



Council of the
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**Interinstitutional File:
2016/0223 (COD)**

NOTE

From:	Presidency
To:	Permanent Representatives Committee
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

1. On 13 July 2016, in the framework of the reform of the Common European Asylum System (CEAS), the Commission submitted a proposal for a Regulation on standards for the qualification on 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 granted¹. The aim of the proposal is to harmonise the criteria for granting international protection, on the one hand, and the rights and benefits granted to beneficiaries of international protection, on the other.

¹ 11316/16

2. Detailed examination of the proposal by Member States started at the Asylum Working Party meeting on 28 October 2016. On 19 July 2017, COREPER agreed upon a mandate for negotiations with the European Parliament².
3. Two issues that needed further negotiation were excluded from the mandate, namely the definition of family members and the new Annex 2 to the proposed Regulation listing the information to be provided to the beneficiaries of international protection.
4. The Presidency has suggested draft compromise texts for the definition of family members and for Annex 2, which were examined by the JHA Counsellors on 10 October 2017. A broad agreement was reached during that meeting on the text of the definition of family members, which includes families formed in transit countries, and of a related new recital underlining the importance of the principle of genuine family life. Negotiations on Annex 2 to the proposed Regulation will be pursued in view of its future inclusion in the mandate.

The text of Article 2 (9) and of the new Recital (16b) appear in the Annex to this Note. The changes in the text of the draft Regulation as compared to the Commission proposal are indicated in **bold** and deleted text is marked in [...]. The latest Presidency compromise suggestions appear in **bold** and underline by reference to the working document discussed during the JHA Counsellors meeting on 10 October 2017.

5. Given the fact that this proposal forms an integral part of the overall reform of the CEAS, cross-references to other parts of the reform package are still excluded from the mandate and remain between square brackets. Furthermore, due to their horizontal nature, the definition of application for international protection and several aspects regarding the unaccompanied minors also remain between square brackets. The date of entry into force of the Regulation remains between square brackets as well and will be discussed at a later stage of the negotiations taking into account the progress of other CEAS files.

² 10475/17

6. The report of the European Parliament was adopted by the LIBE Committee on 15 June and by the EP Plenary on 5 July 2017. The inter-institutional negotiations started in September 2017.
 7. The Presidency invites COREPER to agree on the compromise proposals set out in the Annex to this Note, with a view to extending the mandate already granted authorising the Presidency to start negotiations with the European Parliament.
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New Recital (16b):

The application of the provisions on family unity should always be based on the principle of genuine family life. In order not to discriminate family members on the basis of where the family was formed, the notion of family should also include those formed outside the country of origin, but before their arrival on the territory of the European Union.

Article 2:

- (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;