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ANNEX

Detailed Explanation of the Amended Proposal

Accompanying the document

Amended proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on common procedures for granting and withdrawing international protection status

(Recast)

The detailed explanation of the amended proposal is presented in comparison to the 2009 Commission proposal amending Directive 2005/85/EC.

Article 1

There are no changes compared to the proposal of 2009.

Article 2

The Article has been changed compared to the 2009 proposal in respect to:

- (d) The definition of applicants in need of special procedural guarantees:
 - (i) introduces a more precise term, namely "applicant in need of special procedural guarantees", which reflects better that special needs have to be taken into account for the purposes of the Asylum Procedures Directive,
 - (ii) introduces sexual orientation and gender identity cases where applicants may need special procedural guarantees given that in these cases, *inter alia*, the examination of the application and especially the personal interview has to ensure that the applicant is able to present his/her case, and
 - (iii) clarifies the nature of certain grounds by replacing the term "mental health problems" with "serious physical illness, mental illness or post traumatic disorders".
- (n) The modified proposal extends the scope of the term of "representative" in order to clarify that, depending on the given national system, not only a person but also an organisation can legally represent an unaccompanied minor.
- (q) This new definition for subsequent applications is necessary to support the clarification of the rules on subsequent applications throughout the text.

Article 3

There are no changes compared to the proposal of 2009.

Article 4

The modified proposal introduces significant changes in order to simplify the rules and facilitate their implementation.

It is clarified that the determining authority should be provided with appropriate means, including sufficient competent personnel, to carry out its tasks, and that the personnel of the determining authority shall be properly trained. In order to simplify the rules on the training activities that need to be provided for the personnel, the modified proposal has been aligned with the relevant rules of the European Asylum Support Office Regulation (Regulation (EU) 439/2010) by a reference to Article 6(4)(a) to (e) thereof. This requirement on training thus covers now the following elements:

- (a) international human rights and the asylum acquis of the Union, including specific legal and case-law issues;

- (b) issues related to the handling of asylum applications from minors and vulnerable persons with specific needs;
- (c) interview techniques;
- (d) the use of expert medical and legal reports in asylum procedures;
- (e) issues relating to the production and use of information on countries of origin;
- (f) reception conditions, including special attention given to vulnerable groups and victims of torture.

As regards the exceptions from the principle of single determining authority, a new point (b) has been introduced for cases where another authority (e.g. border guards) grant or refuse permission to enter to the territory in case of a border procedure. It has been clarified that in these cases, the decision on the permission must be based on the opinion of the determining authority. This change aims to align the rules of the Directive with the variety of arrangements on border control in Member States.

Article 5

There are no changes compared to the proposal of 2009.

Article 6

In order to provide a clearer structure, Article 6 of the 2009 proposal has been divided into two Articles: Article 6 of the modified proposal lays down rules on the general principle of easy and timely access, while the new Article 7 deals with applications made on behalf of dependant or minors.

The terminology of the article has been clarified compared to both the 2009 proposal and to the current Directive. A clearer distinction is introduced between the terms "make" and "lodge" relating to an application for international protection. In line with the definition of an application of Article 2(b), an application is deemed to be "made" as soon as a person who can be understood to seek refugee status or subsidiary protection status makes a request for protection from a Member State. This act does not require any administrative formalities. Relevant administrative formalities are accomplished when an application is "lodged". In line with paragraph 2, Member States shall give an effective opportunity to lodge an application as soon as possible, notwithstanding any practical restrictions in line with paragraph 1, to any person who wishes to make an application.

In paragraph 3, it has been clarified that only the fact that a person who has made an application is an applicant needs to be registered within 72 hours, not that the complete registration of the application must be done within this time limit. This rule is clearer and more compatible with the specificities of national asylum systems.

The requirement to facilitate access to asylum procedures by authorities other than the determining authority has been simplified. It is now a general principle that the personnel of authorities likely to receive applications shall have the relevant instructions and the necessary training to comply with the obligation to facilitate access to procedure. A reference to the guidelines developed by the European Asylum Support Office aims to ensure further harmonisation through operational means.

In order to allow Member States to deal efficiently with applications in case a large number of third country nationals or stateless persons applies simultaneously, the proposal provides for the possibility to extend the 72 hour deadline to 7 working days.

Article 7

The modified proposal clarifies the conditions when a minor can make an application on his/her own behalf. This includes the condition that the minor has the legal capacity to act in procedures according to national law of the Member State concerned or through his/her parents or other adult family members.

Article 8 (corresponds to Article 7 of the 2009 proposal)

This Article simplifies the rules of the corresponding Article 7 of the 2009 proposal. The simplification aims to give more flexibility to Member States in the implementation of these rules. Especially concerning interpretation arrangements, it has been clarified that such arrangements need to be provided only to the very basic extent that is necessary to facilitate access to procedure. In essence, the objective is to enable the persons who wish to request international protection to do so. The term "arrangement" indicates that Member States have a wide discretion to find the appropriate modalities.

Article 9 (corresponds to Article 8 of the 2009 proposal)

There are no changes compared to the proposal of 2009.

Article 10 (corresponds to Article 9 of the 2009 proposal)

In order to reflect the establishment of the European Asylum Support Office and its specific important role in the EU in supporting Member States with regard to reliable country of origin information in asylum procedures, the sequence between the Office and UNCHR has been reversed.

Under paragraph 3(b), the reference to the right of the applicant and the legal adviser to access country-of-origin information has been deleted from this Article. It has been moved to Article 12(1) as a new point (d) to improve coherence of the text.

An additional element has been added to point (d) under paragraph 3 to ensure that the personnel examining applications and taking decisions have also the possibility to seek advice on religious matters which may be relevant in cases where refugees are persecuted for reasons relating to religion.

Article 11 (corresponds to Article 10 of the 2009 proposal)

Two additional grounds have been added to paragraph 3 taking into account that disclosure of particular information on sexual orientation or gender identity could also jeopardize an applicant's interest in case of a single decision that covers all dependants.

Article 12 (corresponds to Article 11 of the 2009 proposal)

Paragraph 1(a) and (f) has been amended. The proposal stipulates that the language to be used to inform the applicant on the procedure should be a language that the applicant understands or is reasonably supposed to understand. Furthermore, under (a), in order to increase the applicants' awareness of the consequences of withdrawal, Member States are required to inform applicants about these rules at the beginning of the procedure. This safeguard is necessary due to changes in the rules on withdrawal.

In paragraph (1)(b), it has been clarified that it is not only the determining authority that can call upon the applicant to be interviewed, but also other competent authorities in case of an admissibility interview.

New point (d) contains the right of the applicants and, if applicable, their legal advisers to access to information referred to in Article 10(3)(b). This change does not introduce new obligations; it has been moved from Article 10 since the inclusion of the access to the information referred to in Article 10(1)(b) ensures more coherence in this Article 12 with regard to the structure of the text.

Article 13 (corresponds to Article 12 of the 2009 proposal)

The modified proposal makes the wording of paragraph 1 more precise and coherent without changing its content.

Article 14 (corresponds to Article 13 of the 2009 proposal)

Rules on personal interviews have been made more flexible. While it remains a general rule that interviews on the substance of an application shall be conducted by the personnel of the determining authority, in case a large number of third country nationals or stateless persons apply simultaneously, Member States may provide that the personnel of another authority be involved in conducting such interviews. Nevertheless, in this case, the personnel shall receive the same training that is provided for the personnel of the determining authority. This practice may be applied only temporarily, as long as the conditions last.

The third subparagraph of paragraph 1 has been simplified and clarified without changing the obligation that dependant adults shall be given the opportunity of a personal interview.

In paragraph 2(b), the term "competent authority" has been changed to "determining authority" in order to ensure that it is always the determining authority that decides if the personal interview can be omitted in case the applicant is unfit or unable to be interviewed.

Article 15 (corresponds to Article 14 of the 2009 proposal)

In paragraph 3(a), it has been clarified that the person who conducts the interview must be competent to take account of the personal and (instead of "or") general circumstances surrounding the applications in order to make a proper decision. These are conjunctive elements and not alternative ones; both have to be met. Sexual orientation and gender identity have been added to the list of examples of circumstances that have to be taken into account since these are also elements that may need to be considered during the interview.

In paragraph 3(c), the wording has been simplified without changing the content of the provisions.

In paragraph 3(d), the rule that the interviewer shall not wear a uniform has been made more precise, excluding only military or law enforcement uniform.

In paragraph 3(e), the wording has been made more accurate.

Article 16 (corresponds to Article 15 of the 2009 proposal)

This Article has been simplified to facilitate its implementation by Member States. The requirement that the questions addressed to the applicant are relevant to the assessment has been removed since this is implicitly covered by the requirement to provide the applicant with an adequate opportunity to present the elements of the case.

Article 17 (corresponds to Article 16 of the 2009 proposal)

This Article has been significantly changed compared to the 2009 proposal. Member States are not required to make a transcript of every personal interview. According to the proposed rules, a thorough report has to be made which contains all substantial elements of the interview. Member States may also provide that the interview is audio or audio-visually recorded. Nevertheless, even in these cases, a thorough report has to be made and the recording has to be annexed to the report.

The applicant has to have the opportunity to make comments on the report. To that end, the applicant has to be informed about the content of the report at the end of the personal interview or within a specified time-limit before the determining authority takes a decision. The term "fully" indicates that that this information has to include all elements of the content of the report in a holistic way and, if necessary, with the assistance of an interpreter.

The proposal requires Member States to request the approval of the applicant on the content of the report. There is an exception from this rule, namely where the interview is audio or audio-visually recorded. In this case, the applicant has to have the possibility to refer to the recording as evidence in appeals procedures that has been attached to the report as evidence.

If the applicant refuses to approve the report, this shall be indicated in the file. However, this refusal does not prevent the determining authority from taking a decision.

Article 18 (corresponds to Article 17 of the 2009 proposal)

The proposal aims to significantly revise the rules on medical reports. The title of the Article has been changed by removing the term "legal" to better reflect the actual content of this Article.

The first sentence of paragraph 1 lays down the general principle that the applicant should be allowed to have a medical examination in order to submit a medical certificate to the determining authority in support of his/her claim. The scope of this medical certificate is limited; its aim is to support the applicant's claim as regards past persecution or serious harm. This is to clarify that the medical certificate does not in itself constitute proof of persecution. Member States may set a reasonable time limit for the certificate's submission in order not to delay the examination and the decision. With a view to make procedures more efficient and avoid abuse or unnecessary delay, the provision provides for the possibility to make a decision without taking into account the certificate if it was not submitted in time without good reason.

A medical examination may be particularly relevant to the examination of the claim where the applicant is unable to fully articulate the elements needed to substantiate his/her application. For this reason, paragraph 2 requires the determining authority to carry out by its own motion, with the consent of the applicant, a medical examination, if it considers that there is a reason to believe that the applicant suffers from post-traumatic stress disorder or past persecution or serious harm which would make him/her unable to be interviewed. If the applicant refuses to undergo the medical examination, this does not prevent the determining authority from making a decision.

The new paragraph 5 clarifies the content of the training to be provided by the Member States to the persons interviewing the applicants. The term "awareness" indicates that the aim of the training must be to ensure that the interviewers know and are able to recognise the symptoms which could indicate previous torture other medical problems that could hinder the applicant's ability to be interviewed.

Articles 19–22 (correspond to Article 18 of the 2009 proposal)

New Articles 19–22 aim to adjust and clarify rules on the right to legal assistance and representation with a view to make these rules more flexible while ensuring that the provision of legal and procedural information free of charge is available to those who request it and have no sufficient resources. This is one of the key elements of "frontloading". The choice for this approach was fully supported by the findings of a project in the UK, the so-called "Solihull pilot", presented at the Ministerial Conference on Asylum in September 2010. This project confirmed the hypothesis that "frontloading" the asylum process, in particular by providing access to competent legal advice for asylum applicants at the start of the procedure, leads to significant improvements in the quality of first instance decisions.

Compared to the 2009 proposal, the terminology has been changed in order to avoid possible confusion between three different notions: 1. the minimum level of provision of legal and procedural information at first instance, 2. free legal assistance to ensure effective access to justice in appeals proceedings, and 3. the right of applicants to contact a legal adviser or counsellor at their own cost. In order to provide clearer rules and structure, Article 18 of the 2009 proposal has been split into four Articles. The split of these Articles makes the distinction between these various notions at different stages of the procedure clearer.

Article 19

This Article lays down the rules on provision of legal and procedural information free of charge in procedures at first instance. The title of the Article aims to clarify that Member States are obliged to provide, on request, applicants with legal and procedural information free of charge in first instance procedures and that this is not to be considered as "legal assistance and representation". Thus, in line with several Member States' national legal systems, to comply with this obligation, it is not necessary to appoint a lawyer to every applicant.

The provision also sets a minimum level of provision of legal and procedural information. First, it includes the explanation of the procedural steps, devices, rights and obligations likely to be relevant to the applicant's case, including the obligations to cooperate and to submit the elements referred to in Article 4 of the Qualification Directive. Second, it includes, in the event of a negative decision, the explanation of the factual, substantive law and procedural reasons for the rejection, in order to enable the applicant to take a more informed decision

about whether to exercise his/her right to an effective remedy. This clarification proved to be necessary further to the experiences throughout the discussions on the previous proposal.

Note that Article 20(2) clarifies that if Member States provide free legal assistance and/or representation in procedures at first instance, this is presumed to include the elements foreseen under the provision of legal and procedural information free of charge.

Paragraph 2 refers to further conditions to be applied which are described below under Article 21.

Article 20

The title of this new Article indicates that Member States shall ensure the availability of free legal assistance and representation in case of appeals procedures. In the terminology of the modified proposal, free legal assistance and representation means that the applicant is assisted and represented by a competent person; in several Member States' national systems this means a qualified lawyer. Minimum requirements have been laid down here as well which include the preparation of procedural documents and participation in the hearing before the court or tribunal. The latter is limited to first-tier appeal procedures. In further instances Member States are not bound by this Directive to provide any free legal assistance and representation. Given that the minimum requirements under this provision include both assistance (preparation of documents) and representation (participation in the hearing), it has been clarified that this provision covers both legal assistance "and" (instead of "and/or") representation.

Paragraph 2 refers to the practice of several Member States where already in first instance procedures (i.e. administrative procedures before the determining authority), free legal assistance and/or representation (provided by lawyers) is available. This paragraph accommodates their systems by clarifying that in this case these Member States do not have to provide the legal and procedural information foreseen under Article 19 in addition, since the legal assistance and representation by a lawyer already covers these needs.

Paragraph 3 describes the possibility of the so-called "merits test". This means that Member States may provide that free legal assistance and representation may not be available for applicants whose appeal has no tangible prospect of success. Nevertheless, this needs to be assessed by the court or tribunal and not by the determining authority. The second subparagraph limits the application of merits test by referring to Article 47 of the Charter of Fundamental Rights of the EU which stipulates that those who lack sufficient resources should receive legal aid in so far as it is necessary to ensure effective access to justice. This subparagraph thus should be read in conjunction with Article 21(2)(c) of the Directive which lays down the general rule that free legal and procedural information at first instance and free legal assistance and representation at appeals procedures may be provided only for those who lack sufficient resources.

Article 21

This Article lays down the general conditions that are applicable in cases of the provision of legal and procedural information free of charge and free legal assistance and representation. The new paragraph 1 aims to give wide discretion to Member States on how to comply with these obligations. The appointment of a lawyer is considered as a standard solution, nevertheless, Member States may fulfil the obligations under Articles 19 and 20 through

NGOs or state officials or specialised services of the state. This provision accommodates several Member States' existing systems.

Article 22

This Article retains the right of the applicant to consult a lawyer at all stages of the procedure. The main distinction between the provisions of this Article and those of Articles 19–21 is that this covers only the right to contact a lawyer on the applicant's own cost. It is also stipulated that Member States may allow non-governmental organisations to provide such services.

Article 23 (corresponds to Article 19 of the 2009 proposal)

The modified proposal introduces a change with regard to access to information in proceedings that concern national security considerations. With a view to respecting the principle of equality of arms and established case law, it provides for the possibility to allow Member States to grant access to files only for specialised services of the state (advocates) where national security is concerned. This provision aims to ensure that the applicant is represented properly while no sensitive or confidential information is disclosed. The rules allow the representative (State official, advocate) not to have any contacts with the applicant.

Article 24 (corresponds to Article 20 of the 2009 proposal)

The modified proposal aims to simplify the provisions on persons with special needs. It aims to lay down the principles and allows Member States to find the most appropriate modalities.

First, the title of the Article, in line with the definition in Article 2(d), clarifies that, for the purposes of this Directive, procedures need to take into account the specific situation of applicants in need of special procedural guarantees. This is in particular to clarify that special procedural needs and special reception needs may be different.

The first paragraph stipulates that applicants in need of special procedural guarantees need to be identified in due time. This provision is fully in line with the relevant provisions of the modified proposal on the Reception Conditions Directive; Member States may use the mechanism described in Article 22 of the modified proposal for that Directive.

The proposal provides for a wide discretion for Member States as regards the modalities to identify applicants in need of special procedural guarantees if this becomes apparent during the procedure. This may particularly be the case for certain traumatic disorders that may only be revealed over a period of time.

The second paragraph describes, in general terms, the principle that applicants in need of special procedural guarantees shall be granted sufficient time and relevant support to present the elements of the application. This rule aims to provide maximum flexibility to Member States to find the actual modalities to implement this provision in various cases.

Article 25 (corresponds to Article 21 of the 2009 proposal)

The modified proposal essentially extends the obligation of the representative to assist an unaccompanied minor. The scope of assistance has been clarified and made broader with a view to the special procedural needs of unaccompanied minors. Now the provision requires the representative to assist the minor to enable him/her to benefit from all rights and to comply with all obligations laid down in the Directive. The requirement of impartiality has

been removed since the representative shall act in the interest of the unaccompanied minor; however, it has been specified that the representative has to act in accordance with the principle of the best interest of the child.

Paragraph 2(b) has been removed given that the fact that a minor is married or has been married does not mean *per se* that he/she does not need assistance. This reflects possible cases of forced marriages.

In paragraph 3(a), the requirement that an interview shall be conducted by a person who has the necessary knowledge of the special needs of minors has been extended to include also admissibility interviews.

Paragraph 4 clarifies that not only the unaccompanied minor but also his/her representative shall be provided with legal and procedural information free of charge and that this also applies to the case of withdrawal of a status, thus covering all procedures under the Directive.

Paragraph 5 introduces a change with regard to medical examinations for minors to determine the age stating that if the examination could not reach a clear conclusion in this respect, the applicant shall be considered as a minor.

Paragraph 6 excludes the possibility to apply the "merits test" to the provision of free legal assistance and representation in case of appeals procedures in order to ensure that the interest of these unaccompanied minor applicants are protected.

Article 26 (corresponds to Article 22 of the 2009 proposal)

There are no changes compared to the proposal of 2009.

Article 27 (corresponds to Article 23 of the 2009 proposal)

There are no changes compared to the proposal of 2009.

Article 28 (corresponds to Article 24 of the 2009 proposal)

This Article provides for the possibility to reject an application as unfounded if it is considered implicitly withdrawn on the condition that the application was adequately examined after a personal interview.

Paragraph 2 provides for the possibility for applicants who report again after an implicit withdrawal to make a new application after the case was discontinued. As a general rule, this new application cannot be considered as a subsequent application. As a consequence, it cannot be considered inadmissible on the basis that it does not contain new elements. Nevertheless, if the applicant reports again more than one year after the previous application was considered withdrawn, Member States are not obliged by the Directive to reopen the case and can process the new application as a subsequent application. These provisions aim to provide tools to combat abusive repeat applications.

Article 29 (corresponds to Article 25 of the 2009 proposal)

The wording of paragraph 1(a) has been aligned with other articles of the Directive which does not change the content of the provision.

Article 30 (corresponds to Article 26 of the 2009 proposal)

There are no changes compared to the proposal of 2009.

Article 31 (corresponds to Article 27 of the 2009 proposal)

The modified proposal introduces several changes as regards the examination procedure at first instance and accelerated procedures. The changes aim to accommodate specificities of Member States' national systems and to ensure more flexibility and efficient means to deal with abuse.

Paragraph 3 retains the general six-month deadline for the conclusion of the procedure at first instance. Nevertheless, two additional exceptions have been introduced, namely in case where large number of applicants lodge applications simultaneously and where the determining authority cannot keep the deadline due to the failure of the applicant to comply with his/her obligations.

Member States may also postpone concluding the procedure in case where the determining authority cannot take a decision due to an uncertain situation in the country of origin which is expected to be temporary. In this case Member States may exceed the six+six month time limit. However, the applicant shall keep his/her applicant status.

The grounds for prioritisation have been amended in order to align the Directive with the modified proposal on Reception Conditions Directive: Member States may prioritise an examination when the applicant is vulnerable. The terminology has also been adjusted to the new term "applicants in need of special procedural guarantees". Unaccompanied minors have been also expressly referred to where the prioritisation may be particularly justified.

Paragraph 6 clarifies that the grounds under this paragraph may be used for both acceleration and examination at the border. This change accommodates the national systems of Member States which apply the general procedure at the border. Nevertheless, the list of cases that can be accelerated or examined at the border remains exhaustive.

Two grounds for acceleration (and border procedure) have been reintroduced:

(e) reintroduces point (g) of the 2005 Directive. This ground aims to provide the possibility to deal efficiently with abusive cases. The wording has been adjusted, stipulating that this ground can be used where the applicant has made clearly false or obviously improbable representations which contradict sufficiently verified country-of-origin information. This change aims to add an objective element to this ground.

(g) reintroduces point (m) of the 2005 Directive which concerns cases of threat to national security or public order. It has been clarified that an application can be accelerated if there are serious reasons to consider an applicant as a danger to national security.

Paragraph 7 of the 2009 proposal has been deleted. The requirement to ensure an adequate and complete examination has been moved to new paragraph 7. Rules on manifestly

unfounded applications were deleted since Article 28 of the 2005 Directive has been reintroduced that covers these rules.

Article 32 (corresponds to Article 28 of the 2005 Directive)

This Article corresponds to Article 28 of the 2005 Directive. The change in content concerns national security cases since this is the only acceleration ground that cannot be considered as manifestly unfounded, given that in these cases the reason for acceleration is not based on the consideration that the claim is ill-founded. Article 28 of the 2009 proposal has been removed since it covered the same rules.

Article 33 (corresponds to Article 29 of the 2009 proposal)

Point (d) has been amended because the term "identical" was very restrictive and made the application of this inadmissibility ground impossible in practice and incompatible with the rules on subsequent applications it was meant to serve. The modified proposal clarifies that this inadmissibility ground can be used if there are no new elements in case of a subsequent application. The link to subsequent applications (and their definition) has been made clearer.

Article 34 (corresponds to Article 30 of the 2009 proposal)

The rules have been aligned with the general rules on the personal interview. This concerns the requirement that the interviewer should not wear a military or law enforcement uniform.

Article 35 (corresponds to Article 31 of the 2009 proposal)

The modified proposal foresees the explicit possibility for the applicant to challenge the application of the first country of asylum notion in his/her particular circumstances.

Article 36 (corresponds to Article 34 of the 2009 proposal)

There are no changes compared to the proposal of 2009.

Article 37 (corresponds to Article 33 of the 2009 proposal)

There are no changes compared to the proposal of 2009.

Article 38 (corresponds to Article 32 of the 2009 proposal)

There are no changes compared to the proposal of 2009.

Article 39 (corresponds to Article 38 of the 2009 proposal)

In the interest of coherence, a new paragraph 6 has been added requiring Member States to inform the Commission periodically about the countries to which the European safe third country concept is applied. This corresponds to an equivalent obligation relating to safe third countries.

Article 40 (corresponds to Article 35 (1)-(7) and (9) of the 2009 proposal)

Rules on repeated or subsequent applications have been significantly clarified in order to ensure efficient handling of such claims. A definition of the term "subsequent application" provides a clear scope for these rules. A subsequent application may be considered inadmissible if there are no new elements which would significantly add to the likelihood that the applicant qualifies for international protection status. The existence of new elements has to be verified through a preliminary examination. If there are new elements, the subsequent application has to be examined in conformity with the general rules. It has been clarified that if there are no new elements, the application shall be considered as inadmissible. The rules on subsequent applications can also be applied in case an unmarried minor lodges a separate application.

Article 41 (corresponds to Article 35 (8)-(9) of the 2009 proposal)

The content of these rules has not been changed, but the text has been restructured to ensure more clarity.

Article 42 (corresponds to Article 36 of the 2009 proposal)

Paragraph 3(b) has been deleted since it is superfluous. This rule is covered by Article 40(3).

Article 43 (corresponds to Article 37 of the 2009 proposal)

This Article remains unchanged. Nevertheless, the changes in Article 31 and 33 extend the scope of the applicability of this Article through references. The additional acceleration grounds allow Member States to examine these cases also in border procedure. The change in the rules on inadmissibility of claims that have no new elements also enables wider use of border procedures.

Article 44 (corresponds to Article 39 of the 2009 proposal)

There are no changes compared to the proposal of 2009.

Article 45 (corresponds to Article 40 of the 2009 proposal)

Paragraph 4 has been changed. Member States may provide that the international protection status shall lapse by law if the beneficiary of the international protection status becomes a citizen of the given Member State.

Article 46 (corresponds to Article 41 of the 2009 proposal)

The rules on the right to an effective remedy have been essentially maintained in order to ensure compliance with the established case law of the Court of Justice of the European Union and the European Court of Human Rights.

The changes concern the following elements:

In paragraph 5, it has been clarified that the applicant shall have the right to remain in the Member State's territory until the deadline to make an appeal.

In paragraph 6, an additional ground has been added where no automatic suspensive effect has to be provided: this is the case where the application has been considered inadmissible because another Member State has already granted refugee status. It has been clarified that exceptions can be made from the principle of automatic suspensive only in case where acceleration or inadmissibility grounds apply. As a consequence of the extension of acceleration grounds under Article 31(6), this paragraph has a wider scope than in the 2009 proposal.

In paragraph 9, the obligation to set deadlines for courts to make a decision on the appeal has been removed in order to accommodate specificities of national judicial systems.

Paragraph 5 of the 2005 Directive has been deleted to ensure consistency with paragraph 2 and with the Qualification Directive.