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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)

- Conditional confirmation of the final compromise text with a view to agreement

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This document contains the text of the proposal as negotiated with the European Parliament and the text of the Declaration of the Council and of the European Parliament with respect to Article 14 (1) (d) and (e) and to Article 14 (3). The following provisions, placed in square brackets, are not part of the agreement with the European Parliament:

- Recitals (10), (14) and (43);
- Article 2 (7) and (8);
- the reference to the Resettlement Regulation in Article 4 (2), Article 29 (2); and
- the references to the Asylum Procedure Regulation and to the Reception Conditions Directive in Article 36 (1).

The changes compared to the Commission proposal are indicated as follows:

- new text appears in **bold**;
- deleted text is marked with [...].

Annex I, which contains the correlation table, does not appear in this document as it needs to be updated. Annex II contains the list of information to be provided to beneficiaries of international protection under Article 24.

**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 [...] concerning the status of third-country nationals who are long-term residents and repealing Council Directive 2011/95/EU 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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular points (a) and (b) of Article 78(2) and (a) of Article 79(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) A number of substantive changes are to be made to Council Directive 2011/95/EU<sup>1</sup>[...]. To ensure harmonisation and more convergence in asylum decisions and as regards the content of international protection in order to reduce incentives to move within the [...] Union, **encourage beneficiaries of international protection to remain in the Member State that granted them protection** and ensure an equality of treatment of beneficiaries of international protection that Directive should be repealed and replaced by a Regulation.
- (2) A common policy on asylum, including a Common European Asylum System (CEAS) which is based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967 (**hereinafter referred to as the Geneva Convention**), is a constituent part of the European Union's objective of establishing progressively an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Union. Such a policy should be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. **The Geneva Convention is the cornerstone of the international legal regime for the protection of refugees.**

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<sup>1</sup> Council Directive 2011/95/EU of 13 December 2011 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 (OJ L 337, 20.12.2011, p. 9).

- (3) The CEAS is based on common standards for asylum procedures, recognition and protection offered at Union level, reception conditions and a system for determining the Member State responsible for asylum seekers. Notwithstanding progress achieved so far in the progressive development of the CEAS, there are still significant disparities between the Member States in the types of procedures used, the recognition rates, the type of protection granted, the level of material reception conditions and benefits given to applicants for and beneficiaries of international protection. These divergences [...] **could lead to** secondary movements and undermine the objective of ensuring that all applicants are equally treated wherever they apply in the Union.
- (4) In its Communication of 6 April 2016,<sup>2</sup> the Commission set out its options for improving the CEAS, namely to establish a sustainable and fair system for determining the Member State responsible for asylum seekers, to reinforce the Eurodac system, to achieve greater convergence in the EU asylum system, to prevent secondary movements within the European Union and **to transform into an agency the European Asylum Support Office** [...]. That Communication is in line with calls by the European Council on 18-19 February 2016<sup>3</sup> to make progress towards reforming the EU's existing framework so as to ensure a humane and efficient asylum policy. [...]
- (5) **As Article 78(2) of the TFEU calls for a uniform status of asylum and** for a well-functioning CEAS, [...] substantial progress should be made regarding the convergence of national asylum systems with special regard to differing recognition rates and type of protection status in the Member States. [...] Moreover, the rights granted to beneficiaries of international protection should be further clarified and harmonised.

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<sup>2</sup> 7665/16.

<sup>3</sup> EUCO 19.02.2016, ST 1/16.

- (6) A Regulation is therefore necessary to ensure a more consistent level of harmonisation throughout the Union and to provide a higher degree of legal certainty and transparency.
- (7) The main objective of this Regulation is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection and, on the other hand, to ensure that a common set of rights is available for **beneficiaries of international protection** in all Member States.
- (8) The further approximation of rules on the recognition and content of refugee and subsidiary protection status should moreover help to limit the secondary movement of applicants for international protection and beneficiaries of international protection between Member States [...].
- (9) [...] **Provided they qualify, third country nationals and stateless persons who fall under the scope of this Regulation should be granted international protection. International protection should not be granted to those third country nationals who fall outside the scope of this Regulation. National humanitarian statuses, [...]if issued, [...] should not entail a risk of confusion with international protection.**
- [(10) Successful resettlement candidates should be granted international protection. Accordingly, the provisions of this Regulation on the content of international protection should apply, including the rules to discourage secondary movement.]

- (11) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter') **and the European Convention of Human Rights (the ECHR)**. In particular this Regulation seeks to ensure full respect for human dignity and the right to asylum of applicants for asylum and their accompanying family members and to promote the application of the Charter's Articles relating to human dignity, respect for private and family life, freedom of expression and information, right to education, freedom to choose an occupation and right to engage in work, freedom to conduct a business, right to asylum, **protection in the event of removal, expulsion or extradition, equality before the law**, non-discrimination, rights of the child, social security and social assistance, health care, and should therefore be implemented accordingly.
- (12) With respect to the treatment of persons falling within the scope of this Regulation, Member States are bound by obligations under instruments of international law to which they are party, including in particular those that prohibit discrimination.
- (13) The resources of the Asylum, Migration and **Integration** Fund should be used to provide adequate support to Member States' efforts in implementing the standards set by the Regulation, in particular to those Member States which are faced with specific and disproportionate pressure on their asylum systems, due in particular to their geographical or demographic situation. **While the general principle of the prohibition of double funding should be respected, Member States should take full advantage, at all levels of governance, of the possibilities offered by funds which are not directly related to asylum and migration policy but which can be used to fund actions in that area.**

[(14) The European Union Agency for Asylum ('the Agency') established by Regulation (EU) XXX/XX [Agency Regulation] should provide adequate support in the application of this Regulation, in particular by providing, **upon the request or with the agreement of the Member State concerned**, experts to assist the Member State authorities to receive, register, and, **where requested by the host Member State**, examine applications for international protection, **and by** providing updated information regarding third countries, including Country of Origin Information, and other relevant guidelines and tools. When applying this Regulation, Member States' authorities should take into account operational standards, [...] guidelines, and best practices developed by the Agency [...]. When assessing applications for international protection, Member States' authorities should take [...] account of the information, reports, common analysis and guidance **notes** on the situation in countries of origin developed at Union level by the Agency and the European networks on country of origin information in accordance with [...] Regulation (EU) XXX/XX [Regulation on the European Union Agency for Asylum]<sup>4</sup>.]

(15) When applying this Regulation the 'best interests of the child' should be a primary 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, **the minor's linguistic skills**, safety and security considerations and the views of the minor in accordance with his or her age and maturity.

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<sup>4</sup> 8742/16 + ADD 1.



- (15a) With a view to safeguarding the best interests of the child and his or her general well-being, and in order to encourage the continuity in assistance and representation for unaccompanied minors, Member States should seek to ensure, insofar as this is possible, that the same natural person remains responsible for an unaccompanied minor, including during the asylum procedure and following the granting of international protection.**
- (16) [...] An adult child should be considered dependent, on the basis of an individual assessment, only in circumstances where that child is unable to support him or herself due to a physical or mental condition linked to serious non-temporary illness or severe disability.**
- (16a) The provisions on family unity in this Regulation do not interfere with the values and principles recognised by the Member States. In the event of a polygamous marriage, it is for the Member States to decide whether they wish to apply the provisions on family unity to polygamous households, including minor children of a further spouse and the beneficiary of international protection.**
- (16b) The application of the provisions on family unity should always be based on genuine family relations and should not include forced marriages and marriages or partnerships contracted for the sole purpose of enabling the person concerned to enter or reside in the Member States. In order not to discriminate family members on the basis of where the family was formed, the notion of family should also include those formed outside the country of origin, but before their arrival on the territory of the European Union.**

- (16c) When a Member State decides, for the purpose of family unity, that the best interests of a married minor lie with his or her parents, his or her spouse should not derive any residence rights from this marriage under this Regulation.**
- (17) This Regulation is without prejudice to the Protocol on asylum for nationals of Member States of the European Union as annexed to the Treaty on European Union (TEU) and the TFEU.
- (18) The recognition of refugee status is a declaratory act.
- (19) Consultations with the United Nations High Commissioner for Refugees may provide valuable guidance for Member States' authorities when determining refugee status according to Article 1 of the Geneva Convention.
- (19a) When examining whether an applicant has a well-founded fear of being persecuted or is at real risk of suffering serious harm and whether stable, established non-state authorities or international organisations, control a State or a substantial part of its territory, and provide protection, as well as when assessing whether an applicant has access to protection against persecution or serious harm in another part of the country of origin other than his or her home area (internal protection alternative), the determining authority should take into account, *inter alia*, relevant general information and recommendations issued by the United Nations Commissioner for Refugees (UNHCR).**
- (20) Standards for the definition and content of refugee status should be laid down to guide the competent national bodies of Member States in the application of the Geneva Convention.

(21) It is necessary to introduce common criteria for recognising applicants for asylum as refugees within the meaning of Article 1 of the Geneva Convention.

**(21a) Where one or more particular aspects of the applicant's statements are not supported by documentary or other evidence, the applicant should be given the benefit of the doubt provided that the applicant has made a genuine effort to substantiate the need for international protection, all relevant elements at the applicant's disposal have been submitted and a satisfactory explanation has been given regarding the lack of other relevant elements, the statements are found to be coherent and plausible and the general credibility has been established taking into account the moment when the applicant applied for international protection, and where appropriate the reasons for not having applied sooner.**

**(21b) The determining authority should not conclude that the applicant lacks credibility merely because he or she did not rely on his or her declared sexual orientation on the first occasion he or she was given to set out the ground for persecution, unless it is evident that the applicant merely intends to delay or frustrate the enforcement of a decision resulting in his or her return.**

**(21ba) Convictions, beliefs or orientations of the applicant giving rise to activities which may be a basis for well-founded fear of being persecuted or a real risk of suffering serious harm should be taken into account even if they were fully or partially concealed while in the country of origin.**

**(21c) Where the applicant is not available during the procedure due to circumstances beyond his or her control, the relevant provisions and safeguards in the Dublin Regulation, the Asylum Procedures Regulation and the recast Reception Conditions Directive apply.**

- (22) In particular, it is necessary to introduce common concepts of protection needs arising sur place, sources of harm and protection, internal protection and persecution, including the reasons for persecution.
- (23) [...]Protection can be provided either by the State or by [...] **stable, established non-State authorities or** international organisations **who control the State or substantial part of the territory of the State**, meeting the conditions set out in this [...] **Regulation, provided that they are able and willing to offer protection [...]**. Such protection should be effective and of a non-temporary nature.
- (24) [...] **Where the State or agents of the State is not the actor of persecution or serious harm**, the assessment of whether [...] internal protection exists should [...] **form** part of the assessment of the application for international protection and should be carried out once it has been established by the determining authority that the qualification criteria would otherwise apply. **Internal protection against persecution or serious harm should be effectively available to the applicant in a part of the country of origin where he or she can safely and legally travel to, gain admittance to and can reasonably be expected to settle.** The burden of demonstrating the availability of internal protection should fall on the determining authority. **In those cases where the determining authority demonstrates that an internal protection alternative is available, the applicant should be entitled to present evidence and submit elements.**
- (24a) **When considering whether an applicant can be reasonably expected to settle in another part of the country of origin, the determining authority should also take into account whether he or she would be able to cater for his or her own basic needs in relation to access to food, hygiene and shelter in the context of local circumstances in his or her country of origin.**

- (25) 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 **and no internal protection assessment need be carried out. The determining authority should be able to carry out an internal protection assessment only where it is clearly established that the risk of persecution or serious harm stems from an authority of the State whose power is clearly limited to a specific geographical area or where the State itself only has control over certain parts of the country. [...]**
- (25b) **When assessing a sur place application, the fact that the risk of persecution or serious harm is based on circumstances that do not constitute an expression or continuation of convictions or orientations held in the country of origin could serve as an indication that the sole or main purpose of the applicant was to create the necessary conditions for applying for international protection.**
- (26) [...] **Depending on the circumstances, acts of persecution of a gender-specific or child-specific nature might include, inter alia, under-age recruitment, genital mutilation, forced marriage, child trafficking and child labour, and trafficking for sexual exploitation.**
- (26a) **Acts of persecution might take the form of disproportionate or discriminatory prosecution or punishment. Such disproportionate or discriminatory prosecution or punishment might arise, inter alia, in situations where an applicant refuses to perform military service on moral, religious or political grounds or due to belonging to a particular ethnic group or holding a particular citizenship.**

- (27) One of the conditions for qualification for refugee status within the meaning of Article 1(A) of the Geneva Convention is the existence of a causal link between the reasons for persecution, namely race, religion **or belief**, nationality, political opinion or membership of a particular social group, and the acts of persecution or the absence of protection against such acts.
- (28) It is equally necessary to introduce a common concept of the persecution ground ‘membership of a particular social group’. For the purposes of defining a particular social group, issues arising from an applicant’s **sexual orientation or gender**, including gender identity and **gender expression**, which may be related to certain legal traditions and customs, resulting in for example genital mutilation, forced sterilisation or forced abortion, should be given due consideration in so far as they are related to the applicant’s well-founded fear of persecution. **Depending on the circumstances in the same way, disability could be a characteristic for the purpose of defining a particular social group.**
- (28a) **The circumstances in the country of origin, including for example the existence and application of criminal laws which specifically target lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, can mean that those persons are to be regarded as forming a particular social group.**
- (29) [...]When assessing applications for international protection, the competent authorities of the Member States should use methods for the assessment of the applicant's credibility in a manner that respects the individual's rights as guaranteed by the Charter **and the European Convention for the Protection of Human Rights and Fundamental Freedoms**, in particular the right to human dignity and the respect for private and family life. Specifically as regards **sexual orientation and gender identity**, [...] the applicant should not be submitted to detailed questioning or tests as to his or her sexual practices.

(30) Acts contrary to the purposes and principles of the United Nations are set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations and are, amongst others, embodied in the United Nations resolutions relating to measures combating terrorism, which declare that ‘acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations’ and that ‘knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations’.

**(30a) For the purposes of applying the provisions on exclusion from international protection where there are reasonable grounds to assume that an applicant has committed an act contrary to the purposes and principles of the United Nations set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations, it is not a prerequisite to establish that the applicant has been convicted of one of the terrorist offences referred to in Article 1(1) of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.**

**(30b) Furthermore, for the purposes of applying the provisions on exclusion from international protection to an applicant for having committed acts constituting participation in the activities of a terrorist group, the fact that it is not established that the applicant committed, attempted to commit or threatened to commit a terrorist act as defined in the resolutions of the United Nations Security Council does not preclude the conduct of the applicant from being regarded as contrary to the purposes and principles of the United Nations.**

- (30c) For the purposes of the individual assessment of the facts that may constitute serious reasons for considering that the applicant has been guilty of acts contrary to the purposes and principles of the United Nations, has instigated such acts or has otherwise participated in such acts, the fact that the applicant was convicted, by the courts of a Member State, on a charge of participation in the activities of a terrorist group is of particular importance, as is a finding of a Court or tribunal that the applicant was a member of the leadership of that group, and there is no need to establish that that person himself or herself instigated a terrorist act or otherwise participated in it.**
- (31) Committing a political crime is not in principle a ground justifying exclusion from refugee status. However, [...] particularly cruel actions, where the act in question is disproportionate to the alleged political objective, and terrorist acts which are characterised by their violence [...], even if committed with a purportedly political objective, should be regarded as serious non-political crimes and therefore can give rise to exclusion from refugee status.
- (32) Standards for the definition and content of subsidiary protection status should also be laid down. Subsidiary protection should be complementary and additional to the refugee protection enshrined in the Geneva Convention. **While the grounds for protection differ between refugee and subsidiary protection, the ongoing need for protection could be similar in duration. The content of protection of refugee status and subsidiary protection status might only differ where explicitly stated in the regulatory part of this Regulation. This Regulation nevertheless allows Member States to grant the same rights and benefits to both statuses.**
- (33) It is necessary to introduce common criteria on the basis of which applicants for international protection are to be recognised as [...] **beneficiaries of** subsidiary protection. Those criteria should be drawn from international obligations under human rights instruments and practices existing in Member States.



- (34) For the purpose of assessing serious harm which may qualify applicants as **persons** eligible for subsidiary protection, the notion of indiscriminate violence, [...], should include violence that may extend to people irrespective of their personal circumstance.
- (35) [...] For the purpose of assessing serious harm, situations in which a third country's armed forces confront one or more armed groups, or in which two or more armed groups confront each other, should be considered an internal armed conflict. It is not necessary for that conflict to be categorised as an 'armed conflict not of an international character' under international humanitarian law; nor is it necessary to carry out, in addition to an appraisal of the level of violence present in the territory concerned, a separate assessment of the intensity of the armed confrontations, the level of organisation of the armed forces involved or the duration of the conflict.
- (36) As regards the required proof in relation to the existence of a serious and individual threat to [...] **a civilian's** life or person [...] determining authorities should not require the applicant to adduce evidence that he is specifically targeted by [...] factors [...] **related** to his personal circumstances. However, the level of indiscriminate violence required to substantiate the application is lower if the applicant is able to show that he is specifically affected **due to** [...] factors **related** [...] to his personal circumstances. Moreover, the existence of a serious and individual threat should exceptionally **be considered to** be established by the determining authority [...] **where the degree of indiscriminate violence characterising the armed conflict** reaches such a high level that there are substantial grounds for believing that a civilian, returned to the country [...] **of** origin or to the relevant part of country of origin, would, solely on account of his presence **there** [...], face a real risk of being subject to the serious threat.

**(36a) Depending on the circumstances, including the length and purpose of the stay, travel to the country of origin could serve as an indication that a beneficiary of refugee status has re-availed himself or herself of the protection of the country of origin or re-established himself or herself in his or her country of origin, or that the grounds for granting subsidiary protection status have ceased to exist.**

**(36b) In accordance with Article 53 of Regulation No (EU) XXX/XXXX [Asylum Procedure Regulation], Member States should ensure that applicants have a right to an effective remedy before a court or tribunal of first instance against decisions by the determining authority rejecting applications for international protection as unfounded or against decisions to withdraw the international protection status. In that respect, all reasons which led the determining authority to adopt these decisions should be subject to a thorough review by the competent court or tribunal within the framework of the action brought against the decision to reject the application for international protection or to withdraw the international protection status.**

**(37) The [...] travel documents issued to beneficiaries of international protection for the first time or renewed following the entry into force of this Regulation should comply with Regulation (EC) No 2252/2004 or with the equivalent minimum security features and biometrics [...].**

**(37a) The residence permit issued to beneficiaries of international protection for the first time or renewed following the entry into force of this Regulation should comply with the Council Regulation (EC) No 1030/2002 laying down a uniform format for residence permits.**

- (37b) In the period between the granting of international protection and the issuance of a residence permit, Member States should ensure that beneficiaries of international protection have effective access to all the rights laid down in this Regulation, except for freedom of movement within the Union and the issuance of a travel document.**
- (38) Family members, due to their close relationship to the [...] **beneficiary of international protection**, will normally be vulnerable to acts of persecution **or serious harm** in such a manner that could be the basis for international protection. **For the purpose of maintaining family unity, where family members present on the territory of the same Member State as the applicant in relation to his or her application for international protection** do not qualify for international protection, [...] they [...] **should** be entitled to **apply for** [...] a residence permit, **which shall be granted, unless the family member falls within the exclusion grounds or where reasons of national security or public order so require**, and to the [...] rights accorded to [...] **the beneficiary once he or she is granted** international protection. Without prejudice to the provisions related to maintaining family unity in this Regulation, where the situation falls within the scope of Directive 2003/86/EC on the right to family reunification and the conditions for reunification set out thereof are fulfilled, family members of the beneficiary of international protection who do not individually qualify for such protection should be granted residence permits and rights in accordance with that Directive. This Regulation [...] **should** be applied without prejudice to Directive 2004/38/EC.
- (38a) The issuance of travel documents to family members of beneficiaries of international protection should be carried out in accordance with national procedures.**
- (39) [...]

- (40) When assessing a change of circumstances in the third country concerned, the competent authorities of the Member States [...] **should** verify, having regard to the [...] individual situation **of a beneficiary of international protection**, that the actor or actors of protection in that country have taken reasonable steps to prevent the persecution **or serious harm**, that they therefore operate, inter alia, an effective legal system for the detection, prosecution and punishment of acts constituting persecution **or serious harm** and that the national concerned will have access to such protection if the refugee status **or the subsidiary protection status** ceases to exist.
- (40a) When assessing whether the grounds on which the refugee status or the subsidiary protection status have ceased to exist, the determining authority should take into account all relevant and available national, union and international sources, including recommendations issued by the UNHCR.**
- (40b) Where the applicant falls within the scope of Article 1(D) of the Geneva Convention relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees, when considering whether the protection or assistance from those organs and agencies has ceased to exist for reasons beyond the control, and independent of the volition, of the applicant, the determining authority should ascertain whether the applicant was forced to leave the area of operations of the relevant organ or agency, and whether his or her personal safety was at serious risk and such organ or agency was unable to ensure his or her living conditions in accordance with their mandate.**

(41) When the refugee status or the subsidiary protection status ceases to exist, [...] the decision by [...] the determining authority of a Member State [...] **to withdraw** the status [...] **is [...] without prejudice to the possibility for** the third-country national or stateless person concerned [...] to apply for residence on the basis of other grounds than those having justified the granting of international protection, **or to continue to remain legally on the territory of that Member State on other grounds, in particular when holding a valid EU long-term residence permit**, [...] in accordance with relevant Union and national law.

**(41a) The decision to end the international protection status, should not have a retroactive effect (*ex nunc*), whereas a decision to revoke the international protection status should have a retroactive effect (*ex tunc*). When a decision is based on a cessation ground, it should not have a retroactive effect. Where applicable, in case of revocation of the status on the basis that the protection should never have been granted, acquired rights could be retained or lost in accordance with national law.**

(42) Beneficiaries of international protection should reside in the Member State which granted them protection. Those beneficiaries who are in possession of a valid travel document and a residence permit issued by a Member State applying the Schengen acquis in full, should be allowed to enter into and move freely within the territory of the Member States applying the Schengen acquis in full, [...] **within the authorised period of stay** in accordance with Schengen Borders Code and with Article 21 of the Convention implementing the Schengen Agreement. Beneficiaries of international protection can equally apply to reside in a Member State other than the Member State which granted protection, in accordance with relevant [...] **Union** rules [...] and national rules; however, this does not imply any transfer of the international protection and related rights.

[(43) In order to[...]address secondary movements within the [...] Union, beneficiaries of international protection, if found in a Member State other than the [...] **one** having granted them protection without fulfilling the conditions of stay or residence, should be taken back by the Member State responsible in accordance with the procedure laid down by Regulation (EU) [xxx/xxxx **Dublin Regulation**].]<sup>5</sup>

(44) [...] **In order to ensure that beneficiaries respect the authorised period of stay or residence in accordance with the relevant Union, national or international law**, Council Directive 2003/109/EC should be amended to provide that the 5-year period after which beneficiaries of international protection are eligible for the **EU long term resident [...]**status should [...] **in principle** be restarted each time the person is found in a Member State, other than the one that granted international protection, without a right to stay or to reside there [...].

(45) **Member States' authorities retain a certain discretion with regard to the notions of public order and national security, which should be interpreted in accordance with Union, international and national law.**

**Subject to individual assessment of the specific facts, the** notion of national security and public order also covers cases in which a third-country national belongs to an association which supports international terrorism or supports such an association.

**When assessing whether a third country national or stateless person poses a risk to its national security, Member State authorities are entitled to take account of information received from other Member States or third countries.**

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<sup>5</sup> [...]

- (46) 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
- (47) [...]
- (48) [...] **Member States** may restrict the access to employed or self-employed activities as regard posts which involve the exercise of public authority, and responsibility for safeguarding the general interest of the State or other public authorities. In the context of exercising their right to equal treatment as regards membership of an organisation representing workers or engaging in a specific occupation, beneficiaries of international protection may likewise be excluded from taking part in the management of bodies governed by public law and from holding an office governed by public law.
- (48a) Housing benefits should constitute a core benefit to the extent that they can be regarded as social assistance.**
- (49) In order to enhance the effective exercise of the rights and benefits laid down in this Regulation by beneficiaries of international protection, it is necessary to take into account their specific needs and the particular integration challenges with which they are confronted, and facilitate their access to integration related rights in particular as regards employment-related educational opportunities and vocational training and access to recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications in particular due to the lack of documentary evidence and their inability to meet the costs related to the recognition procedures.

- (50) Equal treatment should be provided for beneficiaries of international protection with nationals of the Member State granting protection as regards social security.
- (51) [...]
- (52) Access to healthcare, including both physical and mental healthcare, **including sexual and reproductive healthcare**, should be ensured to beneficiaries of international protection, **provided it is ensured to nationals of the Member State that granted protection.**
- (53) In order to facilitate the integration of beneficiaries of international protection into society, beneficiaries of international protection [...] **should** have access to integration measures, **at national, regional and local level**, in modalities to be set by the Member States. Member States should consider maintaining access to language courses for beneficiaries of international protection where they had access to language courses as applicants.
- (54) The effective monitoring of the application of this Regulation requires that it be evaluated at regular intervals.
- (55) [...]
- (56) Since the objectives of this Regulation, namely to establish standards for the granting of international protection to third-country nationals and stateless persons by Member States, for a uniform status for refugees or for persons eligible for subsidiary protection[...] and for the content of the protection granted, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.



(57) [In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, those Member States have notified their wish to take part in the adoption and application of this Regulation.

OR

*[In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Regulation and are not bound by it or subject to its application.]*

OR

*[(XX) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.*

*(XX) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified (, by letter of ...,) its wish to take part in the adoption and application of this Regulation.]*

OR

*[(XX) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom has notified (, by letter of ...,) its wish to take part in the adoption and application of this Regulation.*

*(XX) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]*

(58) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application,]

HAVE ADOPTED THIS REGULATION:

# CHAPTER I

## GENERAL PROVISIONS

### *Article 1*

#### *Subject matter*

This Regulation lays down standards for:

- (a) the qualification of third-country nationals or stateless persons as beneficiaries of international protection;
- (b) a uniform status for refugees or for persons eligible for subsidiary protection;
- (c) the content of the international protection granted.

### *Article 1a* *[ex-Article 3 modified]*

#### *Material scope*

- 1. This Regulation applies to the qualification of third-country nationals or stateless persons as beneficiaries of international protection and to the content of the international protection granted.**
- 2. This Regulation does not apply to national humanitarian statuses granted by Member States to third country nationals and stateless persons who do not fall under the scope of this Regulation. National humanitarian statuses, if issued, shall not entail a risk of confusion with international protection.**

*Article 2*  
*Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘international protection’ means refugee status and subsidiary protection status as defined in points (4) and (6);
- (2) ‘beneficiary of international protection’ means a person who has been granted refugee status or subsidiary protection status as defined in points (4) and (6);
- (3) ‘refugee’ means a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 does not apply;
- (4) ‘refugee status’ means the recognition by a Member State of a third-country national or a stateless person as a refugee;
- (5) ‘person eligible for subsidiary protection’ means a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 16, and to whom Article 18(1) and (2) does not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country;

- (6) ‘subsidiary protection status’ means the recognition by a Member State of a third-country national or a stateless person as a person eligible for subsidiary protection;
- [(7) ‘application for international protection’ means a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status;
- (8) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;]
- (9) ‘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 [...] **on the territory of** the same Member State in relation to the application for international protection:
- (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 [...] **as equivalent to married couples;**
  - b) the minor **or adult dependent** 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 [...] **provided for** under national law;
  - (c) **where the beneficiary of international protection is a minor and unmarried,** the father, mother or another adult responsible for that beneficiary, **including an adult sibling,** whether by law or by practice of the Member State concerned [...];

**For the purpose of points (b) and (c), on the basis of an individual assessment, a minor shall be considered unmarried if his or her marriage would not be in accordance with the relevant national law had it been contracted in the Member State concerned, in particular having regard to the legal age of marriage.**

- (10) ‘minor’ means a third-country national or stateless person below the age of 18 years;
- (11) ‘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, including a minor who is left unaccompanied after he or she has entered the territory of the Member States;
- (12) ‘residence permit’ means any [...] authorisation issued by the authorities of a Member State, in a **uniform** form[...] **as laid down in** Council Regulation (EC) No 1030/2002<sup>6</sup>, allowing a third-country national or stateless person to reside **legally** on its territory;
- (13) ‘country of origin’ means the country or countries of nationality or, for stateless persons, of former habitual residence;
- (14) ‘withdrawal of international protection’ means the decision by [...] **the determining** authority **or a competent Court or Tribunal** to revoke [...] or end, **including by refusing to renew,** [...] **the international protection;**
- (15) [...]

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<sup>6</sup> OJ L157, 15.6.2002, p.1.

- (16) 'determining authority' means any quasi-judicial or administrative body in a Member State, responsible for examining applications for international protection, and competent to take decisions at [...]the **administrative stage of the procedure**;
- (17) 'social security' means the branches of social security as defined in **Article 3 (1) and (2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council**<sup>7</sup>[...];
- (18) 'social assistance' means benefits granted [...] with the objective of ensuring that the basic needs of those who lack sufficient resources are met;
- (19) guardian' means a **natural** person or an organisation, **including a public body**, [...] **designated** by the competent **authorities** [...]to assist, [...] represent **and act on behalf of** an unaccompanied minor[...], **as applicable, in order to ensure that the unaccompanied minor can benefit from the rights and comply with the obligations under this Regulation, while safeguarding his or her best interests and general well-being.**

*Article 3*

*Material scope*

[...]

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<sup>7</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (*OJ L 166, 30.4.2004, p. 1*).

## CHAPTER II

# ASSESSMENT OF APPLICATIONS FOR INTERNATIONAL PROTECTION

### *Article 4*

#### *Submission of information and assessment of facts and circumstances*

1. The applicant shall submit all the elements available to him or her which substantiate the application for international protection. **For that purpose, he [...] or she shall fully cooperate with the determining authority and with other competent authorities, and shall remain present and available throughout the procedure, including during the assessment of the relevant elements of the application [...], on the territory of the Member State responsible for examining his or her application.**
2. The elements referred to in paragraph 1 shall consist of the applicant's statements and all the documentation at the applicant's disposal regarding [...] **the reasons for applying for international protection, age, background, including that of relevant family members and other [...] relatives, identity, nationality(ies), country(ies) and place(s) of previous residence, previous applications for international protection [and results of any [...] resettlement procedure as defined by Regulation (EU) no XXX/XX ([...]Resettlement regulation[...]), travel routes and[...] travel documents [...].**
3. The determining authority shall assess the relevant elements of the application **for international protection** in accordance with Article 33 of Regulation (EU)XXX/XXX [Asylum Procedures [...]Regulation].



4. The fact that an applicant has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, shall be considered a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.
5. Where **one or more particular** aspects of the applicant's statements are not supported by documentary or other evidence, no additional evidence shall be required in respect of those **particular** aspects where the following conditions are met:
  - (a) the applicant has made a genuine effort to substantiate his or her application **for international protection**;
  - (b) all relevant elements at the applicant's disposal have been submitted, and a satisfactory explanation has been given regarding any lack of other relevant elements;
  - (c) the applicant's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the applicant's case;
  - (d) [...]
  - (e) the general credibility of the applicant has been established, **taking into account inter alia the time when the applicant has applied for international protection**.

#### *Article 5*

#### ***International protection needs arising sur place***

1. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on events which have taken place since the applicant left the country of origin, **or [...]** on activities which the applicant has engaged in since he or she left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions, **beliefs or** orientations held in the country of origin.

2. [...]

**2a. Provided that any decision taken on the application for international protection respects the Geneva Convention, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union, if the risk of persecution or serious harm is based on circumstances which the applicant has created since leaving the country of origin for the sole or main purpose of creating the necessary conditions for applying for international protection, the granting of international protection may be refused.**

3. [...]

#### *Article 6*

#### *Actors of persecution or serious harm*

Actors of persecution or serious harm can [...] be:

- (a) the State;
- (b) parties or organisations controlling the State or a substantial part of the territory of the State;
- (c) non-State actors, if it can be demonstrated that the actors referred to in [...] **Article 7(1)**[...] are unable or unwilling to provide protection against persecution or serious harm [...].

*Article 7*  
*Actors of protection*

1. Protection against persecution or serious harm can only be provided by the following actors:
  - (a) the State;
  - (b) [...] **stable, established non-State authorities**, including international organisations, **who control** [...] the State or substantial part of the territory of the State,  
  
provided they are[...] **able** and[...] **willing** to [...] **provide effective and non-temporary** protection in accordance with paragraph 2.
2. Protection against persecution or serious harm shall be effective and of a non-temporary nature. That protection shall be considered to be provided when the actors referred to in paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, among others, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and when the applicant has access to that protection.
3. When assessing whether [...] **stable, established non-State authorities, including** international organisations, control[...] a State or a substantial part of its territory, and provide[...] protection as referred to in paragraph 2, **the** determining authority[...] shall [...] **take into account precise and up-to-date information on countries of origin obtained from relevant and available national, Union and international sources, and, where available, the common analysis on the situation in specific countries of origin and the guidance notes** referred to in Article [...] 10 of Regulation (EU) No XXX/XX [Regulation on the European Union Agency for Asylum].

Article 8

***Internal protection alternative***

1. **Provided that the State or agents of the State are not the actors of persecution or serious harm, and** as part of the assessment of the application for international protection, the determining authority shall examine if an applicant is not in need of international protection because he or she can safely and legally travel to and gain admittance to a part of the country of origin and can reasonably be expected to settle there and if, in that part of the country, he or she:
  - (a) has no well-founded fear of being persecuted or is not at real risk of suffering serious harm; or
  - (b) has access to **effective and non-temporary** protection against persecution or serious harm.

- 1a. **Where the State or agents of the State are the actors of persecution or serious harm, the determining authority shall presume that effective protection is not available to the applicant and no internal protection alternative assessment need be carried out.**

**The determining authority may only assess whether effective protection in accordance with paragraph (1) is available to the applicant where it is clearly established that the risk of persecution stems from an actor whose power is clearly limited to a specific geographical area or where the State itself only has control over certain parts of the country.**

2. The assessment of the availability of internal protection for an applicant shall be carried out once it has been established by the determining authority that the qualification criteria would otherwise apply. [...] **It is for the determining authority to demonstrate that an international protection alternative is available and the applicant shall then be entitled to present evidence and submit any element which indicates that such an alternative is not applicable to him or her. The determining authority shall take into account the evidence presented by the applicant.**

3. In examining whether an applicant has a well-founded fear of being persecuted or is at real risk of suffering serious harm, or has access to protection against persecution or serious harm in a part of the country of origin in accordance with paragraph 1, **the determining authority[...]** shall at the time of taking the decision on the application **for international protection** have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant in accordance with Article 4. To that end, the determining authority [...]shall[...]**take into account** precise and up-to-date information[...]obtained from [...]relevant **and available national, Union and international sources, and where available[...]the common analysis on the situation in specific countries of origin and the guidance notes** referred to in Article [...] 10 of Regulation (EU) No XXX/XX[Regulation on the European Union Agency for Asylum][...].
4. [...] **For the purpose of paragraph (1), the determining authority shall take into account:**
- (a) the general circumstances prevailing in that part of the country [...] **including** the accessibility, effectiveness and durability of [...] **the protection [...] as referred to in Article 7, and**
  - (b) **the personal circumstances of the applicant in relation to factors such as** health, age, gender, [...] **including** gender identity, [...] **sexual orientation, ethnic origin and membership of a national minority [...] as well as**
- (ba) **whether the applicant would be able to cater for his or her own basic needs.**
- 4a. **Where the applicant is an unaccompanied minor, the determining authority shall take into account the best interests of the minor, in particular the availability of sustainable appropriate care and custodial arrangements.**

## CHAPTER III

### QUALIFICATION FOR BEING A REFUGEE

#### *Article 9*

#### *Acts of persecution*

1. An act shall be regarded as an act of persecution within the meaning of Article 1(A) of the **Geneva** Convention [...], where:
  - (a) it is sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or
  - (b) it is an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as referred to in point (a).
  
2. Acts of persecution as qualified in paragraph 1 may, among others, take the form of:
  - (a) acts of physical or mental violence, including acts of sexual violence;
  - (b) legal, administrative, police, [...] or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
  - (c) prosecution or punishment which is disproportionate or discriminatory;
  - (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;

- (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling within the scope of the grounds for exclusion as set out in Article 12(2);
  - (f) acts of a gender-specific or child-specific nature.
3. In accordance with point (3) of Article 2, there must be a connection between the reasons mentioned in Article 10 and the acts of persecution as qualified in paragraph 1 of this Article or the absence of protection against such acts.

*Article 10*

***Reasons for persecution***

1. The following elements shall be taken into account when assessing the reasons for persecution:
- (a) the concept of race shall, in particular, include considerations of colour, descent, or membership of a particular ethnic group;
  - (b) the concept of religion shall, in particular, include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;
  - (c) the concept of nationality shall not be confined to citizenship or lack thereof but shall, in particular, include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;

- (d) the concept of **membership of** a particular social group shall include, in particular, **membership of** a group [...]:
- **whose** members share **or are perceived to share** an innate characteristic or a common background that cannot be changed, or a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it,

and

- [...] **which** has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society.

Depending on the circumstances in the country of origin, [...] **that** concept [...] includes **membership of** a group based on a common characteristic of sexual orientation[...]. Gender related aspects, including gender identity **and gender expression**, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;

- (e) the concept of political opinion shall, in particular, include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in Article 6 and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the applicant.

2. When assessing if an applicant has a well-founded fear of being persecuted it is [...] **irrelevant** whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.



3. When assessing if an applicant has a well-founded fear of being persecuted, the determining authority cannot reasonably expect an applicant to[...] **adapt or change his or her behaviour, convictions or identity**, or **to** abstain from certain practices, where [...] **these** are inherent to his or her identity, to avoid the risk of persecution in his or her country of origin.

*Article 11*

*Cessation*

1. A third-country national or a stateless person shall cease to be a refugee where one or more of the following apply:
- (a) the person has voluntarily re-availed himself or herself of the protection of the country of nationality;
  - (b) having lost his or her nationality, the person has voluntarily re-acquired it;
  - (c) the person has acquired a new nationality, and enjoys the protection of the country of his or her new nationality;
  - (d) the person has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution;
  - (e) the person can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality;
  - (f) being a stateless person, the person is able, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.

Points (e) and (f) shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

2. [...] **In order to assess whether** points (e) and (f) of paragraph 1 apply, the determining authority **shall:**

(b[*former a*]) [...] have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded;

(a[*former b*]) [...] **take into account** precise and up-to-date information obtained from [...] relevant **and available national, Union and international sources, and where available[...]the common analysis on the situation in specific countries of origin and the guidance notes** referred to in Article [...] 10 of Regulation (EU) No XXX/XX[Regulation on the European Union Agency for Asylum][...].

#### *Article 12*

#### *Exclusion*

1. A third-country national or a stateless person shall be excluded from being a refugee if:
  - (a) he or she falls within the scope of Article 1(D) of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, those persons shall ipso facto be entitled to the benefits of this Regulation;

- (b) he or she is recognised by the competent authorities of the country in which he or she has taken up residence as having the rights and obligations which are attached to the possession of the nationality of that country, or **equivalent** rights and obligations [...].
2. A third-country national or a stateless person shall be excluded from being a refugee where there are serious reasons for considering that:
- (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of [...] granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;
- (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.
3. Paragraph 2 shall apply to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.
4. [...]
5. [...]

6. [...] Once the determining authority has established, based on an assessment of the seriousness of the acts committed by the person concerned and of that person's individual responsibility, taking into account all the circumstances surrounding those crimes or acts and the situation of that person, that one or more of the relevant exclusion grounds laid down in paragraphs (2) and (3) are applicable, the determining authority shall exclude the applicant from refugee status without performing a proportionality assessment linked to the fear of persecution.
7. As part of the assessment referred to in paragraph (6), when carrying out an examination under paragraphs (2) and (3) in relation to a minor, the determining authority shall take into account, *inter alia*, his or her capacity to be considered responsible under criminal law had he or she committed the crime on the territory of the Member State examining the application in accordance with national law on the age of criminal responsibility.

# CHAPTER IV

## REFUGEE STATUS

### *Article 13*

#### *Granting of refugee status*

The determining authority shall grant refugee status to a third-country national or a stateless person who qualifies as a refugee in accordance with Chapters II and III.

### *Article 14*

#### *[...]Withdrawal of refugee status*

1. The determining authority shall [...] **withdraw** the refugee status of a third-country national or stateless person where:
  - (a) he or she has ceased to be a refugee in accordance with Article 11;
  - (b) he or she should have been or is excluded from being a refugee in accordance with Article 12;
  - (c) his or her misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of refugee status;
  - (d) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present;

- (e) he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the Member State in which he or she is present;
- (f) [...]
2. In situations referred to in points (d) [...] **and (e)** of Article 14(1) the determining authority may decide not to grant refugee status if a decision on the application has not yet been taken.
3. Persons to whom points (d) [...] **and (e)** of paragraph 1 or paragraph 2 apply shall be entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31, 32 and 33 of the Geneva Convention in so far as they are present in the Member State.
4. [...] The determining authority which granted refugee status shall, on an individual basis, demonstrate that the beneficiary of the refugee status has ceased to be [...] **a refugee, should have never been granted refugee status, or should no longer be a beneficiary of refugee status** for the reasons set out in paragraph 1. **During the withdrawal procedure, Article 52 of Regulation (EU) XXX/XXX [Asylum Procedures [...] Regulation] shall apply.**
5. [...]

*Article 15*

*Review of refugee status*

[...]

## CHAPTER V

### QUALIFICATION FOR SUBSIDIARY PROTECTION

#### *Article 16*

#### *Serious harm*

Serious harm as referred to in Article 2 (5), consists of:

- (a) the death penalty or execution; or
- (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or
- (c) a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

#### *Article 17*

#### *Cessation*

1. [...] **A beneficiary of subsidiary protection status** shall cease to be eligible for subsidiary protection when the circumstances which led to the granting of [...] **this** status have ceased to exist or have changed to such a degree that protection is no longer required.
2. **In order to assess whether the circumstances, which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required, [...] the determining authority shall:**

(b[...]) [...] have regard **to** whether the change in circumstances is of such a significant and non-temporary nature that the [...] **beneficiary of subsidiary protection status** no longer faces a real risk of serious harm;

(a[...]) [...] **take into account** precise and up-to-date information obtained from [...] relevant **and available national, Union and international** sources, **and where available[...]** **the common analysis on the situation in specific countries of origin and the guidance notes** referred to in Article [...] 10 of Regulation (EU) No XXX/XX[Regulation on the European Union Agency for Asylum][...].

3. Paragraph 1 shall not apply to a beneficiary of subsidiary protection status who is able to invoke compelling reasons arising out of previous serious harm for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

#### *Article 18*

#### *Exclusion*

1. A third-country national or a stateless person shall be excluded from being eligible for subsidiary protection where there are serious reasons for considering that:
  - (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
  - (b) he or she has committed a serious crime **prior to his or her arrival on the territory of the Member State or has been convicted for a serious crime after arrival;**



(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;

(d) he or she constitutes a danger to the community or to [...] **national** security [...];

(e) [...]

2. [...]Paragraph 1 shall apply to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.

**2a. A third-country national or a stateless person may be excluded from being eligible for subsidiary protection if he or she, prior to his or her admission to the Member State concerned, has committed one or more crimes outside the scope of points (a), (b) and (c) of paragraph 1 which would be punishable by imprisonment if they had been committed in the Member State concerned, and if he or she left his or her country of origin solely in order to avoid sanctions resulting from those crimes.**

**2b. Once the determining authority has established, based on an assessment of the seriousness of the acts committed by the person concerned and of that person's individual responsibility, taking into account all the circumstances surrounding those crimes or acts and the situation of that person, that one or more of the relevant exclusion grounds laid down in paragraphs (1) and (2) are applicable, the determining authority shall exclude the applicant from subsidiary protection status without performing a proportionality assessment linked to the fear of serious harm.**

- 2c. As part of the assessment referred to in paragraph (2b), when carrying out an examination under paragraphs (1) and (2) in relation to a minor, the determining authority shall take into account, inter alia, his or her capacity to be considered responsible under criminal law had he or she committed the crime on the territory of the Member State examining the application in accordance with national law on the age of criminal responsibility, or, where applicable, a conviction for a serious crime after his or her arrival.

## CHAPTER VI

### SUBSIDIARY PROTECTION STATUS

#### *Article 19*

#### *Granting of subsidiary protection status*

The determining authority shall grant subsidiary protection status to a third-country national or a stateless person who is eligible for subsidiary protection in accordance with Chapters II and V.

#### *Article 20*

#### *[...] Withdrawal of subsidiary protection status*

1. The determining authority shall [...] **withdraw** the subsidiary protection status of a third-country national or a stateless person where:
  - (a) he or she has ceased to be eligible for subsidiary protection in accordance with Article 17;

- (b) after having been granted subsidiary protection status, he or she should have been or is excluded from being eligible for subsidiary protection in accordance with Article 18;
  - (c) his or her misrepresentation **of facts, including the use of false documents**, or omission of facts, [...] was decisive for the granting of subsidiary protection status;
  - (d) [...]
2. [...] **The determining authority** which granted subsidiary protection status shall, on an individual basis, demonstrate that the [...] **beneficiary of the subsidiary protection status** has ceased to be eligible [...] **for subsidiary protection, should have never been granted subsidiary protection status, or should no longer be a beneficiary of subsidiary protection status for the reasons set out in paragraph 1. During the withdrawal procedure, Article 52 of Regulation (EU) XXX/XXX [Asylum Procedures [...] Regulation] shall apply.**
3. [...]

*Article 21*

***Review of the subsidiary protection status***

[...]

## CHAPTER VII

# CONTENT OF INTERNATIONAL PROTECTION RIGHTS AND OBLIGATIONS OF BENEFICIARIES OF INTERNATIONAL PROTECTION

### Section I

#### *Common provisions*

#### *Article 22*

#### *General rules*

1. [...] **Without prejudice** to the rights and obligations laid down in [...] **the Geneva Convention, beneficiaries of international protection shall have** the rights and obligations laid down in [...] **this Chapter.**
  2. [...]
  3. [...] **Beneficiaries of international protection shall have access to rights provided in accordance with the provisions of this Chapter once international protection is granted and for as long as he or she holds that status.**
- (3a) **When the residence permit is not issued within 15 days after international protection has been granted, Member States shall take provisional measures, such as registration or issuance of a document, to ensure that beneficiaries of international protection have effective access to the rights referred to in this Chapter, with the exception of those referred to in Article 27 and 29, until such time as the residence permit is issued in accordance with Article 26.**

4. [...]When applying the provisions of this Chapter, where it is established that a person[...]has special needs, such as a minor[...], an unaccompanied minor[...], [...]a person with a disability, [...]an elderly person, a pregnant [...] woman, a single parent[...] with a minor or adult dependent child[...], a victim[...] of [...]trafficking in human beings, a person with a serious illness, a person[...] with a mental disorder[...] or a person[...] who has[...] been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, his or her special needs [...] shall be taken into account [...].
5. When applying the provisions of this Chapter that involve minors the best interests of the child shall be a primary consideration to the [...] competent authorities.

*Article 23*

***Protection from refoulement***

1. [...]The principle of non-refoulement shall be respected in accordance with Union and international law.
2. [...]

*Article 24*

***Information***

The competent authorities shall provide beneficiaries of international protection with information on the rights and obligations relating to refugee status or subsidiary protection status, as soon as possible after **international protection**[...] has been granted. That information, **as specified in Annex II**, shall be provided in a language that the beneficiary can understand or is reasonably supposed to understand and shall make explicit references to the consequences of not complying with the obligations outlined in Article 29 [...] on movement within the Union.

[...]

Article 25

*Maintaining family unity*

1. Family members of a beneficiary of international protection who do not individually qualify for such protection [...] **and who apply for a residence permit in the Member State that granted international protection to the beneficiary shall be issued a residence permit in that Member State in accordance with national procedures, when paragraphs 3 or 4 of this Article do not apply**, and insofar as this is compatible with the personal legal status of the family member.
2. A residence permit issued pursuant to paragraph 1 shall have the [...] **same date of expiry as** the residence permit issued to the beneficiary of international protection and shall be renewable **for as long as the residence permit issued to the beneficiary of international protection is renewed**. The period of validity of the residence permit granted to the family member shall [...] not extend beyond the date of expiry of the residence permit held by the beneficiary of international protection.
3. No residence permit shall be issued **under this Regulation**[...] to a family member [...] who is or would be excluded from international protection pursuant to Chapters III and V.
- 3a. **A residence permit shall not be issued under this Regulation to a spouse or unmarried partner in a stable relationship where there are strong indications that the marriage or partnership was contracted for the sole purpose of enabling the person concerned to enter or reside in the Member State.**
4. Where reasons of national security or public order **related to the person concerned** so require, a residence permit shall not be issued [...] to [...] **that** family member, and such residence permits which have already been issued shall be withdrawn or shall not be renewed.

5. Family members who are issued a residence permit pursuant to paragraph 1 shall be entitled to the rights referred to in Articles 27[...] to **35 and 37 to 38**[...].
6. Member States may decide that this Article applies to other close relatives, **including siblings**, who lived together as part of the family [...] before the applicant arrived on the territory of the Member State and who are [...] dependent on the beneficiary of international protection. **Member States may also decide that this Article applies to a married minor, provided that it is in his or her best interests.**

## Section II

### *Rights and obligations related to residence and stay*

#### *Article 26*

##### *Residence permits*

1. [...] **Beneficiaries of international protection shall have the right to a residence permit for as long as they hold the refugee or the subsidiary protection status.**
- 1a. **A residence permit shall be issued as soon as possible after international protection has been granted, and at the latest 90 days from the notification of the decision using the uniform format as laid down in Regulation (EC) no 1030/2002.**
- 1b. **A residence permit shall be issued free of charge or for a fee not exceeding the fee required of nationals of the Member State concerned for the issuing of identity cards.**
2. [...] **A residence permit shall have an initial validity period of at least 3 years for refugees and at least 1 year for subsidiary protection beneficiaries.**

**Residence permits shall be renewed on expiry for at least 3 years for refugees and 2 years for beneficiaries of subsidiary protection.**

**Renewal shall be organised in such a way as to ensure continuity of the period of permitted residence, with no interruption between the period covered by the lapsing and the renewed permit, provided that the beneficiary of international protection acts in accordance with relevant national law setting out the administrative formalities for renewal.**

- 2a. A residence permit may only be revoked or not renewed where the competent authorities withdraw the refugee status in accordance with Article 14 or the subsidiary protection in accordance with Article 20.**
3. [...]

#### *Article 27*

#### *Travel document*

1. **Unless compelling reasons of national security or public order related to the person concerned so require**, competent authorities shall issue travel documents to beneficiaries of refugee status, in the form set out in the Schedule to the Geneva Convention and with the minimum security features and biometrics outlined in Council Regulation (EC) No 2252/2004<sup>8</sup>. Those travel documents shall be valid for **more than one year**.
2. **Unless compelling reasons of national security or public order related to the person concerned so require**, competent authorities shall issue travel documents with the minimum security features and biometrics outlined in Regulation (EC) No 2252/2004 to beneficiaries of subsidiary protection status who are unable to obtain or renew a national passport. Those travel documents shall be valid **for more than one year**.

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<sup>8</sup> Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p. 1).



3. [...] In the exercise of their obligations set out in paragraphs 1 and 2, competent authorities of Member States which do not take part in the Schengen acquis shall issue travel documents to beneficiaries of refugee status in the form set out in the Schedule to the Geneva Convention and to beneficiaries of subsidiary protection status who are unable to obtain or renew a national passport, with minimum security features and biometrics equivalent to those outlined in Regulation (EC) 2252/2004, taking into account the specifications of the International Civil Aviation Organisation (ICAO), in particular those set out in Document 9303 on machine readable travel documents.

*Article 28*

*Freedom of movement within the Member State*

1. Beneficiaries of international protection shall enjoy freedom of movement within the territory of the Member State that granted international protection, including the right to choose their place of residence in that territory, under the same conditions and restrictions as those provided for other third-country nationals legally resident in their territories who are [...] **generally in the same circumstances.**
2. [...]

*Article 29*

***Movement within the Union***

1. Beneficiaries of international protection shall not have the right to reside in Member States other than the one which granted them international protection. This is without prejudice to their right
  - to apply and be admitted to reside in **another Member State[...] pursuant to that Member State’s national law or pursuant to relevant provisions of Union law or of international agreements; [...]**
  - to move freely in accordance with the conditions of Article 21 of the Convention Implementing the Schengen Agreement.
- [2. Where a beneficiary is found in a Member State other **than** the one [...] **which granted** him or her [...] **international** protection without a right to stay or the right to reside there in accordance with **that Member State’s national law, or pursuant to relevant provisions of Union law, and of international agreements[...]**, he **or she** will be subject to a take back procedure as defined under Article 20(1)(e) of the Dublin Regulation (EU) no. xxx/xxx.]

**Section III**

**Rights related to integration**

*Article 30*

***Access to employment***

1. Beneficiaries of international protection shall have the right to engage in employed or self-employed activities subject to the rules generally applicable to the profession and to the public service, immediately after protection has been granted.

2. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted **them international** protection as regards:
  - a) **terms of employment including the minimum working age and** working conditions, including pay and dismissal, working hours, leave and holidays as well as health and safety requirements at the workplace;
  - (b) freedom of association and affiliation, and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the **rights and** benefits conferred by such organisations;
  - c) employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience;
  - d) **information and counselling** [...] services afforded by employment offices.
3. Competent authorities, where necessary shall facilitate the full access to the activities referred to in **points (c) and (d)** of paragraph (2) [...].

*Article 31*

*Access to education*

1. Minors granted international protection shall **enjoy equal treatment with nationals of the Member State that has granted them international protection with regard to**[...] access to the education system [...].

**A beneficiary of international protection shall continue to enjoy equal treatment with nationals of the Member State that granted him or her international protection for the completion of secondary education irrespective of whether he or she reaches the age of majority.**

2. Adults granted international protection shall [...] **enjoy equal treatment with nationals of the Member State that has granted them international protection, with regard to** access to the general education system, further training or retraining [...].

**Notwithstanding subparagraph 1, competent authorities may refuse grants and loans to adults granted international protection, where this is laid down in national law.**

*Article 32*

*Access to procedures for recognition of qualifications and validation of skills*

1. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted **them international** protection in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.
2. Competent authorities shall facilitate full access to the procedures mentioned in paragraph 1 to those beneficiaries of international protection who cannot provide documentary evidence of their qualifications without prejudice to Articles 2(2) and 3(3) of Directive 2005/36/EC of the European Parliament and of the Council.<sup>9</sup>
3. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted **them international** protection as regards access to appropriate schemes for the assessment, validation and [...] **recognition** of their prior learning **outcomes** and experience.

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<sup>9</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ([OJ L 255, 30.9.2005, p. 22](#)).

*Article 33*  
*Social security*

[...]

*Article 34*  
*Social security and social assistance*

1. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted **them international** protection as regards social **security and social** assistance.

Access to certain social assistance specified in national law may be made conditional on the effective participation of the beneficiary of international protection in integration measures, **where such measures are made compulsory, and provided that they are accessible and free of charge.**

2. **Notwithstanding paragraph 1, for** beneficiaries of subsidiary protection status, [...] **the provision of equal treatment as regards** social assistance **may be limited** to core benefits where so provided in national law.

**Core benefits shall include at least minimum income support, assistance in the case of illness, or pregnancy, and parental assistance, including child-care assistance, as well as housing benefits in so far as those benefits are granted to nationals under national law.**

*Article 35*

***Healthcare***

1. Beneficiaries of international protection shall have access to healthcare under the same eligibility conditions as nationals of the Member State that has granted [...] **them international** protection.
2. Beneficiaries of international protection who have special needs, such as pregnant women, **persons with a disability** [...], persons who have [...] **been subjected to** 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 **with** adequate healthcare, including treatment of mental disorders when needed, under the same eligibility conditions as nationals of the Member State that has granted **them international** protection.

*Article 36*

***Unaccompanied minors***

1. As soon as possible after international protection is granted, [...] competent authorities shall take the necessary measures, **under national law, to appoint a guardian** [...].

**Competent authorities may keep the same person designated as [representative under paragraph (1b) of Article 22 of the Asylum Procedure Regulation] or under Article 23(1)(b) of the [Reception Conditions Directive] as the guardian appointed under this paragraph, without the need for formal reappointment.**

**In any case the [representative referred to in Article 22(1)(b) of the Asylum Procedure Regulation] or in Article 23(1)(b) of the [Reception Conditions Directive] shall remain responsible for the unaccompanied minor until a guardian is appointed.**

**Organisations or natural persons whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardian.**

**Where an organisation is appointed as guardian, it shall as soon as possible designate a natural person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Regulation.**

2. **For the purpose of this Regulation, with a view to safeguarding the best interests of the child and his or her general well-being, the [...] guardian shall:**
- a) [...] ensure that the minor can access all rights stemming from this Regulation;
  - b) **assist and, where applicable, represent the unaccompanied minor in case of withdrawal of the status; and**
  - c) **where applicable, assist in family tracing as provided for in paragraph 5.**

**The guardian shall:**

- (a) **have the necessary expertise and receive initial and continuous appropriate training concerning the rights and needs of unaccompanied minors, including those relating to any applicable child safeguarding standards,**
- (b) **be bound by the confidentiality rules provided for in national law in relation to any information they obtained in the course of their work,**
- (c) **not have a verified record of child-related crimes and offences, or crimes and offences that lead to serious doubts about their ability to assume a role of responsibility with regard to children.**

- 2a. The competent authorities shall place a guardian in charge of a proportionate and sufficiently limited number of unaccompanied minors so as to ensure that he or she is able to perform his or her tasks effectively and that the unaccompanied minor has effective access to his or her rights and benefits.**
- 2b. In accordance with national law, Member States shall provide for entities, including judicial authorities, or persons responsible for ongoing supervision and monitoring to ensure that guardians perform their tasks in a satisfactory manner.**

**Those entities or persons shall review the performance of the guardian, in particular when there are indications that the guardian is not performing his or her tasks in a satisfactory manner and shall examine without delay, any complaints lodged by unaccompanied minors against their guardian.**

**The person acting as guardian shall be changed where necessary, in particular when the competent authorities consider that he or she has not adequately performed his or her tasks.**

**The competent authorities shall explain to the unaccompanied minor in an age-appropriate manner, and in such a way as to ensure that the minor understands it how to lodge a complaint against his or her guardian in confidence and safety.**

- 3. While taking into account the best interests of the child, unaccompanied minors shall be placed in one of the following ways:**
- a) with **an** adult relative;
  - b) with a foster family;
  - (c) in centres specialised in accommodation for minors;
  - d) in other accommodation suitable for minors.

The views of the minor shall be taken into account in accordance with his or her age and degree of maturity.



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.
5. [...] **Tracing of family members of an unaccompanied minor shall continue, where that minor is granted international protection. If it has not already started, it shall start as soon as possible after the granting of international protection, provided that it is in the minor's 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.**

6. [...]

#### *Article 37*

##### ***Access to accommodation***

1. Beneficiaries of international protection shall have access to accommodation under conditions **at least** equivalent to those applicable to other third-country nationals legally resident in the territory[...] of the Member State[...] that granted him or her international protection who are [...] **generally in the same circumstances.**
2. National [...] practices **for the dispersal** of beneficiaries of international protection shall [...] **ensure that those beneficiaries are treated equally unless different treatment is objectively justified,** and shall ensure equal opportunities regarding access to accommodation.

*Article 38*

*Access to integration measures*

1. In order to **encourage and** facilitate [...] **their** integration into **the** society of **the Member State that granted the international protection**, [...] beneficiaries of international protection shall have access to integration measures provided **or facilitated** by **the** [...] Member State [...] **which take into account their specific needs and are considered appropriate by the competent authorities**, in particular language courses, civic orientation, [...] integration programs and vocational training[...].
2. [...] **Beneficiaries of international protection shall participate in** integration measures where participation is made compulsory in the Member State that granted them international protection. Such integration measures shall be accessible and free of charge.
  - 2a. By way of derogation from paragraph (2) and without prejudice to the second subparagraph of paragraph (1) of Article 34, Member States may apply a fee for certain compulsory integration measures if the beneficiary of international protection has sufficient means and the costs do not place an unreasonable burden on him or her.
  - 2b. Competent authorities shall not apply sanctions against beneficiaries of international protection where they are unable to participate in integration measures due to circumstances beyond their control.

*Article 39*

***Repatriation***

Assistance [...] **may** be provided to beneficiaries of international protection who wish to be repatriated.

**CHAPTER VIII**

**ADMINISTRATIVE COOPERATION**

*Article 40*

***Cooperation***

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

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

*Article 41*

***Staff***

Authorities and other organisations applying the provisions of this Regulation shall have received or shall receive the necessary training and shall be bound by the confidentiality principle **in relation to any personal information they acquired in the performance of their duties**, as defined in national law [...].

# CHAPTER IX

## FINAL PROVISIONS

### *Article 42*

#### *Committee Procedure*

[...]

### *Article 43*

#### *Monitoring and evaluation*

By ... [no later than two years from **the date when the Regulation starts to apply**] and every five years thereafter, the Commission shall report to the European Parliament and the Council on the application of this Regulation and shall, where appropriate, propose the necessary amendments

Member States shall forward to the Commission all information appropriate for the preparation of that report, at the latest nine months before that time limit expires.

### *Article 44*

#### *Amendment to Directive 2003/109/EC*

- 1. **In Article 4 of Directive 2003/109/EU, the third subparagraph of paragraph 2 is replaced by the following:**

**“Regarding persons to whom international protection has been granted, the period between the date of the lodging of the application for international protection on the basis of which that international protection was granted and the date of the granting of the residence permit referred to in Article 26 of Regulation (EU) .../... [Qualifications Regulation], shall be taken into account in the calculation of the period referred to in paragraph 1.”**

1. In Article 4 of Directive 2003/109/EU, the following paragraph 3a is inserted:

"3a. Where a beneficiary of international protection is found in a Member State, other than the one that granted international protection, without a right to stay or to reside there in accordance with relevant Union, national **or international** law, the period of legal stay in the Member State that granted him or her international protection preceding such a situation shall not be taken into account in the calculation of the period referred to in paragraph 1.

**By way of derogation from the first subparagraph, in particular where the beneficiary of international protection demonstrates that the reason for the stay or residence without a right was due to circumstances beyond his or her control, Member States may provide, in accordance with their national law, that the calculation of the period referred to in paragraph 1 shall not be interrupted."**

2. [...] Article 26(1) [...] is [...] **replaced by the following**::

[...]

[...]

**"1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 23 January 2006 at the latest.** Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 4(4[...] [...]) by ...[...] **years** after the entry into force of this Regulation] [...]. They shall forthwith [...] **communicate the text of those measures to the Commission [...]."**

*Article 45*

***Repeal***

Directive 2011/95/EC is repealed with effect from ...[the date of entry into force of this Regulation]. References to the repealed Directive should be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex I.

*Article 46*

**Entry into force and applicability**

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 [...] from its entry into force].

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 Council*

*The President*

[...]

**Declaration of the Council and of the European Parliament with respect to Article 14 (1) (d)  
and (e) and to Article 14 (3)**

**The European Parliament and the Council invite the Commission to consider, without prejudice to its right of legislative initiative, a revision of Article 14(1)(d) and (e) and Article 14(3) of the Qualification Regulation, in compliance with the upcoming Court of Justice judgment on joint cases C-391/16 M v. The Czech Supreme Administrative Court and C-77/17 and C-78/17 X v. CGRA and at the latest 6 months after the publication of the Court decision. The European Parliament and the Council will then both exercise their legislative competences. The Commission, in a spirit of compromise and in order to ensure the immediate adoption of the proposal, accepts to consider this invitation, which it understands as being limited to these specific circumstances and not creating a precedent.**

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**Correlation Table**

*[to be updated]*





**INFORMATION TO BE PROVIDED FOR  
THE BENEFICIARIES OF INTERNATIONAL PROTECTION**

As soon as possible after the international protection has been granted, the following information shall be provided, as a minimum, to beneficiaries of international protection regarding their rights and obligations relating to their respective refugee status or subsidiary protection status. Where necessary, the information can be provided by different authorities, service providers or relevant contact points.

**Information on rights and obligations related to residence and stay**

**(a) Right to a residence permit for beneficiaries of international protection (Article 26)**

- How and where to apply for a residence permit and information on the competent authority or a relevant contact point

**(b) Right to a residence permit for family members of beneficiaries of international protection (Article 25)**

- How and where to apply for a residence permit and information on the competent authority or a relevant contact point
- Information on the rights to which family members who are issued a residence permit are entitled

**(c) Right to claim a travel document (Article 27)**

- How and where to apply for a travel document, and information on the competent authority or a relevant contact point

**(d) Right to freedom of movement within the Member State and possible restrictions (Article 28)**

- If applicable, the requirement to take up residence or register within a specific municipality, and information on the competent authority or a relevant contact point

**(e) Right to freedom of movement within the Union (Article 29)**

- The obligation to reside in the Member State, which has granted international protection
- The right to move in the Schengen area and the conditions to exercise such a right as specified in Article 21 of the Convention implementing the Schengen Agreement, and the right to apply and be admitted to reside in another Member State pursuant to that Member State's national law or pursuant to relevant provisions of Union law or of international agreements
- Possible sanctions with regard to the calculation of years in accordance with Directive 2003/109/EC and [the take back procedure under the Dublin Regulation] if the beneficiary does not follow the abovementioned rules and overstays without permission in violation of the Convention implementing the Schengen Agreement or stays/resides in another Member State without permission

**Information on rights related to integration**

**(f) Right to access to employment (Article 30 )**

- Administrative formalities for access to employment or self-employed activities
- If applicable, the restrictions related to employment in the public services
- Relevant employment office or contact point for additional information

- (g) Right to access to education for minors (Article 31 (1))**
- Minimum age for compulsory schooling
  - If applicable, administrative requirements for access to the education system
- (h) Right to access to the general education system for adults (Article 31 (2))**
- The requirements, including those of administrative nature, for accessing the general education system
- (i) Right to access to procedures for recognition of qualifications and validation of skills (Article 32)**
- Competent national authorities or relevant contact points who can give information on the regulated professions which can only be exercised after formal recognition of qualification, and on the administrative procedures to be carried out for such recognition
- (j) Information on appropriate schemes for assessing, validating and recognizing prior learning outcomes and experience (Article 32 (3))**
- If applicable, information on such schemes and on a relevant contact point for further information
- (k) Right to equal treatment with nationals as regards social security (Article 34)**
- A relevant contact point for further information

**(l) Right to social assistance (Article 34)**

- If applicable, the list of benefits which are not provided to beneficiaries of subsidiary protection
- A relevant contact point for further information

**(m) Right to healthcare under the same eligibility conditions as nationals (Article 35)**

- General information on the conditions of access to healthcare
- If applicable, a contact point for services available to victims of abuse, exploitation, torture or cruel, inhuman and degrading treatment

**(n) Right of access to accommodation under conditions equivalent to those applicable to other third country nationals legally residing in the Member State (Article 37)**

- If applicable, basic information on available social housing schemes
- If applicable, residency requirements (in the framework of dispersal practices)
- A competent authority or a relevant contact point for further information

**(o) Right of access to integration measures considered appropriate, subject to compulsory participation where applicable (Article 38)**

- If applicable, information on compulsory integration measures
- A relevant contact point for further information

**Information on specific rights for unaccompanied minors (Article 36)**

- Information on the right to a guardian and his or her tasks

The modalities to lodge a complaint against the guardian