



Council of the
European Union

Brussels, 20 July 2017
(OR. en)

11441/17

LIMITE

ASILE 52
CODEC 1276

Interinstitutional File:
2016/0223 (COD)

NOTE

From:	Presidency
To:	Delegations
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 – Mandate for negotiations with the European Parliament

Delegations will find in the Annex the text agreed in Coreper on 19 July 2017 giving the Presidency a mandate to start the negotiations with the EP on the above proposal. The latest modification (Recital (49a)) is indicated in **bold and underline** by reference to document 10475/17.

**Draft [...] 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 deleting
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/EU¹[...]. 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 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.

¹ 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 **can be [...]** important drivers of 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 2016,² 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 2016³ to make progress towards reforming the EU's existing framework so as to ensure a humane and efficient asylum policy. It also proposes a way forward in line with the holistic approach to migration set out by the European Parliament in its own initiative report of 12 April 2016.

² 7665/16.

³ EUCO 19.02.2016, ST 1/16.

- (5) For a well-functioning CEAS, including of the Dublin system, 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. In addition, rules on status review should be strengthened to ensure that protection is only granted to those who need it and for so long as it continues to be needed. Moreover, [...] the rights granted to beneficiaries of international protection should be further clarified and harmonised.
- (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 those persons 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, where such movement may have been caused by any differences in the national legal measures taken to transpose the Qualification Directive replaced by this Regulation.

- (9) [...].
- [(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'). 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, non-discrimination, rights of the child, social security and social assistance, health care, and should therefore be implemented accordingly.
- (11a) Pursuant to Article 78(1) TFEU all national authorities are required to comply with the principle of non-refoulement set out in Article 33 of the Geneva Convention and developed in the case law of the Court of Justice of the European Union (CJEU). When refouling a person, the competent authorities should respect the Charter of Fundamental Rights, in particular Articles 4 and 19(2) thereof.**
- (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 Refugee 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.

- [(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]⁴.]
- (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, safety and security considerations and the views of the minor in accordance with his or her age and maturity.

⁴ 8742/16 + ADD 1.

- (16) The notion of family members should take into account the different particular circumstances of dependency and the special attention to be paid to the best interests of the child. [...]
- (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.**
- (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 parties or organisations, including 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 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.
- (22) In particular, it is necessary to introduce common concepts of protection needs arising from place, sources of harm and protection, internal protection and persecution, including the reasons for persecution.
- (23) [...] **Where they are able and willing to offer protection, this** can be provided either [...] by the State or by parties or organisations, including international organisations, meeting the conditions set out in this [...] **Regulation**, which control a region or a larger area within the territory of the State. Such protection should be effective and of a non-temporary nature.
- (24) 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 assessment of whether such internal protection exists should be an inherent 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. 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, it should take into account elements submitted by the applicant in relation to his or her personal circumstances which indicate that such an alternative is not applicable to him or her.**

- (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, either independently or with the assistance of others such as family members or local organisations.**
- (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. When the applicant is an unaccompanied minor, the availability of appropriate care and custodial arrangements, which are in the best interests of the unaccompanied minor, should form part of the assessment as to whether that protection is effectively available.
- (25a) When assessing the facts and circumstances in relation to an application for international protection, the determining authority should take due consideration of all the relevant elements, including whether an applicant has misled the competent authorities by presenting false information or documents or by withholding relevant information or documents with respect to the application which could have had a negative impact on the decision.**
- (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) [...] When assessing applications from minors for international protection, [...] the determining authorities should have regard to child-specific forms of persecution.

- (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, 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 gender, including gender identity and sexual orientation, 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.
- (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, in particular the right to human dignity and the respect for private and family life. Specifically as regards **LGBTI persons**, [...] 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. **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, [...] **implies that this violence** [...] extends to people irrespective of their personal circumstances.
- (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 **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.**
- (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 for third-country nationals.**

- (37b) In order to achieve a higher level of convergence among Member States, the validity periods of residence permits issued upon granting international protection should be as much as possible harmonized. To this end the initial duration of residence permits should be set out in national law and should be between 1-5 years for beneficiaries of subsidiary protection status, and between 3-10 years for beneficiaries of refugee status. Residence permits can thereafter be renewed in accordance with national law, and can include renewal for an unlimited period. In any case, the validity period of the residence permit granted to a beneficiary of refugee status should not be shorter than the validity period of the residence permit granted to a beneficiary of subsidiary protection.**
- (37c) In the period between the granting of international protection and the issuance of a residence permit, Member States should ensure that a beneficiary of international protection has effective access to rights related to information, free movement within the Member State that granted him or her protection, employment and access to appropriate integration measures, and equal treatment as regards education, recognition of qualifications and validation of skills, social security, social assistance, health care and access to accommodation.**

(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.

- (39) With a view to ascertaining whether beneficiaries of international protection are still in need of that protection, determining authorities should review the granted status [...] when a significant relevant change in the beneficiaries' country of origin occurs as indicated by common analysis and guidance on the situation in the country of origin provided 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]⁵. **The determining authority retains the possibility to review the status on the basis of national and international sources, or on other grounds as deemed appropriate such as the end of validity of the residence permit, new information related to the person, the need to remedy shortcomings of the examination of the application for international protection or, depending on the circumstances, travel back to the country of origin.**
- (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 relevant information and recommendations issued by the UNHCR.**

⁵ 8742/16 + ADD 1.

- (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. In case of revocation, acquired rights could be retained or lost in accordance with national law.**
- (41b) **Beneficiaries of international protection should enjoy freedom of movement within the territory of the Member State that granted them international protection, under the same conditions and restrictions as those provided for other third country nationals legally resident in its territory who are in a comparable situation. This right for beneficiaries of international protection to freedom of movement within the territory of the Member State concerned does not entail an obligation for the Member States to arrange for accommodation.**

- (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, for a period up to 90 days in any 180-day period in accordance with Schengen Borders Code⁶ and with Article 21 of the Convention implementing the Schengen Agreement⁷. 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**].]⁸
- (44) In order to discourage secondary movements within the [...] Union, [...] **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 in accordance with relevant Union, [...] national **or international** law.

⁶ Regulation 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders.

⁷ Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

⁸ [...]

- (45) **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.**
- (45a) **Member State 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. Since national security encompasses both internal and external security, in order to assess 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.**
- (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 with his or her original family.
- (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.

- (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.
- (49a) Access to the education system does not necessarily need to include the financial benefits granted by Member States to promote education.**
- (50) Equal treatment should be provided for beneficiaries of international protection with nationals of the Member State granting protection as regards social security.
- (51) In addition, especially to avoid social hardship, it is appropriate to provide beneficiaries of international protection with social assistance without discrimination. However, as regards beneficiaries of subsidiary protection **status**, Member States should be given some flexibility, to limit such rights to core benefits, which is to be understood as covering at least minimum income support, assistance in the case of illness, or pregnancy, and parental assistance, in so far as those benefits are granted to nationals under national law. In order to facilitate their integration, Member States should be given the possibility to make the access to certain type of social assistances specified in national law, for both **beneficiaries of refugee status** and beneficiaries of subsidiary protection **status**, conditional on the effective participation of the beneficiary of international protection in integration measures.
- (52) Access to healthcare, including both physical and mental healthcare, should be ensured to beneficiaries of international 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, modalities to be set by the Member States. Member States may make the participation in such integration measures, such as language courses, civic integration courses, vocational training and other employment-related courses compulsory.
- (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. **National humanitarian statuses, if issued, shall be issued in such a way so as not to 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 in a way comparable to married couples under its law relating to third-country nationals;
 - (b) the minor 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 defined under national law;
 - (c) the father, mother or another adult responsible for the beneficiary of international protection whether by law or by the practice of the Member State concerned, when that beneficiary is a minor and unmarried;]
- (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 1030/2002⁹, 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) [...]
- (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 Council¹⁰[...];

⁹ OJ L157, 15.6.2002, p.1.

¹⁰ 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*).

(18) 'social assistance' means benefits granted [...] with the objective of ensuring that the basic needs of those who lack sufficient resources are met;

(19) [...].

Article 3

Material scope

[...]

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 [...] 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 being in need of international protection**, age, background, including that of **family members and other** relevant 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 [...] **need 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) the applicant has applied for international protection at the earliest possible time, unless the applicant can demonstrate good reason for not having done so;

- (e) the general credibility of the applicant has been established.

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 or orientations held in the country of origin.
2. ***[merged with paragraph 1]***
- 2a. **Without prejudice to the Geneva Convention, 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, Member States may decide not to grant international protection.**
3. [...]

Article 6

Actors of persecution or serious harm

Actors of persecution or serious harm can only 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) parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State,provided they are[...] **able** and[...] **willing** to [...] **provide** 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 **parties or organisations, 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 Articles 8 and 10 of Regulation (EU) No XXX/XX [Regulation on the European Union Agency for Asylum].

This is without prejudice to the competence of the determining authority to decide on applications for international protection.

Article 8

Internal protection alternative

1. As part of the assessment of the application for international protection, **once it has been established that the qualification criteria would otherwise apply**, 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 protection against persecution or serious harm.
2. [...]
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 Articles 8 and 10 of Regulation (EU) No XXX/XX[Regulation on the European Union Agency for Asylum][...].

This is without prejudice to the competence of the determining authority to decide on applications for international protection.

4. When considering **whether an applicant can safely and legally travel to and gain admittance to that part of the country of origin which is considered as an internal protection alternative and whether it is reasonable to expect him or her to settle there, 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, and [...] **sexual orientation [...].**

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 an innate characteristic, or a common background that cannot be changed, or share 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 [...]may include **membership of** a group based on a common characteristic of sexual orientation [...].[...]Gender-related aspects, including gender identity, 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 Articles 8 and 10 of Regulation (EU) No XXX/XX[Regulation on the European Union Agency for Asylum][...].

This is without prejudice to the competence of the determining authority to decide on applications for international protection.

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 [...].
- 1a. **When considering whether the protection or assistance from organs and agencies as referred to in point (a) of paragraph 1 has ceased to exist, the determining authority shall ascertain whether the person concerned was forced to leave his/her area of operation, due to a situation where his or her personal safety was at serious risk and such organs or agencies were unable to ensure his or her living conditions in accordance with their mandate.**

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. *[moved to paragraph (1a)]*
5. *[moved to recitals]*
6. The exclusion of a person from refugee status shall depend exclusively on whether the conditions set out in paragraphs (1) to (3[...]) are met and shall not be subject to any additional proportionality assessment in relation to the particular case.

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 [...] **national** security [...];

- (e) he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community [...];
- (f) Article 23(2) is applied.
2. In situations referred to in points (d) to (f) 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) to (f) of paragraph 1 or paragraph 2 apply shall be entitled to **the** 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 **that examined their application or granted them refugee status.**
4. **During the withdrawal procedure, the beneficiary of the refugee status shall [...]** disclose all relevant facts and provide all relevant documentation at his or her disposal, **and cooperate fully with the determining authority and with other competent authorities, whereas the** determining authority which has granted refugee status shall, on an individual basis, demonstrate that the person concerned 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 of this Article.
5. [...]

Article 15

Review of refugee status

For the purpose of [...] Article 14(1)(a) [...] the determining authority shall review the refugee status [...] where available common analysis [...] on the situation in specific countries of origin and the guidance notes as referred to in Articles 8 and 10 of Regulation (EU) No XXX/XX [Regulation on the European Union Agency for Asylum], indicate a significant change in the country of origin which is relevant for the protection needs of the [...] refugee. This is without prejudice to the possibility to review the refugee status on the basis of national and international sources, or on other grounds as deemed appropriate by the determining authority.

(b) [...]

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 Articles 8 and 10 of Regulation (EU) No XXX/XX[Regulation on the European Union Agency for Asylum][...].

This is without prejudice to the competence of the determining authority to decide on applications for international protection.
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;
 - (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) [*moved to paragraph (2a)*].
 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.**

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 or omission of facts, including the use of false documents, was decisive for the granting of subsidiary protection status;
 - (d) Article 23(2) is applied.

2. **During the withdrawal procedure, the beneficiary of the subsidiary protection status shall [...] disclose all relevant facts and provide all relevant documentation at his or her disposal, and cooperate fully with the determining authority and with other competent authorities throughout the procedure, [...] whereas the determining authority which has granted subsidiary protection status shall, on an individual basis, demonstrate that the person concerned 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** in accordance with paragraph 1 of this Article.
3. [...]

Article 21

Review of the subsidiary protection status

[...]For the purpose of Article 20(1)(a), the determining authority shall review the subsidiary protection status, [...] where available common analysis [...] on the situation in specific countries of origin and the guidance notes as referred to in Articles 8 and 10 of Regulation (EU) No XXX/XX [Regulation on the European Union Agency for Asylum]indicate a significant change in the country of origin which is relevant for the protection needs of the [...] beneficiary of subsidiary protection status. This is without prejudice to the possibility to review the subsidiary protection status on the basis of national and international sources, or on other grounds as deemed appropriate by the determining authority.

- (b) [...]

CHAPTER VII

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

SECTION I

COMMON PROVISIONS

Article 22

General rules

1. Refugees and [...] **beneficiaries of** subsidiary protection status shall have the rights and obligations laid down in this Chapter. This [...] shall be without prejudice to the rights and obligations laid down in the Geneva Convention.
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.**
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 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. Where not prohibited by the [...] obligations referred to in **the previous paragraph** [...],
a[...]third country national or stateless person falling within the scope of this Regulation may be refouled [...] **provided that:**
 - (a) there are reasonable grounds for considering him or her as a danger to [...] **national security** [...]; **or**
 - (b) he or she, having been convicted by a final judgment of a particularly serious crime constitutes a danger to the community [...].

[...].

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 shall be entitled to **apply for [...] a residence permit in the Member State that granted international protection to the beneficiary. A residence permit shall be issued to family members to whom paragraphs 3 or 4 of this Article do not apply** in accordance with national procedures, 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[...]validity 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.
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 28[...] **to 35 and 37 to 38[...]**.
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 or before the applicant arrived on the territory of the Member States, and who were wholly or mainly dependent on the beneficiary of international protection at the time.

SECTION II
RIGHTS AND OBLIGATIONS RELATED TO RESIDENCE AND STAY

Article 26

Residence permits

1. **As soon as possible after international protection has been granted, and within 90 days from the notification of the decision at the latest,[...] a residence permit shall be issued using the uniform format as laid down in Regulation (EC) No 1030/2002 and shall have the following validity periods:[...]**
 - a) For beneficiaries of refugee status, **that[...] residence permit shall have a period of validity[...] between three and ten years, as determined by national law, and shall be renewable [...].**
 - b) For beneficiaries of subsidiary protection status, **that[...] residence permit shall have a period of validity [...] between one and five years, as determined by national law, and shall be renewable [...]**
2. A residence permit shall not be renewed or shall be revoked [...] **where:**
 - a) [...] competent authorities [...] **withdraw** the refugee status [...] in accordance with Article 14 [...] **or** the subsidiary protection status in accordance with Article 20;
 - b) [...]Article 23(2) is applied;
 - c) where **compelling** reasons of national security or public order **related to the person concerned** so require.
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 2252/2004¹¹. Those travel documents shall be valid for at least 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 at least one year.
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.**

¹¹ 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).

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 in a comparable situation.
2. Within the limits set by international obligations, residence conditions may be imposed on a beneficiary of international protection [...] where those residence conditions are necessary to facilitate the integration of the beneficiary in the Member State that has granted [...] **him or her international** protection.

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, [...]or** their right 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 benefits conferred by such organisations;
 - c) employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience;
 - d) advice services afforded by employment offices.
3. Competent authorities, where necessary shall **endeavour to** 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 [...].
2. Adults granted international protection shall **enjoy equal treatment with third country nationals legally resident in the Member State that has granted them international protection and who are in a comparable situation, with regard to[...]** access to the general education system, further training or retraining [...].

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 **existing** 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.¹²

¹² 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](#)).

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 **and existing** schemes for the assessment, validation and [...] **recognition** of their prior learning **outcomes** and experience.

Article 33

Social security

[merged with Article 34]

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 in accordance with Article 38 (2).**

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.

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 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 to [...] **appoint a natural person or an organisation, such as a public authority, as a [...] guardian [...] in accordance with national law.**

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

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

This is without prejudice to the possibility of keeping the representative referred to in Article 22 (1)(b) of the [Asylum Procedures Regulation] or in Article 23 (1)(b) of the [Reception Conditions Directive] as guardian, without the need for a formal re-appointment.]

2. [...] For the purpose of this Regulation the [...] guardian shall:
- a) [...] ensure that the minor can access all rights stemming from this Regulation;
 - b) where applicable, assist 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 have the necessary expertise, shall receive, where appropriate, training concerning the rights and needs of unaccompanied minors, including those relating to any applicable child safeguarding standards, and shall 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 regards to children.

- 2a. 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. Organisations or natural persons whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardian.
- 2b. The competent authorities shall place a guardian in charge of an adequate and limited number of unaccompanied minors at the same time to ensure that he or she is able to perform his or her tasks effectively.

[...] The Member States shall provide that an entity, including a judicial authority or a person to be responsible for supervising and monitoring that guardians perform their tasks in a satisfactory manner. Those entities or persons shall review any complaints lodged by unaccompanied minors against their guardian.

The competent authorities shall inform unaccompanied minors in an age appropriate manner and in a language they can reasonably be expected to understand about how to lodge complaints against their 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. If an unaccompanied minor is granted international protection and the tracing of his or her family members has not already started, competent authorities shall start tracing them as soon as possible after the granting of international protection, [...] **provided that it is in** the minor's best interests. If tracing has already started, it shall be continued where appropriate. 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.
6. [*moved to paragraph (2)*].

Article 37

Access to accommodation

1. Beneficiaries of international protection shall have access to accommodation under conditions 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 in a comparable situation.
2. National dispersal practices of beneficiaries of international protection shall be carried out to the extent possible without discrimination of beneficiaries of international protection and shall ensure equal opportunities regarding access to accommodation.

Article 38

Access to integration measures

1. In order to facilitate [...] **their integration into society**, [...] beneficiaries of international protection [...] shall **be ensured** [...] access to integration measures **considered appropriate**, provided **or facilitated** by the Member State[...]**that granted him or her international protection**, 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 affordable.**

Article 39
Repatriation

[...]

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** entry into force of this Regulation] 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/E

Directive 2003/109/EU is amended as follows:

1) [...] in Article 4 [...], the following paragraph [...] is **added** [...]:

"4 [...]. 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 exceptional cases and in accordance with their national law, Member States may provide 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 ...[...]**two 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 [...]**two years** 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

[...]
