



Council of the European Union  
General Secretariat

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**Brussels, 11 July 2018**

**WK 8609/2018 INIT**

**LIMITE**

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### WORKING PAPER

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#### **WORKING DOCUMENT**

|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| From:          | Presidency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| To:            | Delegations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| N° prev. doc.: | ST 10010/18 ADD 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Subject:       | Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (First reading) |

In view to the JHA Counsellors meeting on 16 July 2018, delegations will find attached several new compromise proposals from the Presidency.

Changes compared to the previous version of the text, as set-out in 10010/18 ADD 1, are indicated as follows:

- deleted text is marked in ~~strikethrough~~;
- new text is marked in **bold** and underline.

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## Qualification Regulation

New proposed recital (49a) on the basis of EP Amendment 45:

**(49a) In light of the fact that integration is a two-way process, respect for the values upon which the Union is founded and respect for the fundamental rights of the beneficiaries of international protection should be an integral part of the integration process. Integration should promote inclusion, rather than isolation, and the participation of all actors involved is crucial for its success. Member States, acting at national, regional and local level, should offer beneficiaries of international protection support and opportunities to integrate and build a life in their new society.**

### Annex II:

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

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

- How and where to apply for a residence permit and information on the competent authority or a relevant contact point
- **If applicable, where the residence permit is not issued within 15 days after international protection has been granted, how and where the effective access to the rights mentioned in Art. 22 (3a) are granted.**

#### *Article 18*

##### ***Exclusion***

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

- (b) he or she has committed a serious crime ~~prior to his or her arrival on the territory of the Member State or has been convicted for a serious crime after arrival;~~
  - (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;
  - (d) he or she constitutes a danger to the community or to [...] national security [...];
  - (e) [...]
2. [...]Paragraph 1 shall apply to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.
- 2a. **A third-country national or a stateless person may be excluded from being eligible for subsidiary protection if he or she, prior to his or her admission to the Member State concerned, has committed one or more crimes outside the scope of points (a), (b) and (c) of paragraph 1 which would be punishable by imprisonment if they had been committed in the Member State concerned, and if he or she left his or her country of origin solely in order to avoid sanctions resulting from those crimes.**
- 2b. **Once the determining authority has established, based on an assessment of the seriousness of the acts committed by the person concerned and of that person's individual responsibility, taking into account all the circumstances surrounding those crimes or acts and the situation of that person, that one or more of the relevant exclusion grounds laid down in paragraphs (1) and (2) are applicable, the determining authority shall exclude the applicant from subsidiary protection status without performing a proportionality assessment linked to the fear of serious harm.**
- 2c. **As part of the assessment referred to in paragraph (2b), when carrying out an examination under paragraphs (1) and (2) in relation to a minor, the determining authority shall take into account, inter alia, his or her capacity to be considered responsible under criminal law had he or she committed the crime on the territory of the Member State examining the application in accordance with national law on the age of criminal responsibility, or, where applicable, a conviction for a serious crime after his or her arrival.**

## Section II

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

#### *Article 26*

##### *Residence permits*

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

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

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

- 2a. A residence permit ~~may only~~ shall be revoked or not renewed where the competent authorities withdraw the refugee status in accordance with Article 14 or the subsidiary protection in accordance with Article 20.
- 2b. Without prejudice to paragraph 1, Member States may revoke or not renew the residence permit where compelling reasons of national security or public order related to the person concerned so require.
3. [...]

*Article 28*

***Freedom of movement within the Member State***

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