

Child-specific provisions in the Common European Asylum Package

Proposals of 4 May 2016 and 13 July 2016

On 4 May and 13 July 2016, the Commission presented two comprehensive sets of legislative proposals to reform the Common European Asylum System (CEAS).¹ These include a number of amended and newly introduced provisions related to children (unaccompanied and accompanied).

This extract serves as an aid to facilitate identification of **child-specific provisions** in the following legislative proposals:

Contents

Asylum Procedures Regulation.....	2
Reception Conditions Directive	10
Qualifications Regulation	16
Dublin Regulation.....	19
EURODAC Regulation.....	26

We indicate in brackets whether a provision is AMENDED or NEW. Where a provision is amended, the amended language is indicated **in bold**.

NOTE: These extracts are intended solely as an aid to identify child-specific provisions. They should only be read in conjunction with the proposals in full, the other CEAS proposals and current legal instruments.

¹ Press releases: http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2016/20160713_4_en.htm and http://europa.eu/rapid/press-release_IP-16-1620_en.htm

[Asylum Procedures Regulation²](#)

Proposal, 13.7.2016 COM(2016) 467 final

Topic	Articles, Recitals and Explanatory Memorandum
Definitions	<i>Article 4(2)(f):</i> 'guardian' means a person or an organisation appointed to assist and represent an unaccompanied minor with a view to safeguarding the best interests of the child and his or her general well-being in procedures provided for in this Regulation and exercising legal capacity for the minor where necessary". (AMENDED WORDING)
Applicants in need of special procedural guarantees (vulnerable applicants)	<p><i>Article 19(4):</i> "The Commission may specify the details and specific measures for assessing and addressing the special procedural needs of applicants, including of unaccompanied minors, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58." (NEW PARAGRAPH)</p> <p><i>Article 20:</i> "1. The process of identifying applicants with special procedural needs shall be initiated by authorities responsible for receiving and registering applications as soon as an application is made and shall be continued by the determining authority once the application is lodged. (AMENDED PARAGRAPH)</p> <p>2. The personnel of the authorities responsible for receiving and registering applications shall, when registering the application, indicate whether or not an applicant presents first indications of vulnerability which may require special procedural guarantees and may be inferred from physical signs or from the applicant's statements or behaviour. The information that an applicant presents first signs of vulnerability shall be included in the applicant's file together with the description of the signs of vulnerability presented by the applicant that could require special procedural guarantees. Member States shall ensure that the personnel of the authorities referred to in Article 5 is trained to detect first signs of vulnerability of applicants that could require special procedural guarantees and that it shall receive instructions for that purpose. (NEW PARAGRAPH)</p> <p>3. Where there are indications that applicants may have been victim of torture, rape or of another serious form of psychological, physical, sexual or gender-based violence and that this could adversely affect their ability to participate effectively in the procedure, the determining authority shall refer the applicants to a doctor or a psychologist for further assessment of their psychological and physical state. The result of that examination shall be taken into account by the determining authority for deciding on the type of special procedural support which may be provided to the applicant. That examination shall be without prejudice to the medical examination referred to in Article 23 and Article 24. (NEW PARAGRAPH)</p> <p>4. The responsible authorities shall address the need for special procedural guarantees as set out in this Article even where that need becomes apparent at a later stage of the procedure, without having to restart the procedure for international protection."</p> <p><i>Explanatory Memorandum:</i> The proposal upholds a high level of special procedural guarantees for vulnerable categories of applicants (Article 19), and in particular for unaccompanied minors (Articles 21 and 22). To ensure a fair procedure for these applicants, it is necessary to identify their needs as early as possible in the procedure and to provide them with adequate support and guidance throughout all stages of the procedure (Article 20(1)). Where it is not possible to provide such adequate support in the framework of an accelerated examination procedure or a border procedure, then those procedures should not be applied (Article 19(3)). (Explanatory Memorandum, pp. 14-15).</p>
Guarantees for	<i>Article 12:</i> "6. The person conducting the interview shall be competent to take account of the

² Full Title: 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.

<p>minors (best interests of the child, personal interview, trained personnel)</p>	<p>personal and general circumstances surrounding the application, including the applicant's cultural origin, age, gender, sexual orientation, gender identity and vulnerability. Personnel interviewing applicants shall also have acquired general knowledge of problems which could adversely affect the applicant's ability to be interviewed, such as indications that the person may have been tortured in the past." (AMENDED PARAGRAPH)</p> <p><i>Article 21:</i> "1. The best interests of the child shall be a primary consideration for Member States when applying this Regulation. 2. The determining authority shall provide a minor the opportunity of a personal interview, including where an application is made on his or her own behalf in accordance with Article 31(6) and Article 32(1), unless this is manifestly not in the best interests of the child. In that case, the determining authority shall give reasons for the decision not to provide a minor with the opportunity of a personal interview. Any such personal interview shall be conducted by a person who has the necessary knowledge of the rights and special needs of minors and it shall be conducted in a child-sensitive and context-appropriate manner. 3. The decision on the application of a minor shall be prepared by personnel of the determining authority who have the necessary knowledge of the rights and special needs of minors." (NEW PROVISION)</p> <p><i>Recital 20:</i> "The best interests of the child should be a primary consideration of Member States when applying this Regulation, in accordance with Article 24 of the Charter and the 1989 United Nations Convention on the Rights of the Child. In assessing the best interests of the child, Member States should in particular take due account of the minor's well-being and social development, including his or her background. In view of Article 12 of the United Nations Convention on the Rights of the Child concerning the child's right to be heard, the determining authority shall provide a minor the opportunity of a personal interview unless this is manifestly not in the minor's best interests." (AMENDED RECITAL)</p> <p><i>Explanatory Memorandum:</i> "As regards children in general, the best interests of the child as a primary consideration is the prevailing principle when applying the common procedure. All children, irrespective of their age and of whether they are accompanied or not, shall also have the right to a personal interview unless it is manifestly not in the child's best interests (Article 21(1) and (2)). The decision on the application of a minor shall be prepared by personnel of the determining authority who have the necessary knowledge of the rights and special needs of minors (Article 21(3))" (Explanatory Memorandum, p. 15).</p>
<p>Special guarantees for unaccompanied minors</p>	<p><i>Article 22:</i> "1. The responsible authorities shall, as soon as possible and not later than five working days from the moment when an unaccompanied minor makes an application, appoint a person or an organisation as a guardian. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out the duties of a guardian. The determining authority shall inform the unaccompanied minor immediately of the appointment of his or her guardian. (AMENDED PARAGRAPH) 2. The determining authority shall inform the guardian of all relevant facts, procedural steps and time-limits pertaining to the unaccompanied minor. (NEW PARAGRAPH) 3. The guardian shall, with a view to safeguarding the best interests of the child and the general well-being of the unaccompanied minor: (a) represent and assist the unaccompanied minor during the procedures provided for in this Regulation and (b) enable the unaccompanied minor to benefit from the rights and comply with the obligations under this Regulation. 4. The guardian shall perform his or her duties in accordance with the principle of the best interests of the child, shall have the necessary expertise, and shall not have a verified record of child-related crimes or offences. The person acting as guardian shall be changed only when the responsible authorities consider that he or she has not adequately performed his or her tasks as a guardian. Organisations or individuals whose interests conflict or could potentially</p>

conflict with those of the unaccompanied minor shall not be appointed as guardian. **(AMENDED PARAGRAPH)**

5. The responsible authorities shall not place a guardian in charge of a disproportionate number of unaccompanied minors at the same time, which would render him or her unable to perform his or her tasks effectively. Member States shall appoint entities or persons responsible for the performance of guardians' tasks and for supervising and monitoring at regular intervals that guardians perform their tasks in a satisfactory manner. Those entities or persons shall review complaints lodged by unaccompanied minors against their guardian. **(NEW PARAGRAPH)**

6. The guardian shall inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, about how to prepare himself or herself for the personal interview. The guardian and, where applicable, a legal adviser or other counsellor admitted or permitted as such under national law, shall be present at that interview and have an opportunity to ask questions or make comments, within the framework set by the person who conducts the interview. The determining authority may require the presence of the unaccompanied minor at the personal interview, even if the guardian is present." **(NEW PARAGRAPH)**

Recital 29: "To ensure that unaccompanied minors have effective access to the procedure, they should always be appointed a guardian. The guardian should be a person or a representative of an organisation appointed to assist and guide the minor through the procedure with a view to safeguard the best interests of the child as well his or her general well-being. Where necessary, the guardian should exercise legal capacity for the minor. In order to provide effective support to the unaccompanied minors, guardians should not be placed in charge of a disproportionate number of unaccompanied minors at the same time. Member States should appoint entities or persons responsible for the support, supervision and monitoring of the guardians in the performance of their tasks. An unaccompanied minor should lodge an application in his or her own name or through the guardian. In order to safeguard the rights and procedural guarantees of an unaccompanied minor, the time-limit for him or her to lodge an application should start to run from when his or her guardian is appointed and they meet. Where the guardian does not lodge the application within the set time limit, the unaccompanied minor should be given an opportunity to lodge the application on his or her name with the assistance of the determining authority. The fact that an unaccompanied minor chooses to lodge an application in his or her own name should not preclude him or her from being assigned a guardian." **(NEW RECITAL)**

Explanatory Memorandum: "As regards unaccompanied minors, they should be assigned a guardian as soon as possible and not later than five working days from the moment an unaccompanied minor makes an application (Article 22(1)). Disparities among the various guardianship systems for unaccompanied minors in the Member States may lead to procedural safeguards not being adhered to, to minors not receiving adequate care or to them being exposed to risk or precarious situations and possibly leading them to abscond. This proposal, taking into account a study on guardianship of children carried out by the Fundamental Rights Agency, seeks to standardise guardianship practices to make sure that guardianship becomes prompt and effective across the Union. The role of the guardian is to assist and represent an unaccompanied minor with a view to safeguarding the best interests of the child and his or her general well-being in the procedure for international protection. Where necessary, and possible under national law, the guardian may exercise legal capacity for the minor (Article 4(2)(f)). In order to make sure that unaccompanied minors receive adequate support, the proposal provides that a guardian should not be made responsible for a disproportionate number of minors (first paragraph of Article 22(4)). In view of the tasks and responsibilities of the guardian, including the time-limits for the various procedural steps under this Regulation, it is necessary for the number of cases assigned to each guardian to be reasonable and that the proposal also provides for an appropriate system to be put in place to monitor the performance of each guardian (second paragraph of

	Article 22(4))" (Explanatory Memorandum, p. 15).
Medical examination of unaccompanied minors	<p><i>Article 24:</i> "1. Medical examinations may be used to determine the age of unaccompanied minors within the framework of the examination of an application where, following statements by the applicant or other relevant indications including a psychosocial assessment, there are doubts as to whether or not the applicant is under the age of 18. Where the result of the medical examination is not conclusive, or includes an age-range below 18 years, Member States shall assume that the applicant is a minor. (AMENDED PARAGRAPH)</p> <p>2. The medical examination to determine the age of unaccompanied minors shall not be carried out without their consent or the consent of their guardians.</p> <p>3. Any medical examination shall be performed with full respect for the individual's dignity, shall be the least invasive examination and shall be carried out by qualified medical professionals allowing for the most reliable result possible.</p> <p>4. Where medical examinations are used to determine the age of unaccompanied minors, the determining authority shall ensure that unaccompanied minors are informed, prior to the examination of their application for international protection, and in a language that they understand or are reasonably meant to understand, of the possibility that their age be determined by medical examination. This shall include information on the method of examination and possible consequences which the result of the medical examination may have for the examination of the application, as well as on the possibility and consequences of a refusal on the part of the unaccompanied minor, or of his or her guardian, to undergo the medical examination.</p> <p>5. The refusal by the unaccompanied minors or their guardians to carry out the medical examination may only be considered as a rebuttable presumption that the applicant is not a minor and it shall not prevent the determining authority from taking a decision on the application for international protection.</p> <p>6. A Member State shall recognise age assessment decisions taken by other Member States on the basis of a medical examination carried out in accordance with this Article and based on methods which are recognised under its national law." (NEW PARAGRAPH)</p>
Access to the procedure in detention facilities or border	<p><i>Article 30(1)(a):</i> "Where there are indications that third-country nationals or stateless persons held in detention facilities or present at border crossing points, including transit zones, at external borders, may need international protection, the responsible authorities shall inform them of the possibility to apply for international protection, in particular, where it is likely that the person is an unaccompanied minor". (AMENDED PARAGRAPH)</p>
Applications on behalf of a spouse, partner, minor or dependent adult	<p><i>Article 31:</i> "1. An applicant may lodge an application on behalf of his or her spouse or partner in a stable and durable relationship, minors or dependent adults without legal capacity.</p> <p>2. The spouse or partner referred to in paragraph 1 shall be informed in private of the relevant procedural consequences of having the application lodged on his or her behalf and of his or her right to make a separate application for international protection. Where the spouse or partner does not consent to the lodging of an application on his or her behalf, he or she shall be given an opportunity to lodge an application in his or her own name.</p> <p>3. Where an applicant does not lodge an application on behalf of his or her spouse or partner as referred to in paragraph 1 within the ten working days referred to in Article 28(1), the spouse or partner shall be given an opportunity to lodge his or her application in his or her own name within another ten working-day period starting from the expiry of the first ten working-day period. Where the spouse or partner still does not lodge his or her application within these further ten working days, the application shall be rejected as abandoned in accordance with the procedure laid down in Article 39. (NEW PARAGRAPH)</p> <p>4. Where an applicant does not lodge an application on behalf of his or her dependent adult as referred to in paragraph 1 within the ten working days referred to in Article 28(1), the determining authority shall lodge an application on behalf of that dependent adult if, on the basis of an individual assessment of his or her personal situation, it is of the opinion that the dependent adult may need international protection. (NEW PARAGRAPH)</p> <p>5. Where a person has lodged an application on behalf of his or her spouse or partner in a stable and durable relationship or dependent adults without legal capacity, each of those persons shall</p>

	<p>be given the opportunity of a personal interview.</p> <p>6. A minor shall have the right to lodge an application in his or her own name if he or she has the legal capacity to act in procedures according to the national law of the Member State concerned, or through an adult responsible for him or her, whether by law or by practice of the Member State concerned, including his or her parents or other legal or customary caregiver, or adult family members in the case of an accompanied minor, or through a guardian in the case of an unaccompanied minor. (AMENDED PARAGRAPH)</p> <p>7. In the case of an accompanied minor, the lodging of an application by the adult responsible for him or her as referred to in paragraph 6 shall also be considered to be the lodging of an application for international protection on behalf of the minor. (NEW PARAGRAPH)</p> <p>8. Where the adult responsible for the accompanied minor does not make an application for himself or herself, the accompanied minor shall be clearly informed of the possibility and procedure for lodging an application in his or her own name at the time of the making of his or her application. (NEW PARAGRAPH)</p> <p>9. Where the adult responsible for the accompanied minor does not lodge an application on behalf of the minor within the ten working days provided for in Article 28(1), the minor shall be informed of the possibility to lodge his or her application in his or her own name and given an opportunity to do so within a further ten working-day period starting from the expiry of the first ten working-day period if he or she has the legal capacity to act in procedures according to the national law of the Member State concerned. Where the minor does not lodge his or her application in his or her own name within these further ten working days, the application shall be rejected as abandoned in accordance with the procedure referred to in Article 39. (NEW PARAGRAPH)</p> <p>10. For the purpose of taking a decision on the admissibility of an application in case of a separate application by a spouse, partner or minor pursuant to Article 36(1)(d), an application for international protection shall be subject to an initial examination as to whether there are facts relating to the situation of the spouse, partner or minor which justify a separate application. Where there are facts relating to the situation of the spouse, partner or minor which justify a separate application, that separate application shall be further examined to take a decision on its merits. If not, that separate application shall be rejected as inadmissible, without prejudice to the proper examination of any application lodged on behalf of the spouse, partner or minor."</p> <p><i>Recital 28:</i>"This Regulation should provide for the possibility that applicants lodge an application on behalf of their spouse, partner in a stable and durable relationship, dependant adults and minors. This option allows for the joint examination of those applications. The right of each individual to seek international protection is guaranteed by the fact that if the applicant does not apply on behalf of the spouse, partner, dependant adult or minor within the set time-limit for lodging an application, the spouse or partner may still do in his or her own name, and the dependant adult or minor should be assisted by the determining authority. However, if a separate application is not justified, it should be considered as inadmissible." (NEW RECITAL)</p>
<p>Applications of unaccompanied minors</p>	<p><i>Article 32:</i> "1. An unaccompanied minor shall lodge an application in his or her own name if he or she has the legal capacity to act in procedures according to the national law of the Member State concerned, or his or her guardian shall lodge it on his or her behalf. The guardian shall assist and properly inform the unaccompanied minor of how and where an application is to be lodged. (NEW PARAGRAPH)</p> <p>2. In the case of an unaccompanied minor, the ten working-day period for the lodging the application provided for in Article 28(1) shall only start to run from the moment a guardian of the unaccompanied minor is appointed and has met with him or her. Where his or her guardian does not lodge an application on behalf of the unaccompanied minor within those ten working days, the determining authority shall lodge an application on behalf of the unaccompanied minor if, on the basis of an individual assessment of his or her personal situation, it is of the opinion that the minor may need international protection. (NEW PARAGRAPH)</p> <p>3. The bodies referred to in Article 10 of Directive 2008/115/EC shall have the right to lodge an</p>

	<p>application for international protection on behalf of an unaccompanied minor if, on the basis of an individual assessment of his or her personal situation, those bodies are of the opinion that the minor may need international protection."</p> <p><i>Explanatory Memorandum:</i> The proposal streamlines and simplifies the procedure by clarifying the various steps as regards access to the procedure. An application is considered to have been made as soon as a third-country national or stateless person expresses a wish to receive international protection from a Member State (Article 25(1)). That application needs to be registered promptly, or at the latest within three working days from when the national authorities receive it (Article 27(1)). That time-limit remains unchanged when compared to the Asylum Procedures Directive. The individual applicant is then to be provided with an effective opportunity to lodge his or her application and this should be done within ten working days from when the application is registered (Article 28(1)). For unaccompanied minors, that time limit will only start from when the guardian is appointed and meets the child (Article 32(2)). The time-limit for lodging an application is new compared to the Asylum Procedures Directive. (Explanatory Memorandum, p. 11)</p>
<p>Examination of applications</p>	<p><i>Article 33(3):</i> The personnel examining applications and taking decisions shall have sufficient knowledge of the relevant standards applicable in the field of asylum and refugee law. They shall have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious and child-related or gender issues. Where necessary, they may submit queries to the European Union Agency for Asylum in accordance with Article 9(2)(b) of Regulation (EU) No XXX/XXX (EU Asylum Agency Regulation).</p> <p><i>Article 33(5)(b):</i> An examination of an application for international protection may be prioritised in accordance with the basic principles and guarantees of Chapter II, in particular, where: (b) the applicant has special reception needs within the meaning of Article 20 of Directive XXX/XXX/EU (Reception Conditions Directive), or is in need of special procedural guarantees, in particular where he or she is an unaccompanied minor.</p>
<p>Decisions by the determining authority</p>	<p><i>Article 35(3):</i> In cases of applications on behalf of spouses, partners, minors or dependent adults without legal capacity, and whenever the application is based on the same grounds, the determining authority may take a single decision, covering all applicants, unless to do so would lead to the disclosure of particular circumstances of an applicant which could jeopardise his or her interests, in particular in cases involving gender, sexual orientation, gender identity or age-based persecution. In such cases, a separate decision shall be issued to the person concerned.</p>
<p>Decision on the admissibility of the application</p>	<p><i>Article 36(1)(d):</i> "The determining authority shall assess the admissibility of an application, in accordance with the basic principles and guarantees provided for in Chapter II, and shall reject an application as inadmissible where any of the following grounds applies: (d) a spouse or partner or accompanied minor lodges an application after he or she had consented to have an application lodged on his or her behalf, and there are no facts relating to the situation of the spouse, partner or minor which justify a separate application." (AMENDED PARAGRAPH)</p> <p><i>Explanatory Memorandum:</i> An application should be considered to be inadmissible when it is a subsequent application without new relevant elements or findings or when a separate application by a spouse, partner, or accompanied minor is not considered to be justified (Article 36(1)(c) and (d)). (Explanatory Memorandum, p. 16).</p> <p><i>Recital 35:</i> "Before determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX of the European Parliament and of the Council (Dublin Regulation), the first Member State in which an application has been lodged should examine the admissibility of that application when a country which is not a Member State is considered as a first country of asylum or safe third country for the applicant. In addition, an application should be considered to be inadmissible when it is a subsequent applicant without new relevant elements or findings and</p>

	<p>when a separate application by a spouse, partner, dependent adult or minor is not considered to be justified." (NEW RECITAL)</p>
Accelerated procedure	<p><i>Article 40(5):</i> "The accelerated examination procedure may be applied to unaccompanied minors only where:</p> <p>(a) the applicant comes from a third country considered to be a safe country of origin in accordance with the conditions set out in Article 47;</p> <p>(b) the applicant may for serious reasons be considered to be a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law. " (AMENDED PROVISION)</p> <p><i>Recital 39:</i> "The examination of an application should be accelerated and completed within a maximum of two months in those instances where an application is manifestly unfounded because it is an abusive claim, including where an applicant comes from a safe country of origin or an applicant is making an application merely to delay or frustrate the enforcement of a removal decision, or where there are serious national security or public concerns, where the applicant does not apply for international protection in the first Member State of entry or in the Member State of legal residence or where an applicant whose application is under examination and who made an application in another Member State or who is on the territory of another Member State without a residence document is taken back under the Dublin Regulation. In the latter case, the examination of the application should not be accelerated if the applicant is able to provide substantiated justifications for having left to another Member State without authorisation, for having made an application in another Member State or for having otherwise been unavailable to the competent authorities, such as for instance that he or she was not informed adequately and in a timely manner of his or her obligations. Furthermore, an accelerated examination procedure may be applied to unaccompanied minors only within the limited circumstances set out in this Regulation." (NEW RECITAL)</p> <p><i>Explanatory Memorandum:</i> "Having regard to the fact that the accelerated examination procedure now becomes compulsory, that in most cases detention is involved when applying the border procedure, that the duration for both procedures is short and that there is no automatic suspensive effect following a decision taken in any of these procedures, it is necessary for all the procedural guarantees to apply to the individual applicant, in particular the right to be heard in a personal interview, interpretation and free legal assistance and representation (Article 40(1) and (Article 41(1)). The application of these procedures is limited with regard to unaccompanied minors (Article 40(5) and Article 41(5)) and they cannot be applied to applicants in need of special procedural guarantees unless those applicants can be provided with adequate support in the framework of those procedures (Article 19(3))." (Explanatory Memorandum, p. 16).</p>
Border procedure	<p><i>Article 41(5):</i> "The border procedure may be applied to unaccompanied minors, in accordance with Articles 8 to 11 of Directive (EU) No XXX/XXX (Reception Conditions Directive) only where:</p> <p>(a) the applicant comes from a third country considered to be a safe country of origin in accordance with the conditions set out in Article 47;</p> <p>(b) the applicant may for serious reasons be considered to be a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law;</p> <p>(c) there are reasonable grounds to consider that a third country is a safe third country for the applicant in accordance with the conditions of Article 45;</p> <p>(d) 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.</p> <p>Point (d) shall only be applied where there are serious grounds for considering that the applicant is attempting to conceal relevant elements which would likely lead to a decision refusing to grant international protection and provided that the applicant has been given an effective opportunity to</p>

	<p>provide substantiated justifications for his actions." (AMENDED PROVISION)</p> <p><i>Recital 40:</i> "Many applications for international protection are made at the border or in a transit zone of a Member State prior to a decision on the entry of the applicant. Member States should be able to provide for an examination on admissibility or an examination on the merits which would make it possible for such applications to be decided upon at those locations in well-defined circumstances. The border procedure should not take longer than four weeks and after that period applicants should be allowed entry to the territory of the Member State. It is only where a disproportionate number of applicants lodge their applications at the borders or in a transit zone, that the border procedure may be applied at locations in proximity to the border or transit zone. A border procedure may be applied to unaccompanied minors only within the limited circumstances set out in this Regulation." (AMENDED RECITAL)</p>
The concept of first country of asylum	<p><i>Article 44(4):</i> "As regards unaccompanied minors, the concept of first country of asylum may only be applied where the authorities of Member States have first received from the authorities of the third country in question the assurance that the unaccompanied minor will be taken in charge by those authorities and that he or she shall immediately benefit from one of the forms of protection referred to in paragraph 1." (NEW PARAGRAPH)</p>
The concept of safe third country	<p><i>Article 45(5):</i> "As regards unaccompanied minors, the concept of safe third country may only be applied where the authorities of the Member States have first received from the authorities of the third country in question confirmation that the unaccompanied minor shall be taken in charge by those authorities and that he or she shall immediately have access to one of the forms of protection referred to in Paragraph (1)(e)". (NEW PARAGRAPH)</p>

Reception Conditions Directive³
Proposal, 13.7.2016 COM(2016) 465 final

Topic	Articles, Recitals and Explanatory Memorandum
Information	<p><i>Article 5(2):</i> "Member States shall ensure that the information referred to in paragraph 1 is in writing using a standard template which shall be developed by the European Union Agency for Asylum and, in a language that the applicant understands or is reasonably supposed to understand. Where necessary, this information shall also be supplied orally and adapted to the needs of minors. (AMENDED PROVISION)</p>
Travel documents	<p><i>Article 6:</i> "Member States shall provide applicants with a travel document only when serious humanitarian or other imperative reasons arise that require their presence in another State. The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued."</p> <p><i>Recital 12:</i> "Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. It needs to be clarified that Member States should only provide applicants with a travel document when serious humanitarian or other imperative reasons arise. The validity of travel documents should also be limited to the purpose and duration needed for the reason for which they are issued. Serious humanitarian reasons could for instance be considered when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other imperative reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families." (NEW RECITAL)</p>

³ Full Title: Proposal for a Directive of the European Parliament and of the council laying down standards for the reception of applicants for international protection (recast).

<p>Detention of persons with special reception needs</p>	<p><i>Article 11(2):</i> "Minors shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors. The best interests of the child, as referred to Article 22(2), shall be a primary consideration for Member States. Where minors are detained, their right to education must be secured and they shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age." (AMENDED PARAGRAPH)</p> <p><i>Article 11(3):</i> "Unaccompanied minors shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible. Unaccompanied minors shall never be detained in prison accommodation. As far as possible, unaccompanied minors shall be provided with accommodation in institutions provided with personnel who take into account the rights and needs of persons of their age and facilities adapted to unaccompanied minors. Where unaccompanied minors are detained, Member States shall ensure that they are accommodated separately from adults. " (AMENDED PARAGRAPH)</p> <p><i>Recital 24:</i> "Applicants who are in detention should be treated with full respect for human dignity and their reception should be specifically designed to meet their needs in that situation. In particular, Member States should ensure that Article 24 of the Charter of Fundamental Rights of the European Union and Article 37 of the 1989 United Nations Convention on the Rights of the Child is applied."</p> <p><i>Explanatory Memorandum:</i> "Detention pursuant to the Reception Conditions Directive continues to be justified only when it proves necessary and on the basis of an individual assessment of each case and if other less coercive alternative measures cannot be applied effectively. All the guarantees already provided for in the current Directive regarding detention remain unchanged. Special care must be taken to ensure that the length of any detention is proportionate and that the detention is terminated as soon as the applicable ground for detention under the Directive is no longer present. The proposal is also fully compatible with Article 6 of the EU Charter of Fundamental Rights, read in the light of Article 5 of the European Convention on Human Rights and relevant jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights. In application of Article 37 of the United Nations Convention on the Rights of the Child, as a rule, minors should not be detained."</p>
<p>Schooling and education of minors</p>	<p><i>Article 14:</i> "1. Member States shall grant to minor children of applicants and to applicants who are minors access to the education system under similar conditions as their own nationals for so long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centres. The Member State concerned may stipulate that such access must be confined to the State education system. Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority.</p> <p>2. Access to the education system shall not be postponed for more than three months from the date on which the application for international protection was lodged by or on behalf of the minor. Preparatory classes, including language classes, shall be provided to minors where it is necessary to facilitate their access to and participation in the education system as set out in paragraph 1.</p> <p>3. Where access to the education system as set out in paragraph 1 is not possible due to the specific situation of the minor, the Member State concerned shall offer other education arrangements in accordance with its national law and practice."</p>

<p>Reception conditions in a Member State other than the one in which the applicant is required to be present</p>	<p><i>Article 17a:</i> "1. An applicant shall not be entitled to the reception conditions set out in Articles 14 to 17 in any Member State other than the one in which he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. 2. Member States shall ensure a dignified standard of living for all applicants. 3. Pending the transfer under Regulation (EU) No XXX/XXX [Dublin Regulation] of a minor to the Member State responsible, Member States shall provide him or her with access to suitable educational activities." (NEW PROVISION)</p> <p><i>Explanatory Memorandum:</i> "An exception is introduced for cases where an applicant is irregularly present in another Member State than the one in which he or she is required to be present. In this situation, he or she is not entitled to material reception conditions, schooling and education of minors as well as employment and vocational training. The proposal clarifies that applicants will however always be entitled to health care and to a dignified standard of living, in accordance with fundamental rights, to cover the applicant's subsistence and basic needs both in terms of physical safety, dignity and interpersonal relationships (Article 17a). However, in order to ensure respect for the fundamental rights of the child, Member States should provide minors with access to suitable educational activities pending the transfer to the Member State responsible." (Explanatory Memorandum, p. 11).</p>
<p>Applicants with special reception needs</p>	<p><i>Article (2)(13):</i> "'applicant with special reception needs': means an applicant a vulnerable person, in accordance with Article 21, who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive, such as applicants who are minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation". (AMENDED PARAGRAPH)</p> <p><i>Article 20:</i> " Member States shall take into account the specific situation of applicants with special reception needs in the national law implementing this Directive."</p>
<p>Assessment of special reception needs</p>	<p><i>Article 21:</i> 1. In order to effectively implement Article 20, Member States shall systematically assess whether the applicant is an applicant with special reception needs. Member States shall also indicate the nature of such needs. That assessment shall be initiated as early as possible after an application for international protection is made and may be integrated into existing national procedures or into the assessment referred to in Article [19] of Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States shall ensure that those special reception needs are also addressed, in accordance with this Directive, if they become apparent at a later stage in the asylum procedure. Member States shall ensure that the support provided to applicants with special reception needs in accordance with this Directive takes into account their special reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation. (AMENDED PARAGRAPH)</p> <p>2. For the purposes of paragraph 1, Member States shall ensure that the personnel of the authorities referred to in Article 26:</p> <ul style="list-style-type: none"> (a) are trained and continues to be trained to detect first signs that an applicant requires special receptions conditions and to address those needs when identified; (b) include information concerning the applicant's special reception needs in the applicant's file, together with the indication of the signs referred to in point (a) as well as recommendations as to the type of support that may be needed by the applicant; (c) refer applicants to a doctor or a psychologist for further assessment of their psychological and physical state where there are indications that applicants may have been victim of torture, rape or of another serious form of psychological, physical or sexual violence and that this could affect the reception needs of the applicant; and (d) take into account the result of that examination when deciding on the type of special reception support which may be provided to the applicant. (NEW PARAGRAPH)

	<p>3. The assessment referred to in paragraph 1 need not take the form of an administrative procedure.</p> <p>4. Only applicants with special reception needs may benefit from the specific support provided in accordance with this directive.</p> <p>5. The assessment provided for in paragraph 1 shall be without prejudice to the assessment of international protection needs pursuant to Regulation (EU) No XXX/XXX [Qualification Regulation]."</p> <p><i>Explanatory Memorandum:</i> "The proposal ensures that reception conditions are adapted to the specific situation of minors, whether unaccompanied or within families, with due regard to their security, physical and emotional care and are provided in a manner that encourages their general development. The proposal also takes into account Member States obligations under the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)". (Explanatory Memorandum, p. 14)</p>
Minors	<p><i>Article 22:</i> " 1. The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this Directive that involve minors. Member States shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development.</p> <p>2. In assessing the best interests of the child, Member States shall in particular take due account of the following factors:</p> <p>(a) family reunification possibilities;</p> <p>(b) the minor's well-being and social development, taking into particular consideration the minor's background;</p> <p>(c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;</p> <p>(d) the views of the minor in accordance with his or her age and maturity.</p> <p>3. Member States shall ensure that minors have access to leisure activities, including play and recreational activities appropriate to their age within the premises and accommodation centres referred to in Article 18 17(1)(a) and (b) and to open-air activities.</p> <p>4. Member States shall ensure access to rehabilitation services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and ensure that appropriate mental health care is developed and qualified counselling is provided when needed.</p> <p>5. Member States shall ensure that minor children of applicants or applicants who are minors are lodged with their parents, or with the adult responsible for them and their unmarried minor siblings whether by law or by the practice of the Member State concerned, provided it is in the best interests of the minors concerned.</p> <p>6. Those working with minors, including with unaccompanied minors, shall not have a verified record of child-related crimes or offenses and shall receive continuous and appropriate training concerning the rights and needs of unaccompanied minors, including concerning any applicable child safeguarding standards, and shall be bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work." (AMENDED PARAGRAPH)</p> <p><i>Recital 28:</i> "When deciding on housing arrangements, Member States should take due account of the best interests of the child, as well as of the particular circumstances of any applicant who is dependent on family members or other close relatives such as unmarried minor siblings already present in the Member State."</p> <p><i>Recital 30:</i> "In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and</p>

	<p>Fundamental Freedoms respectively. Reception conditions need to be adapted to the specific situation of minors, whether unaccompanied or within families, with due regard to their security, physical and emotional care and provided in a manner that encourages their general development. (AMENDED RECITAL)</p> <p><i>Recital 32:</i> "An applicant's entitlement to material reception conditions under this Directive may be curtailed in certain circumstances such as where an applicant has absconded to another Member State from the Member State where he or she is required to be present. However, Member States should in all circumstances ensure access to health care and a dignified standard of living for applicants in line with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker. Due regard must also be given to applicants with special reception needs. The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account. When a minor is in a Member State other than the one in which he or she is required to be present, Member States should provide the minor with access to suitable educational activities pending the transfer to the Member State." (NEW RECITAL)</p>
<p>Unaccompanied minors</p>	<p><i>Article 23:</i> "1. Member States shall as soon as possible and no later than five working days from the moment when an unaccompanied minor makes an application for international protection take measures to ensure that a guardian represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive. The guardian appointed in accordance with Article [22] of Regulation (EU) No XXX/XXX [Procedures Regulation] may perform those tasks. The unaccompanied minor shall be informed immediately of the appointment of the guardian. Where an organisation is appointed as guardian, it shall designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Directive. The guardian shall perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 22(2) shall have the necessary expertise to that end and shall not have a verified record of child-related crimes or offences . In order to ensure the minor's well-being and social development referred to in Article 22(2), the person acting as guardian shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardians. Member States shall ensure that a guardian is not placed in charge of a disproportionate number of unaccompanied minors at the same time that would render him or her unable to perform his or her tasks effectively. Member States shall appoint entities or persons responsible for monitoring at regular intervals that guardians perform their tasks in a satisfactory manner. Those entities or persons shall also have the competence to review complaints lodged by unaccompanied minors against their guardian. (AMENDED PARAGRAPH)</p> <p>2. Unaccompanied minors who make an application for international protection shall, from the moment they are admitted to the territory until the moment when they are obliged to leave the Member State in which the application for international protection was made or is being examined, be placed:</p> <ul style="list-style-type: none"> (a) with adult relatives; (b) with a foster family; (c) in accommodation centres with special provisions for minors; (d) in other accommodation suitable for minors. <p>Member States may place unaccompanied minors aged 16 or over in accommodation centres for adult applicants, if it is in their best interests, as prescribed in Article 22 (2).</p> <p>As far as possible, siblings shall be kept together, taking into account the best interests of the</p>

minor concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.

3. Member States shall start tracing the members of the unaccompanied minor's family, where necessary with the assistance of international or other relevant organisations, as soon as possible after an application for international protection is made, whilst protecting his or her best interests. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety."

Explanatory Memorandum: "The proposal introduces stricter time limits, within five working days from the moment the application was made, for the Member States to assign a guardian to represent and assist an unaccompanied minor. It is also proposed that the number of unaccompanied minors that guardians may be in charge of should not render them unable to perform their tasks. Member States should monitor that their guardians adequately perform their tasks and should review complaints lodged by unaccompanied minors against their guardian. The guardians appointed under the proposed Asylum Procedures Regulation may perform the task of the guardians under this proposal (Article 23)." (Explanatory Memorandum, p. 12)

Qualifications Regulation⁴
Proposal, 13.7.2016 COM(2016) 466 final

Topic	Articles, Recitals and Explanatory Memorandum
Definition of family members	<p><i>Article 2(9):</i> "“family members’ means, in so far as the family already existed before the applicant arrived on the territory of the Member States, the following members of the family of the beneficiary of international protection who are present in the same Member State in relation to the application for international protection:</p> <p>(a) the spouse of the beneficiary of international protection or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals;</p> <p>(b) the minor children of the couples referred to in point (a) or of the beneficiary of international protection, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law;</p> <p>(c) the father, mother or another adult responsible for the beneficiary of international protection whether by law or by the practice of the Member State concerned, when that beneficiary is a minor and unmarried; " (AMENDED PARAGRAPHS)</p> <p><i>Recital 16:</i> "The notion of family members should take into account the different particular circumstances of dependency and the special attention to be paid to the best interests of the child. It should also reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The notion should therefore include families formed outside the country of origin, but before their arrival on the territory of the Member State." (NEW RECITAL)</p>
Acts of persecution	<p><i>Article 9(2)(f):</i> " Acts of persecution as qualified in paragraph 1 may, among others, take the form of: acts of a gender-specific or child-specific nature."</p> <p><i>Recital 25:</i> "Where the State or agents of the State are the actors of persecution or serious harm, there should be a presumption that effective protection is not available to the applicant. When the applicant is an unaccompanied minor, the availability of appropriate care and custodial arrangements, which are in the best interests of the unaccompanied minor, should form part of the assessment as to whether that protection is effectively available."</p> <p><i>Recital 26:</i> "It is necessary, when assessing applications from minors for international protection, that the determining authorities should have regard to child-specific forms of persecution."</p>
General rules	<p><i>Article 22(4):</i> " When applying the provisions of this Chapter, the specific situation of persons with special needs such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence shall be taken into account provided an individual evaluation of their situation establishes that they have special needs."</p> <p><i>Article 22(5):</i> "When applying the provisions of this Chapter that involve minors the best interests of the child shall be a primary consideration to the relevant authorities."</p> <p><i>Recital 15:</i> "When applying this Regulation the ‘best interests of the child’ should be a primary</p>

⁴ Full Title: Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

	consideration, in line with the 1989 United Nations Convention on the Rights of the Child. In assessing the best interests of the child, Member States' authorities should in particular take due account of the principle of family unity, the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity."
Access to education	<i>Article 31(1): "Minors granted international protection shall have full access to the education system, under the same conditions as nationals of the Member State that has granted protection."</i>
Healthcare	<i>Article 35(2): "Beneficiaries of international protection who have special needs, such as pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict shall be provided adequate healthcare, including treatment of mental disorders when needed, under the same eligibility conditions as nationals of the Member State that has granted protection".</i>
Unaccompanied minors	<p><i>Article 2(19): "'guardian' means a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Regulation with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary." (NEW PARAGRAPH)</i></p> <p><i>Article 36: "1. As soon as possible after international protection is granted and within five working days at the latest, as outlined in Article 22(1) of Regulation EU no xxx/xxx[Procedures regulation], competent authorities shall take the necessary measures to ensure the representation of unaccompanied minors by a legal guardian or, where necessary, by an organisation responsible for the care and well-being of minors, or by any other appropriate representation including that based on legislation or court order. Where an organisation is appointed as guardian, it shall as soon as possible designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Regulation. (AMENDED PARAGRAPH)</i></p> <p>2. The appointed guardian shall have the duty of ensuring that the minor can access all rights stemming from this Regulation. The appropriate authorities shall regularly assess the performance of the appointed guardian.</p> <p>3. Unaccompanied minors shall be placed in one of the following ways:</p> <ul style="list-style-type: none"> (a) with adult relative; (b) with a foster family; (c) in centres specialised in accommodation for minors; (d) in other accommodation suitable for minors. <p>The views of the minor shall be taken into account in accordance with his or her age and degree of maturity.</p> <p>4. As far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.</p> <p>5. If an unaccompanied minor is granted international protection and the tracing of his or her family members has not already started, competent authorities shall start tracing them as soon as possible after the granting of international protection, whilst protecting the minor's best interests. If tracing has already started, it shall be continued where appropriate. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis.</p> <p>6. The persons and organisations working with unaccompanied minors shall receive continuous appropriate training concerning the rights and needs of minors and child safeguarding standards will be respected as referred to in Art 22 of Regulation EU No xxx/xxx[Procedures regulation]."</p>

Benefits	<i>Recital 46:</i> "When deciding on entitlements to the benefits included in this Regulation, the competent authorities should take due account of the best interests of the child, as well as of the particular circumstances of the dependency on the beneficiary of international protection of close relatives who are already present in the Member State and who are not family members of that beneficiary. In exceptional circumstances, where the close relative of the beneficiary of international protection is a married minor but not accompanied by his or her spouse, the best interests of the minor may be seen to lie with his or her original family."
-----------------	---

Dublin Regulation⁵

Proposal, 4.5.2016 COM(2016) 270 final

Topic	Articles, Recitals and Explanatory Memorandum
General rules	<p><i>Recital 15:</i> In accordance with the 1989 United Nations Convention on the Rights of the Child and with the Charter of Fundamental Rights of the European Union, the best interests of the child should be a primary consideration of Member States when applying this Regulation. In assessing the best interests of the child, Member States should, in particular, take due account of the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity, including his or her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability.</p> <p><i>Recital 36:</i> In accordance with Commission Regulation (EC) No 1560/200324, transfers to the Member State responsible for examining an application for international protection may be carried out on a voluntary basis, by supervised departure or under escort. Member States should promote voluntary transfers by providing adequate information to the applicant and should ensure that supervised or escorted transfers are undertaken in a humane manner, in full compliance with fundamental rights and respect for human dignity, as well as the best interests of the child and taking utmost account of developments in the relevant case law, in particular as regards transfers on humanitarian grounds.</p>
Definitions	<p><i>Article 2 (g):</i> 'family members' means, insofar as the family already existed before the applicant arrived on the territory of the Member States, the following members of the applicant's family who are present on the territory of the Member States:</p> <ul style="list-style-type: none">– the spouse of the applicant or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals,– the minor children of couples referred to in the first indent or of the applicant, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law,– when the applicant is a minor and unmarried, the father, mother or another adult responsible for the applicant, whether by law or by the practice of the Member State where the adult is present,– when the beneficiary of international protection is a minor and unmarried, the father, mother or another adult responsible for him or her whether by law or by the practice of the Member State where the beneficiary is present; <p>- the sibling or siblings of the applicant; (AMENDED PARAGRAPH)</p> <p><i>Article 2 (j):</i> 'unaccompanied minor' means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States;</p> <p><i>Article 2(k):</i> 'representative' means a person or an organisation appointed by the competent</p>

⁵ Full Title: Proposal for a Regulation of The European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)

	<p>bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Regulation with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out its duties in respect of the minor, in accordance with this Regulation;</p> <p><i>Recital 19:</i> The definition of a family member in this Regulation should include the sibling or siblings of the applicant. Reuniting siblings is of particular importance for improving the chances of integration of applicants and hence reducing secondary movements. The scope of the definition of family member should also reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The definition should therefore include families formed outside the country of origin, but before their arrival on the territory of the Member State. This limited and targeted enlargement of the scope of the definition is expected to reduce the incentive for some secondary movements of asylum seekers within the EU. (NEW RECITAL)</p> <p><i>Explanatory Memorandum:</i> The definition of family members is extended in two ways: by (1) including the sibling or siblings of an applicant and by (2) including family relations which were formed after leaving the country of origin but before arrival on the territory of the Member State. Siblings are a rather targeted but important category where the possibility to prove and check the family relation is relatively easy and thus the potential for abuse is low. The extension to cover families formed during transit reflects recent migratory phenomena such as longer stays outside the origin country before reaching the EU, such as in refugee camps. These targeted extensions of the family definition are expected to reduce the risk of irregular movements or absconding for persons covered by the extended rules. (<i>Explanatory Memorandum</i>, p.16)</p>
<p>Right to information</p>	<p><i>Article 6 (3):</i> The Commission shall, by means of implementing acts, draw up a common leaflet, as well as a specific leaflet for unaccompanied minors, containing at least the information referred to in paragraph 1 of this Article. This common leaflet shall also include information regarding the application of Regulation (EU) [<i>Proposal for a Regulation recasting Regulation No 603/2013</i>] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac.</p> <p><i>Recital 47:</i> The examination procedure should be used for the adoption of a common leaflet on Dublin/Eurodac, as well as a specific leaflet for unaccompanied minors; of a standard form for the exchange of relevant information on unaccompanied minors; of uniform conditions for the consultation and exchange of information on minors and dependent persons; of uniform conditions on the preparation and submission of take charge requests and take back notifications; of two lists of relevant elements of proof and circumstantial evidence, and the periodical revision thereof; of a <i>laissez passer</i>; of uniform conditions for the consultation and exchange of information regarding transfers; of a standard form for the exchange of data before a transfer; of a common health certificate; of uniform conditions and practical arrangements for the exchange of information on a person's health data before a transfer, and of secure electronic transmission channels for the transmission of requests.</p>
<p>Guarantees for minors (best interests of the child/ guardianship for unaccompanied minors)</p>	<p><i>Article 8 (1):</i> The best interests of the child shall be a primary consideration for Member States with respect to all procedures provided for in this Regulation.</p> <p>(2). Each Member States where an unaccompanied minor is obliged to be present shall ensure that a representative represents and/or assists the unaccompanied minor with respect to the relevant procedures provided for in this Regulation. The representative shall have the qualifications and expertise to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such representative shall have access to the content of the relevant documents in the applicant's file including the specific leaflet for unaccompanied minors. This paragraph shall be without prejudice to the relevant provisions in Article 25 of Directive 2013/32/EU.</p>

3. In assessing the best interests of the child, Member States shall closely cooperate with each other and shall, in particular, take due account of the following factors:

- (a) family reunification possibilities;
- (b) the minor's well-being and social development;
- (c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;
- (d) the views of the minor, in accordance with his or her age and maturity.

4. Before transferring an unaccompanied minor to the Member State responsible or, where applicable, to the Member State of allocation, the transferring Member State shall make sure that the Member State responsible or the Member State of allocation takes the measures referred to in Articles 14 and 24 of Directive 2013/33/EU and Article 25 of Directive 2013/32/EU without delay. Any decision to transfer an unaccompanied minor shall be preceded by an assessment of his/her best interests. The assessment shall be based on the factors listed in paragraph 3. The assessment shall be done swiftly by staff with the qualifications and expertise to ensure that the best interests of the minor are taken into consideration. **(AMENDED PARAGRAPH)**

5. For the purpose of applying Article 10, the Member State where the unaccompanied minor lodged an application for international protection shall, as soon as possible, take appropriate action to identify the family members or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child. To that end, that Member State may call for the assistance of international or other relevant organisations, and may facilitate the minor's access to the tracing services of such organisations. The staff of the competent authorities referred to in Article 47 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors.

6. With a view to facilitating the appropriate action to identify the family members or relatives of the unaccompanied minor living in the territory of another Member State pursuant to paragraph 5 of this Article, the Commission shall adopt implementing acts including a standard form for the exchange of relevant information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Recital 20: In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion. **In order to discourage secondary movements of unaccompanied minors, which are not in their best interests, in the absence of a family member or a relative, the Member State responsible should be that where the unaccompanied minor first has lodged his or her application for international protection, unless it is demonstrated that this would not be in the best interests of the child. Before transferring an unaccompanied minor to another Member State, the transferring Member State should make sure that that Member State will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a representative or representatives tasked with safeguarding respect for all the rights to which they are entitled. Any decision to transfer an unaccompanied minor should be preceded by an assessment of his/her best interests by staff with the necessary qualifications and expertise. (AMENDED RECITAL)**

Explanatory Memorandum:

In relation to unaccompanied minors, the proposal clarifies that the Member State where the minor first lodged his or her application for international protection will be responsible, unless it is demonstrated that this is not in the best interests of the minor. This rule will allow a quick determination of the Member State responsible and thus allow swift access to the procedure for

	<p>this vulnerable group of applicants, also in view of the shortened time limits proposed. The provision on guarantees for unaccompanied minors is adapted to make the best interests assessment more operational. Thus, before transferring an unaccompanied minor to another Member State, the transferring Member State shall make sure that that Member State will take the necessary measures under the asylum procedures and reception conditions Directives without delay. It is also stipulated that any decision to transfer an unaccompanied minor must be preceded by an assessment of his/her best interests, to be done swiftly by qualified staff. (Explanatory Memorandum, p.17)</p>
<p>Unaccompanied minors</p>	<p><i>Article 10 (1):</i> Where the applicant is an unaccompanied minor, only the criteria set out in this article shall apply, in the order in which they are set out in paragraphs 2 to 5. (NEW PARAGRAPH)</p> <p>2. The Member State responsible shall be that where a family member of the unaccompanied minor is legally present, provided that it is in the best interests of the minor. Where the applicant is a married minor whose spouse is not legally present on the territory of the Member States, the Member State responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.</p> <p>3. Where the applicant has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, provided that it is in the best interests of the minor.</p> <p>4. Where family members or relatives as referred to in paragraphs 2 and 3, stay in more than one Member State, the Member State responsible shall be decided on the basis of what is in the best interests of the unaccompanied minor.</p> <p>5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be that where the unaccompanied minor first has lodged his or her application for international protection, unless it is demonstrated that this is not in the best interests of the minor.</p> <p>6. The Commission is empowered to adopt delegated acts in accordance with Article 57 concerning the identification of family members or relatives of the unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of the unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 8(3).</p> <p>7. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and the exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).</p>
<p>Family unity/reunification</p>	<p><i>Article 11:</i> Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who has been allowed to reside as a beneficiary of international protection in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.</p> <p><i>Article 12:</i> If the applicant has a family member in a Member State whose application for international protection in that Member State has not yet been the subject of a first decision regarding the substance, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.</p> <p><i>Article 13:</i> Where several family members submit applications for international protection in the same Member State simultaneously, or on dates close enough for the procedures for determining the Member State responsible to be conducted together, and where the application of the criteria set out in this Regulation would lead to their being separated, the Member State responsible shall be determined on the basis of the following provisions:</p>

- (a) responsibility for examining the applications for international protection of all the family members and/or minor unmarried siblings shall lie with the Member State which the criteria indicate is responsible for taking charge of the largest number of them;
which the criteria indicate is responsible for taking charge of the largest number of them;
- (b) failing this, responsibility shall lie with the Member State which the criteria indicate is responsible for examining the application of the oldest of them.

Article 18: 1. Where, on account of pregnancy, a new-born child, serious illness, severe disability or old age, an applicant is dependent on the assistance of his or her child, sibling or parent legally resident in one of the Member States, or his or her child, sibling or parent legally resident in one of the Member States is dependent on the assistance of the applicant, Member States shall normally keep or bring together the applicant with that child, sibling or parent, provided that family ties existed in the country of origin, that the child, sibling or parent or the applicant is able to take care of the dependent person and that the persons concerned expressed their desire in writing.

2. Where the child, sibling or parent referred to in paragraph 1 is legally resident in a Member State other than the one where the applicant is present, the Member State responsible shall be the one where the child, sibling or parent is legally resident unless the applicant's health prevents him or her from travelling to that Member State for a significant period of time. In such a case, the Member State responsible shall be the one where the applicant is present. Such Member State shall not be subject to the obligation to bring the child, sibling or parent of the applicant to its territory.

3. The Commission is empowered to adopt delegated acts in accordance with Article 57 concerning the elements to be taken into account in order to assess the dependency link, the criteria for establishing the existence of proven family links, the criteria for assessing the capacity of the person concerned to take care of the dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time.

4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Article 19 1. By way of derogation from Article 3(1) and **only as long as no Member State has been determined as responsible**, each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person **based on family grounds in relation to wider family not covered by Article 2(g)**, even if such examination is not its responsibility under the criteria laid down in this Regulation. The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. Where applicable, it shall inform, the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of the applicant. The Member State which becomes responsible pursuant to this paragraph shall forthwith indicate it in Eurodac in accordance with Regulation [*Proposal for a Regulation recasting Regulation (EU) No 603/2013*] by adding the date when the decision to examine the application was taken. **(AMENDED PARAGRAPH)**

2. The Member State in which an application for international protection is made and which is carrying out the process of determining the Member State responsible may, at any time before **a Member State responsible has been determined**, request another Member State to take charge of an applicant in order to bring together any family relations, even where that other Member State is not responsible under the criteria laid down in Articles 10 to 13 and 18. The persons concerned must express their consent in writing. The request to take charge shall contain all the material in the possession of the requesting Member State to allow the requested Member State

	<p>to assess the situation. The requested Member State shall carry out any necessary checks to examine the humanitarian grounds cited, and shall reply to the requesting Member State within one month of receipt. A reply refusing the request shall state the reasons on which the refusal is based. Where the requested Member State accepts the request, responsibility for examining the application shall be transferred to it.</p> <p>Recital 21: Assuming responsibility by a Member State for examining an application lodged with it in cases when such examination is not its responsibility under the criteria laid down in this Regulation may undermine the effectiveness and sustainability of the system and should be exceptional. Therefore, a Member State should be able to derogate from the responsibility criteria, only on humanitarian grounds, in particular for family reasons, before a Member State responsible has been determined and examine an application for international protection lodged with it or with another Member State, even if such examination is not its responsibility under the binding criteria laid down in this Regulation. (AMENDED RECITAL)</p>
<p>Procedure – responsibility of MS</p>	<p><i>Article 21:</i></p> <ol style="list-style-type: none"> 1. The process of determining the Member State responsible shall start as soon as an application for international protection is first lodged with a Member State, provided that the Member State of first application is not already the Member State responsible pursuant to Article 3(4) or (5). 2. An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or a report prepared by the authorities has reached the competent authorities of the Member State concerned. Where an application is not made in writing, the time elapsing between the statement of intention and the preparation of a report should be as short as possible. 3. For the purposes of this Regulation, the situation of a minor who is accompanying the applicant and meets the definition of family member shall be indissociable from that of his or her family member and shall be a matter for the Member State responsible for examining the application for international protection of that family member, even if the minor is not individually an applicant, provided that it is in the minor’s best interests. The same treatment shall be applied to children born after the applicant arrives on the territory of the Member States, without the need to initiate a new procedure for taking charge of them. 4. Where an application for international protection is lodged with the competent authorities of a Member State by an applicant who is on the territory of another Member State, the determination of the Member State responsible shall be made by the Member State in whose territory the applicant is present. The latter Member State shall be informed without delay by the Member State which received the application and shall then, for the purposes of this Regulation, be regarded as the Member State with which the application for international protection was lodged. The applicant shall be informed in writing of this change in the determining Member State and of the date on which it took place. 5. An applicant who is present in another Member State without a residence document or who there lodges an application for international protection after withdrawing his or her first application made in a different Member State during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles 26 and 30, by the Member State with which that application for international protection was first lodged.
<p>Right to effective remedy</p>	<p><i>Article 28 (5):</i> Where no transfer decision referred to in paragraph 1 is taken, Member States shall provide for an effective remedy before a court or tribunal, where the applicant claims that a family member or, in the case of unaccompanied minors, a relative is legally present in a Member State other than the one which is examining his or her application for international protection, and considers therefore that other Member State as Member State responsible for examining the application. (NEW PARAGRAPH)</p> <p><i>Recital 24:</i> In order to guarantee effective protection of the rights of the persons concerned, legal</p>

	<p>safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State is responsible on the basis that he has a family member or, for unaccompanied minors, a relative in another Member State. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred. The scope of the effective remedy should be limited to an assessment of whether applicants' fundamental rights to respect of family life, the rights of the child, or the prohibition of inhuman and degrading treatment risk to be infringed upon. (AMENDED RECITAL)</p> <p><i>Explanatory Memorandum:</i> The rules on remedies have been adapted in order to considerably speed up and harmonise the appeal process. In addition to establishing specific, short time limits, making use of a remedy automatically suspends the transfer. A new remedy is introduced for cases where no transfer decision is taken, and the applicant claims that a family member or, in the case of minors, also a relative, is legally present in another Member State. (Explanatory Memorandum, p.17)</p>
<p>Exchange of information between MS</p>	<p><i>Article 32 (2):</i> The transferring Member State shall, in so far as such information is available to the competent authority in accordance with national law, transmit to the Member State responsible any information that is essential in order to safeguard the rights and immediate special needs of the person to be transferred, and in particular:</p> <ul style="list-style-type: none"> (a) any immediate measures which the Member State responsible is required to take in order to ensure that the special needs of the person to be transferred are adequately addressed, including any immediate health care that may be required; (b) contact details of family members, relatives or any other family relations in the receiving Member State, where applicable; (c) in the case of minors, information on their education; (d) an assessment of the age of an applicant.
<p>Exchange of health data between MS</p>	<p><i>Article 33(1):</i> For the sole purpose of the provision of medical care or treatment, in particular concerning disabled persons, elderly people, pregnant women, minors and persons who have been subject to torture, rape or other serious forms of psychological, physical and sexual violence, the transferring Member State shall, in so far as it is available to the competent authority in accordance with national law, transmit to the Member State responsible information on any special needs of the person to be transferred, which in specific cases may include information on that person's physical or mental health. That information shall be transferred in a common health certificate with the necessary documents attached. The Member State responsible shall ensure that those special needs are adequately addressed, including in particular any essential medical care that may be required.</p>
<p>Adoption of Supplementary rules</p>	<p><i>Recital 48:</i> In order to provide for supplementary rules, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the identification of family members or relatives of an unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State; the elements for assessing a dependency link; the criteria for assessing the capacity of a person to take care of a dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 68(3) of this Regulation. [...]</p>

EURODAC Regulation⁶

Proposal, 4.5.2016 COM(2016) 272 final

Topic	Articles, Recitals and Explanatory Memorandum
Identification of minors through fingerprints and facial images	<p><i>Article 2 (2):</i> Taking fingerprints and facial images of minors from the age of six shall be carried out in a child-friendly and child-sensitive manner by officials trained specifically to enroll minor's fingerprints and facial images. The minor shall be informed in an age-appropriate manner using leaflets and/or infographics and/or demonstrations specifically designed to explain the fingerprinting and facial image procedure to minors and they shall be accompanied by a responsible adult, guardian or representative at the time their fingerprints and facial image are taken. At all times Member States must respect the dignity and physical integrity of the minor during the fingerprinting procedure and when capturing a facial image. (NEW PARAGRAPH)</p> <p>(4). Without prejudice to paragraph 3 of this Article, where enrolment of the fingerprints or facial image is not possible from third-country nationals who are deemed to be vulnerable persons and from a minor due to the conditions of the fingertips or face, the authorities of that Member State shall not use sanctions to coerce the taking of fingerprints or a facial image. A Member State may attempt to re-take the fingerprints or facial image of a minor or vulnerable person who refuses to comply, where the reason for non-compliance is not related to the conditions of the fingertips or facial image or the health of the individual and where it is duly justified to do so. Where a minor, in particular an unaccompanied or separated minor refuses to give their fingerprints or a facial image and there are reasonable grounds to suspect that there are child safeguarding or protection risks, the minor shall be referred to the national child protection authorities and /or national referral mechanisms. (NEW PARAGRAPH)</p> <p>(5). The procedure for taking fingerprints and a facial image shall be determined and applied in accordance with the national practice of the Member State concerned and in accordance with the safeguards laid down in the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.</p> <p><i>Recital 26:</i> The best interests of the minor should be a primary consideration for Member States when applying this Regulation. Where the requesting Member State establishes that Eurodac data pertain to a child, these data may only be used for law enforcement purposes by the requesting Member State in accordance with that State's laws applicable to minors and in accordance with the obligation to give primary consideration to the best interests of the child. (NEW RECITAL)</p> <p><i>Recital 30:</i> Member States should refer to the Commission's Staff Working Document on Implementation of the Eurodac Regulation as regards the obligation to take fingerprints adopted by the Council on 20 July 2015, which sets out a best practice approach to taking fingerprints of irregular third-country nationals. Where a Member State's national law allows for the taking of fingerprints by force or coercion as a last resort, those measures must fully respect the EU Charter of Fundamental Rights. Third-country nationals who are deemed to be vulnerable</p>

⁶ Full Title: Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person] , for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast)

	<p>persons and minors should not be coerced into giving their fingerprints or facial image, except in duly justified circumstances that are permitted under national law. (NEW RECITAL)</p> <p><i>Explanatory Memorandum:</i> The obligation to take fingerprints shall be implemented in full respect of the right to human dignity and of the rights of the child. The proposal reaffirms the obligation upon Member States to ensure that the procedure for taking fingerprints and a facial image shall be determined and applied in accordance with the national practice of the Member State concerned and in accordance with the safeguards laid down in the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child. (Explanatory Memorandum, p.10)</p> <p>[...] New provisions have been laid down to ensure that the taking of fingerprints and a facial image from minors, particularly young children, should be carried out in a child-sensitive and child-friendly manner. These provisions also ensure that a minor is not subject to any administrative sanctions if they do not submit their fingerprints or a facial image, where there is good reason for not submitting them and that the authorities of a Member State must ensure that where they suspect that there may be child protection issues following a refusal to submit fingerprints or a facial image or where a child may have damaged fingertips or hands, they should refer the child to the national child protection authorities. (Explanatory Memorandum, p.12)</p>
<p>Identification of unaccompanied minors who do not seek international protection / separated children</p>	<p><i>Recital 25:</i> In view of strengthening the protection of unaccompanied minors who have not applied for international protection and those children who may become separated from their families, it is also necessary to take fingerprints and a facial image for storage in the Central System to help establish the identity of a child and assist a Member State to trace any family or links they may have with another Member State. Establishing family links is a key element in restoring family unity and must be closely linked to the determination of the best interests of the child and eventually, the determination of a durable solution. (NEW RECITAL)</p> <p><i>Explanatory Memorandum:</i> The proposal also positively contributes to the protection of the rights of the child and to the respect of the right to respect for family life. Many applicants for international protection and third-country nationals arriving irregularly to the European Union travel with families and in many cases very young children. Being able to identify these children with the help of fingerprints and facial images will help identify children in cases where they are separated from their families by allowing a Member State to follow up a line of inquiry where a fingerprint match indicates that they were present in another Member State. It would also strengthen the protection of unaccompanied minors who do not always formally seek international protection and who abscond from care institutions or child social services under which their care has been assigned. (Explanatory Memorandum, p.10)</p>
<p>Lowering the age of taking fingerprints to 6 years old</p>	<p><i>Article 13 (1).</i> Each Member State shall promptly take the fingerprints of all fingers and capture a facial image of every third-country national or stateless person of at least six years of age who is apprehended by the competent control authorities in connection with the irregular crossing by land, sea or air of the border of that Member State having come from a third country and who is not turned back or who remains physically on the territory of the Member States and who is not kept in custody, confinement or detention during the entirety of the period between apprehension and removal on the basis of the decision to turn him or her back.</p> <p><i>Article 14 (1).</i> Each Member State shall promptly take the fingerprints of all fingers and capture a facial image of every third-country national or stateless person of at least six years of age who is</p>

	<p>found illegally staying within its territory. (NEW PARAGRAPH)</p> <p><i>Explanatory Memorandum:</i> “the age for taking fingerprints has always historically been 14 years of age. The study conducted by the Commission's Joint Research Centre, on 'Fingerprint Recognition for children' indicates that fingerprints taken from children age six and above can be used in automated matching scenarios such as EURODAC when sufficient care is taken to acquire good quality images. Indeed many Member States take the fingerprints of children at a lower age than six for national purposes, such as issuing a passport or a biometric residence permit. Many applicants for international protection and third-country nationals arriving irregularly to the European Union travel with families and in many cases very young children. Being able to identify these children with the help of fingerprints and facial images will help identify children in cases where they are separated from their families by allowing a Member State to follow up a line of inquiry where a fingerprint match indicates that they were present in another Member State. It would also strengthen the protection of unaccompanied minors who do not always formally seek international protection and who abscond from care institutions or child social services under which their care has been assigned. Under the current legal and technical framework their identity cannot be established. Thus the EURODAC system could be used to register children from third-countries where they are found undocumented within the EU to help keep track of them and prevent them from ending up in scenarios of exploitation.” (Explanatory Memorandum, p. 4, 14, 92)</p>
Rights of information	<p><i>Article 30 (2).</i> [...] Where a person covered by Article 10(1), Article 13(1) and Article 14(1) is a minor, Member States shall provide the information in an age-appropriate manner.</p>