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NOTE

From:	Presidency
To:	Asylum Working party
Subject:	Review of the status of beneficiaries of international protection - Discussion paper

The non-permanent nature of protection is an inherent element of international refugee law, also set out by its cornerstone, the 1951 Convention Relating to the Status of Refugees. Under European asylum law as well, the international protection statuses need to be reviewed when new elements or findings arise indicating that there are reasons to reconsider their validity. The currently applicable Asylum Procedure Directive and Qualification Directive contain detailed provisions on the procedure for the withdrawal of international protection and conditions for the cessation of refugee and subsidiary protection statuses. At the same time, Member States are provided substantial flexibility in their implementation. Several Member States carry out reviews automatically or in the context of the renewal of the beneficiary's residence permit, while others follow a different approach.¹ Nevertheless, the current asylum acquis does not impose a mandatory review of protection statuses within a certain period of time.

¹ [European Union Agency for Asylum \(EUAA\), Asylum Report 2023 - 4.14.2.2. Review, cessation and revocation of international protection | European Union Agency for Asylum \(europa.eu\)](#)

The recently adopted migration and asylum reform introduced further harmonization with the introduction of the new Asylum Procedure Regulation and the new Qualification Regulation. The main provisions for status review did not change significantly, however, the procedural rules on the withdrawal of international protection indicate that the determining authority must obtain relevant and up-to-date information from relevant and available national, EU and international sources and take into account the common analysis of the situation in the country of origin. In the new Qualification Regulation, the grounds for cessation include, inter alia, if *the beneficiary of the refugee status re-acquired the protection of the country of his/her nationality; acquired a new nationality; or the circumstances which led to his/her recognition have ceased to exist*. With regard to the subsidiary protection, as a general rule, the protection is ceased, *when the circumstances which led to the granting of that status have ceased to exist or have changed to such a degree that protection is no longer required*.

This suggests that the passage of time as a factor may play an important role in re-examining the criteria for granting protection. By way of illustration, national authorities or courts may determine that the changes in the general political circumstances in a third-country enabled it to be considered as a safe country, where there is generally and consistently no persecution.

Another factor related to the need for review may be that many refugees and beneficiaries of subsidiary protection do not enjoy international protection status in the Member State which granted them the status, but reside in another Member State for various reasons (living conditions, family networks, integration prospects).² At the same time, legal residence in another Member State does not constitute a ground for review or cessation, even if it often entails a lack of ties with the Member State that was initially responsible for the applicant and granted him or her a protection status.

² Secondary Movements of beneficiaries of international protection, EMN Inform, 2022 September: https://home-affairs.ec.europa.eu/system/files/2022-09/EMN_Secondary-movements_INFORM_final_0.pdf

A possible return to the country of origin could also have consequences for the status of the person concerned and could justify the review of the protection status. The possible consequences of beneficiaries of protection travelling to the country of origin on their status are generally stipulated in national legislation and/or detailed in national administrative practice. Nevertheless, most Member States do not have a set of formal criteria to assess travels to the country of origin. The main challenges faced by national authorities in this review process pertain to the collection of relevant information and their assessment, as the burden of proof primarily lies with them.³

Taking into account the different practices mentioned above and the increasing number of beneficiaries of international protection in the Member States, the Hungarian Presidency suggests to hold a general discussion on the review of statuses of beneficiaries of international protection within the Asylum Working Party. In preparation for the implementation of the new asylum legislation, this debate could contribute to the harmonisation of current practices across Member States. Therefore, the Presidency invites delegations to exchange their views based on the following questions at the forthcoming Asylum Working Party meeting:

- *Do you regularly review the status of refugees and beneficiaries of subsidiary protection? Is the review mandatory under your national legislation?*
- *What are the conditions to trigger such review?*
- *What particular challenges do you face in the context of review procedures?*

³ Beneficiaries of international protection travelling to their country of origin, EMN study, 2019 November: https://home-affairs.ec.europa.eu/document/download/78bada9e-77be-4b39-aac3-a53feb5e46dd_en?filename=00_beneficiaries_international_protection_synthesis_en.pdf