



**2016/0223(COD)**

2.3.2017

**\*\*\*I**

## **DRAFT REPORT**

on the 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  
(COM(2016)0466 – C8-0324/2016 – 2016/0223(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Tanja Fajon

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the 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 (COM(2016)0466 – C8-0324/2016 – 2016/0223(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0466),
  - having regard to Article 294(2) and Articles 78(2)(a) and (b) and 79(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0324/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 14 December 2016<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of 8 February 2017<sup>2</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Employment and Social Affairs (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation Recital 1**

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<sup>1</sup> Not yet published in the Official Journal.

<sup>2</sup> Not yet published in the Official Journal.

*Text proposed by the Commission*

(1) A number of substantive changes are to be made to Council Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted<sup>31</sup> (recast). 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 European Union*** and ensure an equality of treatment of beneficiaries of international protection that Directive should be repealed and replaced by a Regulation.

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<sup>31</sup> OJ L 337, 20.12.2011, p. 9.

*Amendment*

(1) A number of substantive changes are to be made to Council Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted<sup>31</sup> (recast). To ensure harmonisation and more convergence in asylum decisions and as regards the content of international protection in order to ***encourage beneficiaries of international protection to remain in the Member State that grants them protection*** and ensure an equality of treatment of beneficiaries of international protection that Directive should be repealed and replaced by a Regulation.

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<sup>31</sup> OJ L 337, 20.12.2011, p. 9.

Or. en

*Justification*

*The Rapporteur prefers to lay down positive incentives for beneficiaries of international protection to remain in the Member State that grants them protection.*

**Amendment 2**

**Proposal for a regulation**

**Recital 2**

*Text proposed by the Commission*

(2) A common policy on asylum, including a Common European Asylum System (CEAS) which is based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967 (Geneva Convention), is a constituent part

*Amendment*

(2) A common policy on asylum, including a Common European Asylum System (CEAS) which is based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967 (Geneva Convention), is a constituent part

of the European Union's objective of establishing progressively an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Union. Such a policy should be governed by the principle of solidarity and fair sharing of responsibility, ***including its financial implications***, between the Member States.

of the European Union's objective of establishing progressively an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Union. Such a policy should be governed by the principle of solidarity and fair sharing of responsibility, between the Member States.

Or. en

#### *Justification*

*Genuine solidarity involves the proper distribution of those seeking international protection across the Member States. Financial solidarity should not be a preferred form of solidarity.*

### **Amendment 3**

#### **Proposal for a regulation**

##### **Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) At present, Member States only recognise asylum decisions issued by other Member States where those decisions refuse to grant international protection. In order to ensure the proper implementation of Article 78(2) of the Treaty on the Functioning of the European Union (TFEU), which calls for a uniform status of asylum valid throughout the Union, Member States should move towards a mutual recognition of asylum decisions issued by other Member States which grant international protection to persons in need.***

Or. en

#### *Justification*

*Ultimately, full mutual recognition of international protection decisions taken by Member States will be necessary in order to establishment a truly uniform status of international*

protection in the Union. The rapporteur considers this should be based on a uniform status of asylum and of subsidiary protection valid throughout the Union; common procedures, criteria and standards concerning the conditions for the reception of applicants for asylum or subsidiary protection.

#### Amendment 4

##### Proposal for a regulation

##### Recital 4

###### *Text proposed by the Commission*

(4) In its Communication of 6 April 2016,<sup>32</sup> the Commission set out its options for improving the CEAS, namely to establish a sustainable and fair system for determining the Member State responsible for asylum seekers, to reinforce the Eurodac system, to achieve greater convergence in the EU asylum system, to prevent secondary movements within the European Union and a new mandate for the European Union Agency for Asylum agency. That Communication is in line with calls by the European Council on 18-19 February 2016<sup>33</sup> to make progress towards reforming the EU's existing framework so as to ensure a humane and efficient asylum policy. ***It also proposes*** a way forward in line with the holistic approach to migration set out by the European Parliament in its own initiative report of 12 April 2016.

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<sup>32</sup> COM (2016) 197 final.

<sup>33</sup> EUCO 19.02.2016, SN 1/16.

###### *Amendment*

(4) In its Communication of 6 April 2016,<sup>32</sup> the Commission set out its options for improving the CEAS, namely to establish a sustainable and fair system for determining the Member State responsible for asylum seekers, to reinforce the Eurodac system, to achieve greater convergence in the EU asylum system, to prevent secondary movements within the European Union and a new mandate for the European Union Agency for Asylum (***the*** Agency). That Communication is in line with calls by the European Council on 18-19 February 2016<sup>33</sup> to make progress towards reforming the EU's existing framework so as to ensure a humane and efficient asylum policy. ***However, it fails to propose*** a way forward in line with the holistic approach to migration set out by the European Parliament in its own initiative report of 12 April 2016.

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<sup>32</sup> COM (2016) 197 final.

<sup>33</sup> EUCO 19.02.2016, SN 1/16.

Or. en

#### Amendment 5

##### Proposal for a regulation

##### Recital 5

*Text proposed by the Commission*

(5) ***For a well-functioning CEAS, including of the Dublin system,*** substantial progress should be made regarding the convergence of national asylum systems with special regard to differing recognition rates and type of protection status in the Member States. ***In addition, rules on status review*** should be strengthened to ensure that protection is ***only*** granted to those who need it ***and for so long as it continues to be needed. Moreover, divergent practices regarding the duration of the residence permits should be avoided,*** and the rights granted to beneficiaries of international protection should be further clarified and harmonised.

*Amendment*

(5) ***A common Union policy on international protection should be based on a uniform status. To move towards 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. ***At the same time, it is important not to overburden administratively the authorities of the Member States. Accordingly, rules*** should be strengthened to ensure that protection is granted to those who need it. ***Moreover, a harmonised duration for residence permits should be established, which should take full account of the current practice in the Member States,*** and the rights granted to beneficiaries of international protection should be further clarified and harmonised.

Or. en

*Justification*

*The harmonised duration of residence permits granted to those in need of international protection should take full account of current practice across the Member States and should not be based on a “race to the bottom” principle.*

## **Amendment 6**

### **Proposal for a regulation**

#### **Recital 7**

*Text proposed by the Commission*

(7) The main objective of this Regulation is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection and, on the other hand, to ensure that a common set of rights is available ***for*** those persons in

*Amendment*

(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 ***to all*** those persons ***in***

all Member States.

*need of international protection* in all Member States.

Or. en

*Justification*

*All persons in need of international protection should be entitled to the same rights across the Union.*

**Amendment 7**

**Proposal for a regulation**

**Recital 8**

*Text proposed by the Commission*

(8) The further approximation of rules on the recognition and content of refugee and subsidiary protection status should moreover help to limit the secondary movement of applicants for international protection and beneficiaries of international protection between Member States, *where such movement may have been caused by any differences in the national legal measures taken to transpose the Qualification Directive replaced by this Regulation.*

*Amendment*

(8) The further approximation of rules on the recognition and content of refugee and subsidiary protection status should moreover help to limit the secondary movement of applicants for international protection and beneficiaries of international protection between Member States.

Or. en

*Justification*

*It is not clear that differences in transposing the existing Qualifications Directive are the cause of secondary movements.*

**Amendment 8**

**Proposal for a regulation**

**Recital 9**

*Text proposed by the Commission*

(9) This Regulation does not apply to other national humanitarian statuses

*Amendment*

(9) This Regulation does not apply to other national humanitarian statuses

granted by Member States under their national law to those who do not qualify for the refugee status or the subsidiary protection status. *These statuses, if issued, are to be issued in a way not to entail a risk of confusion with international protection.*

granted by Member States under their national law to those who do not qualify for the refugee status or the subsidiary protection status.

Or. en

#### *Justification*

*So long as national statuses for humanitarian protection continue to exist, it is very difficult to understand how there would not be a risk of confusion with refugee status and subsidiary protection status.*

### **Amendment 9**

#### **Proposal for a regulation**

##### **Recital 10**

###### *Text proposed by the Commission*

(10) Successful resettlement candidates should be granted international protection. Accordingly, the provisions of this Regulation on the content of international protection should apply, *including the rules to discourage secondary movement.*

###### *Amendment*

(10) Successful resettlement candidates should be granted international protection. Accordingly, the provisions of this Regulation on the content of international protection should apply.

Or. en

#### *Justification*

*The Rapporteur prefers to lay down positive incentives for beneficiaries of international protection to remain in the Member State that grants them protection.*

### **Amendment 10**

#### **Proposal for a regulation**

##### **Recital 11**

###### *Text proposed by the Commission*

(11) This Regulation respects the fundamental rights and observes the

###### *Amendment*

(11) This Regulation respects the fundamental rights and observes the

principles recognised in particular by the Charter of Fundamental Rights of the European Union (the Charter). In particular this Regulation seeks to ensure full respect for human dignity and the right to asylum of applicants for asylum and their accompanying family members and to promote the application of the Charter's Articles relating to human dignity, respect for private and family life, freedom of expression and information, right to education, freedom to choose an occupation and right to engage in work, freedom to conduct a business, right to asylum, non-discrimination, rights of the child, social security and social assistance, health care, and should therefore be implemented accordingly.

principles recognised in particular by the Charter of Fundamental Rights of the European Union (the Charter). In particular this Regulation seeks to ensure full respect for human dignity and the right to asylum of applicants for asylum and their accompanying family members and to promote the application of the Charter's Articles relating to human dignity, respect for private and family life, ***protection in the event of removal, expulsion or extradition***, freedom of expression and information, right to education, freedom to choose an occupation and right to engage in work, freedom to conduct a business, right to asylum, non-discrimination, rights of the child, social security and social assistance, health care, and should therefore be implemented accordingly.

Or. en

## Amendment 11

### Proposal for a regulation

#### Recital 13

##### *Text proposed by the Commission*

(13) The resources of the Asylum, Migration and ***Refugee*** Fund should be used to provide adequate support to Member States' efforts in implementing the standards set by the Regulation, in particular to those Member States which are faced with specific and disproportionate pressure on their asylum systems, due in particular to their geographical or demographic situation.

##### *Amendment*

(13) The resources of the Asylum, Migration and ***Integration*** Fund should be used to provide adequate support to Member States' efforts in implementing the standards set by the Regulation, in particular to those Member States ***that*** are faced with specific and disproportionate pressure on their asylum systems, due in particular to their geographical or demographic situation. ***In addition, 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 can be used to fund actions in that area, for example integration actions, such as those available under the European Social***

*Fund, the Fund for European Aid to the Most Deprived, Horizon 2020, the European Regional Development Fund and the Rights, Equality and Citizenship Programme. Those funds should be made directly accessible to local and regional authorities for actions that fall directly under their responsibilities.*

Or. en

### *Justification*

*The correct title of the Fund is the Asylum, Migration and Integration Fund. Furthermore, Member States should be encouraged to maximise their absorption capacity in relation to other funds which might provide financing for integration actions for persons in need of international protection.*

## **Amendment 12**

### **Proposal for a regulation**

#### **Recital 14**

#### *Text proposed by the Commission*

(14) The **European Union Agency for Asylum** should provide adequate support in the application of this Regulation, in particular by providing experts to assist the Member State authorities to receive, register, and examine applications for international protection, providing updated information regarding third countries, including Country of Origin Information, and other relevant guidelines and tools. When applying this Regulation, Member States' authorities should take into account operational standards, indicative guidelines, and best practices developed by the **European Union Agency for Asylum [the Agency]**. When assessing applications for international protection, Member States' authorities should take **particular** account of the information, reports, common analysis and guidance on the situation in countries of origin developed at Union level by the Agency and the European

#### *Amendment*

(14) The Agency should provide adequate support in the application of this Regulation, in particular by providing experts to assist the Member State authorities to receive, register, and examine applications for international protection, providing updated information regarding third countries, including Country of Origin Information, and other relevant guidelines and tools. When applying this Regulation, Member States' authorities should take into account operational standards, indicative guidelines, and best practices developed by the Agency. When assessing applications for international protection, Member States' authorities should take account of the information, reports, common analysis and guidance on the situation in countries of origin developed at Union level by the Agency and the European networks on country of origin information in accordance with

networks on country of origin information in accordance with Articles 8 and 10 of Regulation<sup>34</sup>

Articles 8 and 10 of Regulation<sup>34</sup>. ***In addition, when assessing applications for international protection, Member States should take into account all relevant information from the UNHCR and from civil society organisations active on the ground.***

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<sup>34</sup> COM(2016)271 final.

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<sup>34</sup> COM(2016)271 final.

Or. en

### *Justification*

*While the rapporteur agrees that information from the European Asylum Support Office should be used by Member States when assessing applications for international protection, the Agency should not be the sole source of information. UNHCR and other relevant actors on the ground also provide detailed information on the situation in third countries.*

## **Amendment 13**

### **Proposal for a regulation**

#### **Recital 16**

##### *Text proposed by the Commission*

(16) The notion of family members should take into account the different particular circumstances of dependency and the special attention to be paid to the best interests of the child. It should also reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The notion should therefore include families formed outside the country of origin, ***but before*** their arrival on the territory of the Member State.

##### *Amendment*

(16) The notion of family members should take into account ***family diversity***, the different particular circumstances of dependency and the special attention to be paid to the best interests of the child. It should also reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The notion should therefore include families formed ***both*** outside the country of origin ***and families formed after*** their arrival on the territory of the Member State, ***excluding, in all cases, forced marriages. The notion of spouse and unmarried partner should not distinguish the spouses or such partners on the basis of their gender.***

Or. en

### *Justification*

*Families formed after their arrival on the territory of the Member State should be included under the definition of family members. However, forced marriages - irrespective of where they take place - should be excluded.*

## **Amendment 14**

### **Proposal for a regulation**

#### **Recital 22**

#### *Text proposed by the Commission*

(22) 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.

#### *Amendment*

(22) In particular, it is necessary to introduce common concepts of protection needs arising sur place, sources of harm and protection, and persecution, including the reasons for persecution.

Or. en

### *Justification*

*The Rapporteur does not believe that the concept of internal protection is sufficiently well developed, clear or safe to be applied in a completely harmonised manner.*

## **Amendment 15**

### **Proposal for a regulation**

#### **Recital 23**

#### *Text proposed by the Commission*

(23) Protection can be provided, where they are willing and able to offer protection, either by the State or by parties or organisations, including international organisations, meeting the conditions set out in this **Directive**, which control a region or a larger area within the territory of the State. Such protection should be effective and of a non-temporary nature.

#### *Amendment*

(23) Protection can be provided, where they are willing and able to offer protection, either by the State or by parties or organisations, **mandated by the State**, including international organisations, meeting the conditions set out in this **Regulation**, which control a region or a larger area within the territory of the State. Such protection should be effective and of a non-temporary nature.

Or. en

## *Justification*

*Article 1D of Geneva convention also applies to persons who receive protection by the UNHCR which has to be mandated by the State in order to be present on the territory of that State. Furthermore, non-State actors should not be considered as actors of protection, unless they have been mandated by the State specifically to do so, as they cannot be held accountable under international law, they could only provide protection which is temporary and limited in its effectiveness.*

## **Amendment 16**

### **Proposal for a regulation**

#### **Recital 24**

##### *Text proposed by the Commission*

(24) Internal protection against persecution or serious harm ***should*** be effectively available to the applicant in a part of the country of origin where he or she can safely and legally travel to, gain admittance to and can reasonably be expected to settle. The assessment of whether such internal protection exists ***should be an inherent*** part of the assessment the application for international protection ***and should be carried out once it has been established by the determining authority that the qualification criteria would otherwise apply***. The burden of demonstrating the availability of internal protection should fall on the determining authority.

##### *Amendment*

(24) Internal protection against persecution or serious harm ***might*** be effectively available to the applicant in a part of the country of origin where he or she can safely and legally travel to, gain admittance to and can reasonably be expected to settle. The assessment of whether such internal protection exists ***might form*** part of the assessment ***of*** the application for international protection, ***provided that the State or agents of the State are not the actors of persecution or serious harm***. The burden of demonstrating the availability of internal protection should ***exclusively*** fall on the determining authority ***but should not preclude the applicant from presenting evidence to rebut any finding by the determining authority that internal protection is available***.

Or. en

## *Justification*

*Member States should be entitled to use the concept of internal protection in their overall examination of an application for international protection. However, such an alternative should not be relied upon by Member States in circumstances where the persecution or serious harm emanates from the State or agents associated with the State.*

## Amendment 17

### Proposal for a regulation Recital 25

#### *Text proposed by the Commission*

(25) Where the State or agents of the State are the actors of persecution or serious harm, there should be a presumption that effective protection is not available to the applicant. When the applicant is an unaccompanied minor, the availability of appropriate care and custodial arrangements, which are in the best interests of the unaccompanied minor, should form part of the assessment as to whether that protection is effectively available.

#### *Amendment*

(25) Where the State or agents of the State are the actors of persecution or serious harm, there should be a presumption that effective protection is not available to the applicant **and the provision relating to internal protection should not apply**. When the applicant is an unaccompanied minor, the availability of appropriate care and custodial arrangements, which are in the best interests of the unaccompanied minor, should form part of the assessment as to whether that protection is effectively available.

Or. en

#### *Justification*

*The internal protection alternative should not be relied upon by Member States in circumstances where the persecution or serious harm emanates from the State or agents associated with the State.*

## Amendment 18

### Proposal for a regulation Recital 26

#### *Text proposed by the Commission*

(26) It is necessary, when assessing applications from minors for international protection, that the determining authorities **should** have regard to child-specific forms of persecution.

#### *Amendment*

(26) It is necessary, when assessing applications from minors for international protection, that the determining authorities have regard to child-specific forms **of persecution or the absence of protection against such acts** of persecution.

Or. en

### *Justification*

*The absence of protection against persecution is also a factor to be considered in assessing the availability of protection, particularly with regard to minors.*

## **Amendment 19**

### **Proposal for a regulation**

#### **Recital 28**

##### *Text proposed by the Commission*

(28) It is equally necessary to introduce a common concept of the persecution ground ‘membership of a particular social group’. For the purposes of defining a particular social group, issues arising from an applicant’s gender, including gender identity and sexual orientation, which may be related to certain legal traditions and customs, resulting in for example genital mutilation, forced sterilisation or forced abortion, should be given due consideration in so far as they are related to the applicant’s well-founded fear of persecution.

##### *Amendment*

(28) It is equally necessary to introduce a common concept of the persecution ground ‘membership of a particular social group’. For the purposes of defining a particular social group, issues arising from an applicant’s gender, including gender identity, ***sex characteristics*** and sexual orientation, which may be related to certain legal traditions and customs, resulting in for example genital mutilation, forced sterilisation or forced abortion, should be given due consideration in so far as they are related to the applicant’s well-founded fear of persecution.

Or. en

### *Justification*

*The sex characteristics of an applicant might also be a factor in determining whether that applicant belongs to a particular social group.*

## **Amendment 20**

### **Proposal for a regulation**

#### **Recital 29**

##### *Text proposed by the Commission*

(29) In accordance with relevant case law of the Court of Justice of the European Union, when assessing applications for international protection, the competent authorities of the Member States should use methods for the assessment of the

##### *Amendment*

(29) In accordance with relevant case law of the Court of Justice of the European Union, when assessing applications for international protection, the competent authorities of the Member States should use methods for the assessment of the

applicant's credibility in a manner that respects the individual's rights as guaranteed by the Charter, in particular the right to human dignity and the respect for private and family life. Specifically as regards **homosexuality**, the individual assessment of the applicant's credibility should not be based on stereotyped notions concerning **homosexuals** and the applicant should not be submitted to detailed questioning or tests as to his or her sexual practices.

applicant's credibility in a manner that respects the individual's rights as guaranteed by the Charter, in particular the right to human dignity and the respect for private and family life. Specifically as regards **sexual orientation and gender identity**, the individual assessment of the applicant's credibility should not be based on stereotyped notions concerning **sexual orientation and gender identity** and the applicant should not be submitted to detailed questioning or tests as to his or her sexual practices. **Moreover, the competent national authorities should not find that the statements of the applicant lack credibility on the sole ground that the applicant did not rely on his or her sexual orientation, gender identity, gender expression or sex characteristics when he or she first set out the details of his or her persecution.**

Or. en

#### *Justification*

*Late disclosure is one of the four parameters referred to in the recent judgement of the CJEU in the case of A, B and C v Staatssecretaris van Veiligheid en Justitie, of 2 December 2014 but has not been mentioned in the Commission text and it should be added. For LGBTI asylum seekers, fear and stigma often lead to late disclosure of their sexual orientation, gender identity, gender expression or sex characteristics. Their applications should not suffer as a sole result of such late disclosure.*

#### **Amendment 21**

##### **Proposal for a regulation**

##### **Recital 31 a (new)**

*Text proposed by the Commission*

*Amendment*

**(31a) The recognition of subsidiary protection status is a declaratory act.**

Or. en

### *Justification*

*As both refugee status and subsidiary protection should, in the rapporteur's view, give rise to the same rights in the Member State granting protection, their status should be equalised in the Regulation.*

## **Amendment 22**

### **Proposal for a regulation**

#### **Recital 34**

##### *Text proposed by the Commission*

(34) For the purpose of assessing serious harm which may qualify applicants as eligible for subsidiary protection, the notion of indiscriminate violence, in accordance with relevant case law of the European Court of Justice, should include violence that may extend to people irrespective of their personal circumstance.

##### *Amendment*

(34) For the purpose of assessing serious harm which may qualify applicants as eligible for subsidiary protection, the notion of indiscriminate violence, in accordance with relevant case law of the European Court of Justice, should include violence that may extend to people irrespective of their personal circumstance. ***Factors to be taken into account when determining whether indiscriminate violence exists could include external aggression, occupation, foreign domination, internal conflicts, severe violation of human rights or events seriously disturbing public order in the country of origin, or in a part thereof.***

Or. en

### *Justification*

*Certain factors should be taken into account when considering whether indiscriminate violence exists. The list is not exhaustive.*

## **Amendment 23**

### **Proposal for a regulation**

#### **Recital 36 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***(36a) A person in need of protection because he or she is unable to return to his or her country of origin due to a***

***natural or man-made disaster should also be eligible to qualify for protection under this Regulation.***

Or. en

*Justification*

*Persons or groups of persons, who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes and are in search and need of protection should qualify under this Regulation for international protection in the European Union.*

**Amendment 24**

**Proposal for a regulation  
Recital 37**

*Text proposed by the Commission*

(37) The residence permit and 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 the rules laid down by Regulation (EC) No 1030/2002 and Council Regulation (EC) No 2252/2004 respectively.

*Amendment*

(37) The residence permit and the travel documents issued to beneficiaries of international protection following the entry into force of this Regulation should comply with the rules laid down by Regulation (EC) No 1030/2002 and Council Regulation (EC) No 2252/2004 respectively.

Or. en

*Justification*

*It is irrelevant whether the residence permit or a travel document is issued for the first time or renewed, as it should always comply with the respective Regulations.*

**Amendment 25**

**Proposal for a regulation  
Recital 39**

*Text proposed by the Commission*

(39) With a view to ascertaining whether beneficiaries of international protection are still in need of ***that*** protection, determining

*Amendment*

(39) With a view to ascertaining whether beneficiaries of international protection are still in need of protection, determining

authorities *should* review the granted status ***when the residence permit has to be renewed, for the first time in the case of refugees, and for the first and second time in the case of beneficiaries of subsidiary protection, as well as*** when a significant relevant change in the beneficiaries' country of origin occurs as indicated by common analysis and guidance on the situation in the country of origin provided at Union level by the Agency and the European networks on country of origin information in accordance with Articles 8 and 10 of Regulation<sup>37</sup> .

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<sup>37</sup> COM(2016)271 final.

authorities *might* review the granted status when a significant relevant change in the beneficiaries' country of origin occurs as indicated by common analysis and guidance on the situation in the country of origin provided at Union level by the Agency and the European networks on country of origin information in accordance with Articles 8 and 10 of Regulation<sup>37</sup> .

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<sup>37</sup> COM(2016)271 final.

Or. en

### *Justification*

*A systematic review of protection needs would prove highly resource-intensive for the determining authorities of the Member States. It is not at all the case that the authorities responsible for decisions on the need for international protection are the same authorities as those which issue residence permits. It is also important not to unduly undermine integration prospects via the perception that protection may only be temporary.*

## **Amendment 26**

### **Proposal for a regulation Recital 41**

#### *Text proposed by the Commission*

(41) When the *refugee* status ***or the subsidiary*** protection ***status*** ceases to exist, the application of the decision by which the determining authority of a Member State ***revokes, ends or does not renew*** the status should be deferred for a reasonable period of time after adoption, in order to give the third-country national or stateless person concerned the possibility to apply for residence on the basis of other grounds than those having justified the granting of international protection, such as family

#### *Amendment*

(41) When the status ***of the beneficiary of international*** protection ceases to exist, the application of the decision by which the determining authority of a Member State ***withdraws*** the status should be deferred for a reasonable period of time after adoption, in order to give the third-country national or stateless person concerned the possibility to apply for residence on the basis of other grounds than those having justified the granting of international protection, such as family reasons, or

reasons, or reasons related to employment or to education, in accordance with relevant Union and national law.

reasons related to employment or to education, in accordance with relevant Union and national law.

Or. en

## Amendment 27

### Proposal for a regulation

#### Recital 42

##### *Text proposed by the Commission*

(42) Beneficiaries of international protection should reside in the Member State which granted them protection. Those beneficiaries who are in possession of a valid travel document and a residence permit issued by a Member State applying the Schengen acquis in full, should be allowed to enter into and move freely within the territory of the Member States applying the Schengen acquis in full, **for a period up to 90 days in any 180-day period** in accordance with Schengen Borders Code<sup>38</sup> and with Article 21 of the Convention implementing the Schengen Agreement<sup>39</sup>. Beneficiaries of international protection can equally apply to reside in a Member State other than the Member State which granted protection, in accordance with relevant EU rules, notably on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment<sup>40</sup> and national rules; however, this does not imply any transfer of the international protection and related rights.

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<sup>38</sup> Regulation 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders.

<sup>39</sup> Schengen Agreement of 14 June 1985 between the Governments of the States of

##### *Amendment*

(42) Beneficiaries of international protection should reside in the Member State which granted them protection. Those beneficiaries who are in possession of a valid travel document and a residence permit issued by a Member State applying the Schengen acquis in full, should be allowed to enter into and move freely within the territory of the Member States applying the Schengen acquis in full, **within the authorised period of stay** in accordance with Schengen Borders Code<sup>38</sup> and with Article 21 of the Convention implementing the Schengen Agreement<sup>39</sup>. Beneficiaries of international protection can equally apply to reside in a Member State other than the Member State which granted protection, in accordance with relevant EU rules, notably on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment<sup>40</sup> and national rules; however, this does not imply any transfer of the international protection and related rights.

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<sup>38</sup> Regulation 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders.

<sup>39</sup> 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.

<sup>40</sup> COM (2016) 378 final.

the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

<sup>40</sup> COM (2016) 378 final.

Or. en

#### *Justification*

*A recital need not contain such detailed elements regarding periods of time which could be subject to revision and which are part of the enacting provisions in the articles. The recitals should rather lay down the rationale of the main provisions of the act.*

### **Amendment 28**

#### **Proposal for a regulation**

##### **Recital 43**

###### *Text proposed by the Commission*

(43) ***In order to prevent secondary movements within the European Union,*** beneficiaries of international protection, if found in a Member State other than the Member State having granted them protection without fulfilling the conditions of stay or reside, should be taken back by the Member State responsible in accordance with the procedure laid down by Regulation<sup>41</sup>

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<sup>41</sup> (EU)No [xxx/xxxx New Dublin Regulation].

###### *Amendment*

(43) Beneficiaries of international protection, if found in a Member State other than the Member State having granted them protection without fulfilling the conditions of stay or reside, should be taken back by the Member State responsible in accordance with the procedure laid down by Regulation<sup>41</sup>

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<sup>41</sup> (EU)No [xxx/xxxx New Dublin Regulation].

Or. en

#### *Justification*

*In line with the Rapporteur's approach to encouraging beneficiaries to remain and integrate in the Member State that grants international protection, prevention of secondary movement should be a welcome side product of such a policy but not the driver.*

## Amendment 29

### Proposal for a regulation Recital 44

*Text proposed by the Commission*

(44) ***In order to discourage secondary movements within the European Union, the Long Term Residence Directive 2003/109/EC should be amended to provide that the 5-year period after which beneficiaries of international protection are eligible for the Long Term Resident status should be restarted each time the person is found in a Member State, other than the one that granted international protection, without a right to stay or to reside there in accordance with relevant Union or national law.***

*Amendment*

(44) ***To encourage*** beneficiaries of international protection ***to remain in the*** Member State that granted ***them such*** protection, ***the duration of residence permits granted to them should be harmonised for an appropriate period of time.***

Or. en

#### *Justification*

*Secondary movement of beneficiaries of international protection should be discouraged not by promoting sanctions against beneficiaries but by encouraging them to remain in the Member State which grants protection and integrate there. One such form of encouragement is to harmonise the duration of the residence permits granted to beneficiaries of international protection for a sufficiently long period of time. Such a harmonised period should take account of current practices across the Member States.*

## Amendment 30

### Proposal for a regulation Recital 45

*Text proposed by the Commission*

(45) The notion of national security and public order also covers cases in which a third-country national belongs to an association which supports international terrorism ***or supports such an association.***

*Amendment*

(45) The notion of national security and public order also covers cases in which a third-country national belongs to an association which supports international terrorism.

Or. en

### *Justification*

*The notion of supporting an association that in turn supports terrorism is too vague a concept to provide legal clarity.*

### **Amendment 31**

#### **Proposal for a regulation**

#### **Recital 49 a (new)**

*Text proposed by the Commission*

*Amendment*

*(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, which should include accommodation, literacy and language courses, inter-cultural dialogue, education and professional training, as well as effective access to democratic structures in society.*

Or. en

### *Justification*

*The Rapporteur believes that integration is one of the key elements of enhancing the proper functioning of the Common European Asylum System. If beneficiaries are properly integrated into their host societies, incentives to engage in secondary movements should be reduced significantly.*

### **Amendment 32**

#### **Proposal for a regulation**

#### **Recital 51**

*Text proposed by the Commission*

(51) In addition, especially to avoid social hardship, it is appropriate to provide beneficiaries of international protection with social assistance without discrimination. ***However, as regards beneficiaries of subsidiary protection, Member States should be given some flexibility, to limit such rights to core benefits, which is to be understood as covering at least minimum income support, assistance in the case of illness, or pregnancy, and parental assistance, in so far as those benefits are granted to nationals under national law.*** In order to facilitate their integration, Member States should be given the possibility to make the access to certain ***type*** of social assistances specified in national law, ***for both refugees and beneficiaries of subsidiary protection,*** conditional on the effective participation of the beneficiary of international protection in integration measures.

*Amendment*

(51) In addition, especially to avoid social hardship, it is appropriate to provide beneficiaries of international protection with social assistance without discrimination. In order to facilitate their integration, Member States should be given the possibility to make the access to certain ***types*** of social assistances specified in national law conditional on the effective participation of the beneficiary of international protection in integration measures.

Or. en

*Justification*

*It is not at all clear why persons who are in need of protection and who are granted subsidiary protection should not receive the social assistance enjoyed by other persons needing international protection. There should be no unequal treatment between persons in need of international protection. This is both legally dubious and administratively unhelpful. Once the need for protection has been established these persons all have the same social needs in the hosting Member State.*

**Amendment 33**

**Proposal for a regulation**  
**Recital 52 a (new)**

*Text proposed by the Commission*

*Amendment*

***(52a) Beneficiaries of international protection should enjoy access to goods and services and the supply of goods and***

*services made available to the public, including information and counselling services provided by employment offices.*

Or. en

#### *Justification*

*The wording of the recital is aligned with wording proposed by the European Commission for equal treatment provisions in legal migration instruments (notably the revision of the Blue Card). The recitals finds expression in Articles 30 and 35 respectively.*

### **Amendment 34**

#### **Proposal for a regulation Recital 53**

##### *Text proposed by the Commission*

(53) In order to facilitate the integration of beneficiaries of international protection into society, beneficiaries of international protection shall have access to integration measures, modalities to be set by the Member States. Member States may make the participation in such integration measures, such as language courses, civic integration courses, vocational training and other employment-related courses compulsory.

##### *Amendment*

(53) In order to facilitate the integration of beneficiaries of international protection into society, beneficiaries of international protection shall have access to integration measures, modalities to be set by the Member States. Member States may make the participation in such integration measures, such as language courses, civic integration courses, vocational training and other employment-related courses compulsory, ***provided that those integration measures are easily accessible, available and free of charge.***

Or. en

#### *Justification*

*The Rapporteur welcomes the provisions on access to integration measures but believes that such measures must always be free of charge, easily accessible to beneficiaries of international protection (i.e. not limited to one or two big cities in a Member State) and take account of any particular needs of the beneficiary in question. This is even more imperative if a Member State wishes to make participation compulsory for beneficiaries of international protection.*

## Amendment 35

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 9 – introductory part

*Text proposed by the Commission*

(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 ***in the same Member State in relation to the application for international protection***:

*Amendment*

(9) ‘family members’ means the following members of the family of the beneficiary of international protection who are present ***on the territory of the Member States***:

Or. en

*Justification*

*Families formed after their arrival on the territory of the Member State should be included under the definition of family members. However, forced marriages - irrespective of where they take place, should be excluded.*

## Amendment 36

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 9 – point a

*Text proposed by the Commission*

(a) the spouse of the beneficiary of international protection or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its ***law relating to third-country nationals***;

*Amendment*

(a) the spouse of the beneficiary of international protection or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its ***relevant national law***;

Or. en

## Amendment 37

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 9 – point b

*Text proposed by the Commission*

*Amendment*

(b) the minor children of the couples referred to in point (a) or of the beneficiary of international protection, ***on condition that they are unmarried and*** regardless of whether they were born in or out of wedlock or adopted as defined under national law;

(b) the minor children of the couples referred to in point (a) or of the beneficiary of international protection regardless of whether they were born in or out of wedlock or adopted as defined ***or recognised*** under national law;

Or. en

*Justification*

*The Rapporteur does not believe that the married or unmarried status of children should be a factor when determining the members of a family.*

**Amendment 38**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 9 – point c**

*Text proposed by the Commission*

*Amendment*

(c) the father, mother or another adult responsible for the beneficiary ***of international protection*** whether by law or by ***the*** practice of the Member State concerned, ***when that beneficiary is a minor and unmarried;***

(c) ***where the beneficiary is a minor,*** the father, mother or another adult responsible for the beneficiary, whether by law or by practice of the Member State concerned;

Or. en

*Justification*

*The Rapporteur does not believe that the married or unmarried status of children should be a factor when determining who the family members are.*

**Amendment 39**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 9 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) the sibling or siblings of the beneficiary of international protection;*

Or. en

*Justification*

*This indent is taken from the definition of "family members" proposed in the new recast Dublin Regulation.*

## **Amendment 40**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 19**

*Text proposed by the Commission*

*Amendment*

(19) 'guardian' means a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Regulation with a view to *ensuring* the best interests of the child and exercising legal capacity for the minor where necessary.

(19) 'guardian' means a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Regulation with a view to *safeguarding* the best interests of the child *and his or her well-being* and exercising legal capacity for the minor where necessary.

Or. en

*Justification*

*Harmonisation of definitions and reference to UNCRC, Art. 3.*

## **Amendment 41**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The applicant shall submit all the elements available to him or her which substantiate the application for

1. The applicant shall submit all the elements available to him or her which substantiate the application for

international protection. **He or she** shall cooperate **with the determining authority and** shall remain present and available throughout the procedure.

international protection. **The determining authority and the applicant** shall cooperate **throughout the procedure. The applicant** shall remain present and available throughout the procedure.

Or. en

### *Justification*

*In line with the case-law of the Court of Justice of the European Union, it is incumbent on the determining authorities to cooperate with the applicant when determining the relevant elements of the case. This is also the wording used in Article 4(1) of the existing Directive.*

## **Amendment 42**

### **Proposal for a regulation Article 4 – paragraph 3**

#### *Text proposed by the Commission*

3. The determining authority shall assess the relevant elements of the application in accordance with Article 33 of Regulation (EU)XXX/XXX [Procedures regulation.]

#### *Amendment*

3. The determining authority shall assess the relevant elements of the application **for international protection** in accordance with Article 33 of Regulation (EU)XXX/XXX [Procedures regulation.]

Or. en

## **Amendment 43**

### **Proposal for a regulation Article 4 – paragraph 5 – point a**

#### *Text proposed by the Commission*

(a) the applicant has made a genuine effort to substantiate his or her application;

#### *Amendment*

(a) the applicant has made a genuine effort to substantiate his or her application **for international protection;**

Or. en

## Amendment 44

### Proposal for a regulation

#### Article 4 – paragraph 5 – point d

*Text proposed by the Commission*

*Amendment*

*(d) the applicant has applied for international protection at the earliest possible time, unless the applicant can demonstrate good reason for not having done so;*

*deleted*

Or. en

#### *Justification*

*There are many reasons why an applicant might not seek international protection immediately. Whether the applicant has applied for international protection at the earliest moment possible should not determine the weight attached to an applicant's statements*

## Amendment 45

### Proposal for a regulation

#### Article 5 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. *Without prejudice to* the Geneva Convention *and* the European Convention on Human Rights, an applicant who files a subsequent application in accordance with Article 42 of Regulation (EU)XXX/XXX [Procedures regulation] *shall not normally be granted* refugee status or subsidiary protection status if the risk of persecution or the serious harm is based on circumstances which the applicant has created by his or her own decision since leaving the country of origin.

3. *Provided that any decision taken is fully in line with* the Geneva Convention, the European Convention *for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union*, an applicant who files a subsequent application in accordance with Article 42 of Regulation (EU)XXX/XXX [Procedures regulation] *may be refused* refugee status or subsidiary protection status if the risk of persecution or the serious harm is based on circumstances which the applicant has created by his or her own decision since leaving the country of origin.

Or. en

*Justification*

*The case-law of the Court of Justice of the European Union makes it clear that the applicant is not required to act discreetly, abstain from religious practice or conceal their sexual orientation to be entitled to international protection. If international protection is to be refused, then any such refusal must be fully in line with the Geneva Convention and with the case-law of the CJEU and the ECtHR.*

**Amendment 46**

**Proposal for a regulation**

**Article 7 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State

*Amendment*

(b) parties or organisations, **mandated by the State**, including international organisations, controlling the State or a substantial part of the territory of the State,

Or. en

*Justification*

*Article 1D of Geneva convention also applies to persons who receive protection by the UNHCR which has to be mandated by the State in order to be present on the territory of that State. Furthermore, non-State actors should not be considered as actors of protection, unless they have been mandated by the State specifically to do so, as they cannot be held accountable under international law, they could only provide protection which is temporary and limited in its effectiveness.*

**Amendment 47**

**Proposal for a regulation**

**Article 7 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

**provided** they are willing and able to **offer** protection in accordance with paragraph 2.

*Amendment*

**as long as** they are willing and able to **provide** protection in accordance with paragraph 2.

Or. en

### *Justification*

*Protection for the applicant must be demonstrated in practice and in that particular case, and not merely in principle or in general terms. It should be demonstrated by the competent authority that the protection is not only temporary and limited in its effectiveness.*

## **Amendment 48**

### **Proposal for a regulation**

#### **Article 8 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

1. As part of the assessment of the application for international protection, the determining authority **shall** determine that an applicant is not in need of international protection if he or she can safely and legally travel to and gain admittance to a part of the country of origin and can reasonably be expected to settle there and if, in that part of the country, he or she:

##### *Amendment*

1. As part of the assessment of the application for international protection, **and provided that the State or agents of the State are not the actors of persecution or serious harm**, the determining authority **may** determine that an applicant is not in need of international protection if he or she can safely and legally travel to and gain admittance to a part of the country of origin and can reasonably be expected to settle there and if, in that part of the country, he or she:

Or. en

### *Justification*

*The internal protection alternative should not be relied upon by Member States in circumstances where the persecution or serious harm emanates from the State or agents associated with the State. In addition, as the application of the concept of internal protection varies greatly among Member States and as it is not uniformly used, it should remain optional for Member States.*

## **Amendment 49**

### **Proposal for a regulation**

#### **Article 8 – paragraph 2**

##### *Text proposed by the Commission*

2. The **assessment of** the availability of internal protection shall **be carried out once it has been established by** the determining authority **that the**

##### *Amendment*

2. The **burden of demonstrating** the availability of internal protection shall **rest on** the determining authority. **That shall not preclude the applicant from**

*qualification criteria would otherwise apply. The burden of demonstrating the availability of internal protection shall rest on the determining authority.* The applicant shall not be required to prove that, before seeking international protection, he or she has exhausted all possibilities to obtain protection in his or her country of origin.

*presenting evidence to rebut any finding by the determining authority that internal protection is available.* The applicant shall not be required to prove that, before seeking international protection, he or she has exhausted all possibilities to obtain protection in his or her country of origin.

Or. en

### *Justification*

*There are no good reasons why the decision on availability of internal protection should come after the determining authority has already decided that the applicant would otherwise be in need of protection. It should be part of the overall assessment of the applicant's need for protection. In addition, while the Rapporteur welcomes the burden of proof being placed clearly on the determining authority, this should not preclude the applicant from rebutting any finding that internal protection would be available to him or her.*

## **Amendment 50**

### **Proposal for a regulation**

#### **Article 10 – paragraph 1 – point d – introductory part**

##### *Text proposed by the Commission*

(d) the concept of a particular social group shall include, in particular, a group where:

##### *Amendment*

(d) the concept of **membership of** a particular social group shall include, in particular, a group where:

Or. en

## **Amendment 51**

### **Proposal for a regulation**

#### **Article 10 – paragraph 1 – point d – indent 1**

##### *Text proposed by the Commission*

- members share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that

##### *Amendment*

- members share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that

a person should not be forced to renounce it, **and**

a person should not be forced to renounce it, **or**

Or. en

#### *Justification*

*The two indents describe two ways in which a particular social group might exist. The indents should therefore be alternative and not cumulative.*

### **Amendment 52**

#### **Proposal for a regulation**

#### **Article 10 – paragraph 1 – point d – subparagraph 2**

##### *Text proposed by the Commission*

depending on the circumstances in the country of origin, the concept **might** include a group based on a common characteristic of sexual orientation (**a term which cannot be understood to include acts considered to be criminal in accordance with national law of the Member States**); gender related aspects, including gender identity, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;

##### *Amendment*

depending on the circumstances in the country of origin, the concept **shall** include a group based on a common characteristic of sexual orientation **and** gender related aspects, including gender identity, **gender expression and sex characteristics**. **Those aspects** shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;

Or. en

#### *Justification*

*Linking sexual orientation to acts considered criminal is out of place and should be removed. Sexual orientation in legislation can never mean acts considered to be criminal and has no legal added-value since the concept of sexual orientation is clearly defined in European treaties and EU law, and thus also recognised in national law.*

### **Amendment 53**

#### **Proposal for a regulation**

#### **Article 10 – paragraph 3**

*Text proposed by the Commission*

3. When assessing if an applicant has a well-founded fear of being persecuted, the determining authority cannot reasonably expect an applicant to behave discreetly or abstain from certain practices, where such behaviour or practices are inherent to his or her identity, to avoid the risk of persecution in his or her country of origin.

*Amendment*

3. When assessing if an applicant has a well-founded fear of being persecuted, the determining authority cannot reasonably expect an applicant to behave discreetly or abstain from certain practices, where such behaviour or practices are inherent to his or her identity **or conscience**, to avoid the risk of persecution in his or her country of origin.

Or. en

*Justification*

*The term 'identity' is somewhat restrictive. It may be a person's conscience that leads him or her to have a well-founded fear of being persecuted.*

**Amendment 54**

**Proposal for a regulation**

**Article 12 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. A third-country national or a stateless person shall be excluded from **being a refugee** if:

*Amendment*

1. A third-country national or a stateless person shall be excluded from **the scope of this Regulation** if:

Or. en

*Justification*

*Article 1(D) of the Geneva Convention does not deny the status of 'refugee' to certain categories of persons. It simply deprives them of the rights and benefits of the Convention. As this Article is also inspired by Article 1(D) of the Geneva Convention, the same approach should be taken in this Regulation.*

**Amendment 55**

**Proposal for a regulation**

**Article 12 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. For the purposes of points (b) and (c) of paragraph 2, the following acts shall be classified as serious non-political crimes:** **deleted**

**(a) particularly cruel actions when the act in question is disproportionate to the alleged political objective,**

**(b) terrorist acts, which are characterised by their violence towards civilian populations, even if committed with a purportedly political objective.**

Or. en

*Justification*

*The case-law of the CJEU, referred to in Recital 31, interprets the provisions of the existing Article 12(2)(b) and (c). Adding an additional paragraph to the Article merely adds confusion. The interpretation of the CJEU is laid out in Recital 31 and that is clear and sufficient to interpret Article 12(2)(b) and (c) with regard to terrorism and particularly cruel actions. Paragraph 5 should thus be deleted.*

## **Amendment 56**

### **Proposal for a regulation Article 12 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

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

Or. en

*Justification*

*The Commission's proposed text in Article 12(6) is terribly confusing insofar as it refers to case law. The principle of proportionality is a general principle of Union law. The CJEU, in*

*its case-law, has stated that whether someone is refused refugee status on the grounds laid down in Article 12 depends on an assessment of the “seriousness of the acts committed”, which in turn requires taking account of “all the circumstances surrounding the acts in question and the situation of that person”. This inevitably requires a proportionality test. The Commission proposal is misleading in that regard and should be deleted.*

## **Amendment 57**

### **Proposal for a regulation**

#### **Article 14 – title**

*Text proposed by the Commission*

*Amendment*

***Revocation of, ending of or refusal to renew*** refugee status

***Withdrawal of*** refugee status

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

Or. en

#### *Justification*

*Article 2(14) of this proposed Regulation provides for a definition of "withdrawal of international protection", which is intended to mean "the decision of competent authority to revoke, end or refuse to renew the refugee or subsidiary protection status". Given that definition, it is appropriate to use the expression "withdrawal of international protection" throughout the Articles and not to repeat constantly "revocation of, ending of or refusal to renew".*

## **Amendment 58**

### **Proposal for a regulation**

#### **Article 14 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. The determining authority shall ***revoke, end or refuse to renew*** the refugee status of a third-country national or stateless person where:

1. The determining authority shall ***withdraw*** the refugee status of a third-country national or stateless person where:

Or. en

*Justification*

*Amendment tabled for consistency with earlier amendments.*

**Amendment 59**

**Proposal for a regulation**

**Article 14 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present;

*Amendment*

(d) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present ***after having been convicted by a final judgment of a particularly serious crime;***

Or. en

*Justification*

*There are no grounds in the Geneva Convention which correspond to the grounds for withdrawal set out in Article 14(1)(d) and (e). The Rapporteur believes they should be merged as it is the fact of having been convicted of a serious crime which would provide the 'reasonable grounds' for determining that the refugee is a danger to the security of the Member State in question.*

**Amendment 60**

**Proposal for a regulation**

**Article 14 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) ***he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the Member State in which he or she is present;***

*Amendment*

***deleted***

Or. en

*Justification*

*There are no grounds in the Geneva Convention which correspond to the grounds for*

*withdrawal set out in Article 14(1)(d) and (e). The Rapporteur believes they should be merged as it is the fact of having been convicted of a serious crime which would provide the 'reasonable grounds' for determining that the refugee is a danger to the security of the Member State in question.*

## **Amendment 61**

### **Proposal for a regulation**

#### **Article 14 – paragraph 1 – point f**

*Text proposed by the Commission*

*Amendment*

**(f) Article 23(2) is applied.**

**deleted**

Or. en

#### *Justification*

*The principle of non-refoulement is absolute according to the Charter of Fundamental Rights of the European Union and the relevant case law of the CJEU and ECtHR. Therefore, no person should be returned if he or she would be subjected to torture or to inhuman or degrading treatment or punishment. This additional paragraph is irrelevant and should be deleted.*

## **Amendment 62**

### **Proposal for a regulation**

#### **Article 14 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. In situations referred to in **points (d) to (f)** of paragraph 1, the determining authority may decide not to grant status to a refugee, where such a decision has not yet been taken.

2. In **the** situations referred to in **point (d)** of paragraph 1, the determining authority may decide not to grant status to a refugee, where such a decision has not yet been taken.

Or. en

#### *Justification*

*Amendment tabled for consistency with earlier amendments.*

## Amendment 63

### Proposal for a regulation

#### Article 14 – paragraph 3

*Text proposed by the Commission*

3. Persons to whom **points (d) to (f)** of paragraph 1 or paragraph 2 **apply** shall be entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31, 32 and 33 of the Geneva Convention in so far as they are present in the Member State.

*Amendment*

3. Persons to whom **point (d)** of paragraph 1 or paragraph 2 **applies** shall be entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31, 32 and 33 of the Geneva Convention in so far as they are present in the Member State.

Or. en

*Justification*

*Amendment tabled for consistency with earlier amendments.*

## Amendment 64

### Proposal for a regulation

#### Article 14 – paragraph 5

*Text proposed by the Commission*

5. Decisions of the determining authority **revoking, ending or refusing to renew** refugee status pursuant to point (a) of paragraph 1 shall only take effect three months after the decision is adopted, in order to provide the third-country national or stateless person with the opportunity to apply for residence in the Member State on other grounds in accordance with relevant Union and national law.

*Amendment*

5. Decisions of the determining authority **withdrawing** refugee status pursuant to point (a) of paragraph 1 shall only take effect three months after the decision is adopted, in order to provide the third-country national or stateless person with the opportunity to apply for residence in the Member State on other grounds in accordance with relevant Union and national law.

Or. en

*Justification*

*Amendment tabled for consistency with earlier amendments.*

## Amendment 65

### Proposal for a regulation

#### Article 15 – paragraph 1 – introductory part

*Text proposed by the Commission*

In **order to apply** Article 14(1), the determining authority **shall** review the refugee status in particular:

*Amendment*

In **applying** Article 14(1), the determining authority **may** review the refugee status, in particular **where information on countries of origin at Union level as referred to in Article 8 of Regulation (EU) No XXX/XX [Regulation on the European Union Agency for Asylum] and common analysis of country of origin information as referred to in Article 10 of that Regulation indicate a significant change in the country of origin which is relevant for the protection needs of the applicant.**

Or. en

#### *Justification*

*A systematic review of protection needs would prove highly resource-intensive for the determining authorities of the Member States. It is not at all the case that the authorities responsible for decisions on the need for international protection are the same authorities as those which issue residence permits. It is also important not to unduly undermine integration prospects via the perception that protection may only be temporary.*

## Amendment 66

### Proposal for a regulation

#### Article 15 – paragraph 1 – point a

*Text proposed by the Commission*

(a) **where Union level country of origin information and common analysis of country of origin information as referred in Articles 8 and 10 of Regulation (EU) No XXX/XX [Regulation on the European Union Agency for Asylum] indicate a significant change in the country of origin which is relevant for the protection needs of the applicant;**

*Amendment*

**deleted**

*Justification*

*This point is merged in with the introductory part of paragraph 1.*

**Amendment 67****Proposal for a regulation****Article 15 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) when renewing, for the first time, the residence permit issued to a refugee.** **deleted**

*Justification*

*A systematic review of protection needs would prove highly resource-intensive for the determining authorities of the Member States. It is not at all the case that the authorities responsible for decisions on the need for international protection are the same authorities as those which issue residence permits. It is also important not to unduly undermine integration prospects via the perception that protection may only be temporary. This point should therefore be deleted.*

**Amendment 68****Proposal for a regulation****Article 16 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

**(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.**

**(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; *or***

## Amendment 69

### Proposal for a regulation

#### Article 16 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) a serious and individual threat to a civilian's life or person due to a natural or man-made disaster.**

Or. en

#### *Justification*

*Persons or groups of persons, who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes and are in search and need of protection should qualify under this Regulation for international protection in the European Union.*

## Amendment 70

### Proposal for a regulation

#### Article 20 – title

*Text proposed by the Commission*

*Amendment*

**Revocation of, ending of or refusal to renew** subsidiary protection status

**Withdrawal of** subsidiary protection status

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

Or. en

#### *Justification*

*Article 2(14) of this proposed Regulation provides for a definition of "withdrawal of international protection", which is intended to mean "the decision of competent authority to revoke, end or refuse to renew the refugee or subsidiary protection status". Given that definition, it is appropriate to use the expression "withdrawal of international protection" throughout the Articles and not to repeat constantly "revocation of, ending of or refusal to renew".*

## Amendment 71

### Proposal for a regulation

#### Article 20 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. The determining authority shall **revoke, end or refuse to renew** the subsidiary protection status of a third-country national or a stateless person where :

*Amendment*

1. The determining authority shall **withdraw** the subsidiary protection status of a third-country national or a stateless person where :

Or. en

*Justification*

*Amendment tabled for consistency with earlier amendments.*

## Amendment 72

### Proposal for a regulation

#### Article 20 – paragraph 1 – point d

*Text proposed by the Commission*

(d) **Article 23(2) is applied.**

*Amendment*

**deleted**

Or. en

*Justification*

*The principle of non-refoulement is absolute according to the Charter of Fundamental Rights of the European Union and the relevant case law of the CJEU and ECtHR. Therefore, no person should be returned if he or she would be subjected to torture or to inhuman or degrading treatment or punishment. This additional paragraph is irrelevant and should be deleted.*

## Amendment 73

### Proposal for a regulation

#### Article 20 – paragraph 3

*Text proposed by the Commission*

3. Decisions of the determining

*Amendment*

3. Decisions of the determining

authority **revoking, ending or refusing to renew** subsidiary protection status pursuant to paragraph 1 (a) shall only take effect three months after the decision is taken, in order to provide the third-country national or stateless person with the opportunity to apply for residence in the Member State on other grounds in accordance with relevant Union and national law.

authority **withdrawing** subsidiary protection status pursuant to paragraph 1 (a) shall only take effect three months after the decision is taken, in order to provide the third-country national or stateless person with the opportunity to apply for residence in the Member State on other grounds in accordance with relevant Union and national law.

Or. en

#### *Justification*

*Amendment tabled for consistency with earlier amendments.*

### **Amendment 74**

#### **Proposal for a regulation Article 21 – paragraph 1**

##### *Text proposed by the Commission*

In **order to apply** Article 20(1), the determining authority **shall** review the subsidiary protection status in particular

##### *Amendment*

In **applying** Article 20(1), the determining authority **may** review the subsidiary protection status, in particular **where information on countries of origin at Union level as referred to in Article 8 of Regulation (EU) No XXX/XX [Regulation on the European Union Agency for Asylum] and common analysis of country of origin information as referred to in Article 10 of that Regulation indicate a significant change in the country of origin which is relevant for the protection needs of the applicant.**

Or. en

#### *Justification*

*A systematic review of protection needs would prove highly resource-intensive for the determining authorities of the Member States. It is not at all the case that the authorities responsible for decisions on the need for international protection are the same authorities as those which issue residence permits. It is also important not to unduly undermine integration prospects via the perception that protection may only be temporary.*

## Amendment 75

### Proposal for a regulation Article 21 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) *where Union level country of origin information and common analysis of country of origin information as referred in Articles 8 and 10 of Regulation (EU) No XXX/XX [Regulation on the European Union Agency for Asylum ] indicate a significant change in the country of origin which is relevant for the protection needs of the applicant,* **deleted**

Or. en

#### *Justification*

*This point is merged in with the introductory part of paragraph 1.*

## Amendment 76

### Proposal for a regulation Article 21 – paragraph 1 – point b

*Text proposed by the Commission*

*Amendment*

(b) *when renewing, for the first and second time, the residence permit issued to a beneficiary of subsidiary protection.* **deleted**

Or. en

#### *Justification*

*A systematic review of protection needs would prove highly resource-intensive for the determining authorities of the Member States. It is not at all the case that the authorities responsible for decisions on the need for international protection are the same authorities as those which issue residence permits. It is also important not to unduly undermine integration prospects via the perception that protection may only be temporary. This point should therefore be deleted.*

## Amendment 77

### Proposal for a regulation Article 22 – paragraph 1

*Text proposed by the Commission*

1. ***Refugees and persons who have been granted subsidiary protection status shall have the rights and obligations laid down in this Chapter. This Chapter shall be without prejudice to the rights and obligations laid down in the Geneva Convention.***

*Amendment*

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.***

Or. en

*Justification*

*Linguistic amendment.*

## Amendment 78

### Proposal for a regulation Article 22 – paragraph 5

*Text proposed by the Commission*

5. When applying ***the provisions of this Chapter that involve minors*** the best interests of the child shall be a primary consideration ***to the relevant authorities.***

*Amendment*

5. When applying ***this Regulation***, the best interests of the child shall be a primary consideration ***for the Member States.***

Or. en

*Justification*

*The reference to the best interests of the child as a primary consideration should cover the whole of the Regulation, not just the provisions of Chapter VII as stated in the article.*

## Amendment 79

### Proposal for a regulation Article 23 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2. Where not prohibited by the international obligations referred to in paragraph 1, refugee or a beneficiary of subsidiary protection may be refouled, whether formally recognised or not, when:**

**deleted**

**(a) there are reasonable grounds for considering him or her as a danger to the security of the Member State in which he or she is present;**

**(b) he or she, having been convicted by a final judgment of a particularly serious crime constitutes a danger to the community of that Member State.**

**In those cases the refugee status or the subsidiary protection status shall also be withdrawn in accordance with Article 14 or Article 20 respectively.**

Or. en

*Justification*

*The principle of non-refoulement is absolute according to the Charter of Fundamental Rights of the European Union and the relevant case law of the CJEU and ECtHR therefore no person shall be returned if he or she would be subjected to torture or to inhuman or degrading treatment or punishment. This paragraph is therefore irrelevant and should be deleted.*

## **Amendment 80**

### **Proposal for a regulation Article 25 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. Member States may decide that this article also applies to other close relatives who lived together as part of the family at the time of leaving the country of origin or before the applicant arrived on the territory of the Member States, *and who were wholly or mainly dependent on the***

**6. Member States may decide that this Article also applies to other close relatives who lived together as part of the family at the time of leaving the country of origin or before the applicant arrived on the territory of the Member States.**

*beneficiary of international protection at the time.*

Or. en

*Justification*

*Where Member States decide to enhance this article for maintaining family unity, they should not be restricted to those close relatives who were dependent in whole or part on the beneficiary. Discretion should remain with the Member States in that regard.*

**Amendment 81**

**Proposal for a regulation**

**Article 26 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) For beneficiaries of refugee status, the residence permit shall have a period of validity of **three** years and be renewable thereafter for periods of **three** years.

*Amendment*

(a) For beneficiaries of refugee status, the residence permit shall have a period of validity of **five** years and be renewable thereafter for periods of **five** years.

Or. en

*Justification*

*In the interests of encouraging integration in the host Member State, and in offering a positive incentive for beneficiaries of international protection not to engage in secondary movements, the standard period of validity of residence permits should be extended and harmonised. It is important not to unduly undermine integration prospects via the perception that protection may only be temporary. The harmonised duration of residence permits granted to those in need of international protection should take full account of current practice across the Member States and should not be based on a 'race to the bottom' principle.*

**Amendment 82**

**Proposal for a regulation**

**Article 26 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) For beneficiaries of subsidiary protection status, the residence permit shall have a period of validity of **one year** and be renewable thereafter for periods of **two**

*Amendment*

(b) For beneficiaries of subsidiary protection status, the residence permit shall have a period of validity of **five years** and be renewable thereafter for periods of **five**

years.

years.

Or. en

#### *Justification*

*In the interests of encouraging integration in the host Member State, and in offering a positive incentive for beneficiaries of international protection not to engage in secondary movements, the standard period of validity of residence permits should be extended and harmonised. It is important not to unduly undermine integration prospects via the perception that protection may only be temporary. The harmonised duration of residence permits granted to those in need of international protection should take full account of current practice across the Member States and should not be based on a 'race to the bottom' principle.*

### **Amendment 83**

#### **Proposal for a regulation**

#### **Article 26 – paragraph 2 – point a**

##### *Text proposed by the Commission*

(a) where competent authorities **revoke, end or refuse to renew** the refugee status of a third-country national in accordance with Article 14 **and** the subsidiary protection status in accordance with Article 20;

##### *Amendment*

(a) where competent authorities **withdraw** the refugee status of a third-country national in accordance with Article 14 **or** the subsidiary protection status in accordance with Article 20;

Or. en

#### *Justification*

*Amendment tabled for consistency with earlier amendments.*

### **Amendment 84**

#### **Proposal for a regulation**

#### **Article 26 – paragraph 2 – point b**

##### *Text proposed by the Commission*

(b) **where Article 23(2) is applied;**

##### *Amendment*

**deleted**

Or. en

### *Justification*

*The principle of non-refoulement is absolute according to the Charter of Fundamental Rights of the European Union and the relevant case law of the CJEU and ECtHR therefore no person shall be returned if he or she would be subjected to torture or to inhuman or degrading treatment or punishment. This paragraph is therefore irrelevant and should be deleted.*

### **Amendment 85**

#### **Proposal for a regulation**

#### **Article 26 – paragraph 2 – point c**

##### *Text proposed by the Commission*

(c) where reasons of national security or public order so require.

##### *Amendment*

(c) where **compelling** reasons of national security or public order so require.

Or. en

### *Justification*

*The Commission proposes to delete the word ‘compelling’ which exists in the current Directive without providing good reason for such a deletion. Given that the paragraph deals with taking away the residence permit of someone who has been found to be in need of international protection, it is clear that the reasons for doing so should be ‘compelling’.*

### **Amendment 86**

#### **Proposal for a regulation**

#### **Article 27 – paragraph 1**

##### *Text proposed by the Commission*

1. Competent authorities shall issue travel documents to beneficiaries of refugee status, in the form set out in the Schedule to the Geneva Convention and with the minimum security features and biometrics outlined in Council Regulation (EC) No 2252/2004<sup>45</sup>. Those travel documents shall be valid for at least **one year**.

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<sup>45</sup> Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for in

##### *Amendment*

1. Competent authorities shall issue travel documents to beneficiaries of refugee status, in the form set out in the Schedule to the Geneva Convention and with the minimum security features and biometrics outlined in Council Regulation (EC) No 2252/2004<sup>45</sup>. Those travel documents shall be valid for at least **five years**.

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<sup>45</sup> Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for in

passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p. 1)

passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p. 1)

Or. en

#### *Justification*

*In line with the amendments proposed to the length of residence permits granted to beneficiaries of international protection, the validity of the travel documents issued to beneficiaries of international protection should also be extended. The validity period of such documents should take account of standard periods of validity for travel documents issued by Member States.*

### **Amendment 87**

#### **Proposal for a regulation Article 27 – paragraph 2**

##### *Text proposed by the Commission*

2. Competent authorities shall issue travel documents with the minimum security features and biometrics outlined in Regulation (EC) No 2252/2004 to beneficiaries of subsidiary protection status who are unable to obtain a national passport. Those documents shall be valid for at least *one year*.

##### *Amendment*

2. Competent authorities shall issue travel documents with the minimum security features and biometrics outlined in Regulation (EC) No 2252/2004 to beneficiaries of subsidiary protection status who are unable to obtain a national passport. Those documents shall be valid for at least *five years*.

Or. en

#### *Justification*

*In line with the amendments proposed to the length of residence permits granted to beneficiaries of international protection, the validity of the travel documents issued to beneficiaries of international protection should also be extended. The validity period of such documents should take account of standard periods of validity for travel documents issued by Member States.*

### **Amendment 88**

#### **Proposal for a regulation Article 34 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. *For beneficiaries of subsidiary protection status Member States may limit social assistance to core benefits.* **deleted**

Or. en

*Justification*

*It is not at all clear why persons who are in need of protection and who are granted subsidiary protection should not receive the social assistance enjoyed by other persons needing international protection. There should be no unequal treatment between persons in need of international protection. This is both legally dubious and administratively unhelpful. Once the need for protection has been established these persons all have the same social needs in the hosting Member State.*

## **Amendment 89**

### **Proposal for a regulation Article 36 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. If an unaccompanied minor is granted international protection and the tracing of his or her family members has not already started, competent authorities shall start tracing them as soon as possible after the granting of international protection, whilst protecting the minor's best interests. If tracing has already started, it shall be continued where appropriate. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis.

5. If an unaccompanied minor is granted international protection and the tracing of his or her family members has not already started, competent authorities shall start tracing them as soon as possible after the granting of international protection, whilst protecting the minor's best interests. If tracing has already started, it shall be continued where appropriate. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis *so as to avoid jeopardising their safety.*

Or. en

*Justification*

*Amendment tabled to clarify the purpose of taking information on a confidential basis.*

**Amendment 90**

**Proposal for a regulation**  
**Article 38 – paragraph 1**

*Text proposed by the Commission*

1. In order to facilitate the integration of beneficiaries of international protection into society, beneficiaries of international protection shall have access to integration measures provided by the Member States, in particular *language courses*, civic orientation and integration programs and vocational training which take into account their specific needs.

*Amendment*

1. In order to facilitate the integration of beneficiaries of international protection into society, beneficiaries of international protection shall have access to integration measures provided by the Member States, in particular civic orientation and integration programs and vocational training, which *shall be free of charge and easily accessible and shall* take into account their specific needs.

Or. en

*Justification*

*The Rapporteur welcomes the provisions on access to integration measures but believes that such measures must always be free of charge, easily accessible to beneficiaries of international protection (i.e. not limited to one or two big cities in a Member State) and take account of any particular needs of the beneficiary in question. This is even more imperative if a Member State wishes to make participation compulsory for beneficiaries of international protection. Provision on language courses in the following paragraph.*

**Amendment 91**

**Proposal for a regulation**  
**Article 38 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. Member States shall provide beneficiaries of international protection with effective access to language courses, which shall be free of charge, from the date on which they are granted international protection.*

*Justification*

*Language skills are indispensable in order to ensure that beneficiaries have an adequate standard of living, realistic job and better integration prospects. Learning the official language or one of official languages of the Member State concerned increases self-reliance and the chance of integration in the host society, and constitutes a deterrent against secondary movements. Effective access to language courses should therefore be granted to all beneficiaries from the date on which their application for international protection is granted.*

**Amendment 92****Proposal for a regulation  
Article 38 – paragraph 2***Text proposed by the Commission*

2. Member States may make participation in integration measures compulsory.

*Amendment*

2. Member States may make participation in integration measures compulsory, ***provided that the integration measures in question are easily accessible, free of charge and take account of the specific needs of the beneficiary of international protection in question.***

*Justification*

*The Rapporteur welcomes the provisions on access to integration measures but believes that such measures must always be free of charge, easily accessible to beneficiaries of international protection (i.e. not limited to one or two big cities in a Member State) and take account of any particular needs of the beneficiary in question. This is even more imperative if a Member State wishes to make participation compulsory for beneficiaries of international protection.*

**Amendment 93****Proposal for a regulation  
Article 38 – paragraph 2 a (new)***Text proposed by the Commission**Amendment*

**2a. Member States shall not apply**

*punitive measures against beneficiaries of international protection where they are unable to participate in integration measures due to circumstances beyond their control or due to the unsuitable nature of the integration measures in question.*

Or. en

## **Amendment 94**

### **Proposal for a regulation Article 44 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

***-1. In Article 4 of Directive 2003/109/EC, the third subparagraph of paragraph 2 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".***

Or. en

#### *Justification*

*The Commission proposes for the beneficiaries of international protection to benefit from long term residence, however the period would only start once their status is granted. The Rapporteur is of the opinion that the protection needs and circumstance of an applicant for an international protection, whom protection is granted at a later stage, are exactly the same as those of beneficiaries on international protection. The period of long term residence should therefore start from the day when an application is made. The Council Directive 2003/109/EC should therefore be amended accordingly.*

## Amendment 95

### Proposal for a regulation Article 46 – paragraph 2

*Text proposed by the Commission*

This Regulation shall start to apply from  
[*six* months from its entry into force].

*Amendment*

This Regulation shall start to apply from  
[*three* months from its entry into force].

Or. en

## EXPLANATORY STATEMENT

The proposed revision of the Common European Asylum System (CEAS) is striving to respond to the migration trends of the last few years and the arrival of large numbers of third-country nationals in the European Union, many of whom are in need of international protection. Proposing to again revise the CEAS so soon after the adoption of the last reform may not be the best way to ensure that the system operates fully and takes root in national policies and practices. However, the opportunity to reform the CEAS should be seized in order to improve the common asylum policy of the Union, which should be based on true solidarity and a fair sharing of responsibility, moving gradually to a uniform international protection status valid throughout the Union as enshrined in the *Article 78(2)* of the Treaty on the Functioning of the European Union (TFEU).

The Rapporteur therefore sees the proposal to turn the Qualification Directive into a Regulation as an opportunity to move further towards a progressive, positive and upward harmonisation of standards for determining that persons are in need of international protection and defining the rights which those persons should enjoy. While the system is under strain, it is essential to reaffirm the European asylum tradition based on the Geneva Convention and strengthen additional protections that the Union has progressively developed on the basis of its common values.

Bearing this in mind, the Rapporteur had a particular eye in ensuring that case law developed by the two European courts, in Luxembourg and Strasbourg, was properly integrated in the revised piece of legislation, such as fundamental rights and anti-discrimination *acquis*. The Rapporteur took account of the policies and practices developed so far by the Member States on the basis of the Qualification Directive, and sought to improve it.

The logic of approximating the two protection status and further harmonisation guided the Rapporteur's policy choice in this report. The current practice in the Member States and the very concept of protection does not effectively provide grounds for the distinction between the two statuses. In particular the reality shows that the subsidiary protection is based on an unjustified assumption of more temporary nature of protection and limited in its effectiveness.

Furthermore, the Rapporteur tried to combine protection with integration rather than punitive measures, favouring thus long-term social cohesion and security for all, and discouraging secondary movement. A general concern for the future practical operation of the Regulation avoiding to overburden Member States' administrations guided the amendments proposed.

Along this line, the Rapporteur wishes to amend the proposed compulsory review of the granted status of beneficiaries of international protection, both in case of changes of circumstances in the country of origin and at the moment of renewal. Although the Rapporteur agrees that evolutions in the country of origin, assessed in a harmonised way by the EU Agency for Asylum, may affect the protection needs, a systematic review would prove highly resource-intensive for the determining authorities in the Member States. Moreover, being constantly and potentially subject to such a review may undermine integration prospects of the beneficiary in his or her host society. The Rapporteur therefore proposes to leave the review as an option to Member States rather than imposing it as an automatic and compulsory

part of the asylum status.

In the same way, the Rapporteur does not wish to see the revised EU legislation lead to a reduction of the length of residence permits currently granted by Member States to beneficiaries of international protection residing on their territory. She therefore proposes to amend the new EU standard period of validity of the residence permits for both refugees and beneficiaries of the subsidiary protection to better reflect the current practice at national level and provide beneficiaries with more legal security. This, again, aims to encourage the beneficiaries to invest in their lives and thus contribute to their hosting communities.

Moreover, amendments on this point tend to align the length of the residence permit for refugees and beneficiaries of subsidiary protection. Indeed, the latter status does not respond to a need for protection that would be more temporary, but simply different in that it does not fall under the refugee legal definition and status. Although not ‘refugees’ *stricto sensu*, those persons also face great risks in their country of origin, cannot return safely and have to rebuild their lives in a country that provides them with ‘refuge’. It is therefore as essential for them as it is for refugee to try and build a legal framework encouraging their integration. Beyond the period of validity of the residence permit, this logic of approximating the two protection status guided a number of amendments tabled by the rapporteur.

The level of harmonisation reached today is reason for pride but the trend needs to be maintained. The Rapporteur wishes to bring forward the European humanistic tradition of asylum, which has travelled through centuries and progressively rooted throughout the whole EU territory. This means consolidating the *acquis* and further harmonising among Member States. This involves also anticipating and looking to the future. In this respect, the Rapporteur proposes an innovative amendment around environmental change. Natural or man-made evolutions of the planet are already creating situations of vulnerability and are likely to affect more and more human-beings. They may oblige persons to leave their place of residence and even their country to find shelter abroad. International protection provided under EU law should also cover these new needs of protection.

Protection against acts of persecution may not always imply leaving one’s country though. The Rapporteur acknowledges that in individual cases ‘refuge’ could be found within one’s own country of origin, should the persecution or serious harm emanates from the State or agents associated with the State. Obliging Member States examining internal protection alternative after the determining authority has already decided that the applicant would otherwise be in need of protection, is going one step too far. The internal protection alternative should remain, in limited cases, only as an option for Member States and not an obligation.

To conclude, amendments proposed by the Rapporteur respond to the overall aim of ensuring that those in need of protection are properly recognised and benefit from rights that will facilitate their integration, wherever they reside across the Union. The Rapporteur wishes to underline that reforming the CEAS has to do with improving the protection granted to third-country nationals in need, in accordance with EU tradition and values. The EU has to provide for its own security but the two go together - the EU must be safe if it is to remain a sanctuary for those who flee conflicts and barbarity and seek protection. Putting the stress on sanctions and possible abuse of the system is only likely to reinforce a general feeling of insecurity, on the side both of persons in need of protection and of EU citizens. A positive message should

be sent in both directions so that third-country nationals who have not necessarily chosen to come to the EU can quickly feel part of a society where protection and security are reconciled - this is what the Rapporteur is seeking to achieve with her proposals.

**ANNEX: LIST OF ENTITIES OR PERSONS  
FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft report:

<b>Entity and/or person</b>
Save the Children
The European Council on Refugees and Exiles (ECRE)
United Nations High Commissioner for Refugees
The Meijers Committee
EUROCITIES, the network of major European cities
ILGA-Europe
Migration Policy Group
Jesuit Refugee Service Europe
Ajda Mihelčič, Brussels