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NOTE

From:	Presidency
To:	Delegations
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Subject:	Proposal for a Regulation of the European Parliament and of the Council stablishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (First reading)

Presidency compromise proposals were discussed in relations to Articles 1-50 during three meetings (26-27 September, 5-6 October, 24-25 October and 21-22 November).

This document contains compromise proposals suggested by the Presidency in relation to Articles 51-62.

Suggested modifications are indicated as follows:

- new text compare to the Commission proposal is in **bold**;

- new text compared to the previous version is in **bold underline**;

- deleted text is in ~~strikethrough~~.

Comments made by delegations orally and in writing, as well as explanations given by the Commission and the Presidency appear in the footnotes of the Annex.

ANNEX

2016/0224 (COD)

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[1]

[…]

CHAPTER IV

PROCEDURES FOR THE WITHDRAWAL OF INTERNATIONAL PROTECTION

Article 51

Withdrawal of international protection[2]

The determining authority shall start the examination to withdraw international protection from a **third-country national or stateless** ~~particular~~ person when new elements or findings arise indicating that there are reasons **as referred to in Articles 14 and 20 of Regulation (EU) No XXX/XXX (Qualification Regulation)** to reconsider the validity of his or her international protection~~,~~**.**

[1] **HU, IT, NL, SI:** parliamentary reservation. **AT, BE, BG, CZ, EL, ES, FI, FR, HU, IE, IT, LT, NL, PL, PT, SE, SI:** scrutiny reservation. **FR, SK:** Directive instead of a Regulation.

[2] **SE:** scrutiny reservation.

For the purpose of withdrawing international protection when the person has ceased to be a refugee or a beneficiary of subsidiary protection in accordance with Articles 11 and 17 of Regulation (EU) No XXX/XXX (Qualification Regulation), respectively, the determining authority shall review the status of that beneficiary of international protection in accordance with ~~and in particular in those instances referred to in~~ Articles 15 and 21 of Regulation (EU) No XXX/XXX (Qualification Regulation).

Article 52

Procedural rules for withdrawal of international protection[3]

1. Where the ~~competent~~ **determining** authority is considering withdrawing international protection from a third-country national or **a** stateless person, ~~including in the context of a regular status review referred to in Articles 15 and 21 of Regulation (EU) No XXX/XXX (Qualification Regulation),~~ the person concerned shall enjoy the following guarantees, in particular:

   (a) he or she shall be informed in writing that the competent authority is reconsidering his or her qualification as a beneficiary of international protection and the reasons for such ~~a~~ reconsideration; and

[3] **DE:** scrutiny reservation. **SK:** it is necessary to include in Art. 52 appropriate procedural consequences for situations of non-cooperation of the beneficiary. The granting of the international protection is two-way process. Firstly there is an obligation for MS to grant the international protection to third country national who meets the criteria for such protection and on the other hand there has to be also the willingness of the person concerned to avail himself or herself of the protection of the MS. It means not only enjoy the rights and benefits but also perform one's obligations –such as cooperation with the competent authorities.

(b) he or she shall be given the opportunity to submit, within ~~reasonable time~~ **one month**, by means of a written statement and, **upon his or her request** in a personal interview **at a date set by the determining authority**, reasons as to why his or her international protection should not be withdrawn.[4]

2. For the purposes of paragraph 1, **the determining authority shall** ~~Member States shall ensure that~~:

[4] **MT:** this delegation can accept this cumulative criteria only if it is limited to those instances where the withdrawal of international protection is based on a cessation ground. **PRES:** as the text stands, it provides for a certain degree of flexibility when it comes to ways to submit statements. **AT:** two weeks instead of "*reasonable time*"; "*or*" instead of "*and*". **DE:** "*or*" instead of "*and*"; is this related to ECJ decisions? Redraft as follows: *"he or she shall be given the opportunity to submit, within reasonable time, by means of a written statement or in a personal interview, reasons as to why his or her international protection should not be withdrawn. As far as necessary to review the protection status, the person concerned shall be obliged, at the request of the competent authority, to appear for a personal interview and/or respond in writing within one month. Before the beneficiary of international protection is requested to appear for a personal interview and/or respond in writing, or together with such a request, he or she shall be sufficiently instructed as to his or her obligation to cooperate and the specific consequences of wilful failure to cooperate. If the person concerned does not comply with this request, he or she shall be informed in writing of the time limit of one month and the legal consequences of failure to comply. If no response is received within this time limit with an adequate excuse, the competent authority shall decide in accordance with national law on how to consider, and the effects of, the failure to cooperate*." **HR:** no support for the possibility that, during the process of withdrawal of international protection, a person be given the opportunity to submit, within reasonable time, by means of a written statement and in a personal interview, reasons as to why his or her international protection should not be withdrawn; replace „*and*" be replaced by „*or*". **IE:** reservation on the need to provide for a personal interview; this would create an additional administrative burden. The written statement should suffice. The original text from the APD should be reinstated. **NL:** "*or*" instead of "*and*". **SE:** scrutiny reservation; even if an interview in most cases will be the best way to give the person opportunity to state why a status should not be withdrawn, and especially considering that the authority has the burden of proof, there may be exceptions. Perhaps it must not be stated as clearly how this should be done and just focus on the persons right to give reasons against a withdrawal.

(a) ~~the competent authority is able to~~ obtain precise and up-to-date information from **relevant and available national, Union and international** ~~various~~ sources, ~~such as,~~ **and** where ~~appropriate,~~ **available, the common analysis on the situation in specific country of origin and the guidance notes referred to in Article 10 of Regulation No XXX/XXX [**~~from the~~ **Regulation on the** European Union Agency for Asylum**]** ~~and the United Nations High Commissioner for Refugees, as to the general situation prevailing in the countries of origin of the persons concerned~~; and

(b) where information on an individual case is collected for the purposes of reconsidering international protection, ~~it is~~ **shall** not obtain~~ed~~ **information** from the actors of persecution or serious harm in a manner that would result in such actors being directly informed of the fact that the person concerned is a beneficiary of international protection whose status is under reconsideration, or jeopardise the physical integrity of the person or his or her dependants, or the liberty and security of his or her family members still living in the country of origin.[5]

3. The decision of the competent authority to withdraw international protection shall be given in writing. The reasons in fact and in law shall be stated in the decision and information on the manner in which to challenge the decision shall be given in writing.[6]

4. Where the determining authority has taken the decision to withdraw international protection, the provisions of Article ~~8(3)~~**5b**, ~~and~~ Articles 15 to ~~18~~ **17 and Article 53 (4a)** shall apply.[7]

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5 **SE:** the para is redundant. In all cases the authorities must be able to obtain the information in a. It is only confusing to state that here. What is said under b already falls under article 6. **PRES:** Art 6 (2) (b) refers to information regarding the fact that an application has been made, while it's about the fact that the person is a beneficiary and the status is under review.

6 **DE:** do the translation requirements pursuant to Art. 35 (1) apply here accordingly? **PRES:** Art 35 (10 would not apply here because it refers to decisions on applications for international protection

7 **DE, EL:** scrutiny reservation.

4a. The third country national or stateless person subject to the procedure under this Article, shall be informed of his or her obligation to cooperate fully with the determining authority and other competent authorities, including, where applicable, the obligation to appear for the personal interview on the date set by the determining authority. Where that third country national or stateless person does not cooperate by not appearing for the personal interview without due justification, the absence of the personal interview shall not prevent the determining authority from taking a decision to withdraw international protection.

5. ~~By way of derogation from paragraphs 1 to 4 of t~~**T**his Article **shall not apply**~~,~~ ~~Member States' international protection shall lapse~~ where the beneficiary of international protection has unequivocally[8] renounced his or her recognition as **beneficiary** ~~such. International protection shall also lapse where the beneficiary of international~~ **or where he or she** ~~protection~~ has become a national of the Member State that had granted international protection.[9]

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[8] **EL:** is this part of a separate administrative procedure? In practical terms it should take the form of withdrawal (decision to withdraw). How is a recognition "unequivocally renounced"? E.g. when a refugee returns to his country of origin? **PRES:** one of the ways to assess this indeed might be return to the country of origin.

[9] **SE:** the paragraph is unclear. All grounds for revocation should be in the QR. **PRES:** this is not a ground for withdrawal as defined in the QR, but this provision merely provides for cases where this article does not apply. **CZ:** para (5) should be kept in the text. The provision is applicable quite often. **DE:** why have only these grounds been included? **PRES:** for other grounds of withdrawal this article applies.

CHAPTER V

APPEAL PROCEDURE[10]

Article 53

The right to an effective remedy[11]

1. Applicants have the right to an effective remedy before a court or tribunal ~~in accordance with the basic principles and guarantees provided for in Chapter II,~~ against the following:

   (a) a decision taken on their application for international protection, including **following a border procedure as referred to in Article 41** ~~a decision~~:

      (i) rejecting an application as inadmissible referred to in Article 36(1**a**);[12]

      (ii) rejecting an application as unfounded or manifestly unfounded in relation to refugee status or subsidiary protection status referred to in Article 37(2) and (3) or Article 42(**5**~~4~~)**(b)**;[13]

      (iii) rejecting an application as explicitly **or implicitly** withdrawn ~~or~~ as ~~abandoned~~ referred to in Articles 38 and 39;[14]

      ~~(iv) taken following a border procedure as referred to in Article 41~~.

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10 **DE, EL, IE, SK:** scrutiny reservation. **DE:** how are these provisions related to the Dublin IV Regulation? are the following provisions, including precluding provisions, applicable if the Dublin Regulation does not provide for anything more specific? **EL:** is the second instance procedure only a written one? Is there a possibility to conduct a personal hearing when complex issues of fact and law so require? **SE:** it is generally difficult to have detailed rules on the MS court systems. The independence of courts must be upheld. SE would therefore suggest that this chapter is held more general and without too many details.

11 **PL:** guarantees of an independent court or tribunal should be mentioned; can MS create an intermediate administrative instance between the determining authority and a court/tribunal?

12 **IT:** reservation in relation to Art. 36 (1) (a) and (b).

13 **SE:** delete reference to Article 42.

14 **AT:** delete reference to Article 38.

(b) a decision to withdraw international protection pursuant to Article 52.[15]

2. Persons recognised as eligible for subsidiary protection have the right to an effective remedy against ~~a~~ **the** decision considering ~~an~~ **the** application unfounded in relation to refugee status. **Without prejudice to paragraph 1(b), where subsidiary protection status granted by a Member State offers the same rights and benefits as refugee status, the appeal against that decision may be considered as inadmissible.**

3. An effective remedy within the meaning of paragraph 1 shall provide for a full and *ex nunc* examination of both facts and points of law, **at least before a court or tribunal of first instance,** including, where applicable, an examination of the international protection needs pursuant to Regulation (EU) No XXX/XXX (Qualification Regulation).

~~The applicant may only bring forward new elements which are relevant for the examination of his or her application and which he or she could not have been aware of at an earlier stage or which relate to changes to his or her situation.~~

4. The courts or tribunals **of first instance** shall, through the determining authority, the applicant or otherwise, have access to the general information referred to in Article 33(2)(b) and (c**a**).[16]

4a. Applicants shall be provided free of charge with the services of an interpreter for submitting their case to the competent court or tribunal of first instance, where appropriate communication cannot be ensured otherwise.

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[15] **DE:** another category of cases should be added, covering disputes between member states and beneficiaries of protection as to whether protection status pursuant to Art. 52 (5) of the Asylum Procedures Regulation has expired by law, i.e. not due to an administrative decision

[16] **DE:** reservation. **SE:** delete this para.

5. **Documents that have not already been translated in accordance with Article 33 (4) and are considered relevant by** ~~Documents relevant for the examination of applications by~~ courts or tribunals **of first instance shall be translated** ~~in the appeal procedure shall be translated where~~ **as** necessary~~, if they were not already translated in accordance with Article 33(4)~~.[17]

6. ~~Applicants shall lodge a~~**A**ppeals against any decision referred to in paragraph 1**shall be lodged**:[18]

   (a) within one week in the case of a decision rejecting a subsequent application as inadmissible or manifestly unfounded;

   (b) within ~~two weeks~~ **8 working days** in the case of a decision **taken pursuant to a border procedure and in the case of a decision** rejecting an application as inadmissible**,** ~~or in the case of a decision rejecting an application~~ as explicitly **or implicitly** withdrawn ~~or as abandoned~~, ~~or in the case of a decision rejecting an application~~ as unfounded ~~or manifestly unfounded~~ in relation to refugee or subsidiary protection status following an accelerated examination procedure**, as manifestly unfounded,** ~~or border procedure~~ or while the applicant is held in detention;[19]

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[17] **DE:** clarify that documents need not be translated if the applicants and parties involved agree. **SE:** delete this para.

[18] **DE:** this delegation is in favour of time limits for lodging appeals and applications which correspond to those in national law: for appeals, in principle two weeks; time limits of one week for lodging appeals and applications in case of rejection as inadmissible or manifestly unfounded. **EL:** the second instance administrative/judicial/quasi-judicial organ, should retain the authority to examine appeals that have been lodged after the deadline has expired as an exception (e.g. in cases of force majeure). **SE:** replace para (6) with the following text: "*Member States shall provide for reasonable time limits and other necessary rules for the applicant to exercise his or her right to an effective remedy. The time limits shall not render such exercise impossible or excessively difficult.*"

[19] **IT:** reservation in relation to Art. 36 (1) (a) and (b).

(c) within ~~one month~~ **20 working days** in the case of a decision rejecting an application as unfounded in relation to the refugee or subsidiary protection status if the examination is not accelerated or in the case of a decision withdrawing international protection.[20]

~~For the purposes of point (b),~~ Member States may provide for an *ex officio* review of decisions taken pursuant to a border procedure.

The time-limits provided for in this paragraph shall start to run from the date when the decision of the determining authority is notified to the applicant**. If the applicant has introduced a request for free legal assistance and representation, these time-limits shall be suspended from the moment such request is introduced until** ~~or from~~ the moment **a** ~~the~~ legal adviser or counsellor is appointed **or a decision not to grant free legal assistance is taken** ~~if the applicant has introduced a request for free legal assistance and representation~~.[21]

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[20] **DE:** include a reference to decisions concerning applicants held in detention be added after "*if the examination is not accelerated*". Accelerated examinations are conducted in accelerated procedures and in border procedures. It does not seem to be a provision stating that applications from persons held in detention are accelerated. Perhaps (c) should be worded to include all other decisions rejecting applications and withdrawing international protection. May the MS include provisions in their national law to restore the previous status if applicants fail to appeal within the time limit through no fault of their own? Is there a separate time limit for statements of claim, apart from the time limit for appeals? May the MS address this in their national law? Which provision, (b) or (c), applies to cases which are rejected as manifestly unfounded following an examination procedure that was not accelerated?

[21] **DE:** scrutiny reservation. **AT:** delete "*or from the moment the legal adviser or counsellor is appointed if the applicant has introduced a request for free legal assistance and representation*": add "*The notification of decisions is executed according to national law.*"

Article 54

Suspensive effect of appeal[22]

1. ~~The Member State responsible shall allow a~~**A**pplicants **shall have the right** to remain on **the** ~~its~~ territory **of the Member State responsible** until the time limit within which to exercise their right to an effective remedy **before a court or tribunal of first instance** has expired and, when such a right has been exercised within the time limit, pending the outcome of the remedy.

2. **Paragraph 1 shall not apply** ~~A court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State responsible, either upon the applicant's request or acting *ex officio*, where the applicant's right to remain in the Member State is terminated as a consequence of~~ **in the case** ~~any~~ of the following ~~categories of~~ decisions **by the determining authority**:[23]

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22 **DE:** scrutiny reservation; actions brought against decisions made in the framework of the APR must not have a suspensive effect in the case of all applications rejected as inadmissible, in the case of revocation/withdrawal for security reasons, or in the case of all applications rejected as manifestly unfounded. Whether a suspensive effect applies or not should depend not on the type of procedure (e.g. accelerated procedure), but on the content of the decision made (application obviously has no prospect of success); removals for the duration of the accelerated procedure in the framework of the APR should be suspended. **IT:** scrutiny reservation related to newly adopted legislation at national level. **EL:** the case-by-case examination of the right to remain should not be part of the asylum procedure but rather part of the return procedure. We risk overburdening the authorities dealing with second instance examination.

23 **EL:** this provision makes the effectiveness of the remedy in the cases (a) to (c) conditional upon the decision of the court or tribunal; which criteria should the court or tribunal use to decide upon the suspensive effect of appeal in all these case? These criteria should to be mentioned here. In the case of an asylum administrative procedure with two instances, first and second degree, does this refer to the second degree (quasi-jurisdictional)?The right to an effective remedy clearly encompasses the suspensive effect of the appeal (second instance). Therefore, if the second instance has the power to rule whether or not the applicant may stay, this power may run contrary to the notion of effective remedy. **PRES:** the rules set out in paras (1), (2), (3) and (4) of this Article concern appeals before a court of tribunal of first instance, as it is now clarified in para (1). Para (5) deals with appeals before a court or tribunal of higher level. **COM:** there is case-law of the ECJ and of the ECtHR on circumstances where suspensive effect of appeal is needed (see in particular ECJ, C-239/14).

(a) a decision which considers an application to be manifestly unfounded or, **in the cases subject to an accelerated examination procedure or border procedure**, rejects the application as unfounded in relation to refugee or subsidiary protection status ~~in the cases subject to an accelerated examination procedure or border procedure~~;

(b) a decision which rejects an application as inadmissible pursuant to Article 36(1**a**)(a) and (c)[24];

(c) a decision which rejects an application as explicitly **or implicitly** withdrawn ~~or abandoned~~ in accordance with Article 38 or Article 39, respectively.[25]

2a. In the case of the decisions referred to in paragraph 2, the applicant shall have the right to request a court or tribunal to be allowed to remain on the territory of the Member State responsible pending the outcome of the remedy referred to in Article 53(1). The competent court or tribunal shall also have the power to decide on this matter *ex officio*. The competent court or tribunal shall rule on the applicant's right to remain following an examination of both facts and law.

3. **For the purpose of the procedure referred to in paragraph 2a** ~~A court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State responsible provided that~~:

(a) the applicant **shall have** ~~has the necessary interpretation, legal assistance and~~ sufficient time[26] and the necessary interpretation to prepare the request and submit to the court or tribunal the arguments in favour of granting him or her the right to remain on the territory pending the outcome of the remedy**;** and

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[24] **AT:** the reference should be point (d) not (c).

[25] **DE:** scrutiny reservation on the categories in (a) - (c).

[26] **DE:** does legal assistance always have to be provided? how long is sufficient time? **PRES:** point (aa) clarifies now when free legal assistance has to be provided. The notion of "sufficient time" in point (a) should be understood in the light of the wording that follows in point (a). **AT:** delete "*sufficient time*". **IT:** a clear time-limit should be introduced.

(aa) the applicant shall be provided with free legal assistance, except where the applicant is considered to have sufficient resources or where the court or tribunal considers that the appeal against the decision rejecting or withdrawing international protection does not have any tangible prospect of success; and

(b) in the framework of the examination of a request to remain on the territory of the Member State responsible, the court or tribunal examines the decision refusing to grant international protection in terms of fact and law.

~~4. Member States shall allow~~ **(ba)** the applicant **shall have the right** to remain on ~~their~~ **the** territory **of the Member State responsible until:**

(i) the time limit set in national law for requesting a court or tribunal to be allowed to remain has expired; and,

(ii) when the applicant has requested to be allowed to remain within the set time limit, pending the ~~outcome of the procedure to rule~~ **decision of the court or tribunal** on whether or not the applicant may remain on the territory. ~~That decision shall be taken within one month from the lodging of the appeal.~~[27]

[27] **NL:** for a *mala fide* applicant it would be easy to obstruct a return decision if he or she could remain in the MS every time he or she would start a procedure pursuant to this paragraph. This delegation considers that, in conformity with the APD, it should only be possible to remain in the MS during the first procedure according to this paragraph. This would also prevent the situation where an applicant, who already has had a negative decision pursuant to this paragraph in appeal, should start a new procedure in higher appeal. Hence, redraft as follows: "*(4) Member States shall allow the applicant to remain on their territory pending the outcome of the first procedure to rule on whether or not the applicant may remain on the territory. That decision shall be taken within one month from the lodging of the appeal.*". **PRES:** paras (2), (3) and (4) deal with first instance appeals; para (5) deal with appeals before a court or tribunal of higher level.

3a. Where an applicant is in a Member State other than the Member State responsible after a decision has been taken on his or her application in the administrative procedure, Article 20(1)(b) of Regulation (EU) No XXX/XXX (Dublin Regulation) shall apply. In such cases, the applicant shall not be considered as illegally staying in the territory of the Member States within the meaning of Directive 2008/115 and shall not be removed to a third country until he or she has the right to remain in the territory of the Member State responsible in accordance with this Article.

5. An applicant who lodges a further appeal against a first or subsequent appeal decision of a court or tribunal of first instance shall not have a right to remain on the territory of the Member State unless a court or tribunal decides otherwise upon the applicant's request or acting *ex officio*. ~~That~~ **The** decision **on the right to remain** shall be taken within ~~one month~~ **45 working days** ~~from the lodging of that further appeal~~ **from the applicant's request or from the moment the court or tribunal decides to act *ex officio.*[28]**

5a. This Article shall not apply where the applicant's right to remain has been terminated before a decision is taken by the determining authority, in accordance with Article 9(3).

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28 **AT:** add a new para as follows: "*Despite the common provisions set out in this regulation, the appeal procedure is conducted according to national law.*" **DE:** scrutiny reservation; it should be left up to the MS whether the appeal against the court's decision by law grants a right to remain or whether a court decision is required. Is it correct to assume that para (5) does not require a further appeal under national law against the court's decision in interim legal protection? Germany does not provide for any further appeal against the court's decision, which the decisions of the ECJ have allowed in principle (ECJ judgment of 28 July 2011, C-69/10, Samba Diouf). **SE:** delete this para.

Article 55

Duration of the first level of appeal[29]

1. ~~Without prejudice to an adequate and complete examination of an appeal, t~~**T**he courts or tribunals **of first instance** shall decide ~~on the first level of appeal~~ within the following time-limits from when the appeal is lodged:[30]

(-a) within 20 working days in the case of all decisions taken pursuant to a border procedure;

~~(a) within six months in the case of a decision rejecting the application as unfounded in relation to refugee or subsidiary protection status if the examination is not accelerated or in the case of a decision withdrawing international protection;~~

(b) within ~~two months~~ **45 working days** in the case of a decision rejecting an application as inadmissible**,** ~~or in the case of a decision rejecting an application~~ as explicitly **or implicitly** withdrawn**,** ~~or as abandoned or~~ as unfounded ~~or manifestly unfounded~~ in relation to refugee or subsidiary protection status following an accelerated examination procedure**, as manifestly unfounded,** ~~or a border procedure~~ or while the applicant is held in detention;

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[29] **SK:** scrutiny reservation. **IE:** reservation; it is not appropriate to place a time limit on the appeals process. This would contravene the principle of judicial independence and the separation of powers between the State and the Judiciary, which is enshrined in the Constitution. Furthermore, the text does not set out what happens when these time limits are not adhered to. Is there a penalty/sanction? The APD included a "may" provision in Article 46(10) to provide an optional possibility to set a time limit. This was appropriate and proportionate given that the judicial systems vary considerably across Member States. **IT:** different time-limits may lead to confusion and in any case enter the delicate ground of judicial function. This delegation suggests an average time-limit which seems reasonable, namely four months, as is shorter than letter (a) (with the advantage of quicker decisions) and contains the other two time-limits in (b) and (c). **SE:** delete this article it should be left to the MS to decide on detailed rules for the court systems.

[30] **DE:** scrutiny reservation on the time-limits; what are the legal consequences of failing to comply with the time limits?

~~(c) within one month in the case of a decision rejecting a subsequent application as inadmissible or manifestly unfounded~~ **within 120 working days in the case of a decision rejecting the application as unfounded in relation to refugee or subsidiary protection status if the examination is not accelerated or in the case of a decision withdrawing international protection**.

2. In cases involving complex issues of fact or law, the time-limits set out in paragraph 1 may be prolonged by an additional three month-period.[31]

2a. In the case of an appeal against a decision taken in a border procedure, where a decision on the appeal is not taken within 20 working days from when the appeal is lodged, the applicant shall no longer be kept at the border or transit zones and shall be granted entry to the territory of the Member State.

2b. The time-limits set out in paragraph 1 may be suspended where the court or tribunal submits a request for a preliminary ruling to the Court of Justice of the European Union or refers the matter to another national court.

[31] **AT:** add a new para as follows: "*Sanctions and consequences for the delay of a decision can be stipulated in national law/are subject to national legislation.*" **EL:** add "*or longer if necessary*". **IT:** two months instead of three.

CHAPTER VI

FINAL PROVISIONS

Article 56

Challenge by public authorities

This Regulation does not affect the possibility for public authorities to challenge the administrative or judicial decisions as provided for in national legislation.

Article 57

Cooperation[32]

1. Each Member State shall appoint a national contact point and send its address to the Commission. The Commission shall send that information to the other Member States.

2. Member States shall, in liaison with the Commission, take all appropriate measures to establish direct cooperation and an exchange of information between the responsible authorities.

3. When resorting to the measures referred to in Article 27(3), Article 28(3) and Article 34(3), Member States shall inform the Commission and the European Union Agency for Asylum as soon as the reasons for applying those exceptional measures have ceased to exist and at least on an annual basis. That information shall, where possible, include data on the percentage of the applications for which derogations were applied to the total number of applications processed during that period.[33]

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[32] **DE:** what is meant by cooperation and exchange? does this also involve data exchange? **PRES:** cooperation duty is not new as it also exists in APD, so the content in this regard has not changed. In any case this does not include exchange of data as the reference is to information.

[33] **SK:** scrutiny reservation.

Article 58

Committee Procedure[34]

1. The Commission shall be assisted by the committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.[35]

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. ~~Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.~~

Article 59

Delegated acts[36]

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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[34] **AT:** scrutiny reservation. **NL** (supported by **IE**)**:** Committee Procedure would not be proportional. EUAA could set operational standards and guidelines. In that line, delete Article 58. **PRES:** as the text currently stands, this procedure is needed for the implementing acts. **MT:** no support for introduction of implementing acts, delete this Article together with all references to implementing acts throughout the Proposal. Prefers that a text similar to that which has been agreed to in the Qualifications Proposal is adopted. The use of implemented acts in Article 19.4, Article 26.2, Article 29.5 can be replaced either by EUAA templates, that are non-binding in nature, or a template included as an Annex to the Proposal.

[35] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

[36] **DE:** according to Article 290 (2) (b) TFEU, the delegated act can only enter into force, if the EP or the Council do not object within the given time-limit. **PRES:** this is dealt with in para (5).

2. The power to adopt delegated acts referred to in paragraph 1 shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts such a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. Such a delegated act and its extensions shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of one month from notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.[37]

[37] **FR:** this delegation strongly opposes the suggestion of the EP to resort to emergency procedures in case of sudden changes in a country that is on the lists of safe countries of origin: in our view, the one-month time-limit is already very short, which makes it a balanced compromise between the need to act quickly and the need to respect the powers of the co-legislators.

Article 60

Monitoring and evaluation[38]

By [two years from entry into force of this Regulation] and every five years thereafter, the Commission shall report to the European Parliament and the Council on the application of this Regulation in the Member States and shall, where appropriate, propose any amendments.

Member States shall, at the request of the Commission, send it the necessary information for drawing up its report not later than nine months before that time-limit expires.

Article 61

Repeal

Directive 2013/32/EU is repealed.

References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex 2.

[38] **SE:** add the following: "*By [18 months after entry into force], the Commission shall review the application of the lists of safe countries*."

Article 62

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall start to apply from [~~six months~~ **two years** from its entry into force].[39]

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament	*For the Council*
The President	The President

[39] **DE:** reservation. **DE, IE, MT, NL:** transitional periods should be provided for.