
















Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2016/0223(COD) Awaiting Parliament's position in 1st reading
Qualification Directive Amending Directive 2003/109/EC 2001/0074(CNS)	
Subject 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)	
Legislative priorities Joint Declaration 2017 Joint Declaration 2018-19 Joint Declaration 2021 Joint Declaration 2022	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 LIBE Civil Liberties, Justice and Home Affairs	 NEMEC Matjaž	10/10/2022
		Shadow rapporteur	
		 DÜPONT Lena	
		 OETJEN Jan-Christoph	
		 KUHNKE Alice	
		 TARDINO Annalisa	
		 KANKO Assita	
		 URBÁN CRESPO Miguel	
	Former committee responsible		
 LIBE Civil Liberties, Justice and Home Affairs			
Committee for opinion	Rapporteur for opinion	Appointed	
 EMPL Employment and Social Affairs			
 JURI Legal Affairs		The committee decided not to give an opinion.	
 AFET Foreign Affairs		The committee decided not to give an opinion.	
Former committee for opinion			
 EMPL Employment and Social Affairs			
 JURI Legal Affairs			
 AFET Foreign Affairs			

Council of the European Union	Council configuration	Meeting	Date
	Transport, Telecommunications and Energy	3545	09/06/2017
	Justice and Home Affairs (JHA)	3508	09/12/2016
European Commission	Justice and Home Affairs (JHA)	3490	14/10/2016
	Commission DG	Commissioner	
	Migration and Home Affairs	AVRAMOPOULOS Dimitris	

Key events

13/07/2016	Legislative proposal published	COM(2016)0466	Summary
12/09/2016	Committee referral announced in Parliament, 1st reading		
14/10/2016	Debate in Council	3490	
09/06/2017	Debate in Council	3545	
15/06/2017	Vote in committee, 1st reading		
15/06/2017	Committee decision to open interinstitutional negotiations with report adopted in committee		
28/06/2017	Committee report tabled for plenary, 1st reading	A8-0245/2017	Summary
03/07/2017	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
05/07/2017	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
21/10/2019	Committee referral announced in Parliament, 1st reading		

Technical information

Procedure reference	2016/0223(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Directive 2003/109/EC 2001/0074(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 078-p2; Treaty on the Functioning of the EU TFEU 079-p2
Stage reached in procedure	Awaiting Parliament's position in 1st reading
Committee dossier	LIBE/9/00175

Documentation gateway

Legislative proposal		COM(2016)0466	13/07/2016	EC	Summary
Committee of the Regions: opinion		CDR5807/2016	08/02/2017	CofR	
Committee draft report		PE599.799	02/03/2017	EP	
Committee opinion	EMPL	PE601.064	08/05/2017	EP	

Committee report tabled for plenary, 1st reading/single reading		A8-0245/2017	28/06/2017	EP	Summary
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Additional information	
Research document	Briefing

Qualification Directive

PURPOSE: to establish new standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending [Council Directive 2003/109/EC](#) concerning the status of third-country nationals who are long-term residents.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Common European Asylum System is based on rules determining the Member State responsible for applicants for international protection, common standards for asylum procedures, reception conditions, the recognition and protection of beneficiaries of international protection.

Notwithstanding the significant progress that has been made in the development of the Common European Asylum System (CEAS), there are still notable differences between the Member States in the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection. These divergences contribute to secondary movements and asylum shopping, create pull factors, and ultimately lead to an uneven distribution among the Member States of the responsibility to offer protection to those in need.

Recent large scale arrivals have shown that Europe needs an effective and efficient asylum system able to assure a fair and sustainable sharing of responsibility between Member States and to ensure the quality of the decisions made.

Against this backdrop, the Commission presented a first set of proposals to reform the Common European Asylum System delivering on three priorities identified in its Communication:

- [establishing a sustainable and fair Dublin system](#) for determining the Member State responsible for examining asylum applications,
- [reinforcing the Eurodac system](#) to better monitor secondary movements and facilitate the fight against irregular migration,
- establishing a genuine [European Union Agency for Asylum](#) to ensure the well-functioning of the European asylum system.

With the second package, the Commission is completing the reform of the Common European Asylum System by adopting four additional proposals:

1. a proposal replacing the Qualification Directive with a Regulation, setting uniform standards for the recognition of persons in need of protection and the rights granted to beneficiaries of international protection;
2. a [proposal replacing the Asylum Procedures Directive with a Regulation](#), harmonising the current disparate procedural arrangements in all Member States and creating a genuine common procedure;
3. a [proposal revising the Reception Conditions Directive](#);
4. a [structured Union resettlement framework](#), moving towards a more managed approach to international protection within the EU.

CONTENT: this draft Regulation lays down standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection as well as for uniform status for refugees or for persons eligible for subsidiary protection.

While the existing recast Qualification Directive has contributed to some level of approximation of the national rules, it appears that recognition rates still vary between Member States and there is equally a lack of convergence as regards decisions on the type of protection status granted by each Member State.

The differences in recognition rates and in the level of rights in the national asylum systems attached to the protection status concerned provide strong indication of the need for a more harmonised approach. These differences can create incentives for applicants for international protection to claim asylum in Member States where those rights and recognition levels are perceived to be higher than others. In addition there is also need to address possible secondary movements of beneficiaries of international protection by clarifying that they are to reside in the Member States which granted them protection.

In view of the above, the proposal aims at:

1. Further harmonisation of the common criteria for recognising applicants for international protection by providing for more prescriptive rules.

The main amendments concern the following issues:

- material scope: on the one hand, the Regulation seeks to set out the standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection and on the other set out the content of the international protection which they are granted. Given that the choice of instrument of this proposal is a Regulation, there is no longer a provision allowing Member States to grant more favourable treatment. However Member States are free to grant a national humanitarian status to those who do not qualify under the present Regulation. In addition, Member States may introduce national measures beyond what is regulated by the current Regulation, but only in a way which does not undermine the application of its provisions;
- assessments of the facts: the proposal establishes the obligation of the applicant for international protection to substantiate the application; by providing all the elements available to him or her, to cooperate and to remain present on the territory of the Member State throughout the procedure;

- internal protection: a new obligation is provided to assess the possibility of internal protection and if the conditions that he or she can safely and legally travel to, gain admittance to and can reasonably be expected to settle in another part of the country of origin are fulfilled, to determine that the applicant is not in need of international protection;
- reasons for persecution: in accordance with relevant case law of the Court of Justice of the European Union, the proposal clarifies that a 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;
- exclusion: the commitment of certain crimes (particular cruel actions and terrorist acts) are considered as a basis for exclusion from being a refugee even if committed with a political objective.

2. More convergence of the asylum decisions across the EU by obliging determining authorities of the Member States, when assessing applications, to take into account the common analysis and guidance on the situation in the country of origin, provided at Union level by the European Union Agency for Asylum and the European networks on country of origin information in accordance with the new provisions of the proposed Regulation on the European Union Agency for Asylum.

Moreover, new provisions on cessation of status are provided. As regards the subsidiary protection status, the proposal provides for the obligation for determining authorities to base themselves on the Agency guidance when assessing whether refugees and beneficiaries of subsidiary protection respectively have ceased to be eligible to the international protection status granted to them.

3. Introducing systematic and regular status reviews: the proposal imposes obligations upon Member States to carry out systematic and regular status reviews in case of significant changes in the situation in the country of origin as well as when they intend to renew the residence permits, for the first time for refugees and for the first and second time for beneficiaries of subsidiary protection.

At the same time, it is essential that Member States promote the integration of beneficiaries into their societies. In this respect, the proposal clarifies the scope of the rights and obligations of beneficiaries of international protection. It also provides incentives for their active integration while protection is granted by allowing Member States to make the granting of certain social assistance conditional on effective participation in integration measures.

Finally, decisions ending refugee or subsidiary protection status shall take effect only after a period of three months providing persons whose status has been withdrawn with an effective opportunity to apply for another legal status, such as for work related purposes.

4. Addressing secondary movements of beneficiaries of international protection, by clarifying the obligations of a beneficiary to stay in the Member State which has granted protection and providing for additional disincentives through the modification of the Long-term Residents Directive, by restarting the calculation of legal residence required there in case the beneficiary is found in another Member States without the right to reside or stay. It is expected that this proposed measure will be an incentive for beneficiaries of international protection to comply with the rules and to avoid unauthorised secondary movements, since otherwise they would risk prolonging the waiting period for the acquisition of the long-term resident status and the related right to intra-EU mobility.

5. Further harmonising the rights of beneficiaries of international protection, in particular as regards the validity and format of residence permits, by specifying the scope of the rights to be given access to with special regard to social rights:

- residence permits and travel documents: the proposal provides for a new explicit harmonisation of both the validity period and the format of the residence permit, but keeping the difference between beneficiaries of subsidiary protection and refugees. For subsidiary protection, the residence permit will be valid for 1 year renewable for 2 years (1+2+2 years formula) and for refugees the residence permit will be valid for 3 years renewable for 3 years (3+3+3 year formula). It is also proposed to harmonise the minimum security and biometric features of the travel documents, by obliging the Member States to issue travel documents with a minimum one year validity;
- social security: the scope of social security is clarified for the sake of legal clarity by a cross reference to the social security coordination regulation.

6. Strengthening integration incentives for the beneficiaries of international protection:

- social assistance: core benefits are to be understood to cover at least minimum income support, assistance in case of illness, or pregnancy, and parental assistance if these benefits exist and granted to nationals. As a measure to provide for integration incentives, it is proposed to allow Member States to condition the granting of certain social assistance to the effective participation in integration measures;
- access to integration facilities: as a corresponding measure a possible obligation for the beneficiaries to participate in integration measures is established. However, when obliging beneficiaries of international protection to effectively participate in integration measures.

Monitoring and evaluation: the Commission shall report to the European Parliament and the Council on the application of this Regulation by no later than two years from entry into force of this Regulation and every five years thereafter.

Territorial provisions: in accordance with Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Schengen area, annexed to the TEU and the TFEU, the United Kingdom and Ireland have notified their wish to take part in the adoption of this Regulation.

Under the Protocol on the position of Denmark, annexed to the TEU and the TFEU, Denmark does not take part in the adoption by the Council of the measures pursuant to Title V of the TFEU.

The participation of the United Kingdom, Ireland and Denmark in the arrangements laid down in this proposal repealing the recast Qualification Directive 2011/95/EU, will be determined in the course of negotiations in accordance with these Protocols.

Qualification Directive

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Tanja FAJON (S&D, SL) 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.

The committee recommended that the European Parliament's position adopted at first reading in accordance with the ordinary legislative procedure should amend the Commission proposal as follows.

Objective: the main objective of this Regulation is to: (i) ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection and; (ii) ensure that a common set of rights is available to refugees and beneficiaries of subsidiary protection in all Member States. The distinction in terms of rights between refugees and subsidiary protected persons would thus be minimised.

This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights (the ECHR) and the European Social Charter.

Assessment of applications: where aspects of the applicant's statements are not supported by documentary or other evidence, he or she should be given the benefit of the doubt if he or she has made a genuine effort to substantiate his or her application and has submitted all relevant elements at his or her disposal, and his or her statements are found to be coherent and plausible.

The assessment of the best interests of the child should be a primary consideration of the relevant authorities when assessing the conditions for internal protection in the case of minors, including the availability of appropriate care and custodial arrangements where the applicant is an unaccompanied minor.

Unaccompanied minors should be provided with a designated guardian, if possible the same since their arrival in the EU, and be placed with close relatives, host families or in open centres specialised in accommodation for minors, which take account of their vulnerability and ensure their safety

Acts of persecution: Members pointed out that such acts may take such forms as: (i) trafficking for the purpose of sexual exploitation; (ii) prosecution or punishment for refusing to perform military service on moral, religious or political grounds or on grounds of belonging to a specific ethnicity or nationality; (iii) recruitment of minors, genital mutilation, forced marriage, child trafficking and child labour, domestic violence, trafficking for sexual exploitation and violations of economic, social and cultural rights.

Exclusion: any third-country national or stateless person shall be excluded from refugee status where there are serious grounds for believing that he was convicted of participation in the activities of a terrorist group.

Refugee status shall be withdrawn from a third-country national if there are reasonable grounds for regarding that he or she, having been convicted by a final judgment of a particularly serious crime, is a danger to the security of the Member State in which he or she is present.

Protection shall also be withdrawn if the beneficiary has committed a serious non-political crime outside the country of protection prior to his or her admission as a beneficiary of subsidiary protection or has been convicted of participation in the activities of a group terrorist.

These provisions shall not apply to minors.

Decisions taken by the determining authority under the Regulation shall be subject to an appeal under procedures laid down by national law.

Status re-examination: Members deleted the proposal for a mandatory refugee status review and subsidiary protection status following a significant change in circumstances in the country of origin, making it optional for national authorities.

Residence permits: Members proposed amending the new EU standard period of validity of the residence permits for both refugees and beneficiaries of the subsidiary protection. As soon as possible and in any event no later than 15 days after international protection has been granted, a residence permit shall be issued.

In order to encourage beneficiaries of international protection to remain in the Member State which granted them protection, the residence permit for beneficiaries of international protection should have a period of validity of at least five years, renewable for periods of at least five years.

Integration: Members stated that integration should promote inclusion rather than isolation. They suggested that Member States should act at national, regional and local levels to provide beneficiaries of international protection with support and opportunities for integration into their host society.

This support should include accommodation, literacy and language courses, inter-cultural dialogue, access to education and professional training, and effective access to democratic structures in society.