



**COUNCIL OF
THE EUROPEAN UNION**

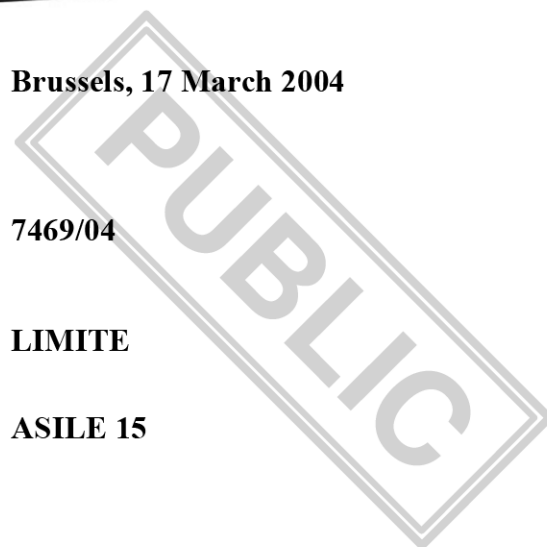
Brussels, 17 March 2004

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2001/0207 (CNS)**

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ASILE 15



NOTE

from : German delegation

to : JHA Counsellors

No. prev. doc. : 10576/04 ASILE 40

No. Cion prop. : 13620/01 ASILE 52 - COM(2001) 510 final

Subject : Proposal for a Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protections

I

Delegations will find below under II alternative texts submitted by the German delegation concerning the above-mentioned proposal.

II

Amendments to Art. 21, 22, 24, 26, 27 and 31:

(Changes to 10576/03 ASILE 40 are in **bold**)

Article 21

Maintaining family unity

1. Member States shall **take appropriate measures to maintain family unity**.
2. Member States shall ensure that family members of the beneficiary of refugee [...] status, who do not individually qualify for such status, are entitled to claim the benefits referred to in Articles 22 to 32, in accordance with national procedures and as far as it is compatible with the personal legal status of the family member.
3. The rule laid down in paragraphs 1 and 2 is not applicable where the family member is or would be excluded from refugee [...] status pursuant to Chapters III and V.
4. Notwithstanding paragraphs 1 and 2, Member States may refuse, reduce or withdraw the benefits referred thereto for reasons of national security or public order.
5. **Member States may lay down that paragraphs 2 to 4 apply to family members of beneficiaries of subsidiary protection status. The minimum level of rights granted to family members of beneficiaries of subsidiary protection must not be lower than the rights granted to asylum seekers in line with Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers.**
6. Member States may decide that this Article also applies to other close relatives who lived together as part of the family at the time of leaving the country of origin, and who were wholly or mainly dependent on the beneficiary of refugee or subsidiary protection status at that time.

Article 22
Residence permits¹

1. As soon as possible after their status has been granted, unless compelling reasons of national security or public order otherwise require, and without prejudice to Article 19(3), Member States shall issue to beneficiaries of refugee status a residence permit which must be valid for at least three years and renewable.

Without prejudice to Article 21(1), the residence permit to be issued to the family members of the beneficiaries of refugee status may be valid for less than three years and renewable.

2. As soon as possible after the status has been granted Member States shall issue to beneficiaries of subsidiary protection status a residence permit which must be valid for at least one year and renewable, unless compelling reasons of national security or public order otherwise require.²

¹ **The following Recital will be added:**

"Within the limits set out by international obligations, Member States may lay down that the granting of benefits of Chapter VII require the prior issuance of a residence permit in line with Article 22".

² The following Recital will be added to the Preamble :

"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".

Article 24

Access to employment

1. Member States shall authorise beneficiaries of refugee status to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service, immediately after the refugee status has been granted.
2. Member States shall ensure that activities such as employment-related education opportunities for adults, vocational training and practical workplace experience are offered to beneficiaries of refugee status, under equivalent conditions as nationals.
3. Member States shall authorise beneficiaries of subsidiary protection status to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service immediately after the subsidiary protection status has been granted.
4. **In exception to the general rule laid down in paragraph (3) Member States may**, for reasons of labour market policies, [...] give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.
5. Member States shall ensure that beneficiaries of subsidiary protection status have access to activities such as employment-related education opportunities for adults, vocational training and practical workplace experience, under conditions to be decided by the Member States.
6. The general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply.

Article 26¹
Social assistance

Member States shall ensure that beneficiaries of refugee status and of subsidiary protection status who do not have sufficient resources to enable their subsistence receive, in the Member State that has granted such statuses, the necessary assistance in terms of social assistance as nationals of that Member State.

With regard to beneficiaries of subsidiary protection Member States may limit equal treatment with nationals of the Member State in respect of social assistance to core benefits.

Art. 27¹
Health care

1. Member States shall ensure that beneficiaries of refugee and of subsidiary protection status **who do not have sufficient resources to enable their subsistence receive**, have access to health care under the same conditions as nationals of the Member State that has granted the status.

With regard to beneficiaries of subsidiary protection status Member States may limit equal treatment with nationals of the Member State in respect of health care to core benefits.

¹ **The following Recital to Article 26 and Article 27 will be added:**
"With regard to social assistance and health care the possibility of limiting the benefits for beneficiaries of subsidiary protection status to core benefits is to be understood in the sense that this notion covers at least minimum income support, assistance in case of illness, pregnancy, parental assistance and long-term care. The modalities for granting such benefits should be determined by national law."

2. Member States shall provide, under the same conditions as nationals of the Member state that has granted the status, **adequate** health care to beneficiaries of refugee or subsidiary protection status **who do not have sufficient resources to enable their subsistence and** who have special needs, such as pregnant women, disabled people, persons who have undergone 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 and degrading treatment or who have suffered from armed conflict.

Article 31

Access to integration facilities

1. In order to facilitate the integration of refugees into society, Member States shall make provision for support programmes which they consider to be appropriate.
2. Member States **may** grant beneficiaries of subsidiary protection access to integration programmes which they consider appropriate [...].