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NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. Cion doc.:	11316/16; COM(2016) 466 FINAL
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 - Analysis of the final compromise with a view to agreement

I. BACKGROUND

1. On 13 July 2016, the Commission submitted to the Council and the European Parliament a proposal for Regulation of the European Parliament and of the Council¹, which aims to define 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.
2. The draft Regulation is based on Article 78(2) (a) and (b) of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).

¹ 11316/16; 2016/0223 (COD).

3. At its meeting on 19 July 2017, the Permanent Representatives Committee granted the Presidency a partial mandate to enter into negotiations with the European Parliament. On 29 November 2017 and on 28 February 2018, the Permanent Representatives Committee agreed to extend this mandate.
4. On 14 June 2018, a provisional agreement was reached between co-legislators. However this agreement was not approved by the Permanent Representatives Committee. On 7 December 2022, the Permanent Representatives Committee agreed to amend the negotiation mandates corresponding to the 2018 provisional agreements. On 20 December 2022, the mandate was amended and extended with some additional 'white parts' of the text that were not covered by the 2018 provisional agreement, resulting in the final compromise text as set out in the annex.
5. With a view to advancing the work of the lawyer-linguists, the text of the provisional agreement has already been subject to lawyer-linguist revision. The cross-references to other legal instruments of the Pact are still subject to verification by the lawyer-linguists.

II. CONCLUSION

6. The Permanent Representatives Committee is therefore invited to:
 - a) analyse the final compromise text as set out in the annex to this note with a view to reaching an agreement at first reading with the European Parliament;
 - b) authorise the Chair of the Permanent Representatives Committee to send a letter to inform the Chair of the European Parliament's LIBE Committee that, should the European Parliament adopt its position at first reading on the text of the proposal in the exact form as set out in the annex to this note, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position."

REGULATION (EU) 2024/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

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, amending Council Directive 2003/109/EC  and repealing Directive 2011/95/EU of the European Parliament and of the Council

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 Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the ordinary legislative procedure⁴,

² OJ C 75, 10.3.2017, p.97.

³ OJ C 207, 30.6.2017, p. 67.

⁴ Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) A number of substantive changes have been made to Directive 2011/95/EU of the European Parliament and of the Council ⁵ . 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, to encourage beneficiaries of international protection to remain in the Member State that granted them protection* and to ensure 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) 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 (*the ‘Geneva Convention’*), is a constituent part of the 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, among the Member States. *The Geneva Convention is the cornerstone of the international legal regime for the protection of refugees.*

⁵ Directive 2011/95/EU of the European Parliament and of the Council 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 examining an application for international protection. Notwithstanding progress achieved so far in the progressive development of the CEAS, there are still significant disparities between the Member States in the procedures used, recognition rates, type of protection granted, level of material reception conditions and benefits given to applicants for, and beneficiaries of, international protection. Those divergences *could lead to* secondary movements and undermine the objective of ensuring that all applicants are equally treated wherever they apply in the Union.
- (4) In its communication of 6 April 2016 ‘Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe’, 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 examining an application for international protection, to reinforce the Eurodac system, to achieve greater convergence in the Union asylum system, to prevent secondary movements within the Union and *to transform* the European Asylum *Support Office* into an agency. That communication is in line with calls by the European Council on 18-19 February 2016 to make progress towards reforming the Union's existing framework so as to ensure a humane and efficient asylum policy. ■

- (5) *As Article 78(2) of the Treaty on the Functioning of the European Union (TFEU) calls for a uniform status of asylum and* for a well-functioning CEAS, ■ substantial progress should be made regarding the convergence of national asylum systems with special regard to differing recognition rates and type of protection status in the Member States. *Moreover,* the rights granted to beneficiaries of international protection should be further clarified and harmonised.
- (6) A Regulation is therefore necessary to ensure a more consistent level of harmonisation throughout the Union and to provide a higher degree of legal certainty and transparency.
- (7) The main objective of this Regulation is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection and, on the other hand, to ensure that a common set of rights is available for *beneficiaries of international protection* in all Member States.

- (8) The further approximation of rules on the recognition and content of refugee status and subsidiary protection status should moreover help to limit the secondary movement of applicants for international protection and beneficiaries of international protection between Member States ■ .
- (9) International protection should be granted to ***third country nationals and stateless persons who fall under the scope of this Regulation and who qualify for international protection. International protection should not be granted to those third country nationals and stateless persons who fall outside the scope of this Regulation. National humanitarian statuses, where granted, should not entail a risk of confusion with international protection.***
- /(10) ■ The provisions of this Regulation on the content of international protection ■ , including the rules to discourage secondary ***movements, should apply to those who were granted international protection following the positive conclusion of a resettlement or humanitarian admission procedure in accordance with Regulation (EU) .../... [Resettlement and Humanitarian Admission Framework Regulation]⁶⁺.***

⁶ Regulation (EU) .../... of the European Parliament and of the Council of establishing a Union Resettlement and Humanitarian Admission Framework, and amending Regulation (EU) No 2021/1147 (OJ L, ..., ELI: ...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0225(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

- (11) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the ‘Charter’) **and the European Convention on Human Rights (ECHR)**. In particular, this Regulation seeks to ensure full respect for human dignity and the right to asylum of applicants for asylum and their accompanying family members and to promote the application of the provisions of the Charter relating to human dignity, respect for private and family life, freedom of expression and information, the right to education, freedom to choose an occupation and the right to engage in work, freedom to conduct a business, the right to asylum, **protection in the event of removal, expulsion or extradition, equality before the law**, non-discrimination, the rights of the child, and rights relating to social security, social assistance, and health care. Those provisions should therefore be implemented accordingly.
- (12) With regard to the treatment of persons falling within the scope of this Regulation, Member States are bound by obligations under instruments of international law to which they are party, including, in particular, those that prohibit discrimination.

- (13) The resources of the Asylum, Migration and **Integration** Fund, established by Regulation (EU) 2021/1147 of the European Parliament and of the Council⁷, should be used to provide adequate support to Member States in their efforts to implement the standards set by this Regulation, in particular to those Member States which are faced with specific and disproportionate pressure on their asylum systems, due in particular to their geographical or demographic situation. ***While the general principle of the prohibition of double funding should be respected, Member States should take full advantage, at all levels of governance, of the possibilities offered by funds which are not directly related to asylum and migration policy but which could be used to fund actions in that area.***

⁷ Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund (OJ L 251, 15.7.2021, p. 1).

- (14) The European Union Agency for Asylum, ***established by Regulation (EU) 2021/2303 of the European Parliament and of the Council⁸*** (the ‘Asylum Agency’), 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 that Member State’s authorities in receiving, registering and examining applications for international protection, ***and by*** providing updated information regarding third countries, including country of origin information, and relevant guidelines and tools. When applying this Regulation, Member States’ authorities should take into account operational standards, ***indicators***, guidelines and best practices developed by the [] Asylum Agency []. When assessing applications for international protection, ***and without prejudice to the case-by-case nature of those assessments***, Member States’ authorities should take [] into account the information, reports, common analysis [] on the situation in countries of origin ***and guidance notes*** developed at Union level by the Asylum Agency and the European networks on ***third-country*** [] information in accordance with [] Regulation (EU) 2021/2303.

⁸ ***Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021, p. 1).***

- (15) When applying this Regulation the best interests of the child should be a primary consideration, in accordance 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, and the minor's well-being and social development, *linguistic skills*, safety and security and the views of that minor with due regard to the minor's age and maturity.
- (16) *With a view to safeguarding the best interests of the child and the minor's general well-being, and in order to encourage continuity in assistance and representation for unaccompanied minors, Member States should seek to ensure, in so far as possible, that the same natural person remains responsible for an unaccompanied minor, including during the asylum procedure and following the granting of international protection.*
- (17) *An adult child should be considered dependent, on the basis of an individual assessment, only in circumstances where that child is unable to support him or herself due to a physical or mental condition linked to a serious non-temporary illness or severe disability.*

- (18) *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 each Member State to decide whether they wish to apply the provisions on family unity to polygamous households, including to the minor children of a further spouse and a beneficiary of international protection.*
- (19) *The application of the provisions on family unity should always be based on genuine family relationships and should not include forced marriages and marriages or partnerships contracted for the sole purpose of enabling the person concerned to enter or reside in the Member States. In order not to discriminate against family members based on where a family was formed, the notion of family should also include families formed outside the country of origin but before their arrival on the territory of the **Union**.*

- (20) *Where a Member State decides, for the purposes of family unity, that the best interests of a married minor lie with that minor's parents, the spouse of that minor should not derive any residence rights from that marriage under this Regulation.*
- (21) This Regulation is without prejudice to the Protocol No 24 on asylum for nationals of Member States of the European Union, annexed to the Treaty on European Union (TEU) and the TFEU.
- (22) The recognition of refugee status is a declaratory act.
- (23) Consultations with the United Nations High Commissioner for Refugees (UNHCR) could provide valuable guidance for Member States' authorities when determining whether an applicant is a refugee within the meaning of Article 1 of the Geneva Convention.

- (24) *When examining whether applicants have a well-founded fear of being persecuted or face a real risk of suffering serious harm and whether stable, established non-state authorities, including international organisations, control a State or a substantial part of its territory and provide protection, and when assessing whether applicants have access to protection against persecution or serious harm in another part of the country of origin other than their home area ('internal protection alternative'), the determining authority should take into account, inter alia, relevant general information and recommendations issued by the UNHCR.*
- (25) 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.

- (26) It is necessary to introduce common criteria for recognising applicants for asylum as refugees within the meaning of Article 1 of the Geneva Convention.
- (27) *Where one or more particular aspects of the applicant's statements are not supported by documentary or other evidence, the applicant should be given the benefit of the doubt provided that the applicant has made a genuine effort to substantiate the need for international protection, all relevant elements at the applicant's disposal have been submitted and a satisfactory explanation has been given regarding the lack of other relevant elements, the applicant's statements are found to be coherent and plausible and general credibility has been established taking into account the moment when the applicant applied for international protection and, where appropriate, the reasons for not having applied sooner.*
- (28) *The determining authority should not conclude that the applicant lacks credibility merely because the applicant did not rely on his or her declared sexual orientation on the first occasion he or she was given to set out the ground for persecution, unless it is evident that the applicant merely intends to delay or frustrate the enforcement of a decision resulting in his or her return.*

- (29) *Convictions, beliefs or orientations of the applicant giving rise to activities which could be a basis for a well-founded fear of being persecuted or a real risk of suffering serious harm should be taken into account even if they were fully or partially concealed while in the country of origin.*
- (30) *Where the applicant is not available during the procedure due to circumstances beyond the applicant's control, the relevant provisions of and the relevant safeguards set out in [Regulation (EU) .../... [Asylum and Migration Management Regulation]⁹⁺], [Regulation (EU) .../... [Asylum Procedures Regulation]¹⁰⁺⁺] and [Directive (EU) .../... [Reception Conditions Directive]¹¹⁺⁺⁺] apply.*
- (31) In particular, it is necessary to introduce common concepts of protection needs arising sur place, sources of harm and protection, internal protection and persecution, including the reasons for persecution.

⁹ Regulation (EU) .../... of the European Parliament and of the Council of ... on asylum and migration management and amending Council Directive (EC) 2003/109 and Regulation (EU) 2021/1147 (OJ L, ..., ELI:...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2020/0279(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

¹⁰ Regulation (EU) .../... of the European Parliament and of the Council of ... establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L, ..., ELI: ...).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0224(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

¹¹ Directive (EU) .../... of the European Parliament and of the Council of ... laying down standards for the reception of applicants for international protection (recast) (OJ L, ..., ELI: ...).

⁺⁺⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)) and insert the number, date, title and OJ reference of that Directive in the footnote.

- (32) Protection can be provided either by the State or by *stable, established non-State authorities*, including international organisations, *that control the State or a substantial part of the territory of the State* and that meet the conditions set out in this *Regulation*, *provided that they are able and willing to offer protection*. Such protection should be effective and of a non-temporary nature.
- (33) *Where the State or agents of the State are not the actors of persecution or serious harm, the determining authority should examine, as part of the assessment of the application for international protection, whether an internal protection alternative exists once it has been established that the qualification criteria set out in this Regulation would otherwise apply to an applicant.* An internal protection alternative against persecution or serious harm should be effectively available to applicants in a part of the country of origin to which they can safely and legally travel and gain admittance and in which they can reasonably be expected to settle. The burden of demonstrating the availability of internal protection alternative should fall on the determining authority. *Where the determining authority demonstrates that an internal protection alternative is available, applicants should be entitled to present evidence and submit elements at their disposal.*

- (34) *When considering whether applicants can be reasonably expected to settle in another part of their country of origin, the determining authority should also take into account whether applicants would be able to cater for their own basic needs in relation to access to food, hygiene and shelter in the context of local circumstances in their country of origin.*
- (35) *Where the State or agents of the State are the actors of persecution or serious harm, there should be a presumption that effective protection is not available to the applicant **and the determining authority need not examine whether an internal protection alternative exists. The determining authority should be able to examine whether an internal protection alternative exists only where it is clearly established that the risk of persecution or serious harm stems from an actor whose power is clearly limited to a specific geographical area or where the State itself only has control over certain parts of the country concerned.***

- (36) *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.*
- (37) *Depending on the circumstances, acts of persecution of a gender-specific or child-specific nature might include, inter alia, under-age recruitment, genital mutilation, forced marriage, child trafficking and child labour, and trafficking for sexual exploitation.*
- (38) *Acts of persecution might take the form of disproportionate or discriminatory prosecution or punishment. Such disproportionate or discriminatory prosecution or punishment might arise, inter alia, in situations where an applicant refuses to perform military service on moral, religious or political grounds or due to belonging to a particular ethnic group or holding a particular citizenship.*

- (39) One of the conditions for qualification for refugee status within the meaning of Article 1(A) of the Geneva Convention is the existence of a causal link between the reasons for persecution, namely race, religion *or belief*, nationality, political opinion or membership of a particular social group, and the acts of persecution or the absence of protection against such acts.
- (40) It is equally necessary to introduce a common concept of the persecution ground ‘membership of a particular social group’. For the purpose of defining a particular social group, issues arising from an applicant’s *sexual orientation or* gender, including gender identity and *gender expression*, which could 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 being persecuted. *Depending on the circumstances, disability could be a characteristic for the purpose of defining a particular social group.*

- (41) *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 persons, can mean that those persons are to be regarded as forming a particular social group.*
- (42) ■ When assessing an application for international protection, the competent authorities of the Member States should use methods for the assessment of an applicant's credibility in a manner that respects that applicant's rights as guaranteed by the Charter *and the ECHR*, in particular the right to human dignity and respect for private and family life. Specifically as regards *sexual orientation and gender identity*, applicants should not be submitted to detailed questioning or tests as to their sexual practices.

- (43) The purposes and principles of the United Nations are set out in the Preamble to and Articles 1 and 2 of the Charter of the United Nations and embodied in its resolutions relating to measures countering terrorism. Those resolutions declare, *inter alia*, 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’.
- (44) ***For the purpose of applying the provisions of this Regulation on exclusion from international protection where there are reasonable grounds to assume that an applicant has committed an act or acts contrary to the purposes and principles set out in Articles 1 and 2 of the Charter of the United Nations, it is not a prerequisite to establish that such an applicant has been convicted of one of the terrorist offences referred to in Article 3(1) of Directive (EU) 2017/541 of the European Parliament and of the Council¹².***

¹² ***Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).***

- (45) *For the purpose of applying the provisions of this Regulation 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 has not been established that such an 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 Member States' authorities from regarding the conduct of the applicant as contrary to the purposes and principles of the United Nations.*
- (46) *For the purposes of the individual assessment of facts that might constitute serious reasons for considering that an 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 the applicant was convicted by the courts of a Member State of participating 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 such a group, and there should be no requirement to establish that the applicant instigated a terrorist act or otherwise participated in it.*

- (47) Committing a political crime is not, in principle, a ground justifying exclusion from refugee status. However, █ particularly cruel actions, where the action 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.
- (48) Standards for the definition and content of subsidiary protection status should also be laid down. Subsidiary protection should be complementary and additional to the refugee protection enshrined in the Geneva Convention. *While the grounds for protection differ between refugee status and subsidiary protection status, the ongoing need for protection could be similar in duration. The content of the protection offered by refugee status or subsidiary protection status might only differ where explicitly provided for in this Regulation. This Regulation nevertheless allows Member States to grant the same rights and benefits under both statuses.*

- (49) 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.
- (50) For the purpose of assessing serious harm which could qualify applicants as *persons* eligible for subsidiary protection, the notion of indiscriminate violence ■ should include violence that might extend to people irrespective of their personal circumstances.
- (51) ■ 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.

- (52) As regards the proof required to establish the existence of a serious and individual threat to a *civilian's life or person*, determining authorities should not require applicants to adduce evidence that they are specifically targeted by ■ factors *related* to their personal circumstances. However, the level of indiscriminate violence required to substantiate the application is lower where applicants are able to show that they are specifically affected *due to* factors *related* to their personal *circumstances*. Moreover, the existence of a serious and individual threat should exceptionally be *considered* by the determining *authority to be* established *where* the degree of indiscriminate violence characterising the armed conflict ■ rises to such a high level that there are substantial grounds for believing that civilians, returned to the country *of* origin or to the relevant part of country of origin, would, solely on account of their presence *there*, face a real risk of being subjected to serious harm.

- (53) *Depending on the circumstances, including the length and purpose of the stay, travel to the country of origin could serve as an indication that beneficiaries of refugee status have re-availed themselves of the protection of the country of origin or re-established themselves in their country of origin or that, for beneficiaries of subsidiary protection status, the grounds for granting that status have ceased to exist.*
- [(54) *In accordance with Regulation (EU) .../... [Asylum Procedure Regulation]⁺, Member States should ensure that applicants have access to an effective remedy before a court or tribunal against decisions by determining authorities to reject applications for international protection as unfounded or against decisions to withdraw international protection. In that respect, the reasons which led a determining authority to decide to reject an application for international protection or to withdraw international protection from a beneficiary should be subject to thorough review by a competent court or tribunal within the framework of any action brought against that rejection or withdrawal decision.]*

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0224(COD)).

- (55) 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 ***Council Regulation (EC) No 2252/2004¹³ or with equivalent minimum standards for security features and biometrics.***
- (56) ***The residence permits issued to beneficiaries of international protection for the first time or renewed following the entry into force of this Regulation should comply with Council Regulation (EC) No 1030/2002¹⁴.***
- (57) ***In the period between the granting of international protection and the issuance of a residence permit, Member States should ensure that beneficiaries of international protection have effective access to all the rights laid down in this Regulation, with the exception of freedom of movement within the Union and the issuance of a travel document.***

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

¹⁴ ***Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1).***

- (58) Family members will, due to their close relationship to ***beneficiaries of international protection***, normally be vulnerable to acts of persecution ***or serious harm*** that could constitute the basis for the granting of international protection. ■ For the purpose of maintaining family unity, ***where family members present on the territory of the same Member State do not qualify for international protection, they should be entitled to apply for a residence permit. Such residence permits should be granted, unless family members fall within the exclusion grounds or unless reasons of national security or public policy otherwise require. Family members should also be entitled to the rights*** accorded to ***the beneficiary of international protection once international protection*** has been granted. Without prejudice to the provisions of this Regulation related to maintaining family unity, where the situation falls within the scope of Council Directive 2003/86/EC¹⁵ and the conditions for family reunification set out therein have been 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 of the European Parliament and of the Council¹⁶.

¹⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

¹⁶ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

(59) *Travel documents should be issued to family members of beneficiaries of international protection in accordance with national procedures.*

■

(60) When assessing a change of circumstances in a third country, 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 beneficiary of international protection will have access to such protection if the refugee *status or the subsidiary protection* status is withdrawn.

(61) *When assessing whether the grounds on which the granting of international protection was based have ceased to exist, the determining authority should take into account all relevant and available national, Union and international sources of information and guidance, including recommendations issued by the UNHCR.*

- (62) *Where an applicant falls within the scope of Article 1(D) of the Geneva Convention relating to the provision of protection or assistance by organs or agencies of the United Nations other than the UNHCR, when considering whether that protection or assistance has ceased to exist for reasons beyond the control, and independent of the volition, of the applicant, the determining authority should ascertain whether the applicant was forced to leave the area of operations of the relevant organ or agency, whether the applicant's personal safety was at serious risk and whether the relevant organ or agency was unable to ensure the applicant's living conditions in accordance with its mandate.*
- (63) Where 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 does not prevent* the third-country national or stateless person concerned ■ from applying for residence on the basis of grounds other than those which justified the granting of international protection *or from continuing to remain legally on the territory of that Member State on other grounds, in particular when holding a valid Union long-term residence permit*, in accordance with relevant Union and national law.

- (64) *A decision to end international protection should not have a retroactive effect. A decision to revoke international protection should have a retroactive effect. Where a decision is based on a cessation ground, it should not have a retroactive effect. Where refugee status or subsidiary protection status is revoked on the basis that it should never have been granted, acquired rights could be retained or lost in accordance with national law.*
- (65) Beneficiaries of international protection should reside in the Member State which granted them protection. Beneficiaries of international protection who are in possession of a valid travel document and a residence permit issued by a Member State applying the Schengen *acquis* in full should be allowed to enter into and move freely within the territory of the Member States applying the Schengen *acquis* in full, ***within the authorised period of stay*** in accordance with Regulation (EU) 2016/399 of the European Parliament and of the Council¹⁷ and with Article 21 of the Convention implementing the Schengen Agreement¹⁸. Beneficiaries of international protection can equally apply to reside in a Member State other than the Member State that granted them international protection, in accordance with relevant ***Union*** and national rules. However, that does not imply any transfer of the refugee status or subsidiary protection status and related rights.

¹⁷ Regulation (EU) 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 (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

¹⁸ Convention implementing the 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 (OJ L 239, 22.9.2000, p. 19).

- /(66) In order to **address** secondary movements within the ■ Union, beneficiaries of international protection should, if found in a Member State other than the **Member State** that granted them international protection without fulfilling the conditions of stay or **residence**, be taken back by the Member State responsible in accordance with the procedure laid down by Regulation (EU) .../... [*Asylum and Migration Management Regulation*]⁺.]
- (67) In order to **ensure that beneficiaries of international protection respect the authorised period of stay or residence in accordance with the relevant national, Union or international law**, Council Directive 2003/109/EC¹⁹ should be amended to provide that the five-year period after which beneficiaries of international protection are eligible for **Union long-term resident** status should, **in principle**, be restarted each time a beneficiary of international protection is found in a Member State other than the Member State that granted that beneficiary international protection without a right to stay or to reside there ■ .

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2020/0279(COD)).

¹⁹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

- (68) ***Member States' authorities retain a certain discretion with regard to public policy and national security, which should be interpreted in accordance with national, Union and international law. Subject to an individual assessment of the specific facts, public policy and national security considerations can cover cases in which a third-country national belongs to an association which supports international terrorism or supports such an association. When assessing whether a third country national or stateless person poses a risk to a Member State's national security, its authorities are entitled to take account, inter alia, of information received from other Member States or third countries.***
- (69) When deciding on entitlement to the benefits provided for in this Regulation, a competent authority should take due account of the best interests of the child and of the particular circumstances of the dependency on the beneficiary of international protection of close relatives who are already present in the Member State concerned and who are not family members. In exceptional circumstances, where a close relative of a beneficiary of international protection is a married minor but not accompanied by his or her spouse, the best interests of the minor could be seen to lie with his or her original family.

- (70) ***Member States*** should be able to restrict access to employed or self-employed activities as regards 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 the exercising of the right ***to*** equal treatment as regards membership of an organisation representing workers or engaging in a specific occupation, it should be possible to exclude beneficiaries of international protection from taking part in the management of bodies governed by public law and from holding an office governed by public law.
- (71) ***Housing benefits should constitute a core benefit to the extent that they can be regarded as social assistance.***

- (72) In order to enhance the effective exercise by beneficiaries of international protection of the rights and benefits laid down in this Regulation, it is necessary to take into account their specific needs and the particular integration challenges with which they are confronted and to 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 in circumstances where there is a lack of documentary evidence or an inability to meet the costs related to recognition procedures.
- (73) Beneficiaries of international protection should enjoy equal treatment with nationals of the Member State that granted them international protection as regards social security.

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- (74) Access to healthcare, including physical and mental healthcare and ***sexual and reproductive healthcare***, should be ensured for beneficiaries of international protection, ***provided that it is also ensured for nationals of the Member State that granted them international protection***.
- (75) In order to facilitate the integration of beneficiaries of international protection into society, they ***should*** have access to integration measures, ***at local, regional and national level, under conditions*** to be set by the Member States. Member States ***should consider maintaining access to*** language courses ***for beneficiaries of international protection where they had access to language*** courses ***as applicants***.
- (76) The effective monitoring of the application of this Regulation requires that it be evaluated at regular intervals.

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- (77) 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 but can rather, 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 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.

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- (78) *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 TEU and to the TFEU, 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. ■*
- (79) 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 2
Material scope

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

Article 3 Definitions

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

- (1) 'refugee status' means the recognition by a Member State of a third-country national or a stateless person as a refugee;
- (2) '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;
- (3) 'international protection' means refugee status or subsidiary protection status;
- (4) 'beneficiary of international protection' means a person who has been granted refugee status or subsidiary protection status;
- (5) '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;

- (6) ‘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 that person, 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 15, and to whom Article 17(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;

- /(7) ‘application for international protection’ means a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status;
- (8) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken; /
- (9) ‘family members’ means, in so far as the family already existed before the applicant arrived on the territory of the Member States, the following members of the family of the beneficiary of international protection who are present *on the territory of* the same Member State in relation to the application for international protection:
- (a) the spouse of the beneficiary of international protection or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples *as equivalent* to married couples ■ ;

- (b) the minor ***or adult dependent*** children of the couples referred to in point (a) or of the beneficiary of international protection, provided that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as ***provided for*** under national law; ***a minor is considered unmarried provided that, on the basis of an individual assessment, the minor's marriage would not be in accordance with the relevant national law had it been contracted in the Member State concerned, having regard, in particular, to the legal age of marriage;***
- (c) ***where the beneficiary of international protection is a minor and unmarried,*** the father, mother or another adult responsible for ***that*** beneficiary, ***including an adult sibling,*** whether by ***the*** law or **■** practice of the Member State concerned **■** ; ***a minor is considered unmarried provided that, on the basis of an individual assessment, the minor's marriage would not be in accordance with the relevant national law had it been contracted in the Member State concerned, having regard, in particular, to the legal age of marriage;***

(10) 'minor' means a third-country national or stateless person below the age of 18 years;

- (11) ‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by *the* law or practice of the Member State concerned, and for as long as that minor 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 an ■ authorisation issued by the authorities of a Member State, in a *uniform* format *as laid down by* Regulation (EC) No 1030/2002, which allows 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 a decision by *a determining authority or* a competent *court or tribunal* to revoke *or* end, *including by refusing* to renew, international protection ■ ;

■

- (15) ‘determining authority’ means a quasi-judicial or administrative body in a Member State ***which is*** responsible for examining applications for international protection and is competent to take decisions at ***the administrative stage of the procedure***;
- (16) ‘social security’ means the branches of social security set out in ***Article 3(1) and (2) of*** Regulation (EC) No 883/2004 of the European Parliament and of the Council²⁰ **■** ;
- (17) ‘social assistance’ means benefits granted **■** with the objective of ensuring that the basic needs of those who lack sufficient resources are met;
- (18) ‘guardian’ means a ***natural*** person or an organisation, ***including a public body, designated*** by the competent ***authorities*** to assist, represent ***and act on behalf of*** an unaccompanied minor, ***as applicable, in order to ensure that the unaccompanied minor can benefit from the rights and comply with the obligations under this Regulation, while safeguarding his or her best interests and general well-being.***
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²⁰ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

CHAPTER II
ASSESSMENT OF APPLICATIONS FOR INTERNATIONAL PROTECTION

Article 4

Submission of information and assessment of facts and circumstances

1. Applicants shall submit all the elements available to them which substantiate the application for international protection. *For that purpose*, applicants shall **fully** cooperate with the determining authority and *with other competent authorities and* shall remain present and available *on the territory of the Member State responsible for examining their application* throughout the procedure, *including during the assessment of the relevant elements of the application*.
2. The elements referred to in paragraph 1 shall consist of the following:
 - (a) the applicant's statements; and
 - (b) all the documentation at the applicant's disposal regarding the following:
 - (i) ■ the applicant's *reasons for applying for international protection*;
 - (ii) the applicant's age;
 - (iii) the applicant's background, including that of relevant *family members and other* relatives;
 - (iv) the applicant's identity;
 - (v) the applicant's nationality or nationalities;
 - (vi) the applicant's country or countries and place or places of previous residence;
 - (vii) previous applications ■ for international protection from the applicant;

- (viii) the results of any ■ resettlement *or humanitarian admission* procedure relating to the applicant as defined by Regulation (EU) .../... [Resettlement and Humanitarian Admission Framework Regulation]⁺;
- (ix) the applicant's travel routes; *and*
- (x) the applicant's travel documents ■ .

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0225(COD)).

3. The determining authority shall assess the relevant elements of an application *for international protection* [in accordance with Article 35 of Regulation (EU) .../... [*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 that applicant's well-founded fear of being persecuted or of a real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.
5. Where *one or more particular* aspects of the applicant's statements are not supported by documentary or other evidence, no additional evidence shall be required in respect of those particular aspects where the following conditions are met:
- (a) the applicant has made a genuine effort to substantiate his or her application *for international protection*;

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0224(COD)).

- (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 general credibility of the applicant has been established, ***taking into account, inter alia, the time at which the applicant applied for international protection.***

Article 5

International protection needs arising sur place

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

2. Where the risk of persecution or ■ serious harm is based on circumstances which the applicant has created ■ since leaving the country of origin *for the sole or main purpose of creating the necessary conditions for applying for international protection, the determining authority may refuse to grant international protection, provided that any decision taken on the application for international protection respects* the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967 (*the ‘Geneva Convention’*), *the European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the European Union.*

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Article 6

Actors of persecution or serious harm

Actors of persecution or serious harm ■ can be:

- (a) the State;

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

Article 7
Actors of protection

1. Only the following actors can provide protection against persecution or serious harm, provided that they are **able and** willing to **provide effective and non-temporary** protection in accordance with paragraph 2:
 - (a) the State;
 - (b) **stable, established non-State authorities**, including international organisations, **which control** the State or a substantial part of the territory of the State.

2. Protection against persecution or serious harm shall be effective and of a non-temporary nature. That protection shall be considered to be provided where the actors referred to in paragraph 1 take reasonable steps to prevent persecution or the suffering of serious harm, *inter alia*, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and where an applicant has access to that protection.
3. When assessing whether ***stable, established non-State authorities, including*** international ***organisations, control*** a State or a substantial part of its territory and ***provide*** protection within the meaning of paragraph 2, ***the*** determining ***authority*** shall ***take into account precise and up-to-date information on countries of origin obtained from*** relevant ***and*** available ***national, Union and international sources and, where available,*** the common analysis ***on the situation in specific countries*** of origin ***and the guidance notes*** referred to in ***Article 11*** of Regulation (EU) ***2021/2303***.

Article 8

Internal protection *alternative*

1. ***Where the State or agents of the State are not the actors of persecution or serious harm,*** the determining authority shall ***examine***, as part of the assessment of the application for international protection, ***whether*** an applicant is not in need of international protection ***because*** the applicant 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 whether, in that part of the country, the applicant:
 - (a) has no well-founded fear of being persecuted or does not face a real risk of suffering serious harm; or
 - (b) has access to ***effective and non-temporary*** protection against persecution or serious harm.

2. *Where the State or agents of the State are the actors of persecution or serious harm, the determining authority shall presume that effective protection is not available to the applicant and no examination as referred to in paragraph 1 need be carried out.*

The determining authority may only carry out an examination as referred to in paragraph 1 where it is clearly established that the risk of persecution or serious harm stems from an actor whose power is clearly limited to a specific geographical area or where the State itself only has control over certain parts of the country.

3. The determining authority shall carry out an examination as referred to in paragraph 1 once it has established that the qualification criteria set out in this Regulation would otherwise apply to an applicant. The burden of *demonstrating that an internal protection alternative is available to the applicant shall fall on the determining authority. The applicant shall be entitled to present evidence and submit any element which indicates that such an alternative is not available to him or her. The determining authority shall take into account the evidence presented and elements submitted by the applicant.*

4. In examining whether an applicant has a well-founded fear of being persecuted or faces a real risk of suffering serious harm, or has access to protection against persecution or serious harm in a part of the country of origin concerned 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 set out in Article 4. To that end, **the determining authority** shall **take into account** precise and up-to-date information obtained from relevant **and available national, Union and international** sources **and, where available,** the common analysis **on the situation in specific countries** of origin **and the guidance notes** referred to in **Article 11** of Regulation (EU) 2021/2303.
5. **For the purposes of paragraph 1, the determining authority shall take into account:**
- (a) the general circumstances prevailing in the relevant part of the country of origin, **including** the accessibility, effectiveness and durability of **the protection referred to in Article 7;**

(b) *the personal circumstances of the applicant in relation to factors such as health, age, gender, including gender identity, sexual orientation, ethnic origin and membership of a national minority; and*

(c) *whether the applicant would be able to cater for his or her own basic needs.*

6. *Where the applicant is an unaccompanied minor, the determining authority shall take into account the best interests of the minor and, in particular, the availability of sustainable and appropriate care and custodial arrangements.*

CHAPTER III
QUALIFICATION FOR BEING A REFUGEE

Article 9
Acts of persecution

1. An act shall be regarded as an act of persecution within the meaning of Article 1(A) of the *Geneva* Convention where it is:
 - (a) 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 ECHR; or
 - (b) an accumulation of various measures, including violations of human rights, which is sufficiently severe as to affect an individual in a similar manner to an act referred to in point (a).

2. Acts of persecution as qualified in paragraph 1 may, *inter alia*, 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. For an applicant to meet the definition of ‘refugee’ as set out in Article 3(1), point (5), there shall be a connection between the reasons for persecution referred to 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 ■ :
- (i) ***whose*** members share ***or are perceived to share*** an innate characteristic ■ or a common background that cannot be changed, or ■ a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it; ■ ***and***
- (ii) ***which*** has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society;

- (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.

Depending on the circumstances in the country of origin, **the** concept of membership of a particular social group as referred to in point (d) of the first subparagraph shall **include membership of** a group based on a common characteristic of sexual orientation **■**. Gender related aspects, including gender identity **and gender expression**, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group.

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 that applicant to **adapt** or **change his or her behaviour, convictions or identity, or to** abstain from certain practices, where **such behaviour, convictions or practices** 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 third-country national has voluntarily re-availed himself or herself of the protection of the country of nationality;
 - (b) having lost his or her nationality, the third-country national or stateless person has voluntarily re-acquired it;
 - (c) the third-country national or stateless person has acquired a new nationality and enjoys the protection of the country of that new nationality;
 - (d) the third-country national or stateless 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 a fear of being persecuted;

- (e) the third-country national 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) the stateless 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) of the first subparagraph 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, first subparagraph, apply, the determining authority shall:

- (a) ***take into account*** precise and up-to-date information obtained from **■** relevant ***and available national, Union and international*** sources ***and, where available, the common analysis on the situation in specific countries of origin and the guidance notes*** referred to in ***Article 11*** of **■** Regulation (EU) ***2021/2303***;
- (b) have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of being persecuted can no longer be regarded as well-founded.

Article 12

Exclusion

1. A third-country national or a stateless person shall be excluded from being a refugee where that third-country national or stateless person:
 - (a) 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 that third-country national or stateless person being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, that third-country national or stateless person shall ipso facto be entitled to the benefits of this Regulation;
 - (b) is recognised by the competent authorities of the country in which third-country national or stateless person has taken up residence as having the rights and obligations which are attached to the possession of the nationality of that country, or *equivalent* rights and obligations ■ .

2. A third-country national or a stateless person shall be excluded from being a refugee where there are serious reasons for considering that that third-country national or stateless person:
- (a) 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) has committed a serious non-political crime outside the country of refuge prior to that third-country national or stateless person's admission as a refugee, which means the time of ■ granting refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;
 - (c) has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble to 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 referred to therein.

■

4. *Once the determining authority has established, based on an assessment of the seriousness of the crimes or acts committed by the person concerned and of that person's individual responsibility, taking into account all the circumstances surrounding those crimes or acts and the situation of that person, that one or more of the relevant exclusion grounds laid down in paragraph 2 or 3 apply, the determining authority shall exclude the applicant from refugee status without performing a proportionality assessment linked to the fear of being persecuted.*
5. *As part of the assessment referred to in paragraph 4, when carrying out an examination under paragraphs 2 and 3 in relation to a minor, the determining authority shall take into account, inter alia, the minor's capacity to be considered responsible under criminal law had the minor committed the crime on the territory of the Member State examining the application for international protection in accordance with national law on the age of criminal responsibility.*

CHAPTER IV
REFUGEE STATUS

Article 13
Granting of refugee status

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

Article 14
Withdrawal of ■ refugee status

1. The determining authority shall **withdraw** the refugee status of a third-country national or stateless person where:
 - (a) that third-country national or stateless person has ceased to be a refugee in accordance with Article 11;
 - (b) that third-country national or stateless person should have been or is excluded from being a refugee in accordance with Article 12;

- (c) that third-country national or stateless person's misrepresentation of facts, including the use of false documents, or omission of facts was decisive for the granting of refugee status;
- (d) there are reasonable grounds for regarding that third-country national or stateless person as a danger to the security of the Member State in which that third-country national or stateless person is present;
- (e) that third-country national or stateless person is convicted by a final judgment of a particularly serious crime and constitutes a danger to the community of the Member State in which that third-country national or stateless person is present;

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2. In situations in which points (d) *and (e)* of *paragraph 1 apply*, the determining authority may decide not to grant *refugee* status *where* a decision *on the application for international protection* has not yet been taken.

3. Persons to whom points (d) **and (e)** of paragraph 1 or paragraph 2 of this Article 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 provided that they are present in the Member State.
4. **■** The determining authority which **■** granted refugee status shall, on an individual basis, demonstrate that the *beneficiary of the refugee status* has ceased to be *a refugee, or 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. *During the withdrawal procedure, [Article 67 of Regulation (EU) .../... [Asylum Procedures Regulation]⁺ shall apply.*
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⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0224(COD)).

CHAPTER V
QUALIFICATION FOR SUBSIDIARY PROTECTION

Article 15
Serious harm

Serious harm as referred to in Article 3(6) consists of:

- (a) the death penalty or execution;
- (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 16

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 ***that 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:***
 - (a) ***take into account*** precise and up-to-date information obtained from ■ relevant ***and available national, Union and international*** sources ***and, where available,*** the common analysis on ***the situation in specific countries*** of origin ***and the guidance notes*** referred to in ***Article 11*** of ■ Regulation (EU) 2021/2303;
 - (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.

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 17

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 that third-country national or stateless person:
- (a) 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) has committed a serious crime *prior to arriving on the territory of the Member State or has been convicted for a serious crime after arrival*;

- (c) has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble to and Articles 1 and 2 of the Charter of the United Nations;
- (d) constitutes a danger to the community or to **national** security **1** .

1

2. **1** Paragraph 1 shall apply to persons who incite or otherwise participate in the commission of the crimes or acts referred to therein.
3. **A third-country national or a stateless person may be excluded from being eligible for subsidiary protection where** that third-country national or stateless person, prior to being admitted 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 **had** they been committed in the Member State concerned, and if that third-country national or stateless person left the country of origin solely in order to avoid sanctions resulting from those crimes.

4. *Once the determining authority has established, based on an assessment of the seriousness of the crimes or acts committed by the person concerned and of that person's individual responsibility, taking into account all the circumstances surrounding those crimes or acts and the situation of that person, that one or more of the relevant exclusion grounds laid down in paragraph 1 or 2 apply, the determining authority shall exclude the applicant from subsidiary protection status without performing a proportionality assessment linked to the fear of serious harm.*
5. *As part of the assessment referred to in paragraph 4, when carrying out an examination under paragraphs 1 in relation to a minor, the determining authority shall take into account, inter alia, the minor's capacity to be considered responsible under criminal law had the minor committed the crime on the territory of the Member State examining the application for international protection in accordance with national law on the age of criminal responsibility or, where applicable, a conviction for a serious crime after the minor's arrival.*

CHAPTER VI SUBSIDIARY PROTECTION STATUS

Article 18

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 19

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) that third-country national or stateless person has ceased to be eligible for subsidiary protection in accordance with Article 16;

- (b) after having been granted subsidiary protection status, that third-country national or stateless person should have been or is excluded from being eligible for subsidiary protection in accordance with Article 17;
- (c) that third-country national or stateless person's misrepresentation **■** of facts, including the use of false documents, *or omission of facts* was decisive for the granting of subsidiary protection status.

■

2. *The determining authority* which **■** granted **■** subsidiary protection status shall, on an individual basis, demonstrate that the *beneficiary of the subsidiary protection status* has ceased to be **■** eligible for subsidiary protection, *or should have never been granted subsidiary protection status, or should no longer be a beneficiary of subsidiary protection status for the reasons set out in* paragraph 1 of this Article **■**. *During the withdrawal procedure, [Article 67 of Regulation (EU) .../... [Asylum Procedures Regulation]⁺] shall apply.*

■

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0224(COD)).

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

Section I
Common provisions

Article 20
General rules

1. **■** Without prejudice to the rights and obligations laid down in the Geneva Convention, *beneficiaries of international protection shall have the rights and obligations laid down in this Chapter.*
-
2. *Beneficiaries of international protection shall have access to rights provided in accordance with this Chapter once international protection is granted and for as long as refugee status or subsidiary protection status is held.*

3. *Where a residence permit is not issued to a beneficiary of international protection within 15 days of the granting of international protection, the Member State concerned shall take provisional measures, such as registration or the issuance of a document, to ensure that the beneficiary has effective access to the rights laid down in this Chapter, with the exception of those laid down in Articles 25 and 27, until such time as a residence permit is issued in accordance with Article 24.*
4. When applying this Chapter, and *where it is established that a person has* special needs due to being, for example, *a minor, an unaccompanied minor, a person with a disability, an elderly person, a pregnant woman, a single parent with a minor or an adult dependent child, a victim of* ■ *trafficking in human beings, a person with a serious illness, a person with a mental disorder or a person who has* been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, *the competent authorities shall take into account those special needs* ■ .

5. When applying the provisions of this Chapter that concern minors, the best interests of the child shall be a primary consideration for *competent* authorities.

Article 21

Protection from refoulement

■ The principle of non-refoulement *shall be respected* in accordance with *Union and* international *law*.

■

Article 22
Information

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 such *protection* has been granted. That information, *as specified in Annex I*, shall:

- (a) be provided in a language that the beneficiary can understand or is reasonably supposed to understand; and
- (b) make explicit references to the consequences of not complying with the obligations provided for in Article 27 on movement within the Union.

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Article 23

Maintaining family unity

1. The competent authorities of *the Member State that granted international protection to a beneficiary of international protection* shall issue, in accordance with national procedures, residence permits to the family members of that beneficiary of international protection who do not individually qualify for international protection *and who apply for* a residence permit in *that Member State, where paragraph 3, 4 or 5 of this Article do not apply* and in so far as it is compatible with the personal legal status of the family member.
2. A residence permit issued pursuant to paragraph 1 shall have the *same date of expiry as* the residence permit issued to the beneficiary of international protection and shall be renewable *for as long as the residence permit issued to the beneficiary of international protection is renewed*. The period of validity of the residence permit issued 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. *A residence permit shall not be issued under this Regulation to a spouse or unmarried partner in a stable relationship where there are strong indications that the marriage or partnership was contracted for the sole purpose of enabling the person concerned to enter or reside in the Member State concerned.*
5. Where reasons of national security or public policy *related to the family member* 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.

6. Family members who have been issued a residence permit pursuant to paragraph 1 of this Article shall be entitled to the rights laid down in Articles 25 to **32, 34 and 35**.
7. Member States may apply this Article ■ to other close relatives, *including siblings*, who lived together as part of the family ■ before the applicant arrived on the territory of the Member **State** and who *are* dependent on the beneficiary of international protection ■ .
Member States may apply this Article to a married minor, provided that it is in the best interests of that minor.

Section II
Rights and obligations related to residence and stay

Article 24
Residence permits

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

On expiry, residence permits shall be renewed for at least three years for beneficiaries of refugee status and for at least two years for beneficiaries of subsidiary protection status.

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

5. The competent authorities may revoke or refuse to renew a residence permit only where *they* have **withdrawn** refugee status ■ in accordance with Article 14 **or** subsidiary protection status ■ in accordance with Article 19 ■ .

■

Article 25
Travel document

1. ***Unless compelling reasons of national security or public policy related to a beneficiary of refugee status require otherwise***, competent authorities shall issue travel documents in the form set out in the Schedule to the Geneva Convention and which comply with the minimum standards for security features and biometrics outlined in Regulation (EC) No 2252/2004 to beneficiaries of refugee status. Such travel documents shall be valid for ***more than*** one year.
2. ***Unless compelling reasons of national security or public policy related to a beneficiary of subsidiary protection require otherwise***, competent authorities shall issue travel documents which comply with the minimum standards for 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. Such ***travel*** documents shall be valid for ***more than*** one year.

3. *In the exercise of their obligations pursuant to paragraphs 1 and 2 of this Article, the competent authorities of Member States which do not take part in the Schengen acquis shall issue travel documents in the form set out in the Schedule to the Geneva Convention and which comply with minimum standards for security features and biometrics equivalent to those outlined in Regulation (EC) No 2252/2004 to beneficiaries of refugee status, taking into account the specifications of the International Civil Aviation Organisation, in particular those set out in Document 9303 on machine readable travel documents.*

In the exercise of their obligations pursuant to paragraphs 1 and 2 of this Article, the competent authorities of Member States which do not take part in the Schengen acquis shall issue travel documents that comply with minimum standards for security features and biometrics equivalent to those outlined in Regulation (EC) No 2252/2004 to beneficiaries of subsidiary protection status who are unable to obtain or renew a national passport, taking into account the specifications of the International Civil Aviation Organisation, in particular those set out in Document 9303 on machine readable travel documents.

Article 26

Freedom of movement within the Member State

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

Article 27

Movement within the Union

1. Beneficiaries of international protection shall not have the right to reside in a Member State other than the Member State that granted *them international protection*. This is without prejudice to their right to:
 - (a) 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*;
 - (b) move freely in accordance with the conditions of Article 21 of the Convention implementing the Schengen Agreement.

Section III
Rights related to integration

Article 28
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 concerned or 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 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, and health and safety requirements at the workplace;
 - (b) freedom of association and affiliation, and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the *rights and* benefits conferred by such organisations;

- (c) employment-related educational opportunities for adults, vocational training, including training courses for upgrading skills and practical workplace experience;
 - (d) **information and counselling** services offered by employment offices.
3. Where necessary, competent authorities shall facilitate full access to the activities referred to in **points (c) and (d) of paragraph 2** .

Article 29

Access to education

1. Minors granted international protection shall **enjoy equal treatment with** nationals of the Member State that granted **them international protection as regards access to the education system**.

Beneficiaries of international protection shall continue to enjoy equal treatment with nationals of the Member State that granted them international protection for the completion of secondary education irrespective of whether they reach the age of majority.

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

Notwithstanding the first subparagraph, competent authorities may refuse grants and loans to adults granted international protection, where that possibility is provided for under national law.

Article 30

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 granted *them international protection* in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.

2. Without prejudice to Article 2(2) and Article 3(3) of Directive 2005/36/EC of the European Parliament and of the Council²¹, competent authorities shall facilitate full access to the procedures referred to in paragraph 1 of this Article for beneficiaries of international protection who cannot provide documentary evidence of their qualifications.
3. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that granted *them international protection* as regards access to appropriate schemes for the assessment, validation and *recognition* of their prior learning *outcomes* and experience.

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²¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Article 31

Social security and social assistance

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

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

2. *Notwithstanding paragraph 1, the provision of equal treatment as regards social assistance **may be limited** for beneficiaries of subsidiary protection status to core benefits, where that possibility is provided for under national law.*

Core benefits shall include at least the following:

- (a) minimum income support;*
- (b) assistance in the case of illness or pregnancy;*
- (c) parental assistance, including child-care assistance; and*
- (d) housing benefits, in so far as those benefits are granted to nationals of the Member State concerned under national law.*

Article 32
Healthcare

1. Beneficiaries of international protection shall have access to healthcare under the same eligibility conditions as nationals of the Member State that 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, or cruel, inhuman and degrading treatment, or who have suffered from armed conflict shall be provided *with* adequate healthcare, including treatment of mental disorders when needed, under the same eligibility conditions as nationals of the Member State that granted *them international protection*.

Article 33
Unaccompanied minors

1. As soon as possible after international protection is granted in respect of an unaccompanied minor, competent authorities shall take the necessary measures, ***under national law***, to ***appoint*** a █ guardian █ .

Competent authorities may keep the same person designated as [representative under Article 24(1), point (b), of Regulation (EU) .../... [Asylum Procedures Regulation]⁺ or under [Article 27(1), point (b), of Directive (EU) .../... [Reception Conditions Directive]⁺⁺] to act as the guardian, without the need for formal appointment.

[Representatives as referred to in Article 24(1), point (b), of Regulation (EU) .../... [Asylum Procedures Regulation]⁺ or [Article 27(1), point (b), of Directive (EU) .../... [Reception Conditions Directive]⁺⁺] shall remain responsible for unaccompanied minors until a guardian is appointed.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0224(COD)).

⁺⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

Organisations or natural persons whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be eligible for appointment as the guardian of that minor.

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

2. ***For the purposes of this Regulation, with a view to safeguarding the best interests of the child and the unaccompanied minor's general well-being, the guardian shall :***

- (a) ensure*** that the unaccompanied minor has access to all rights stemming from this Regulation;
- (b) assist and, where applicable, represent the unaccompanied minor in the event that the unaccompanied minor's refugee status or subsidiary protection status is withdrawn; and***

- (c) *where applicable, assist in the tracing of family as provided for in paragraph 7.*

Guardians shall:

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

3. *The competent authorities shall appoint each guardian to represent a proportionate and sufficiently limited number of unaccompanied minors in order to ensure that guardians are able to perform their tasks effectively and that unaccompanied minors have effective access to their rights and benefits.*

4. *In accordance with national law, Member States shall ensure that there are entities, including judicial authorities, or persons that are responsible for supervising and monitoring guardians on an ongoing basis in order to ensure that they perform their tasks in a satisfactory manner.*

Entities and persons as referred to in the first subparagraph shall review the performance of guardians, in particular where there are indications that guardians are not performing their tasks in a satisfactory manner. Such entities and persons shall examine, without delay, any complaints lodged by unaccompanied minors against their guardians.

Where necessary, the competent authorities shall replace a person acting as a guardian, in particular where they consider that that person has not adequately performed his or her tasks.

The competent authorities shall explain to unaccompanied minors, in an age-appropriate manner and in such a way as to ensure that the minors understand, how to lodge a complaint against their guardians in confidence and safety.

5. *While taking into account the best interests of the child, the competent authorities shall place* unaccompanied minors:

- (a) with *an* adult relative;
- (b) with a foster family;
- (c) in centres specialised in accommodation for minors; or
- (d) in other accommodation suitable for minors.

The views of unaccompanied minors shall be taken into account in accordance with their age and degree of maturity.

6. As far as possible, siblings shall be kept together, taking into account the best interests of the unaccompanied minors concerned and, in particular, their age and degree of maturity. Changes of residence of unaccompanied minors shall be kept to a minimum.
7. ***Where the tracing of family members of*** an unaccompanied minor ***started before that minor*** was granted international protection, it shall continue after the granting of international protection. ***Where the tracing of family members*** has not already started, ***it*** shall start ■ as soon as possible after the granting of refugee status or subsidiary protection status, ***provided that it is in*** the minor's best interests.

■ Where there might be a threat to the life or integrity of the minor or the minor's close relatives, particularly if they have remained in the country of origin, care shall be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis ***so as to avoid jeopardising their safety.***

Article 34

Access to accommodation

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

Article 35

Access to integration measures

1. In order to *encourage and* facilitate *their* integration ■ into *the* society *of the Member State that granted them international protection*, beneficiaries of international protection shall have access to integration measures provided *or facilitated by the Member State which take into account their specific needs and are considered appropriate by the competent authorities*, in particular language courses, civic orientation, integration programmes and vocational training ■ .
2. *Beneficiaries of international protection shall participate in integration measures where participation is made compulsory in the Member State that granted them international protection. Such integration measures shall be accessible and free of charge.*

3. *By way of derogation from paragraph 2 of this Article and without prejudice to Article 31(1), second subparagraph, Member States may apply a fee for certain compulsory integration measures where the beneficiary of international protection has sufficient means and where such fees do not place an unreasonable burden on the beneficiary of international protection.*
4. *Competent authorities shall not apply sanctions against beneficiaries of international protection where they are unable to participate in integration measures due to circumstances beyond their control.*

Article 36
Repatriation

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

CHAPTER VIII

ADMINISTRATIVE COOPERATION

Article 37

Cooperation

Each Member State shall appoint a national contact point for the purposes of this Regulation 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 38

Staff

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

CHAPTER IX FINAL PROVISIONS

I

Article 39 Monitoring and evaluation

By ... *[two years from **the date of application of this** Regulation]* and every five years thereafter, the Commission shall report to the European Parliament and to the Council on the application of this Regulation and shall, where appropriate, propose necessary amendments.

Nine months prior to the expiry of the relevant deadline as set out in the first paragraph, at the latest, Member States shall forward to the Commission all information appropriate for the preparation of the report referred to in that paragraph.

Article 40
Amendment to Directive 2003/109/EC

Directive 2003/109/EC is amended as follows:

(1) *in Article 4(2), the third subparagraph is replaced by the following:*

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

^{*} *Regulation (EU) .../... of the European Parliament and of the Council of ... (OJ ...).’;*

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2016/0223(COD)).

(2) in Article 4, the following paragraph is inserted:

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

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

(3) in *Article 26, the first paragraph is replaced by* the following :

■

‘Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with ■ this Directive by ... [...]. ***Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 4(4) by ... [[...] years after the date of entry into force of this Regulation]*** ■ . They shall immediately ***communicate the text of those measures to*** the Commission ■ .’.

Article 41

Repeal

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

Article 42

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 apply from ... [the date of entry into force of this Regulation].

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament

The President

For the Council

The President

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

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

I. Information on rights and obligations related to residence and stay:***(a) Right to a residence permit for beneficiaries of international protection (Article 24):***

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

(b) *Right to a residence permit for family members of beneficiaries of international protection (Article 23):*

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

(c) *Right to claim a travel document (Article 25):*

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

(d) *Right to freedom of movement within the Member State and possible restrictions on that movement (Article 26):*

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

(e) *Right to freedom of movement within the Union (Article 27):*

- *The obligation to reside in the Member State that granted international protection;*
- *The right to move in the Schengen area and the conditions on the exercise of such a right as specified in Article 21 of the Convention implementing the Schengen Agreement and the right to apply and be admitted to reside in another Member State pursuant to that Member State's national law or pursuant to relevant provisions of Union law or of international agreements;*
- *Possible sanctions with regard to the calculation of years in accordance with Directive 2003/109/EC and [the take back procedure under Regulation (EU) .../... [Asylum and Migration Management Regulation]⁺ where the beneficiary of international protection does not follow the relevant rules and overstays without permission in breach of the Convention implementing the Schengen Agreement or stays or resides in another Member State without permission.*

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS No/YY (2020/0279(COD)).

II. Information on rights related to integration:

(a) Right to access employment (Article 28):

- *Administrative requirements for accessing employment or self-employed activities;*
- *Where applicable, the restrictions related to employment in the public service;*
- *The relevant employment office or contact point for additional information;*

(b) Right to access education for minors (Article 29(1))

- *Minimum age for compulsory schooling;*
- *Where applicable, administrative requirements for accessing the education system;*

(c) Right to access the general education system for adults (Article 29(2)):

- *The requirements, including administrative requirements, for accessing the general education system;*

- (d) *Right to access procedures for the recognition of qualifications and the validation of skills (Article 30):*
- *Competent national authorities or relevant contact points for the provision of information on regulated professions exercisable only after formal recognition of qualification and the administrative procedures to be carried out for such recognition;*
- (e) *Information on appropriate schemes for assessing, validating and recognising prior learning outcomes and experience (Article 30(3)):*
- *Where applicable, information on such schemes and a relevant contact point for further information;*
- (f) *Right to equal treatment with nationals as regards social security (Article 31)*
- *A relevant contact point for further information;*

(g) Right to social assistance (Article 31):

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

(h) Right to healthcare under the same eligibility conditions as nationals (Article 32):

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

(i) Right to access accommodation under conditions equivalent to those applicable to other third country nationals legally residing in the Member State (Article 34):

- *Where applicable, basic information on available social housing schemes;*

- *Where applicable, residency requirements in the framework of dispersal practices;*
- *A competent authority or a relevant contact point for further information;*

(j) *Right to access integration measures considered appropriate, subject to compulsory participation where applicable (Article 35):*

- *Where applicable, information on compulsory integration measures;*
- *A relevant contact point for further information.*

III. *Information on specific rights for unaccompanied minors (Article 33):*

- *Information on the right to a guardian and the guardian's duties;*
- *The details for lodging a complaint against a guardian.*

Correlation Table

Directive 2011/95/EU	This Regulation
Article 1	Article 1
Article 2, point (a)	Article 3, point (3)
Article 2, point (b)	Article 3, point (4)
Article 2, point (c)	-
Article 2, point (d)	-Article 3, point (5)
Article 2, point (e)	Article 3, point (1)
Article 2, point (f)	Article 3, point (6)

Article 2, point (g)	Article 3, point (2)
Article 2, point (h)	Article 3, point (7)
Article 2, point (i)	Article 3, point (8)
Article 2, point (j), introductory wording	Article 3, point (9), introductory wording
Article 2 point (j), first indent	Article 3, point (9)(a)
Article 2 point (j), second indent	Article 3, point (9)(b)
Article 2 point (j), third indent	Article 3, point (9)(c)
Article 2, point (k)	Article 3, point (10)
Article 2, point (l)	Article 3, point (11)
Article 2, point (m)	Article 3, point (12)

Article 2, point (n)	Article 3, point (13)
-	Article 3, points (14), (15), (16), (17) and (18)
Article 3	-
-	-
Article 4(1) and (2)	Article 4(1) and (2)
-	Article 4(3)
Article 4(3), points (a) to (e)	²²
Article 4(4) and (5)	Article 4(4) and (5)
Article 5	Article 5

²² See Article 33(2) of Regulation (EU).../... [OJ: Please insert the number of the Regulation contained in document PE-CONS No/YY (2016/0224(COD)) [Asylum Procedures Regulation]].

Article 6	Article 6
Article 7	Article 7
Article 8(1)	Article 8(1)
-	Article 8(2) and (3)
Article 8(2)	Article 8(4)
-	Article 8(5) and (6)
Article 9	Article 9
Article 10(1) and (2)	Article 10(1) and (2)
-	Article 10(3)
Article 11(1)	Article 11(1), first subparagraph

Article 11(2)	Article 11(2), points (a) and (b)
-	-
Article 11(3)	-
Article 12(1)	Article 12(1)
Article 12(2), points (a), (b) and (c)	Article 12(2), points (a), (b) and (c)
Article 12(3)	Article 12(3)
-	Article 12(4) and (5)
Article 13	Article 13
Article 14(1)	Article 14(1), point (a)

Article 14(2)	Article 14(4)
Article 14(3), point (a)	Articles 14(1), point (b)
Article 14(3), point (b)	Article 14(1), point (c)
Article 14(4), point (a)	Article 14(1), point (d)
Article 14(4), point (b)	Article 14(1), point (e)
-	-
Article 14(5)	Article 14(2)
Article 14(6)	Article 14(3)
-	Article 14(4)

Article 15	Article 15
Article 16(1)	Article 16(1)
Article 16(2)	Article 16(2), points (a) and (b)
-	-
Article 16(3)	Article 16(3)
Article 17(1), points (a), (b), (c) and (d)	Article 17(1), points (a), (b), (c) and (d)
Article 17(2)	Article 17(2)
Article 17(3)	Article 17(3)
	Article 17(4) and (5)
Article 18	Article 18

Article 19(1)	Article 19(1), point (a)
Article 19(2)	Article 19(1), point (b)
Article 19(3), point (a)	Article 19(1), point (b)
Article 19(3), point (b)	Article 19(1), point (c)
-	-
Article 19(4)	Article 19(2)
-	-
Article 21	Article 21
Article 20(1)	Article 20(1)
Article 22	Article 20(2)

Article 20(3)	Article 20(4)
Article 20(4)	Article 20(4)
Article 20(5)	Article 20(5)
Article 21(1)	Article 21
Article 21(2)	-
Article 21(3)	-
-	-
Article 22	Article 22
-	-
Article 23(1)	-

Article 23(2)	Article 23(1) and (4)
-	Article 23(2)
Article 23(3)	Article 23(3)
Article 23(4)	Articles 23(5)
Article 23(5)	Article 23(7)
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Article 24(2)	Article 26(4), second subparagraph
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-	-
Article 25	Article 25

Article 26(1)	Article 28(1)
Article 26(2)	Article 28(2), points (c) and (d)
Article 26(3)	Article 28(3)
Article 26(4)	Article 31
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Article 28(1) and (2)	Article 30(1) and (2)
-	Article 30(3)
Article 29(1)	Article 31(1), first subparagraph
-	Article 31(1), second subparagraph
Article 29(2)	Article 31(2)

Article 30	Article 32
Article 31(1)	Article 33(1), first subparagraph
-	Article 33(1), second subparagraph
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Article 34	Article 35(1)
-	Article 35(2)

Article 35	Article 36
Article 36	Article 37
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Article 38	Article 39
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