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NOTE

From:	Presidency
To:	Permanent Representatives Committee
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Subject:	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 (First reading) - Period of Validity of Residence Permits issued to Refugees and Beneficiaries of Subsidiary Protection = Preparation for a general approach

I. BACKGROUND

On 13 July 2017, the European Commission tabled a 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 (“Qualification Regulation”), in order to replace the current recast Qualification Directive (2011/95/EU).

One of the main objectives of the Commission Proposal was the further harmonisation of the rights of beneficiaries of international protection, in particular as regards the validity and format of residence permits. In order to address the considerable variation among Member States' policies in the validity of the residence permits granted, the Commission proposed that residence permits for beneficiaries of international protection are to be governed by the following rules:

- (a) For beneficiaries of refugee status, the residence permit shall have a period of validity of three years and be renewable thereafter for periods of three years (3+3);
- (b) For beneficiaries of subsidiary protection status, the residence permit shall have a period of validity of one year and be renewable thereafter for periods of two years (1+2).

The original Commission Proposal proved problematic for a number of Member States, primarily those that currently issue residence permits with the same validity period to both beneficiaries of refugee status and beneficiaries of subsidiary protection status, as well as those which provide for a more favourable arrangement in respect of beneficiaries of refugee status, such as five (5) or ten (10) years.

In the first compromise text issued by the Presidency, in order to promote harmonisation and minimise administrative burden, the validity period of residence permits was harmonised to three (3) years for both beneficiaries of refugee status and subsidiary protection status. After this approach did not gain sufficient support in the Asylum Working Party, the Presidency conducted a mapping exercise by means of a questionnaire. Following this exercise, the Presidency proposed that residence permits issued to beneficiaries of refugee status would have a validity period of between three (3) and five (5) years, while residence permits issued to beneficiaries of subsidiary protection status would have a validity period of between one (1) and three (3) years. However, sufficient support on this way forward was not reached, as some Member States argued that the best way to limit secondary movement was to have the same validity period in all Member States (full harmonisation), while others favoured issuing permits having the same validity period of more than three years to both beneficiaries of refugee status and beneficiaries of subsidiary protection status.

In March 2017, the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) was presented with two policy options. The first option was to issue residence permits with a period of validity of between five (5) and ten (10) years to beneficiaries of refugee status, and between one (1) and five (5) years to beneficiaries of subsidiary protection status. The second option was to retain the status quo in the current Qualification Directive, which requires Member States to issue residence permits with a minimum period of validity of three (3) years for beneficiaries of refugee status and one (1) year for beneficiaries of subsidiary protection status. During that meeting, the majority of Member States preferred the first option, although a number of other Member States expressed disappointment in the low level of harmonisation envisaged in this option, which they considered could contribute to secondary movement. Reacting to this reasoning, certain Member States argued that there was no evidence supporting such a causal link between the validity period of residence permits and secondary movement.

II. STATE OF PLAY

Following the discussion in SCIFA, the validity periods of residence permits were once again discussed at a JHA Counsellors meeting on 24 March 2017. Here the Presidency proposed harmonising only the first residence permit issued following the granting of international protection, with periods of between three (3) and five (5) years for beneficiaries of refugee status, and one (1) and three (3) years for beneficiaries of subsidiary protection status. The Presidency proposed that both permits would thereafter be renewed in accordance with national legislation, including for an unlimited period. Although there was some support for this Proposal, it was opposed by those Member States which grant residence permits with a validity period of more than five (5) years to beneficiaries of refugee status, as well as by those Member States which grant residence permits with the same validity period of more than three (3) years to both beneficiaries of refugee status and beneficiaries of subsidiary protection status.

III. WAY FORWARD

Based on the outcome of these discussions, as well as bilateral meetings held by the Presidency, COREPER is invited to agree to the following compromise:

- (i) An initial residence permit for beneficiaries of subsidiary protection status with a validity period prescribed between one (1) and five (5) years;
- (ii) An initial residence permit for beneficiaries of refugee status with a validity period prescribed between five (5) and ten (10) years.

Residence permits can thereafter be renewed in accordance with national law and can include renewal for an unlimited period.
