or. en

Amendment 83
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) a decision rejecting an application as unfounded in relation to both refugee and subsidiary protection status;	(b) a decision rejecting an application as ***unfounded or manifestly*** unfounded in relation to both refugee and subsidiary protection status;

Or. en

Amendment 84
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 1 – subparagraph 1 – point e a (new)

Text proposed by the Commission	*Amendment*
	(ea) a decision determining the applicant's age.

Or. en

Amendment 85
Fabienne Keller

Proposal for a regulation
Article 53 – paragraph 1 – subparagraph 2

Text proposed by the Commission	*Amendment*
Return decisions ***shall*** be appealed before the same court or tribunal and within the same judicial proceedings and the same time-limits as decisions referred to in points (a), (b), (c) and (d).	***In order to fulfil the time-limits provided for in this Regulation, return*** decisions ***may*** be appealed before the same court or tribunal and within the same judicial proceedings and the same time-limits as decisions referred to in points (a), (b), (c) and (d). ***Applicants shall be duly informed in a timely manner of their right to appeal.***

Or. en

Amendment 86
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Persons recognised as eligible for subsidiary protection shall have the right to an effective remedy against a decision considering their application unfounded in relation to refugee status. ***Where subsidiary protection status granted by a Member State offers the same rights and benefits as refugee status under Union and national law, the appeal against that decision in that Member State may be considered as inadmissible where provided for in national law.***	2. Persons recognised as eligible for subsidiary protection shall have the right to an effective remedy against a decision considering their application unfounded in relation to refugee status.

Or. en

Amendment 87
Fabienne Keller
Proposal for a regulation

Article 53 – paragraph 3 – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	Without prejudice to the applicant's right to an oral hearing as a general principle, the court or tribunal may consider that the procedure referred to in the first subparagraph be done through written submissions in the context of the border procedure.

Or. en

Amendment 88
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Applicants shall be provided with interpretation ***for the purpose of a hearing*** before the competent court or tribunal ***where such a hearing takes place and*** where appropriate communication cannot otherwise be ensured.	***4. For the purposes of a hearing,*** applicants shall be provided with interpretation ***in a language they understand by qualified personnel*** before the competent court or tribunal where appropriate communication cannot otherwise be ensured.

Or. en

Amendment 89
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 6

Text proposed by the Commission	*Amendment*
6. If the documents are not submitted in time for the court or tribunal to ensure their translation, the court or tribunal may refuse to take those documents into account if they are not accompanied by a translation provided by the applicant.	***deleted***

Or. en

Amendment 90
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 7 – subparagraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) at least ***one week*** in the case of a decision rejecting an application as inadmissible, as implicitly withdrawn or as unfounded if at the time of the decision any of the circumstances listed in Article 40(1) or (5) apply;	(a) at least ***7 working days*** in the case of a decision rejecting an application as inadmissible, as implicitly ***or explicitly*** withdrawn ***or manifestly unfounded*** or as unfounded if at the time of the decision any of the circumstances listed in Article 40(1) or (5) apply;

Or. en

Amendment 91
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 7 – subparagraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) ***between a minimum of two weeks and a maximum of two months*** in all other cases.	(b) ***at least 15 working days*** in all other cases.

Or. en

Amendment 92
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 7 – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	Member States shall extend the time-limits laid down in this paragraph where it is necessary due to the specific circumstances of the application.

Or. en

Amendment 93
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 8

Text proposed by the Commission	*Amendment*
8. The time-limits referred to in paragraph 7 shall start to run from the date when the decision of the determining authority is ***notified to*** the applicant or his or her representative or legal adviser. The procedure for notification shall be laid down in national law.	8. The time-limits referred to in paragraph 7 shall start to run from the date when the decision of the determining authority is ***effectively received by*** the applicant or his or her representative or legal adviser. ***Where the applicant has requested free legal assistance and representation, the time-limits shall only start to run from the date on which a legal adviser is appointed or, in case of a negative decision, from the date on which that negative decision becomes final***. The procedure for notification shall be laid down in national law.

Or. en

Amendment 94
Fabienne Keller
Proposal for a regulation
Article 53 – paragraph 9

Text proposed by the Commission	*Amendment*
9. Member States ***shall*** provide for only one level of appeal in relation to a decision taken in the context of the border procedure.	9. Member States ***may*** provide for only one level of appeal in relation to a decision taken in the context of the border procedure.

Or. en

Amendment 95
Fabienne Keller
Proposal for a regulation

Article 54 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Applicants shall have the right to remain on the territory of the Member States until the time-limit within which ***to*** exercise their right to an effective remedy before a court or tribunal of first instance has expired and, where such a right has been exercised within the time-limit, pending the outcome of the remedy.	2. Applicants shall have the right to remain on the territory of the Member States until the time-limit within which ***applicants can*** exercise their right to an effective remedy before a court or tribunal of first instance has expired and, where such a right has been exercised within the time-limit, pending the outcome of the remedy.

Or. en

Amendment 96
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 3 – introductory part

Text proposed by the Commission	*Amendment*
3. ***The*** applicant shall not have ***the*** right to remain pursuant to paragraph 2 where the competent authority has taken one of the following decisions:	3. ***Without prejudice to the principle of non-refoulement, Member States may provide that an*** applicant ***does*** not have ***a*** right to remain pursuant to paragraph 2 where the competent authority has taken one of the following decisions:

Or. en

Amendment 97
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 3 – point a

Text proposed by the Commission	*Amendment*
(a) a decision which rejects an application as unfounded or manifestly unfounded if at the time of the decision any of the circumstances listed in Article 40(1) and (5) apply ***[including safe country of origin] or in the cases subject to the***	(a) a decision***, including a decision in a border procedure,*** which rejects an application as unfounded or manifestly unfounded if at the time of the decision any of the circumstances listed in Article 40(1)***, points (a), (b), (c), (d), (e), (f),*** and (5),

border procedure;	***point (b),*** apply ***unless Article 47(4a) applies***;

Or. en

Amendment 98
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 3 – point b

Text proposed by the Commission	*Amendment*
(b) a decision which rejects an application as inadmissible pursuant to Article 36(1)(a) ***[first country of asylum] or (c) [subsequent applications without new elements]***;	(b) a decision which rejects an application as inadmissible pursuant to Article 36(1)***, point*** (a);

Or. en

Amendment 99
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 3 – point c

Text proposed by the Commission	*Amendment*
(c) a decision which rejects an application as ***implicitly*** withdrawn;	(c) a decision which rejects an application as ***explicitly*** withdrawn;

Or. en

Amendment 100
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 3 – point e

Text proposed by the Commission	*Amendment*
(e) a decision to withdraw international protection in accordance with Article 14(1), points (b), (d) and (e), and Article 20(1), point (b), of Regulation	***deleted***

No XXX/XXX (Qualification Regulation).

Or. en

Amendment 101
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 4

Text proposed by the Commission	*Amendment*
4. In the cases referred to in paragraph 3, a court or tribunal shall have the power to decide, following an examination of both facts and points of law, whether or not the applicant shall be allowed to remain on the territory of the Member States pending the outcome of the remedy upon the applicant's request. The competent court or tribunal ***may*** under national law have the power to decide on this matter *ex officio*.	4. In the cases referred to in paragraph 3, a court or tribunal shall have the power to decide, following an examination of both facts and points of law, whether or not the applicant shall be allowed to remain on the territory of the Member States pending the outcome of the remedy upon the applicant's request. The competent court or tribunal ***shall*** under national law have the power to decide on this matter *ex officio*.

Or. en

Amendment 102
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 5 – point a

Text proposed by the Commission	*Amendment*
(a) the applicant shall have a time-limit of at least 5 days from the date when the decision is notified to him or her to request to be allowed to remain on the territory pending the outcome of the remedy;	(a) ***where the decision has been taken in a border procedure,*** the applicant shall have a time-limit of at least 5 ***working*** days from the date when the decision is notified to him or her to request to be allowed to remain on the territory pending the outcome of the remedy;

Or. en

Amendment 103
Fabienne Keller

Proposal for a regulation
Article 54 – paragraph 5 – point c

Text proposed by the Commission	*Amendment*
(c) the applicant shall be provided***,*** ***upon request***, with free legal assistance and representation in accordance with Article 15(4) and (5);	(c) the applicant shall be provided, with free legal assistance and representation in accordance with Article 15(4) and (5);

Or. en

Amendment 104
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 5 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) the applicant shall be duly informed in a timely manner of her or his rights under this paragraph.

Or. en

Amendment 105
Fabienne Keller
Proposal for a regulation
Article 54 – paragraph 6

Text proposed by the Commission	*Amendment*
6. In cases of subsequent applications, by way of derogation from paragraph ***6***, point (d) of this Article, Member States may provide in national law that the applicant shall not have a right to remain, without prejudice to the respect of the principle of *non-refoulement*, if the appeal has been made merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from the Member State, in cases where it is immediately clear to the court that no new elements have been presented in	6. In cases of subsequent applications, by way of derogation from paragraph ***5***, point (d) of this Article, Member States may provide in national law that the applicant shall not have a right to remain, without prejudice to the respect of the principle of *non-refoulement*, if the appeal has been made merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from the Member State, in cases where it is immediately clear to the court that no new elements have been presented in

accordance with Article 42(4).	accordance with Article 42(4).

Or. en

Amendment 106
Fabienne Keller
Proposal for a regulation
Article 57 a – title (new)

Text proposed by the Commission	*Amendment*
	Role of Union agencies

Or. en

Amendment 107
Fabienne Keller
Proposal for a regulation
Article 57 a – paragraph 1 (new)

Text proposed by the Commission	*Amendment*
	1. The Union agencies acting in the field of asylum and migration management shall, within their respective mandates, provide support to the Member States and the Commission with a view to ensuring the proper implementation and functioning of this Regulation, in particular the accelerated examination procedure under Article 40, the border procedure for the examination of applications for international protection under Article 41 and the border procedure for carrying out return under Article 41a.

Or. en

Amendment 108
Fabienne Keller
Proposal for a regulation
Article 57 a – paragraph 2 – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	2. The European Union Agency for Asylum shall, in accordance with Article

	16(1), point (d), of Regulation (EU) 2021/2303, propose on its own initiative operational and technical assistance to a Member State related to the implementation of this Regulation. The European Border and Coast Guard Agency shall, in accordance with Article 48 of Regulation (EU) 2019/1896, propose on its own initiative operational and technical assistance to a Member State related to the implementation of this Regulation.The European Union Agency for Fundamental Right shall, in accordance with Article 4 of Regulation (EU) 168/2007, propose on its own initiative operational and technical assistance to a Member State related to the implementation of this Regulation.

Or. en

Amendment 109
Fabienne Keller
Proposal for a regulation
Article 57 a – paragraph 2 – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	Where a Member State does not agree with a proposal for operational and technical assistance from the European Union Agency for Asylum or from the European Border and Coast Guard Agency, as referred to in the first subparagraph, it shall explain its reasons for rejecting the proposal in a timely manner.

Or. en

Amendment 110
Fabienne Keller
Proposal for a regulation

Article 57 a – paragraph 3 (new)

Text proposed by the Commission	*Amendment*
	3. For the purposes of this Article, the European Union Agency for Asylum, the European Border and Coast Guard Agency and the European Union Agency for Fundamental Rights shall each lay down a list of tasks in their remit for the implementation of this Regulation, in accordance with their respective mandate. They shall communicate that list to the Commission and to the Member States by ... [one month after the date of entry into force of this Regulation].

Or. en

Amendment 111
Fabienne Keller
Proposal for a regulation
Article 57 c – title (new)

Text proposed by the Commission	*Amendment*
	Monitoring of respect for fundamental rights in the border procedure

Or. en

Amendment 112
Fabienne Keller
Proposal for a regulation
Article 57 c – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	1. Member States shall adopt relevant provisions to investigate all allegations of non-respect for fundamental rights during the border procedure for the examination of applications for international protection

under Article 41 and the border procedure for carrying out return under Article 41a.

Or. en

Amendment 113
Fabienne Keller
Proposal for a regulation
Article 57 c – paragraph 1 – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	Member States shall adopt provisions under national law to penalise a failure to respect fundamental rights. The penalties provided for shall be effective, proportionate and dissuasive.

Or. en

Amendment 114
Fabienne Keller
Proposal for a regulation
Article 57 c – paragraph 2 – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	2. Each Member State shall establish an independent monitoring mechanism or designate an existing independent mechanism that meets the criteria set out in this Regulation.

Or. en

Amendment 115
Fabienne Keller
Proposal for a regulation
Article 57 c – paragraph 2 – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	The monitoring mechanism shall monitor compliance with Union and international law, including the Charter of Fundamental Rights of the European Union, during the border procedure,

including in relation to:

(a) the access to the asylum procedure;

(b) the procedural safeguards applicable to the person concerned;

(c) the compliance of personnel and actors involved in the border procedure with Union and international law;

(d) the principle of non-refoulement;

(e) the best interests of the child;

(f) the right to health care;

(g) reception conditions;

(h) the relevant rules on detention of the person concerned, in particular rules concerning the grounds for and the duration of detention.

Or. en

Amendment 116
Fabienne Keller
Proposal for a regulation
Article 57 c – paragraph 2 – subparagraph 3 (new)

Text proposed by the Commission	*Amendment*
	The monitoring mechanism shall ensure that allegations of non-respect for fundamental rights in all relevant activities for all third-country nationals referred to in Article 3(1) and (2) are properly investigated and dealt with effectively and without undue delay or, where necessary, trigger such investigations. It shall monitor the progress of those investigations.

Or. en

Amendment 117
Fabienne Keller
Proposal for a regulation

Article 57 c – paragraph 3 – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	3. Member States shall put in place adequate safeguards to guarantee the independence of the monitoring mechanism, in accordance with criteria recognised under relevant international human rights law and standards.

Or. en

Amendment 118
Fabienne Keller
Proposal for a regulation
Article 57 c – paragraph 3 – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	Member States shall involve national human rights institutions, national ombudspersons and international organisations in the management and operation of the monitoring mechanism, and their participation in the mechanism. They may also involve relevant non-governmental organisations. Where one or more of those institutions, ombudspersons or organisations are not directly involved in the mechanism, the bodies responsible for the monitoring mechanism shall establish and maintain close links with them. The bodies responsible for the monitoring mechanism shall establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor.

Or. en

Amendment 119
Fabienne Keller
Proposal for a regulation

Article 57 c – paragraph 4 (new)

Text proposed by the Commission	*Amendment*
	4. Member States shall provide bodies responsible for the monitoring mechanism with access to all relevant locations, including reception and detention facilities, individuals and documents, in so far as such access is necessary to allow the bodies responsible for the monitoring mechanism to fulfil the obligations set out in this Article. Where information gathered on an individual case suggests that a criminal offence has been committed, that information shall be handed over to the national prosecuting authorities or prosecution service.

Or. en

Amendment 120
Fabienne Keller
Proposal for a regulation
Article 57 c – paragraph 5 (new)

Text proposed by the Commission	*Amendment*
	5. The FRA shall issue general guidance for Member States on the establishment of a monitoring mechanism and its independent functioning. Furthermore, Member States may request the FRA to support them in developing their national monitoring mechanism, including the safeguards for the independence of such mechanisms, and the monitoring methodology and appropriate training schemes.

Or. en

Amendment 121
Fabienne Keller
Proposal for a regulation

Article 57 c – paragraph 6 – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	6. The monitoring mechanism shall be complementary to the mechanism referred to in Article 7 of Regulation (EU) XXX/XXX [Screening Regulation].

Or. en

Amendment 122
Fabienne Keller
Proposal for a regulation
Article 57 c – paragraph 6 – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	The monitoring mechanism is without prejudice to the monitoring mechanism for the purpose of monitoring the operational and technical application of the CEAS set out in Article 14 of Regulation (EU) 2021/2303 and to the role of the fundamental rights monitors in monitoring respect for fundamental rights in all activities of the European Border and Coast Guard Agency set out in Article 80 of Regulation (EU) 2019/1896.

Or. en

Amendment 123
Fabienne Keller
Proposal for a regulation
Article 59 a – title (new)

Text proposed by the Commission	*Amendment*
	Monitoring

Or. en

Amendment 124
Fabienne Keller
Proposal for a regulation

Article 59 a – paragraph 1 (new)

Text proposed by the Commission	*Amendment*
	1. The Commission shall regularly monitor the application of this Regulation. For that purpose, it shall be assisted by the European Union Agency for Asylum, in accordance with Article 14 of Regulation (EU) 2021/2303.

Or. en

Amendment 125
Fabienne Keller
Proposal for a regulation
Article 59 a – paragraph 2 (new)

Text proposed by the Commission	*Amendment*
	2. The monitoring shall cover, in particular, the following aspects:
	(a) the access that all competent actors, including for non-governmental organisations, have to facilities used for the purposes of a border procedure;
	(b) the personnel in accordance with Article 41b and the coordination between actors in accordance with Article 41c;
	(c) reception conditions in accordance with Article 41a(2) and requirements specific to the border procedure;
	(d) the respect for procedural rights, such as access to information, legal assistance and representation and interpretation or the right to an effective remedy.

Or. en

Amendment 126
Fabienne Keller
Proposal for a regulation

Article 59 a – paragraph 3 (new)

Text proposed by the Commission	*Amendment*
	3. Member States shall regularly report to the Commission and to the European Union Agency for Asylum in relation to the implementation and application of Sections III and IV.

Or. en

Amendment 127
Fabienne Keller
Proposal for a regulation
Article 59 a – paragraph 4 (new)

Text proposed by the Commission	*Amendment*
	4. The European Union Agency for Asylum shall indicate to a Member State where, on the basis of operational and technical monitoring pursuant to Article 14 of Regulation (EU) 2021/2303, it considers that the capacity of a location it has notified pursuant to Article 41(14) is temporarily insufficient for the purpose of processing applicants.

Or. en

Amendment 128
Fabienne Keller
Proposal for a regulation
Article 60 – title

Text proposed by the Commission	*Amendment*
Monitoring and evaluation	***Evaluation***

Or. en

Amendment 129
Fabienne Keller
Proposal for a regulation
Article 60 – paragraph 1a (new)

Text proposed by the Commission	*Amendment*
	1a. As part of its report, the Commission shall report on the methodology used to assess the situation in third countries included in the Union common list of safe third countries of origin, or the potential inclusion of such countries on, or their suspension from, the list. It shall also report on the implementation of procedural safeguards for those seeking international protection originating from a country on the Union common list of safe countries of origin

Or. en

1. ***Amending Amended 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***
LIBE/9/00168

***I 2016/0224(COD) COM(2020)0611

4.1 Final vote

38	+
PPE	Isabel Benjumea Benjumea, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Karolin Braunsberger-Reinhold, Lena Düpont, Othmar Karas, Jeroen Lenaers, Aušra Maldeikienė, Alessandra Mussolini, Emil Radev, Karlo Ressler, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Malik Azmani, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Maite Pagazaurtundúa, Susana Solís Pérez, Ramona Strugariu, Yana Toom
S&D	Pietro Bartolo, Maria Grapini, Sylvie Guillaume, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Carina Ohlsson, Thijs Reuten, Daniela Rondinelli, Günther Sidl, Birgit Sippel, Elena Yoncheva

21	-
ECR	Jorge Buxadé Villalba, Vincenzo Sofo
ID	Annika Bruna, Patricia Chagnon, Jean-Paul Garraud, Joachim Kuhs, Annalisa Tardino, Tom Vandendriessche
NI	Laura Ferrara
PPE	Lukas Mandl
The Left	Konstantinos Arvanitis, Malin Björk, Cornelia Ernst, Sira Rego
Verts/ALE	Damian Boeselager, Saskia Bricmont, Damien Carême, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

6	0
ECR	Patryk Jaki, Assita Kanko, Beata Kempa, Jadwiga Wiśniewska
PPE	Nuno Melo, Nadine Morano

Key to symbols:
+ : in favour
- : against
0 : abstention