

New European standards

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In 2008 the European Commission presented its first proposal to amend the 2003 'receptions conditions directive' which laid down minimum standards for the reception of asylum seekers. The proposal was then modified in 2011 following difficult negotiations between co-legislators the European Parliament and the Council, and in light of earlier consultations with UNHCR and NGOs during which the prevention of widespread arbitrary use of detention was identified as one of the key issues to address.¹ Political agreement in the Council was finally reached in October 2012 and on 29 June 2013 the amended 'Directive of

- to decide on the right to enter the territory
- when the applicant is detained on the basis of the Returns Directive 2008/115/EC and when there are reasons to believe that he or she is applying for international protection solely in order to frustrate or delay the enforcement of the return decision
- to protect national security or public order
- in the case of a transfer to another Member State on the basis of the Dublin Regulation.³



Detention centre, Malta.

the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast)' became law.²

The agreed measures concerning detention stipulate that an applicant for international protection may only be detained:

- in order to determine or verify his or her identity or nationality
- in order to determine the elements of his or her application for international protection

The Directive also stipulates new measures concerning the conditions of detention of applicants for international protection. These provide that detention shall take place as a rule in specialised detention facilities. If this is not possible and applicants have to be placed in prison accommodation, they shall be kept separately from prisoners. Furthermore, detained applicants shall have access to open-air spaces and they shall be informed on the rules and their rights in the detention facility in a language they understand or are reasonably supposed to understand. Unaccompanied minors shall only be detained in "exceptional circumstances" and shall not be put in prison accommodation.⁴

It is now up to the Member States to implement these new measures.

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1. See amended 2011 proposal: <http://tinyurl.com/n67qkwm>

2. Directive 2013/33/EU: <http://tinyurl.com/EUDirective2013-33>

3. See Article 8(3) Directive 2013/33/EU.

4. For further details see Directive 2013/33/EU Article 10 on the conditions of detention and Article 11 on the detention of vulnerable persons.