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## **ANNEXES**

*Accompanying the Impact Assessment for the*

Proposal for a

## **DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted**

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## **Annex 1 - Glossary**

### **Asylum**

Asylum is a form of protection given by a State on its territory based on the principle of ‘non-refoulement’ and internationally or nationally recognised refugee rights. It is granted to persons who are unable to seek protection in their country of citizenship and/or residence in particular for fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.

### **Common European Asylum System**

Rules and principles at European Union level leading to a common asylum procedure and a uniform status, valid throughout the Union, for those granted asylum. The major aims and principles were agreed to in October 1999 at the European Council in Tampere (Finland) by the Heads of State or Government. The second phase in the establishment of the Common European Asylum System started with the adoption of The Hague programme in November 2004.

### **Dublin system**

The Dublin Convention and its successor, the Dublin Regulation, set the rules concerning which Member State is responsible for handling an asylum application. The objective of the system is to avoid multiple asylum applications, also known as ‘asylum shopping’. The Dublin system comprises the Dublin and Eurodac Regulations and their implementing regulations.

### **Geneva Convention**

The Geneva Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967 ("Geneva Convention"), sets out the grounds on which persons should be recognised as refugees and the rights that signatory states should afford to them. The Qualification Directive acknowledges that the Geneva Convention "provide[s] the cornerstone of the international legal regime for the protection of refugees" and recalls that the Tampere European Council agreed to work towards establishing a CEAS "based on the full and inclusive application" of this Convention, "thus affirming the principle of non-refoulement and ensuring that nobody is sent back to persecution".

### **Human Rights instruments**

In addition to the Geneva Convention, further sources for defining grounds for granting protection are international and regional notably the European Convention on Human Rights ("ECHR"), the International Covenant on Civil and Political Rights and the UN 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These instruments prohibit the expulsion of a foreigner to a country where he/she would be subjected to torture, inhuman or degrading treatment or punishment, but do not address the issue of a status that this person should be granted in the host state. The subsidiary protection regime introduced by the Qualification Directive draws on the prohibition of

refoulement enshrined in these instruments but additionally addresses this gap by imposing on MS the obligation to provide the persons concerned a consolidated set of rights.

### **Multiple applications**

Two or more applications for asylum submitted simultaneously or successively (i.e. while another application is pending or after the rejection of a previous application) by the same person in several MS with the aim of increasing chances of obtaining protection in the European Union.

### **Non-refoulement**

The key principle of international refugee law, which requires that no State shall return a refugee in any manner to a country where his/her life or freedom may be endangered. The principle also encompasses non-rejection at the frontier. Its provision is contained in Article 33 of the 1951 Convention Relating to the Status of Refugees and constitutes the legal basis for States' obligation to provide international protection to those in need of it. Article 33(1) reads as follows: 'No Contracting State shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion'. Article 3 of the European Convention for the Protection of Human

### **Refugee**

A person who fulfils the requirements of Article 1(A) of the Geneva Convention, which defines a refugee as any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

### **Refugee status**

This is defined in the Qualification Directive as the status granted by a Member State to a third country national person who fulfils the requirements of the refugee definition as laid down in the Geneva Convention.

### **Secondary movements**

Secondary movements by asylum-seekers take the form of multiple applications for asylum submitted simultaneously or successively by the same person in several MS. Secondary movements by refugees can also take the form of "asylum shopping", when, despite the fact that they already received international protection, they apply again for asylum in another Member State.

### **Subsidiary protection**

The Qualification Directive created the subsidiary protection status in order to give protection to certain categories of persecuted people who are not covered by the Geneva Convention on refugees. This status contains a lower level of rights than the Geneva Convention status.

## **Tampere European Council**

In October 1999 the Tampere European Council adopted a comprehensive approach to put into practice the new political framework established by the Treaty of Amsterdam in the area of Justice and Home Affairs. The Council set ambitious objectives and deadlines for action in all relevant areas, including asylum and immigration, police and justice cooperation and fight against crime.

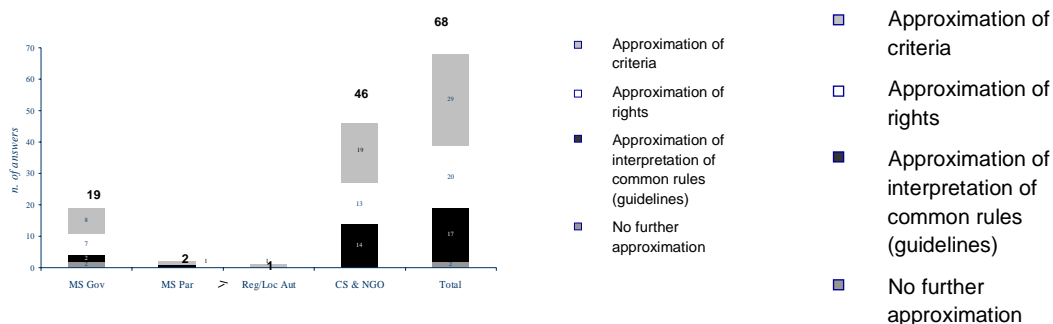
## **The Hague programme**

The Tampere programme, adopted by the Tampere European Council in 1999, set the agenda for work in the area of Justice and Home Affairs for the period 1999-2004. Likewise, the European Council adopted in 2004 The Hague programme, which covers the period 2005-2010, and provides, inter alia, for the continuation of efforts aimed at establishing common European asylum and immigration policies.

## Annex 2 - Consultation with Stakeholders

In the context of the consultation launched in June 2007 with the Green Paper on asylum, the Commission received 89 contributions from a wide range of stakeholders, including 20 MS, regional and local authorities, the Committee of the Regions and the European Economic and Social Committee, UNHCR, academic institutions, political parties and a large number of NGOs<sup>1</sup>. The main findings regarding the necessary improvements to the Qualification Directive which emerged from the replies to the Green Paper may be summarized as follows<sup>2</sup>:

### I. Further law approximation or standards raising regarding: (i) criteria for granting protection; (ii) rights and benefits attached to protection status(es)



- Almost complete agreement on further approximation, intended in terms of:
  - criteria for granting protection (29/68),
  - guidelines to be used for interpretation of common rules (17/68)
  - approximation of rights, mainly intended also as approximation of rights between refugees and beneficiaries of subsidiary protection (20/68)

### II. Further law approximation or standards raising regarding: (i) criteria for granting protection; (ii) rights and benefits attached to protection status(es) :

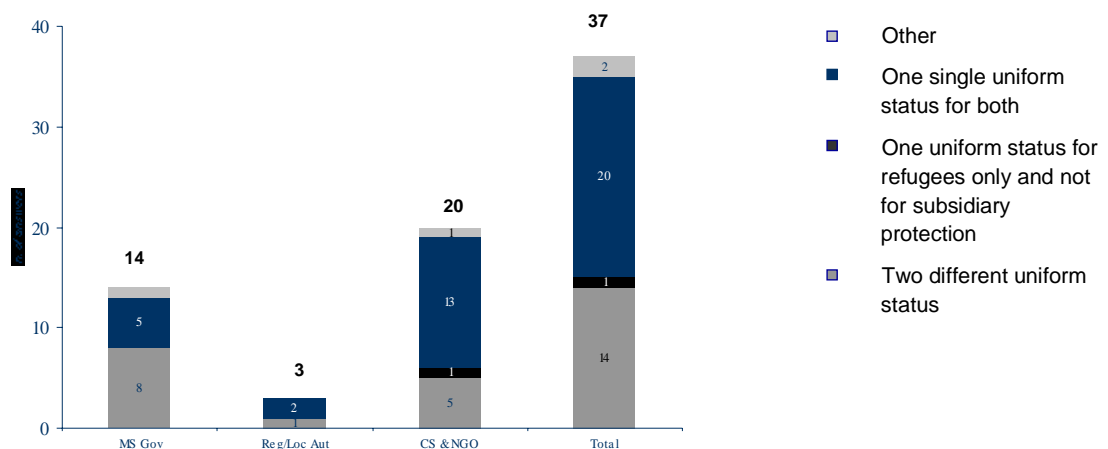
<sup>1</sup> The full text of these contributions is available at: [http://ec.europa.eu/justice\\_home/news/consulting\\_public/gp\\_asylum\\_system/news\\_contributions\\_asylum\\_system\\_e.htm](http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_e.htm)

<sup>2</sup> The numbers indicated in the analysis refer to the number of preferences expressed, for each question, per each of the single criteria identified (i.e. 3/7 MS Gov = 3 preferences expressed for a certain criteria on 7 total preferences expressed by respondent MS Gov)



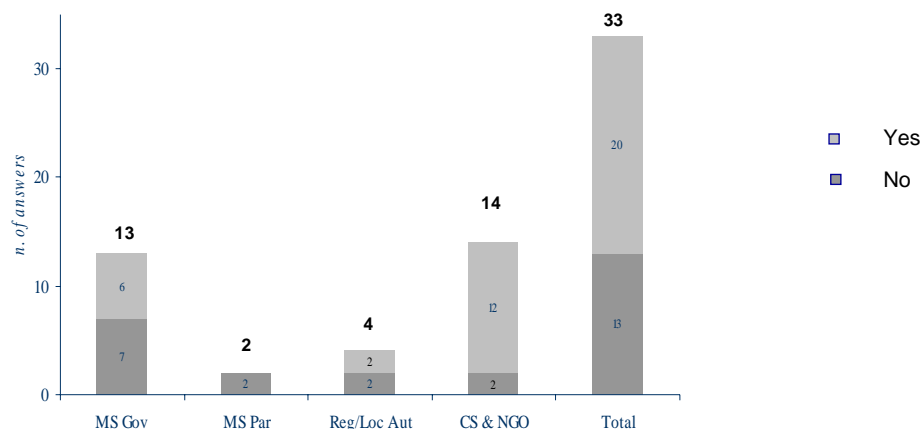
- Approximation considered necessary by almost all MS Gov contributions (17/19), with the major focus of MS Gov (15/19) on the necessity of approximation and/or clarification of:
  - criteria for awarding refugee and subsidiary protection status (i.e. DE, PT)
  - rights and benefits attached to the protection status, mainly intended also as approximation of rights between refugees and beneficiaries of subsidiary protection (i.e. EI, LV, NL)
- Opposition from DK and SK to a further approximation at this stage, especially considering the necessity of assessing the current rules -DK however agrees with the principle of the approximation of rights between refugees and beneficiaries of subsidiary protection
- Support of NGOs and civil society (CS)' contributions of a further approximation, asking in particular for more comprehensive criteria (19/46)
- Better instruments for a more standardized interpretation of common rules (14/46) and approximation of rights between refugees and beneficiaries of subsidiary protection also significantly supported by NGOs and CS (13/46)

### III. Models for the definition of the statuses of refugees and beneficiaries of subsidiary protection



- Significant positioning in favor of the definition of uniform models for refugees and beneficiaries of subsidiary protection (35/37)
- Prevailing preference for the option of defining one single uniform status for both the figures (20/37) if compared to the one of establishing two different uniform statuses (14/37)

#### IV. A single uniform status for all persons eligible for international protection



- Preference for the definition of a single uniform status for refugees and beneficiaries of subsidiary protection mainly driven by the positioning of NGOs and CS
- Opposition to the uniform single status by the remaining 13 out of the 33 stakeholders, considering this option feasible only on a long term basis

#### V. Models for the definition of the statuses of refugees and beneficiaries of subsidiary protection: the option of a single uniform status for both

- Refusal of a “single uniform status” from FR and DE based on the fact that the two statuses respond to different
- Uniform status for both the refugees and the beneficiaries of subsidiary protection sustained by DK, NL, SE) but on a long term basis and with caution on the model to be implemented
- Prevalent orientation from NGOs and civil society (CS) contributions for supporting the uniform status for both the categories, encouraging the entitlement of the same set of rights for both the refugees and the beneficiaries of subsidiary protection
- The “two different uniform statuses” representing the other main option for NGOs and CS, as the grounds of protection are retained as different
- The “two different uniform statuses” supported also by National Parliaments, while positioning of Regional/Local Authorities appears quite differentiated

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More recently, and with a view to discuss in a more concrete manner possible amendments to the Directive as well as their impacts, the Commission organised several **informal experts' meetings**:

- a meeting with judges, academics, UNHCR and a selected number of experts from MS on 26.06.2008;

- two meetings with MS (one at experts' level on 19.11.2008 and another one in the context of the Committee on Immigration and Asylum on 12.12.2008) and

-two meetings with NGOs, on 8.1.2009 and 23.2.2009

These informal meetings allowed the relevant stakeholders to discuss and explore, in a frank and open manner, the effects that the options under consideration for legislative changes could have on the problems identified as well as the results they could produce in the different national contexts. The views expressed by the different stakeholders on the specific options for amendments on which these discussions focused may be summarized as follows.

#### On the amendment of the definition of the concept “actors of protection”:

MS generally acknowledge the need to better circumscribe the concept but caution against imposing overly stringent conditions which would transpose European values to other societies or require unrealistic guarantees of "absolute" protection; some emphasize in particular the need to keep a balanced, pragmatic approach in this context. UNHCR and NGOs insist on the need to clarify and strengthen the criteria used in the definition, and in particular to specify that effectiveness and accessibility of protection are necessary legal pre-requisites.

#### On the amendment of the definition of the concept “internal protection”:

Regarding the deletion of paragraph 3 of Article 8, which allows for the possibility to apply the notion of internal protection despite the existence of technical obstacles, MS views appear divided: some are opposed to its deletion, as they see an added value in specifying that technical obstacles should not impede the use of this concept, whereas others argue in favour of this deletion, on the basis that temporary reasons to postpone travel to the country of origin have no place in the context of the assessment of the substance of asylum claims. Specific reservations were voiced by some MS about the interaction between, on the one hand, an explicit provision to be inserted to the effect that the burden of proof regarding the application of this concept rests with national authorities and, on the other hand, the duty of the applicant to substantiate his/her claim.

UNHCR and civil society organisations stress the necessity to ensure the compatibility of the concept both with the Geneva Convention and the ECHR, and in particular to address the protection gap due to the fact that the current provision does not require that the applicant has a genuine protection alternative, which is safely accessible in legal and practical terms. In their view, the most appropriate solution to address this gap would be to draw on the relevant pre-conditions set out in the ECtHR's judgment in the Salah Sheekh case.

#### On the amendment of the "nexus requirement":

There is general support for broadening the concept both amongst MS and amongst NGOs.

#### On the amendment of the definition of the concept "particular social group":

On the necessity to broaden the concept MS views are divided, depending on whether they currently provide for the possibility to define a particular social group based on gender-related

aspects alone. UNHCR and NGOs on the other hand express a clear preference for an explicit broadening in this respect, with a view to ensuring the full and inclusive application of the Geneva Convention, as well as consistency in national practices. This approach is in particular strongly supported by NGOs concerned by women's rights, such as the European Women's Lobby, in view of the significant numbers of female applicants affected by the interpretation of the notion of particular social group.

#### On the introduction of exceptions to the "ceased circumstances" cessation clauses:

The application of these exceptions with regard to cessation of refugee status is considered by MS as compulsory by virtue of the Geneva Convention; some MS would need to examine more closely the added value or applicability of these exceptions regarding the cessation of subsidiary protection. UNHCR and NGOs are in favour of the insertion of such exceptions with regard to cessation of both statuses.

#### On the approximation of the rights granted to beneficiaries of subsidiary protection to those granted to refugees:

There is general consensus amongst MS on the need to approximate the rights attached to refugee status and subsidiary protection, while maintaining two separate statuses. In view of the practical experience acquired so far through the implementation of the subsidiary protection regime, the overwhelming majority of MS acknowledge that the protection needs of beneficiaries of subsidiary protection are not of a more temporary nature than those of refugees and that granting different levels of rights to the two categories implies additional administrative and financial burdens. Consequently, most MS grant in most respects the same level of rights to the two categories of beneficiaries of international protection. However, a few MS retain some reservations, and would prefer to maintain a degree of flexibility regarding in particular the duration of the residence permits and the access of beneficiaries of subsidiary protection to the labour market, social welfare and healthcare.

In contrast, UNHCR and civil society stakeholders favor the establishment of a single uniform status for both categories, arguing that there is no justification for a differential treatment, given the compelling nature of the protection needs of both categories.

#### On measures to enhance the integration for beneficiaries of international protection:

MS, as well as civil society, acknowledge the need to ensure effective access to rights and express overall support for measures towards enhancing the integration process for beneficiaries of international protection. Some MS favour an approach aimed at granting them the same rights as nationals, whereas a few consider that the acquisition by beneficiaries of international protection of MS' citizenship should also be facilitated on the basis of common standards.

#### On broadening the definition of "family members":

Several MS favour such a broadening, insisting that the current definition is inadequate and pointing to the fact that they have already found it necessary to adopt broader definitions at national level. Others however, caution against it, pointing to the difficulties of preventing and dealing with potential abusive claims to benefits.

## Annex 3 - New Asylum applications in EU, 1987-2007

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	
EU27																						EU27
EU15	162775	210745	291645	397025	511185	672385	516705	300290	263655	227835	242845	313645	380450	406585	424180	421470	344800	276675	234675	197410	222170	EU15
BE	5975	4510	8190	12945	15445	17675	26715	14340	11410	12435	11790	21965	35780	42690	24505	18800	13585	12400	12575	8870	11120	BE
DK	2725	4670	4590	5290	4610	13885	14345	6650	5105	5895	5100	5700	6530	10345	12510	5945	4390	3235	2280	1960	2225	DK
DE	57380	103075	121320	193065	256110	438190	322600	127210	127935	117335	104355	98645	94775	78565	88285	71125	50565	35605	28915	21030	19165	DE
GR	6300	9300	6500	4100	2700	2110	860	1105	1280	1640	4375	2950	1530	3085	5500	5665	8180	4470	9050	12265	25115	GR
ES	2500	4515	4075	8645	8140	11710	12645	11990	5680	4730	4975	4935	8405	7925	9490	6310	5765	5365	5050	5295	7195	ES
FR	27670	34350	61420	54815	47380	28870	27565	25960	20415	17405	21415	22375	30905	38745	47290	51085	59770	58545	49735	30750	29160	FR
IE	50	50	40	60	30	40	90	360	420	1180	3880	4625	7725	10940	10325	11635	7485	4265	4305	4240	3935	IE
IT	11000	1300	2240	3570	24490	2590	1320	1830	1760	680	1890	13100	18450	15195	17400	16015	13705	9630	9345	10350	14050	IT
LU	100	45	85	115	240	120	225	260	280	265	435	1710	2930	625	685	1040	1550	1575	800	525	425	LU
NL	13460	7485	13900	21210	21615	20345	35400	52575	29260	22855	34445	45215	39275	43895	32580	18665	13400	9780	12345	14465	7100	NL
AT	11405	15790	21880	22790	27305	16240	4745	5080	5920	6990	6720	13805	20130	18285	30125	39355	32360	24635	22460	13350	11920	AT
PT	180	250	115	60	235	655	2090	615	330	270	250	355	305	225	235	245	115	115	115	130	225	PT
FI	50	65	180	2745	2135	3635	2025	835	850	710	970	1270	3105	3170	1650	3445	3090	3575	3595	2275	1405	FI
SE	18115	19595	30335	29420	27350	84020	37580	18640	9045	5775	9680	12840	11220	16285	23500	33015	31355	23160	17530	24320	36205	SE
UK	5865	5740	16775	38200	73400	32300	28500	32830	43965	29640	32500	46015	71160	80315	71365	103080	60045	40625	30840	28320	27905	UK
CY												225	790	650	1620	950	4405	9675	7715	4540	6770	CY
CZ											2110	4085	7355	8790	18095	8485	11400	5300	3590	2730	1585	CZ
EE											0	25	25	5	10	10	15	10	10	5	15	EE
HU										1260		7120	11500	7800	9555	6410	2400	1600	1610	2115	3420	HU
LV												35	20	5	15	25	5	5	20	10	35	LV
LT											240	160	145	305	425	365	395	165	100	145	125	LT
MT											70	160	255	160	155	350	455	995	1165	1270	1380	MT
PL								600	840	600	3580	3425	3060	4660	4480	5170	6810	7925	5240	4225	7205	PL
SK						85	95	140	360	415	645	505	1320	1555	8150	9745	10300	11395	3550	2850	2640	SK
SI								30	35	35	70	335	745	9245	1510	650	1050	1090	1550	500	370	SI
BG											370	835	1350	1755	2430	2890	1320	985	700	500	815	BG
RO					315	425	930	645	635	585	1425	1235	1665	1365	2280	1000	885	545	485	380	660	RO

### Remarks:

Annual total for 2007 for some MS is based on aggregation of monthly figures Jan-Dec.

In following MS UNHCR data for 2007 have been used:

BE

IT

Source: Eurostat

## Annex 4 - Asylum applications in EU 27 in 2008

<b>257375</b>	<b>EU27</b>
41845	FR
31200	IT
30545	UK
26945	DE
24875	SE
19885	GR
15940	BE
15255	NL
12750	AT
8515	PL
4440	ES
3865	IE
3770	FI
3450	CY
3175	HU
2605	MT
2375	DK
1650	CZ
1180	RO
905	SK
745	BG
520	LT
455	LU
260	SI
155	PT
55	LV
15	EE

Source: Eurostat

## **Annex 5 - National practices regarding the application of the concept "actors of protection"**

According to Article 7 of the Qualification Directive, protection can be provided not only by the State but also by parties and organisations, including international organisations. UNHCR and civil society stakeholders criticise this definition as not providing adequate criteria for assessing the level and effectiveness of protection required for non-state entities to qualify as actors of protection, thus allowing MS to reject asylum claims and return applicants to their country of origin despite the lack of effective protection. For instance, authorities in Sweden consider clans and tribes as potential actors of protection; this creates the risk that in the future entities such as criminal networks, warlords or guerrillas could be recognised as actors of protection<sup>3</sup>. In other MS, such as Hungary, Belgium and the United Kingdom, NGOs have been considered as actors of protection with regard to women at risk of female genital mutilation and honour killings, to the extent that they diminish such risks<sup>4</sup>.

Moreover, there are wide divergences in the national practices, for instance on the issue whether international organisations, such as UN Peacekeeping Forces, are able to provide protection<sup>5</sup>. This lack of clarity is reflected in the fact that the German Federal Administrative Court has asked the European Court of Justice (ECJ) for a preliminary ruling on the question whether it suffices if protection can be provided only with the assistance of multi-national troops<sup>6</sup>.

In particular, on the basis of MS' answers to the GHK questionnaire, the following divergences have been identified: 11 countries (Belgium, Cyprus, Czech Republic, Estonia, France, Hungary, Luxembourg, Latvia, Poland, Sweden and Slovak Republic) have adopted a flexible interpretation of the concept (i.e. it is not required that the entity has control over the State or part of it but that this protection is effective and durable; these conditions are considered to be fulfilled in the case of UN missions). 6 amongst these MS (Belgium, Cyprus, Luxembourg, Latvia, Poland and Sweden) mentioned the possibility of accepting clans as actors of protection if the assessment of the situation in the country of origin shows that they can provide sufficient protection.

On the other hand, the following 4 countries adopt a stricter definition (i.e. explicitly excluding international organisations): Finland and Romania (which require that the organisation has the State or a considerable part of the territory under its control), Malta (which considers the list as exhaustive) and the United Kingdom (which considers solely international organisations as potential actors of protection).

Belgium, France, Finland and Romania place emphasis on the accessibility, durability and effectiveness of the nature of protection in the country of origin. Other MS apply specific criteria in their analysis of the situation on a case-by-case basis. In particular, the Czech Republic takes into account the situation on the whole territory, the conditions to obtain

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<sup>3</sup> For more information see UNHCR study op.cit, p. 50

<sup>4</sup> Information collected in the context of the consultations with NGOs.

<sup>5</sup> Odysseus report op.cit, p. 43; UNHCR study op.cit, p.48; ELENA/ECRE, "The impact of the EU Qualification Directive on International protection", October 2008, [http://www.ecre.org/files/ECRE\\_QD\\_study\\_full.pdf](http://www.ecre.org/files/ECRE_QD_study_full.pdf), p.16

<sup>6</sup> Decision of 7 February 2008, BVerwG 10 C 33.07, OVG 16 A 4354/05.A, p.2: <http://www.bundesverwaltungsgericht.de/media/archive/6540.pdf>

protection and the nature of protection; Estonia examines the presence of a democratic system, the general political climate, the human rights situation and Sweden assesses the lack of willingness or ability of the actor of protection to provide effective protection. Finally, seven MS (Cyprus, Hungary, Luxembourg, Latvia, Malta, Poland and the Slovak Republic) rely mainly on the existence and accessibility of an effective legal system. According to the UNHCR study this is also the case in Germany and Greece.



## **Annex 6 - National practices regarding the application of the concept "internal protection"**

Deficiencies with respect to Article 8 have been noted in several regards. Firstly, the provision does not require the existence of actual protection but merely the absence of a well-founded fear of persecution or of a real risk of serious harm, which does not necessarily mean that protection is available to the applicant.

Moreover, it is criticized to the extent that it omits essential requirements flowing from the Geneva Convention and Article 3 ECHR, i.e. that the proposed location should be practically, safely and legally accessible to the applicant<sup>7</sup>. Indeed, by allowing the use of the concept despite the existence of technical obstacles, it contradicts the requirement that the proposed location should be practically accessible. Particular concerns are expressed by NGOs such as Save the Children with regard to unaccompanied minors, to the extent that their vulnerability requires a thorough assessment taking into account in particular in the ECtHR case law<sup>8</sup>.

Furthermore, there is evidence that this broad definition of the concept allows for wide inconsistencies in its application by MS. The UNHCR study provides several examples of divergent approaches in the application of the concept of internal flight alternative. For example, it shows that the French authorities generally consider that there is no internal protection alternative for those who have a well-founded fear of persecution or risk of serious harm by the State of Colombia; and that the State is unable to provide protection to the victims of FARC; as a result the concept of internal protection was not applied in any of the decisions reviewed in the study concerning Colombians. Yet in Germany, in 38 of the 60 Colombian decisions screened, the adjudicators found applicants to be able to seek refuge in one of Colombia's bigger cities and their surrounding areas.

The treatment of the Chechen caseload also highlighted a divergent approach: in France and Sweden, the concept of internal protection was not applied in any of the decisions reviewed concerning Chechens, whereas according to German policy, most parts of the Russian Federation are accepted as possible internal protection alternatives. Furthermore, the ECRE study revealed that in six of the surveyed MS (Czech Republic, France, Hungary, Luxembourg, Portugal and Sweden) the internal protection alternative is envisaged even if the actor of persecution is the State.

Moreover, according to information collected in the context of consultations with MS and NGOs, it appears that at least in Austria, Germany Ireland, Sweden and the United Kingdom, it is the applicants who carry the burden to prove that they would not be safe in any part of their country of origin.

Twenty-five MS (all but Italy and Spain) are implementing the provisions of the first and second paragraph of article 8. However, only 8 MS have transposed Article 8(3): Cyprus, Germany, Ireland, Luxembourg, Netherlands, Portugal, Slovakia, and the United Kingdom.

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<sup>7</sup> See in particular judgment of the European Court of Human Rights (ECtHR), 11 January 2007, *Salah Sheekh v. the Netherlands*, paragraph 141. See also UNHCR Annotated Comments on the Qualification Directive op.cit, under Article 8; ECRE's contribution to the Green Paper consultation; Hemme Battjes, *European Asylum Law and International Law*, 2006, para.321. For more details see UNHCR study op.cit, pp 55-66.

<sup>8</sup> See for instance judgment of 12 October 2006, *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*.

MS' replies to the GHK questionnaire showed also different interpretations of what constitutes a technical obstacle for the return of an applicant: airport closure and/or unavailability of transportation (Cyprus, Estonia, Hungary, Lithuania, Luxembourg, Malta, Poland, Romania and Sweden); lack of travel or identification documents (Lithuania, Malta, Poland, Romania and Sweden - whereas the Czech Republic, Hungary and the Netherlands underlined that this cannot be considered an obstacle); lack of cooperation of authorities in the country of origin (Estonia, Luxembourg and Romania) and physical inability of the applicant (e.g. illness, pregnancy) (Estonia, Luxembourg and Poland).

*Source: UNHCR study, pp.55-66; ECRE study, pp.131-132; Odysseus study, p.48; Information collected in the context of consultations with MS*

## Annex 7 – National practices regarding the application of the concept "particular social group"

The Directive provides that persons qualify for refugee status where they have a well-founded fear of persecution because, inter alia, of their membership to a particular social group. This last ground is defined by reference to two criteria: that the members of this group share an innate characteristic or one that is so fundamental to identity or conscience that cannot reasonably be changed; and that they are perceived by society as a distinct group. The wording of the provision has allowed MS to apply these criteria as cumulative requirements (at least 12 MS)<sup>9 10</sup> or as alternative requirements (in at least another 10 MS)<sup>11</sup>.

The cumulative approach may result in denial of refugee protection to members of groups of apparently unconnected and unallied individuals, such as victims of trafficking, women at risk of domestic violence, or who believe in values at odds with the social mores of the societies in which they live, for instance women who object to forced marriages or to female genital mutilation or who refuse to wear traditional garb, and who might not necessarily be perceived by society as a distinct group<sup>12</sup>. There is evidence that many female applicants experience difficulties to demonstrate that not only were they persecuted but also constituted or were considered part of a social group in the country of origin<sup>13</sup>.

The Directive provides that "[g]ender related aspects might be considered" for the purposes of defining a particular social group, without "by themselves alone" creating a presumption in this respect. Consequently, 14 MS do not provide the possibility to define a particular social group on gender related aspects alone<sup>14</sup> whereas in 11 MS women could be regarded as a social group<sup>15 16</sup>.

In view of the above, it appears that the Directive does not allow for a broad, inclusive interpretation of the notion, in accordance with the UNHCR Guidelines<sup>17</sup>. To cite an example of such an inclusive interpretation, courts and administrative instances in the United Kingdom have recognized "women in Afghanistan" or "women in Iran" as particular social groups<sup>18</sup>.

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<sup>9</sup> Austria, Belgium, Bulgaria, Czech Republic, Finland, France, Germany, Poland, Portugal, Slovenia, Slovakia, and the United Kingdom

<sup>10</sup> Odysseus study, page 52; ECRE study, page 20;

<sup>11</sup> Estonia, Greece, Hungary, Ireland, Latvia, Luxembourg, Netherlands, Romania, Spain and Sweden

<sup>12</sup> Another example would be students, members of a certain profession or a social class, who do not share an immutable characteristic but who are nevertheless perceived by society as a group apart and who may well be targets of persecution based on their associations. For more information see, inter alia, T. Alexander Aleinikoff "Protected characteristics and social perceptions: an analysis of the meaning of "membership of a particular social group"", <http://www.unhcr.org/publ/PUBL/419cbe1f4.pdf>, 2003; p.42-48

<sup>13</sup> Information provided by the European Women's Lobby

<sup>14</sup> For an indication of the number of female asylum seekers in these MS in 2008 see table below

<sup>15</sup> Belgium, Bulgaria, Czech Republic, Finland, France, Germany, Hungary, Ireland, Luxembourg, Spain and Sweden

<sup>16</sup> Odysseus study op.cit, p.53

<sup>17</sup> See UNHCR "Guidelines on 'Membership of a Particular Social Group'", HCR/GIP/02/02, 7 May 2002; and "Guidelines on Gender-Related Persecution", HCR/GIP/02/01, 7 May 2002.

<sup>18</sup> . See UNHCR annotated comments on the EC Council Directive 2004/83/EC of 29 April 2004, January 2005, comment under Article 10, ECRE study, p 21. This view was further endorsed in a recent judgment by the UK House of Lords: Secretary of State for the Home Department v. K, Fornah v.

Numbers of female asylum seekers in MS which do not provide the possibility to define a 'particular social group' on gender related aspects alone (2008):

MS	Female applications in 2008
Austria	4,255
Cyprus	780
Estonia	5
Greece	1,625
Italy	4,405
Latvia	15
Lithuania	185
Netherlands	5,200
Poland	4,070
Portugal	55
Romania	105
Slovakia	90
Slovenia	35
United Kingdom	9,975
<b>Total</b>	<b>30,800</b>

*Source: Eurostat*

## Annex 8 - National practices regarding level of rights granted to beneficiaries of subsidiary protection

*Sources: Information gathered through consultation with MS; Directive 2004/83 Qualification Directive Synthesis Odysseus Study op.cit p. 100, ECRE report, op.cit. p. 31-34.*

When subsidiary protection was introduced, it was assumed that the beneficiaries' protection needs would be of a short duration, since most of them would be persons fleeing armed conflicts in their country of origin who would thus be able to return once the conflicts were over<sup>19</sup>. As a result, the Directive allows MS the discretion to grant beneficiaries of subsidiary protection a lower level of rights than those granted to refugees particularly with respect to the duration of residence permits, reasons to travel, benefits for family members, access to social welfare and health care, as well as access to the labour market, and integration facilities.

However, taking into account the practical experience acquired so far through the implementation of the subsidiary protection regime, it appears that this initial assumption was not accurate. Although in both cases a significant change of circumstances in the country of origin may lead to the application of cessation and to the return of the persons concerned to their country of origin, there is no evidence that this happens more often or after a shorter period of stay in the host Member State in the case of beneficiaries of subsidiary protection. Acknowledging this, most MS grant in most respects the same level of rights to the two categories of beneficiaries of international protection. Two MS<sup>20</sup> stated in the context of the consultations that they had initially differentiated the level of rights granted to the two categories but soon realised that there was no ground for these differences and proceeded to an approximation. The relevant national practices are described in detail below.

### A. Residence permits and travel documents

The replies by 16 MS to the relevant questionnaires and the information contained in the Odysseus study) provide several indications that MS consider that beneficiaries of subsidiary protection have protection needs of similar duration as refugees; tellingly at least 7 MS<sup>21</sup> grant beneficiaries of subsidiary protection residence permits longer than the 1 year prescribed as a minimum by the Directive.

However, more generally, there is wide variation amongst MS regarding the duration of validity of the residence permits granted to beneficiaries of subsidiary protection. In at least 11 MS<sup>22</sup> beneficiaries of subsidiary protection are granted the minimum (one year) residence permit, whereas in Poland they are granted permits valid for 2 years. In at least seven MS they are granted permits of the same length as refugees<sup>23</sup>: in Ireland, Slovenia and Bulgaria they are granted 3 years whereas Latvia, the Netherlands, the United Kingdom and Hungary provide residence permits of 4 years or more.

MS were further asked to provide information regarding the travel documents issued to beneficiaries of subsidiary protection and in particular on whether they apply the limitation

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<sup>19</sup> See for instance France's contribution to the Green Paper consultation, para. III.b; Explanatory memorandum to the Commission's original proposal for the Directive, under Article 21

<sup>20</sup> The Czech Republic and Romania

<sup>21</sup> Bulgaria, Hungary, Ireland, Latvia, Poland, Slovenia and United Kingdom

<sup>22</sup> Austria, Belgium, Czech Republic, Cyprus, Estonia, Finland, France, Lithuania, Luxembourg, Romania and Slovakia

<sup>23</sup> Bulgaria, Hungary, Ireland, Latvia, Poland, Slovenia and United Kingdom

allowed for in Article 25(2) of the Directive, thus issuing documents which enable their holders to travel only when serious humanitarian reasons arise that require their presence in another State. This survey showed that only 3 amongst the 19 MS which replied apply this limitation: Austria, Luxembourg and Spain.

#### B. Access to employment, social welfare and healthcare benefits and family unity

From the combined information provided by the available reports<sup>24</sup> and the responses to the relevant questionnaires by 16 MS it appears that, with regard to access to employment, social welfare and healthcare and the right to maintain family unity, very few MS have made use of the possibilities provided by the Directive to limit the rights of beneficiaries of subsidiary protection.

In particular, only 3 MS (Cyprus, Luxembourg and Germany) have made use of the possibility to limit their access to employment according to Article 26(3).

Only 4 MS (Germany<sup>25</sup>, Luxembourg, Latvia and Portugal) use the possibility to reduce their access to social welfare to core benefits according to Article 28(2)<sup>26</sup>.

Only one Member State (Malta) appears to apply the similar possibility to reduce their access to healthcare to core benefits according to Article 29(2).

In addition, the ECRE study<sup>27</sup> found that in Austria the level of benefits granted to beneficiaries of subsidiary protection depends on the region they are hosted by (this is due to the federal system). Furthermore, in Germany, in cases of subsidiary protection, there is a specific system of social benefits that reduces the benefits in general of about 30% and offers no access to some specific benefits concerning medical treatment.

Finally, in relation to the provision of benefits to family members of beneficiaries of subsidiary protection, it appears that Poland is the only Member State that intends to use the possibility to apply specific conditions for providing benefits to family members of beneficiaries of subsidiary protection, as allowed by Article 23(2)<sup>28</sup>.

The following table provides an overview of the difference (or lack thereof) in treatment between refugees and beneficiaries of subsidiary protection with regard to access to employment, social welfare and healthcare<sup>29</sup>.

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<sup>24</sup> Odysseus report, pages 113-115; ECRE report, pages 32-34; France Terre d'asile report, pages 48-50

<sup>25</sup> Germany imposes additional criteria in relation to support grants for children and education. Such support grants are awarded to beneficiaries of subsidiary protection only if the person in question has been legally staying in Germany for at least three years. See ECRE study, p.256; France Terre d'asile report, p. 49.

<sup>26</sup> Information with regard to Austria is unclear. The Odysseus study (p.113) found that Portugal and Austria also has made use of the possibility to limit social assistance granted to beneficiaries of subsidiary protection whilst Austria's response to the DG JLS questionnaire states that 'beneficiaries of subsidiary protection enjoy unrestricted and unconditional access to the labour market just like refugees'. No explanation as to how these benefits differ was, however, provided.

<sup>27</sup> The impact of the EU qualification directive on international protection, ECRE, pp.254-258

<sup>28</sup> In its reply to the GHK questionnaire, Poland indicated that specific conditions would take effect as of 1 January 2009. No further information was, however, received on what such specific conditions would imply.

<sup>29</sup> The information provided in this table is based on the information given in the MS' responses to the DG JLS questionnaire and information provided in the ECRE study. The following 16 MS provided information on this issue as part of their response to the JLS questionnaire: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Hungary, Luxembourg, Latvia, Poland, Romania, Sweden, Slovakia, Slovenia and United

Treatment of beneficiaries of subsidiary protection compared to refugees	Access to employment	Access to social welfare	Access to healthcare
Difference	<i>Cyprus, Germany and Luxembourg</i>	<i>Luxembourg, Latvia, Portugal and Germany</i>	<i>Malta</i>
No difference	<b>Austria, Belgium, Bulgaria, Czech Republic, Estonia, France, Finland, Hungary, Ireland, Italy, Latvia, Netherlands, Poland, Romania, Sweden, Slovakia, Slovenia and United Kingdom</b>	<b>Austria, Bulgaria, Czech Republic, Cyprus, Estonia, Finland, Hungary, Poland, Romania, Sweden, Slovakia, Slovenia and United Kingdom</b>	<b>Bulgaria, Czech Republic, Cyprus, Estonia, Finland, Hungary, Latvia, Poland, Romania, Sweden, Slovakia, Slovenia and United Kingdom</b>
No reply	<b>Luxembourg</b>	<b>Belgium</b>	<b>Austria, Belgium and Luxembourg</b>

### C. Access to integration programmes

According to the information provided by the available studies<sup>30</sup>, updated in the context of the consultations with MS and NGOs, at least four MS (Ireland, Slovenia, Sweden and the UK) do not differentiate between refugees and beneficiaries of subsidiary protection in this respect.

The possibility to provide access to integration programmes to beneficiaries of subsidiary protection to the degree that MS find it ‘appropriate’ has been transposed in the domestic legislation of Bulgaria, Czech Republic, Estonia, Hungary, Lithuania, Slovakia, and Portugal. A differentiation in terms of access of beneficiaries of subsidiary protection to integration facilities compared to access of refugees also appears in German practice. There is no information available on how this provision is implemented in practice. The study conducted by France Terre d’Asile reveals the following variations in the content and access of integration programmes for refugees and beneficiaries of subsidiary protection.

Country	Access to integration programme
Germany	Refugees: right to participate for 2 years  Beneficiaries of subsidiary protection: no rights, but can be obliged to participate
Belgium	Refugees and beneficiaries of subsidiary protection: Programmes vary depending on the community. In Flanders for examples these programmes include language courses as well as social and professional orientation.
France	Refugees and beneficiaries of subsidiary protection: benefit from the Contract of Reception and Integration (CAI).  Personal accompaniment is only for refugees.
Hungary	Refugees and beneficiaries of subsidiary protection: pre-integration measures left to the discretion of authorities. Both have access to linguistic training.
Sweden	Refugees and beneficiaries of subsidiary protection: individual integration plan put into place by municipalities. Both have access to linguistic training for migrants.

Kingdom. The remainder of the information is based on the ECRE report. Countries referred to in the ECRE report are indicated in *italics* in the table.

<sup>30</sup>

Odysseus study, op.cit, p.127, France Terre d’Asile study

## Annex 9 - Specific integration needs and challenges

The Qualification Directive grants beneficiaries of international protection access to a series of rights aimed at supporting their integration in the host societies; it appears, however, that this legal framework does not take sufficiently into account their specific needs and potential. This results in the *de facto* unavailability of rights formally granted, lack of access to sustainable employment and losses for the receiving societies and their economies. Although there are no exact figures available<sup>31</sup>, various research across the EU points to the disadvantaged position beneficiaries of international protection face in the labour market: many are unemployed or under-employed; they suffer higher levels of unemployment than the native population; many highly-skilled beneficiaries of international protection are working in low skilled, temporary and badly paid jobs. In addition to the ensuing negative social consequences of dependency and the significant burden for MS in terms of social welfare and benefits, this means that the huge potential beneficiaries of international protection represent remains in great part untapped.

As regards the specific needs of beneficiaries of international protection, it should be pointed out that, although they face many integration challenges similar to those faced by other third country nationals staying legally in the EU, they also face specific obstacles, mainly due to the forced nature of their migration: the main factor distinguishing forced movement from voluntary migration is the predominance of non-economic imperatives; as a result, beneficiaries of international protection are less likely than other migrants to move to countries where they have already some cultural, linguistic or economic links.

### Sources:

#### - Studies on challenges faced by beneficiaries of international protection to access the labour market

- Caritas Europa Study Migration, a Journey into poverty, 2006, available at <http://www.caritas-europa.org/module/FileLib/Poverty2006ENWeb.pdf>, , 27
- ECRE Policy Briefing on employment and employment support for refugees and migrants in Europe available at [http://www.ecre.org/files/Policy%20Briefing\\_Employment%20and%20employment%20support.pdf](http://www.ecre.org/files/Policy%20Briefing_Employment%20and%20employment%20support.pdf);
- Fund for Refugee Employment and Education (FREE) Refugee Contribution to Europe: A feasibility study on the establishment of a FREE, November 2002;
- Refugees, Recent Migrants and Employment, Challenging barriers, exploring pathways, Routledge Economics, Sonia McKay, October 2008, available at <http://www.routledgeeconomics.com/books/Refugees-Recent-Migrants-and-Employment-isbn9780415988773>;
- Integrating refugees into employment - some European examples [www.cerc.unimelb.edu.au/events/2007semabs/pearson%20refugee%20integration%20CERC%20060307.pps](http://www.cerc.unimelb.edu.au/events/2007semabs/pearson%20refugee%20integration%20CERC%20060307.pps);
- Employment integration of refugees: The influence of local factors on refugee job opportunities in Sweden, Pieter Bevelander and Christer Lundh, January 2007, <http://ftp.iza.org/dp2551.pdf>;
- How Important Is Homeland Education for Refugees' Economic Position in The Netherlands?, Joop Hartog and Aslan Zorlu, Journal of Population Economics, 2009, 22 (1), 219-246, [http://www.iza.org/en/webcontent/publications/papers/viewAbstract?dp\\_id=1753](http://www.iza.org/en/webcontent/publications/papers/viewAbstract?dp_id=1753);
- Access to the labour market and vocational training, available at <http://pomocprawna.home.pl/dosciagniecie/ICF/4LabourMarket1.pdf>;

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<sup>31</sup> The MS' replies to the relevant questionnaires confirmed that such statistics are not systematically collected.



- Further information on relevant studies on: <http://www.employabilityforum.co.uk/refugee-employment/publications-and-research.htm>

#### **Further sources:**

- Contributions received in the context of the Green Paper consultation and a series of assessments conducted by UNHCR and ECRE in several MS; see for instance contributions by Caritas, p. 12; by ECRE, p. 25; by France Terre d'asile, p. 23-24;
- UNHCR Integration Note op.cit page 5;
- Annual report of the EU Agency for Fundamental Rights for 2008, p.43

One of the specific problems faced by beneficiaries of international protection is that they are often unable to provide documentary evidence to prove their claimed academic and professional qualifications; they may have had to leave their personal belongings and papers behind; there may be no way to communicate safely with the institution(s) where their qualifications were earned, or relevant files and archives may have been destroyed in acts of war or violence. The ensuing inability to certify previous studies and professional qualifications hinder their access to higher education or to employment activities. In particular, it appears that beneficiaries of international protection with professional backgrounds often face many difficulties in accessing the same profession because their diplomas are not recognised. Furthermore, many applicants have skills that were not earned through schooling or university studies, but e.g. in the home. Other ways of proving their skills than testing competences obtained through academia are therefore often needed. Several national and transnational projects under the asylum seekers theme of the EQUAL Initiative have developed and implemented 'skills audits' to test and validate the skills and competences of asylum seekers. The experiences from the EQUAL theme clearly show the human and economic benefits of undertaking such skills audits. The beneficiaries are able to access relevant education, training and employment, resulting in better physical and emotional well-being and the empowerment of the beneficiaries, and reduced healthcare and welfare costs for the host society<sup>32</sup>.

A further obstacle flows from their limited financial capacities: often they are prevented from seeking recognition of their qualifications because they cannot afford the fees involved. The Lisbon Recognition Convention Committee recommends in this context that "[s]pecial measures aimed at low income groups, refugees and displaced persons and other disadvantaged groups should be considered in order to ensure that no applicant is prevented from seeking recognition of his or her foreign qualifications because of the costs involved"<sup>33</sup>.

Evidently, recognition of their qualifications is crucial with a view to finding suitable and long-term employment matching their skills and qualifications<sup>34</sup>; moreover, recognising

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<sup>32</sup> See for example <http://www.equal-works.com/resources/contentfiles/1194.pdf> and [http://ec.europa.eu/employment\\_social/equal/policy-briefs/etg5-skill-audits-as\\_en.cfm](http://ec.europa.eu/employment_social/equal/policy-briefs/etg5-skill-audits-as_en.cfm)

<sup>33</sup> Recognition of Qualifications concerning Higher Education in the European Region, adopted in Lisbon on 11 April 1997 (ETS No. 165), Article VII; The introduction to the Council of Europe Working Party on Refugee Qualifications, *Guidelines for the recognition of refugees' qualifications* (1999) at: [http://www.aic.lv/ace/ace\\_disk/Recognition/leg\\_aca/ref\\_guid.pdf](http://www.aic.lv/ace/ace_disk/Recognition/leg_aca/ref_guid.pdf).

<sup>34</sup> For information on projects in different MS providing support for recognition of qualification of immigrants and refugees see Annex 10

existing skills and competences is far less costly than educating and training people with no such abilities<sup>35</sup>.

The Directive grants beneficiaries of international protection equal treatment with nationals in the context of national recognition procedures. However, it does not adequately address the practical difficulties they encounter, to the extent that these are linked to their specific situation and are of a different nature than those faced by EU nationals<sup>36</sup>.

#### **Sources:**

#### **Studies on challenges faced by beneficiaries of international protection for recognition of skills and competences**

- Gelijkschakeling van diploma's, available at [http://www.vluchtelingenwerk.be/pdf/rapport\\_gelijkschakeling.pdf](http://www.vluchtelingenwerk.be/pdf/rapport_gelijkschakeling.pdf)
- Resource project: Refugee's contribution to Europe, Education Action International, available at [http://www.cear.es/upload/Resource\\_project%20overall%20report\\_.pdf](http://www.cear.es/upload/Resource_project%20overall%20report_.pdf)
- Les droits des refugies - Emploi et formation: La validation des acquis de l'expérience, Fonds Européen pour les Refugies et France Terre d'Asile, Décembre 2007
- Les droits des refugies - Emploi et formation: La reprise des études, Fonds Européen pour les Refugies et France Terre d'Asile, Décembre 2007
- Les droits des refugies - Emploi et formation: La reconnaissance professionnelle des diplômes, Fonds Européen pour les Refugies et France Terre d'Asile, Décembre 2007
- Les droits des refugies - Emploi et formation: La reconnaissance professionnelle des diplômes pour les professions réglementées, Fonds Européen pour les Refugies et France Terre d'Asile, Décembre 2007

#### **Further sources:**

- UNHCR Integration Note, op.cit; pages 7-9;
- ECRE Policy Briefing on employment and employment support for refugees and migrants in Europe, op.cit;
- ECRE Policy briefing on access to vocational training and (higher) education for refugees and migrants in Europe, available at [http://www.ecre.org/files/Policy%20Briefing\\_Vocational%20training%20&%20higher%20education.pdf](http://www.ecre.org/files/Policy%20Briefing_Vocational%20training%20&%20higher%20education.pdf)

Relevant research further shows that many beneficiaries of international protection are unable to work for years due to their situation of exile and lengthy asylum procedures. As a result of this protracted inactivity, their skills may become outdated<sup>37</sup>. However, in most MS there is a lack of suitable training courses to upgrade their qualifications tailored to their needs. MS' responses to the GHK questionnaire indicate that, at present, only Belgium,

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<sup>35</sup> For instance, as shown by the CARA study, it can cost as little as £1,000 to prepare a refugee doctor to practise in the United Kingdom compared to £250,000 to train a doctor from scratch, with potentially hundreds of refugee doctors living in the UK <http://www.academic-refugees.org/useful-publications.asp>

<sup>36</sup> For information on good practices developed in certain MS, see Annex 10

<sup>37</sup> As indicated above, the experiences of the EQUAL asylum seekers theme clearly show the human and economic benefits of undertaking skills audits and ensuring access to relevant education, training and employment as soon as possible after the applicants' arrival in the host society. See for example [http://ec.europa.eu/employment\\_social/equal/policy-briefs/etg5-skill-audits-as\\_en.cfm](http://ec.europa.eu/employment_social/equal/policy-briefs/etg5-skill-audits-as_en.cfm)

Cyprus, France, Lithuania and Poland offer beneficiaries of international protection training courses tailored to their professional abilities and needs.

Sources: FREE Project report page 4, ECRE Policy Briefing on the assessment of skills and recognition of qualifications of refugees and migrants in Europe, p. 2.

A further important obstacle is that beneficiaries of international protection are often unfamiliar with labour market requirements and recruitment practices. However, it appears that they receive inadequate employment support: in particular they are offered professional orientation only in ten MS and that governments' employment strategies for them are often part of broader policies for the unemployed or incorporated into integration policies for ethnic minorities and migrants.

Sources: ECRE Policy Briefing on employment and employment support for refugees and migrants in Europe, p. 2; ECRE policy Briefing on access to vocational training and (higher) education for refugees and migrants in Europe, p. 1. Resource project: Refugee's contribution to Europe, Education Action International, page 12. For information on national practices regarding employment support for beneficiaries of international protection see Annex 11

Additional information collected in the context of consultations with Member States is presented below:

Country	Type of programme
AT	9 ERF projects specifically targeted at beneficiaries of international protection and co-financed by the Austrian Ministry of Interior:
CY	The Ministry of Labour and Social Insurance is the competent authority in <b>validating the working skills and assists in job-seeking</b> . In case of specialized qualifications, e.g. doctors, the national laws should be followed in order for a person to practice his/her profession.
HU	Exact data is not available on this topic. In order to enhance job finding possibilities of the target group the OIN reimburses the cost of <b>official document translation</b> .  In addition NGOs organize project-based programmes related to <b>assistance in job-seeking</b> , however concerning finances they report to their sponsors; accordingly the OIN is not frequently informed about their activities.
LV	Special State Employment Agency employment measures, that would be directly aimed to the persons which received the status of the refugee or subsidiary protection status are not provided. However like for any other unemployed person, <b>equal rights are provided for usage of all employment measures of the State Employment Agency</b> .
SI	The Ministry of the Interior, as a body responsible for the integration of persons with international protection, by funding the work of the local NGOs that provide different <b>programmes aimed at assisting persons with international protection in finding work and employment</b> .
UK	The national Refugee Integration and Employment service provides, through the Employment Advice Service <b>up to 12 months of information, advice and support into employment, dealing with .employability issues such as qualification recognition, job search skills and accessing training/education</b> .

Source: Information collected in the context of consultations with Member State

As mentioned above, in contrast to economic migrants, beneficiaries of international protection do not necessarily seek protection from countries with which they have cultural or linguistic links. As a result, **lack of linguistic proficiency** appears to be one of the main causes of their disadvantaged position in the labour market.

Sources: UNHCR response to the Green Paper, p.33; ECRE response to the Green Paper, p.27; ECRE Policy Briefing on introduction programmes and language courses for refugees and migrants in Europe, [http://www.ecre.org/files/Policy%20Briefing\\_Introduction%20programmes%20&%20language%20courses.pdf](http://www.ecre.org/files/Policy%20Briefing_Introduction%20programmes%20&%20language%20courses.pdf)

However, it appears that language courses currently available in the MS are neither adequate nor sufficient. Only scarce information on the availability of language courses was obtained

through MS and NGOs responses to the GHK questionnaire. Eighteen countries confirmed that they offer language courses<sup>38</sup>. However, four NGOs (two from France and one from Ireland and the Netherlands) pointed out that these courses are neither adequate nor sufficient (i.e. they are not tailored to the particular needs of beneficiaries and not enough hours)

Furthermore, the Resource Project conducted by Education Action International (which conducted 297 interviews with refugees in 14 EU countries) found that at present language provision is insufficient to gain access to vocational training, higher education or employment. This is mostly due to the fact that language training is seldom tailored to refugees' specific needs and is not provided as soon as the refugees arrive in the host country.

*Source: Information collected in the context of consultations with MS and NGOs; Resource Project: Refugee's contribution to Europe, Berend Jonker, 2004, Education Action International, page 18, [http://www.cear.es/upload/Resource\\_project%20overall%20report\\_.pdf](http://www.cear.es/upload/Resource_project%20overall%20report_.pdf).*

More generally, there are currently great differences between MS regarding the provision of integration programmes: most have integration packages targeted at all migrants with little to no differentiation between categories. In particular, introduction programmes do not take into account the different educational levels, professional backgrounds, family commitments or other particularities of the situation of beneficiaries of international protection such as the length and the circumstances of their stay in the host Member State.

Sources: ECRE Policy Briefing on introduction programmes and language courses for refugees and migrants in Europe, p. 2

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These are: Belgium, Cyprus, Czech Republic, France, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Poland, Romania, Sweden, Slovakia and the United Kingdom. The following countries did not reply to the MS questionnaire: Austria, Bulgaria, Denmark, Germany, Greece, Ireland, Italy, the Netherlands, Portugal, Slovenia and Spain.

The following countries did not answer the question in the MS questionnaire: Estonia and Finland.

Only the following countries replied to the NGO questionnaire: France, Greece, Ireland, the Netherlands, Belgium and Italy. All 6 NGOs from the 6 MS answered the question.

## **Annex 10 - National practices and projects facilitating access to recognition of qualifications for beneficiaries of international protection**

MS and NGOs responses to the GHK questionnaire illustrate that at least in four countries the special needs of beneficiaries of international protection are taken into account (in certain circumstances):

- In Belgium, beneficiaries of international protection are given the opportunity to explain their circumstances and the reason why they do not possess the relevant proof of qualification;
- In Sweden, measures to recognise qualifications ‘should be based on the individual’s needs and circumstances’;
- In Slovakia, beneficiaries of international protection can obtain the assistance of NGOs which benefit from ERF funds;
- In the Netherlands, under age beneficiaries of international protection can request an equivalence with an incomplete file on the basis of a ‘declaration o honour’;

Responses to the same questionnaire reveal that in Greece, Hungary, Luxembourg, Malta, Poland and Romania, no alternative procedure is established to facilitate the access to recognition of qualification for beneficiaries of international protection.

The analysis of the NGOs and MS responses to the GHK questionnaire revealed that no financial assistance is provided in Belgium, France, Cyprus, Estonia, Latvia and Greece; in Belgium and France however, services for recognition of qualification are free of charge (in France, on condition that the beneficiary is registered as a job-seeker). Such services are also free of charge in Malta, the Netherlands and Italy

In Luxembourg, Romania, Sweden and Slovakia financial support for recognition of qualification is provided. In Romania this is provided by the local agencies for labour force employment, in Sweden by the municipalities or the Swedish Public Employment Service and in Slovakia by NGOs benefiting from ERF funds.

*Source: Information collected in the context of consultations with MS and NGOs.*

In Portugal, the Jesuit Refugee Service implemented, in 2002-2005 a re-qualification support programme with financial support from the Calouste Gulbenkian Foundation. This innovative programme was designed to support foreign medical doctors in procedures to obtain equivalence, granted by a Portuguese educational institution, of their medicine degrees. Support offered includes financial aid for the translation of study documents, purchase of books and payment of fees required by Medical Schools in the equivalence procedure. The programme also foresees intensive Portuguese language courses for candidates, internship grants and financial aid for registering with the Medical Association<sup>39</sup>. From a total of 120 doctors, the project had a success rate of 89%<sup>40</sup>. The excellent success rate also encouraged

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<sup>39</sup> Resource project: Refugee’s contribution to Europe, Education Action International, page 14

<sup>40</sup> Recognition of qualification of migrant doctors, 2002-2005, Jesuit Refugee Service Portugal, page 5

the organisation to create a similar programme for 59 nurses which started in 2005 and ended in June 2007 and had a success rate 76%<sup>41</sup>.

*Source: Resource project: Refugee's contribution to Europe, Education Action International; Recognition of qualification of migrant doctors, 2002-2005, Jesuit Refugee Service Portugal.*

With regard to the obstacles facing beneficiaries of international protection in relation to having their skills and competences recognised, in Belgium, the two organisations<sup>42</sup> providing refugees with the necessary support to obtain recognition of qualifications found that when applying for recognition refugees were confronted with a number of administrative obstacles. Such obstacles included lack of transparency of decisions, lack of alternative in the event of non-recognition, insufficient staff in certain services and general lack of information given to refugees with regard to their options (both in social services and schools)<sup>43</sup>. Therefore, between 2000 and 2004 the Flemish Refugee Council ran a pilot project for diploma equivalence which primarily targeted refugees and asylum seekers. Through providing support for submitting better prepared files, the project aimed at enhancing the chances at recognition of the foreign qualifications of refugees and asylum seekers so as to increase their employment opportunities<sup>44</sup>. Results of the study showed that out of 756 applications made through the project, 84.5% resulted in recognition of qualifications, 11.8% were still waiting and only 3.7% had been rejected<sup>45</sup>. Thus, as a result of its success the project was mainstreamed in 2006/2007 and transferred to the Flemish Centre for Minor Groups where introduction classes were created to train staff for providing more efficient support. Generally, it is also important to note that there are some good practices in Belgium with relation to recognition of qualifications: in Flanders, the process is free, levels of indication can be obtained (this can be recognised as equivalence at the discretion of employers) and recognitions of social promotion are available; in the French community, there is good information about procedures on the website and on flyers and decisions are always clearly justified<sup>46</sup>.

*Sources: Flemish Refugee Council in Flanders and Coordination et Initiatives pour Réfugiés et Etrangers in Brussels ; Equivalence de diplômes étrangers – rapport sur les pratiques en communautés flamande et française, Vluchtelingenwerk Vlaanderen and CIRE asbl ; Recognition of foreign qualifications, Flemish Refugee Council, power point presentation.*

A study by the University of Birmingham identified a need for a national system in the UK for the Accreditation of Prior Experiential Learning (APEL)<sup>47</sup> to support refugees into appropriate employment and utilise their skills and experience. This would be of great benefit to refugees who are often not able to bring their certificates as a result of being forced out of their country due to persecution and human rights abuses. As a result, refugees are often unable to obtain an assessment by UKNARIC<sup>48</sup>. It will also be helpful to refugees with

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<sup>41</sup> Recognition of qualification of migrant doctors, 2002-2005, Jesuit Refugee Service Portugal, page 8

<sup>42</sup> Flemish Refugee Council in Flanders and Coordination et Initiatives pour Réfugiés et Etrangers in Brussels

<sup>43</sup> Equivalence de diplômes étrangers – rapport sur les pratiques en communautés flamande et française, Vluchtelingenwerk Vlaanderen and CIRE asbl, page 13

<sup>44</sup> Recognition of foreign qualifications, Flemish Refugee Council, power point presentation, slide no.2

<sup>45</sup> Recognition of foreign qualifications, Flemish Refugee Council, power point presentation, slide no.4

<sup>46</sup> Equivalence de diplômes étrangers – rapport sur les pratiques en communautés flamande et française, Vluchtelingenwerk Vlaanderen and CIRE asbl, page 15

<sup>47</sup> The UK Centre for Materials Education defines APEL as 'a process that enables people of all ages, backgrounds and attitudes to receive formal recognition for skills and knowledge they already possess.' See <http://www.materials.ac.uk/resources/library/apelintro.asp>, last searched 10 October 2008

<sup>48</sup> The UK National Academic Recognition and Information Centre (UK NARIC) is the National Agency responsible for benchmarking and providing the equivalency of overseas qualifications to those in the UK.

certificates of overseas qualifications that are assessed as being at a lower level in the UK. APEL could be used to complete the qualification without having to return to formal study or training. Without a national APEL system refugees are faced with extended periods of unemployment or underemployment in an attempt to requalify in the UK. The UK in turn misses out on a valuable source of skilled labour and tax income.

In particular, this study found an overreliance by employers and training providers on UK NARIC for assessing learning and experience from outside the EU. The study found low levels of APEL in the UK, which was often limited to building a portfolio of evidence for academic purposes. For example, the Refugee Assessment and Guidance Unit (London Metropolitan University) (RAGU) has successfully run a portfolio-based APEL course for refugees with a focus on accessing higher education. However, in other parts of Europe, APEL is also integrated into work-based assessments. The study developed a useful model for bringing APEL and work experience placements together

*Source: Phillimore, Craig, Goodson, Sankey Employability initiatives for refugees in Europe: looking at, and learning from good practice (University of Birmingham, 2006)*

## Annex 11 – Deficiencies and good practices regarding access to accommodation

An important obstacle to the integration of beneficiaries of international protection may also be in some cases the lack of adequate housing. The Qualification Directive guarantees that beneficiaries of international protection have access to accommodation under equivalent conditions as other legally residing third country nationals. However, it appears that this does not ensure an adequate standard of housing, on the level that is required by human rights instruments, such as the EU Charter on Fundamental Rights (Article 34(3)) and the International Covenant on Economic, Social and Cultural rights (Article 11(1)). Of relevance in this respect is also the guidance provided in the General Comments on the latter Article of the Covenant, which indicate that "the human right to adequate housing, which is [...] derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights [...]"<sup>49</sup>.

The inadequacy of the standards in practice is illustrated by the fact that many beneficiaries of international protection (as a subset of third country nationals residing in Member States) experience direct and indirect discrimination in the housing market<sup>50</sup>. Further deficiencies in the housing provided to beneficiaries of international protection have also been identified by NGOs, such as Caritas, in other MS such as Bulgaria and Germany<sup>51</sup>.

### **Good national practices**

According to the Odysseus study, 5 MS (**Austria, Ireland, Latvia, Poland and Slovenia**) are reported to provide more favourable standards, with a view to providing the standards required in Article 21 of the Geneva Convention, which calls for "treatment as favourable as possible" and in international human rights instruments.

*Source: Odysseus Study, op.cit. p.124*

Consultations with MS and NGOs provided the following information: In **Ireland and Sweden**, beneficiaries of international protection are given the same rights as nationals concerning accommodation. In **Poland**, the state does not provide accommodation actively but gives substantial financial means to beneficiaries of international protection to find something on their own. In **the Netherlands**, municipalities have the obligation to assist beneficiaries of international protection in finding suitable house/accommodation. In **Slovenia**, all beneficiaries of international protection have the right to live in an "integration" house for a year following their recognition, after which they are given financial means to find an accommodation (this is co-financed by the State through funding to NGOs). In **France**, refugees can stay in reception centres for a maximum period of 6 months following the recognition of status.

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<sup>49</sup> [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument)  
<sup>50</sup> Handbook on Integration, Second Edition, available at [http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/integration](http://ec.europa.eu/justice_home/doc_centre/immigration/integration), pp. 32-36, 2005 EUMC study Migrants, Minorities and Housing: Exclusion, Discrimination and Anti-Discrimination in 15 Member States of the European Union, available at [http://www.libertysecurity.org/IMG/pdf\\_EUMC\\_Migrants\\_minorities\\_and\\_housing.pdf](http://www.libertysecurity.org/IMG/pdf_EUMC_Migrants_minorities_and_housing.pdf)  
<sup>51</sup> Caritas Europa Study "Migration, a Journey into poverty", 2006, available at <http://www.caritas-europa.org/module/FileLib/Poverty2006ENWeb.pdf>, pages 44 and 50.



According to the information provided by a recent study, **Hungary** also provides refugees with the possibility to live in an open center for a period of 6 months which can be extended to 6 more months. In the **Czech Republic**, the state finances 5 "integration centers" where refugees can stay for a maximum period of 18 months. In **Austria**, refugees can stay in a centre for 1 year, following which they can have access to approximately 6 000 apartments administered by the Austrian Integration Fund. **In the UK**, the national Refugee Integration and Employment Service provides 6 months of support via a personal case manager who assists in the search for housing.

*Source: France Terre d'asile, "Panorama des initiatives sur l'accès au logement des réfugiés dans 15 pays européens", December 2008, available at [http://buildinginclusion.oberaxe.es/repository/library/Refugee\\_TerreD\\_Asile.pdf](http://buildinginclusion.oberaxe.es/repository/library/Refugee_TerreD_Asile.pdf), p. 8*

More general information on recent policy reforms on "social housing" and their impacts in particular in **Bulgaria, Slovenia, Slovakia and the Czech Republic** can be found in the study "Housing change in East and Central Europe: integration or fragmentation", by Stuart Lowe and S. Tsenkova (Ashgate Publishing, 2003).

The ECRE Policy briefing on housing for refugees and migrants in Europe provided the following information:

Throughout **Italy** there are initiatives such as the one in Bergamo, where the Casa Amica, a 'social housing' agency, has been involved in the creation of a network amongst the most important stakeholders in the field (e.g. local municipality, province, migrant associations and house-builders association), and promotes projects for housing, buying and renovating apartments in order to make them available for rent to disadvantaged persons, including refugees.

**In the Netherlands**, the Dutch Council for Refugees (DCR) has a presence both in reception centres (and all other asylum seekers centres), as well as local departments in the majority of the country's municipalities. In the reception centres, the DCR team informs refugees about existing housing possibilities, and often organise one or two 'facilitation days' to ease the move from a centre to independent housing. In these 'facilitation days', a volunteer assists the refugee and/or family with signing the rental agreement, applying for a loan to furnish the house, applying for social benefits, gas and electricity, etc. In most municipalities, the local departments of the DCR will provide social guidance as part of the integration programme, which is organised by the municipality and which the refugee is obliged to follow.

**In Portugal**, the Portuguese Refugee Council (PRC), with the help of EQUAL I funding, started with the construction of a new reception centre in Loures. It is integrated in a residential area and it will be, in part, a community centre. The services available (kindergarden, sports field, documentation centre) will both be delivered to asylum seekers and to the local society.

*Source: ECRE Policy briefing on housing for refugees and migrants in Europe, op. cit. p. 4*

## Annex 12 - Definition of "family members"

The Directive defines family members as including "in so far as the family already existed in the country of origin" the spouse of the beneficiary or his or her unmarried partner and the minor children of the couple, on condition that they are unmarried and dependent. MS can expand this definition so as to include "other close relatives who lived together as part of the family at the time of leaving the country of origin, and who were wholly or mainly dependent on the beneficiary of refugee or subsidiary protection status at that time".

This definition is criticized as resulting in unjustified limitations to the exercise of the right to respect for family life, firstly, to the extent that it disregards the fact that beneficiaries of international protection may have spent lengthy periods in exile or even on the territory of a Member State waiting for the outcome of the asylum procedure and may have founded a family during this time. In this respect it is argued that the ECtHR's jurisprudence on Article 8 ECHR does not differentiate as to when and where the family was established<sup>52</sup>; indeed the standing case law of this Court adopts a flexible definition of family life, insisting that "when deciding whether a relationship can be said to amount to "family life", a number of factors may be relevant, including whether the couple live together, the length of their relationship and whether they have demonstrated their commitment of each other by having children together or by any other means<sup>53</sup>. Moreover, a recent order of the ECJ<sup>54</sup> argues in favor of including in this definition families which have been founded during flight or upon arrival in the host State.

Secondly, in the context of determining which relatives who are present in the Member State should be entitled to the benefits the Directive, the definition does not take into account that in other societies/countries the notion of family extends beyond the "nuclear family"<sup>55</sup> and that the decisive criterion should be the *de facto* dependency on the beneficiary. UNHCR stresses the need for a more pragmatic and flexible approach, based on the UNHCR Handbook and EXCOM conclusions, which stipulate that other dependants living in the same household normally should benefit from the principle of family unity<sup>56</sup>. It should further be pointed out that a broadening of the definition has the potential to ensure full respect of the UN Convention on the Rights of the Child.

Thirdly, the current definition does not address the wide range of situations where a minor might be considered dependent and does not sufficiently take into account the principle of the primacy of the best interests of the child. For instance, even in the case of married minor children of the beneficiary of protection it might be in their best interest to reside in the same country as the beneficiary, notably in cases of forced marriages or where they are in practice separated from their spouse. Another situation that has not been taken into account is where the beneficiary is a minor: in such cases, the Directive does not provide for the possibility that his/her best interests may require to consider as "family members" within the meaning

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<sup>52</sup> See Anja Klug 'Harmonization of Asylum in the European Union: Emergence of an EU Refugee System?' (2004) 47 German Yearbook of International Law (GYIL), p 622

<sup>53</sup> Judgment of 16 December 2008, Case Gulijev v. Lithuania, paragraph 38.

<sup>54</sup> Order of 19 December 2008, in Case C-551/07, Sahin

<sup>55</sup> See UNHCR Annotated Comments to the Qualification Directive, op.cit. under Article 2(h)

<sup>56</sup> UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees <http://www.unhcr.org/publ/PUBL/3d58e13b4.pdf>, para. 185. See also EXCOM, Conclusions Nos. 24 (XXXII) Family Reunification, 1981, para. 5, and 88 (L), 1999, para. (ii).

of the Directive his/her parents or another adult relative responsible for him/her or his/her minor unmarried siblings. It is further to be noted that the Commission's proposals for the second-phase asylum instruments<sup>57</sup> address similar gaps with regard to asylum applicants by broadening the relevant definitions of family members; the adoption of these amendments in particular to the current Reception Conditions Directive would create an important discrepancy with the current provisions of the Qualification Directive, and would lead to the incongruous result that, in the cases concerned, the rights and benefits provided to persons considered as family members of an applicant would need to be withdrawn once the applicant was granted a protection status.

Finally, the EU Agency for Fundamental Rights has pointed to the divergence of national approaches with regard to family reunification rights granted to same-sex spouses and unmarried partners<sup>58</sup>. Such divergences are allowed by the Directive, to the extent that the notion of "spouse" and the treatment of unmarried couples are determined by reference to the legislation or practice of MS<sup>59</sup>; and provided that the implementing measures comply with fundamental rights, in particular the principle of non-discrimination (explicitly referred to in recitals 10 and 11).

The information provided by the Odysseus Study as well as the consultations with the MS and their replies to the relevant questionnaires showed that almost half of the MS have adopted different broader definitions of family members than the strict minimum required by the Directive, resulting in wide divergences in the scope of application of the principle of family unity: 9 MS have applied the "broad" definition allowed by the Directive by transposing Article 23(5) (Austria, Belgium, Bulgaria, Czech Republic, Finland, Greece, Ireland, Portugal and Sweden) whereas some amongst them (Austria, Bulgaria, Finland and Sweden) as well as 3 more MS (Cyprus, Estonia and Italy) have extended their definitions of family to include, for instance: siblings, children of majority of age under education, parents of unaccompanied minors parents or grand-parents living with the beneficiary or who are dependent on him/her; close relatives having lived with the protected person before the person left the country of origin if a special relationship of dependence exists (e.g. disease, age, disability).

*Source: Odysseus study, op.cit p. 98-99*

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<sup>57</sup> Proposals of 9.12.2008 for a Directive of the European Parliament and of the Council laying down minimum standards for the reception of asylum seekers (COM (2008) 815 final/2, "Proposal for the amendment of the Reception Conditions Directive") and for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the MS by a third-country national or a stateless person (COM (2008) 815 final/2, "Proposal for the amendment of the Dublin Regulation").

<sup>58</sup> 2008 Report on Homophobia and Discrimination on grounds of sexual orientation in the EU MS, [http://fra.europa.eu/fraWebsite/products/publications\\_reports/pub\\_cr\\_homophobia\\_0608\\_en.htm](http://fra.europa.eu/fraWebsite/products/publications_reports/pub_cr_homophobia_0608_en.htm) pp. 90-91, 151-152

<sup>59</sup> The Qualification Directive refers to "the spouse of the beneficiary" "or his or her unmarried partner in a stable relationship, where the legislation or practice of the MS concerned treats unmarried couples in a way comparable to married couples under its law relating to aliens"

## Annex 13 - Statistics attesting the wide divergences in the application of the Directive

These divergences are illustrated firstly by **the variability of the percentages of total positive decisions in the different MS**. In 2007 the share of total positive decisions ranged between 0% and 4% of the total first instance decisions in some MS such as Greece (0.8%), Slovenia (1.8%), Cyprus (2.9%), Slovakia (3.3%) and Spain (4.5%). On the other hand, it was higher in the MS that in recent years have rendered most asylum decisions across the EU, i.e. Germany (27.5%), France (11.5%) and United Kingdom (24.6%); and significantly higher in certain MS: Sweden (48.2%), Luxembourg (52.2%), Denmark (55.9%) and Malta (65.4%). The data for Sweden are particularly relevant considering that it had the highest number of asylum applications in the EU in 2007<sup>60</sup>.

**Further evidence of divergences is provided by the analysis of recognition rates recorded in the MS regarding asylum applicants of the same nationality.** A comparison of recognition rates for the period 2005-2007 shows for instance, that concerning applications regarding asylum seekers from Russia (mostly of Chechen background), in Austria 63% of decisions were positive while in Slovakia the percentage was 0%. 98% and 55% of Somali asylum seekers got a positive decision in Malta and in the UK respectively while the percentage of positive decisions for the same group was 0% in Greece and Spain. In Belgium, 38% of Iraqi asylum-seekers received a positive decision, while in Sweden that percentage was 98%, in the UK 20% and in Greece less than 2%. In 2007, in Belgium 14% of Afghans asylum seekers received a protection status while 98% were granted protection in Italy<sup>61</sup>. The above shows that, despite the measures adopted in the first phase of the CEAS, it is still the case that asylum seekers have very different prospects of finding protection, depending on where in the EU their applications are examined.

The substantial divergences in the interpretation of the rules of the Qualification Directive are further exemplified by the fact that, again regarding asylum applicants coming from the same country of origin and having similar backgrounds, **certain MS tend to a large extent to grant refugee status whereas others opt for subsidiary protection**. To cite a few examples, looking at the positive decisions regarding Iraqi asylum applicants in 2007, Sweden granted refugee status to 155 persons and subsidiary protection to 9,565 persons, (thus, with regard to the proportion of positive decisions concerning refugee status and subsidiary protection, only approximately 1.6% were granted refugee status), whereas Germany granted refugee status to 5,760 persons and subsidiary protection to 35 (here, only 0.6% were granted subsidiary protection status). In the same year and regarding Somali applicants, Sweden granted refugee status to 115 persons and subsidiary protection to 1,415 (7.5% were thereby granted refugee status); inversely, the United Kingdom granted refugee status to 975 persons and subsidiary protection to 110 (corresponding to 10.1% for the latter group).

The overall recognition practices in 2008 provide further evidence of such divergences: Germany granted 7310 refugee statuses and 1440 subsidiary protection statuses, whereas

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<sup>60</sup> Data extracted from the EUROSTAT database  
<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tps00021>

<sup>61</sup> UNHCR statistical yearbook 2007 (Annexes) available at:  
<http://www.unhcr.org/statistics/STATISTICS/4981b19d2.html>

Italy granted 585 refugee status and 2455 subsidiary protection statuses; Sweden 1080 refugee statuses and 3040 subsidiary protection statuses; Malta on the other hand granted refugee status in only 20 cases but 1,385 subsidiary protection statuses. In 2008, Bulgaria, Malta and Slovakia were the countries delivering the highest proportion of subsidiary protection statuses with respectively 95%, 99% and 82% of the total positive decisions resulting in subsidiary protection status. On the other hand, Hungary, Romania and Poland were the countries with the lowest proportion of subsidiary protection granted, with respectively 15%, 12% and 24% of positive decisions resulting in subsidiary protection status<sup>62</sup>.

For a detailed presentation of data used in this annex, see tables below.

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<sup>62</sup> These figures have been calculated on the basis of the information available on EUROSTAT; information was not available for the following countries: Estonia, Ireland, Greece, Cyprus, Latvia, Luxembourg and Slovenia. Statistics are available at:  
<http://nui.epp.eurostat.ec.europa.eu/nui/show.do> (total positive decisions for the three first quarters of 2008)  
<http://nui.epp.eurostat.ec.europa.eu/nui/show.do> (subsidiary protection decisions for the three first quarters of 2008)

Table 1

Decisions on asylum applications in EU, 2005-2007

	2005						2006						2007					
	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions
EU27	292295	21205	23765	1475	179595	65970	237380	16600	36180	1955	137390	45255	207965	24630	23235	1400	130448	28245
BE	17585	3700	na	na	10345	3545	8345	2230	210	na	5905	na	15135	1855	555	na	12725	na
DK	1325	95	135	na	1100	na	925	110	60	na	755	na	850	70	405	na	375	na
DE	48100	2465	655	na	27450	17530	30760	1350	605	na	17780	11025	28570	7195	675	na	12750	7955
GR	10420	40	85	0	4585	5710	11180	65	130	0	9600	1380	20990	95	75	na	20685	140
ES	5140	235	110	na	4795	na	4065	185	20	na	3860	na	5400	240	5	na	5155	na
FR	51270	4075	110	na	47090	na	37495	2670	185	na	34640	na	29450	3390	145	na	25915	na
IE	5240	455	na	na	4785	na	4245	395	na	na	3845	na	3810	375	na	na	3430	na
IT	20055	940	4355	na	7285	7475	9260	880	4340	na	3680	365	na	na	na	na	na	na
LU	1480	95	205	370	555	255	890	40	290	45	495	25	1035	155	345	40	430	65
NL	19750	965	7855	na	8085	2850	14180	360	3985	na	7520	2320	na	na	na	na	na	na
AT	18585	4530	na	na	5425	8635	15490	4065	na	na	5865	5560	16045	5195	na	na	6645	4205
PT	90	5	10	0	75	0	105	25	5	0	75	0	110	5	20	0	85	0
FI	3455	10	135	425	2515	370	2520	40	100	560	1540	285	2025	65	490	280	1050	140
SE	23920	335	4425	600	15925	2640	46395	680	20765	1295	12680	10970	32470	855	13720	1065	12185	4650
UK	36650	2470	2955	na	27780	3440	27520	2630	2410	na	20430	2050	27630	4480	2325	na	19485	1340
CY	5795	40	120	na	3125	2510	5585	30	140	na	1780	3635	7170	25	185	na	2318	4640
CZ	4375	210	40	80	2635	1410	3020	220	85	60	2195	460	2275	140	250	0	1570	315
EE	15	0	0	5	10	0	5	0	0	0	5	0	15	0	0	0	10	0
HU	1655	95	95	0	855	610	2020	100	100	0	1215	605	2805	170	85	0	1375	1175
LV	10	0	0	0	5	5	15	0	10	0	0	5	20	5	5	0	10	5
LT	95	15	45	0	25	10	130	10	85	0	25	10	145	10	50	na	50	35
MT	1160	35	485	na	580	60	1185	30	520	na	635	na	955	5	620	na	330	na
PL	8840	310	1830	na	2285	4415	7280	420	2045	na	935	3875	6190	150	2870	15	1835	1315
SK	3785	10	15	0	825	2935	2815	5	0	0	860	1945	2970	10	80	0	1180	1695
SI	1785	15	10	0	665	1095	900	0	10	0	570	325	540	0	5	0	270	260
BG	945	10	80	0	380	480	695	10	85	0	215	385	770	15	320	0	245	190
RO	470	40	15	0	415	0	365	45	5	0	270	40	590	125	5	0	340	120

**Remarks:**

Data rounded up to the nearest 5.

Annual total for 2007 for some MS is based on aggregation of monthly figures Jan-Dec.

No data for 2007 available for Italy and Netherlands.

In following MS only partial statistics for 2007 available:

BE - 2007 Jan-Oct

Source: Eurostat

Table 2

Decisions on asylum applications in EU, percentages, 2005-2007

	2005						2006						2007					
	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions
EU27	100%	7,3%	8,1%	0,5%	61,4%	22,6%	100%	7,0%	15,24%	0,82%	57,9%	19,1%	100%	11,8%	11,2%	0,7%	62,7%	13,6%
BE	100%	21,0%	na	na	58,8%	20,2%	100%	26,7%	2,5%	na	70,8%	na	100%	12,3%	3,7%	na	84,1%	na
DK	100%	7,2%	10,2%	na	83,0%	na	100%	11,9%	6,5%	na	81,6%	na	100%	8,2%	47,6%	na	44,1%	na
DE	100%	5,1%	1,4%	na	57,1%	36,4%	100%	4,4%	2,0%	na	57,8%	35,8%	100%	25,2%	2,4%	na	44,6%	27,8%
GR	100%	0,4%	0,8%	0,0%	44,0%	54,8%	100%	0,6%	1,2%	0,0%	85,9%	12,3%	100%	0,5%	0,4%	na	98,5%	0,7%
ES	100%	4,6%	2,1%	na	93,3%	na	100%	4,6%	0,5%	na	95,0%	na	100%	4,4%	0,1%	na	95,5%	na
FR	100%	7,9%	0,2%	na	91,8%	na	100%	7,1%	0,5%	na	92,4%	na	100%	11,5%	0,5%	na	88,0%	na
IE	100%	8,7%	na	na	91,3%	na	100%	9,3%	na	na	90,6%	na	100%	9,8%	na	na	90,0%	na
IT	100%	4,7%	21,7%	na	36,3%	37,3%	100%	9,5%	46,9%	na	39,7%	3,9%	na	na	na	na	na	na
LU	100%	6,4%	13,9%	25,0%	37,5%	17,2%	100%	4,5%	32,6%	5,1%	55,6%	2,8%	100%	15,0%	33,3%	3,9%	41,5%	6,3%
NL	100%	4,9%	39,8%	na	40,9%	14,4%	100%	2,5%	28,1%	na	53,0%	16,4%	na	na	na	na	na	na
AT	100%	24,4%	na	na	29,2%	46,5%	100%	26,2%	na	na	37,9%	35,9%	100%	32,4%	na	na	41,4%	26,2%
PT	100%	5,6%	11,1%	0,0%	83,3%	0,0%	100%	23,8%	4,8%	0,0%	71,4%	0,0%	100%	4,5%	18,2%	0,0%	77,3%	0,0%
FI	100%	0,3%	3,9%	12,3%	72,8%	10,7%	100%	1,6%	4,0%	22,2%	61,1%	11,3%	100%	3,2%	24,2%	13,8%	51,9%	6,9%
SE	100%	1,4%	18,5%	2,5%	66,6%	11,0%	100%	1,5%	44,8%	2,8%	27,3%	23,6%	100%	2,6%	42,3%	3,3%	37,5%	14,3%
UK	100%	6,7%	8,1%	na	75,8%	9,4%	100%	9,6%	8,8%	na	74,2%	7,4%	100%	16,2%	8,4%	na	70,5%	4,8%
CY	100%	0,7%	2,1%	na	53,9%	43,3%	100%	0,5%	2,5%	na	31,9%	65,1%	100%	0,3%	2,6%	na	32,3%	64,7%
CZ	100%	4,8%	0,9%	1,8%	60,2%	32,2%	100%	7,3%	2,8%	2,0%	72,7%	15,2%	100%	6,2%	11,0%	0,0%	69,0%	13,8%
EE	100%	0,0%	0,0%	33,3%	66,7%	0,0%	100%	0,0%	0,0%	0,0%	100,0%	0,0%	100%	0,0%	0,0%	0,0%	66,7%	0,0%
HU	100%	5,7%	5,7%	0,0%	51,7%	36,9%	100%	5,0%	5,0%	0,0%	60,1%	30,0%	100%	6,1%	3,0%	0,0%	49,0%	41,9%
LV	100%	0,0%	0,0%	0,0%	50,0%	50,0%	100%	0,0%	66,7%	0,0%	0,0%	33,3%	100%	25,0%	25,0%	0,0%	50,0%	25,0%
LT	100%	15,8%	47,4%	0,0%	26,3%	10,5%	100%	7,7%	65,4%	0,0%	19,2%	7,7%	100%	6,9%	34,5%	na	34,5%	24,1%
MT	100%	3,0%	41,8%	na	50,0%	5,2%	100%	2,5%	43,9%	na	53,6%	na	100%	0,5%	64,9%	na	34,6%	na
PL	100%	3,5%	20,7%	na	25,8%	49,9%	100%	5,8%	28,1%	na	12,8%	53,2%	100%	2,4%	46,4%	0,2%	29,6%	21,2%
SK	100%	0,3%	0,4%	0,0%	21,8%	77,5%	100%	0,2%	0,0%	0,0%	30,6%	69,1%	100%	0,3%	2,7%	0,0%	39,7%	57,1%
SI	100%	0,8%	0,6%	0,0%	37,3%	61,3%	100%	0,0%	1,1%	0,0%	63,3%	36,1%	100%	0,0%	0,9%	0,0%	50,0%	48,1%
BG	100%	1,1%	8,5%	0,0%	40,2%	50,8%	100%	1,4%	12,2%	0,0%	30,9%	55,4%	100%	1,9%	41,6%	0,0%	31,8%	24,7%
RO	100%	8,5%	3,2%	0,0%	88,3%	0,0%	100%	12,3%	1,4%	0,0%	74,0%	11,0%	100%	21,2%	0,8%	0,0%	57,6%	20,3%

**Remarks:**

Annual total for 2007 for some MS is based on aggregation of monthly figures Jan-Dec.

No data for 2007 available for Italy and Netherlands.

In following MS only partial statistics for 2007 available:

BE - 2007 Jan-Oct

Source: Eurostat

Table 3 New asylum applications and asylum decisions concerning Iraq, Russia and Somalia citizens, 2007 (only data disaggregated by citizenship included)

	IRAQ							RUSSIA							SOMALIA						
	Asylum applications	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions	Asylum applications	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions	Asylum applications	Total decisions	Geneva Convention	Humanitarian status	Other positive decisions	Rejections	Other non-status decisions
EU27	38195	31785	6905	11025	160	10870	2815	16300	16535	3835	3200	80	6365	3045	9230	5670	1475	2215	20	1690	260
BE	590	1005	120	265	na	615	na	930	1930	480	0	na	1450	na	65	125	10	25	na	90	na
DK	1070	380	0	335	na	45	na	115	35	0	15	na	15	na	35	10	0	5	na	10	na
DE	4325	7780	5760	35	na	1025	960	770	1210	200	25	na	570	415	120	180	65	50	na	35	30
GR	5475	4030	65	10	0	3950	10	50	35	0	5	0	25	5	175	125	0	0	0	115	5
ES	1580	1040	20	0	na	1020	na	75	115	20	0	na	95	na	145	100	0	0	na	100	na
FR	145	145	45	25	na	75	na	3220	1675	300	0	na	1375	na	45	65	30	0	na	35	na
IE	280	240	100	na	na	140	na	50	45	5	na	na	40	na	140	115	30	na	na	90	na
IT	0	na	na	na	na	na	na	0	na	na	na	na	na	na	0	na	na	na	na	na	na
LU	15	na	na	na	na	na	na	15	na	na	na	na	na	na	0	na	na	na	na	na	na
NL	2005	na	na	na	na	na	na	80	na	na	na	na	na	na	1875	na	na	na	na	na	na
AT	470	405	215	na	na	95	95	2675	3650	2635	na	na	540	475	465	305	190	na	na	40	70
PT	0	0	0	0	0	0	0	5	5	0	0	0	5	0	20	0	0	0	0	0	0
FI	290	330	20	165	40	100	10	165	185	25	5	0	130	25	80	240	0	225	0	10	0
SE	18560	13610	155	9565	120	2380	1390	790	1000	5	240	65	460	230	3350	1930	115	1415	20	270	110
UK	2075	1675	210	135	na	1265	60	125	150	10	0	na	130	5	1960	1980	975	110	na	860	35
CY	200	225	5	115	na	20	90	60	400	0	0	na	15	385	10	5	5	0	na	0	0
CZ	45	80	15	35	0	10	20	70	185	20	45	0	95	20	5	15	10	5	0	0	0
EE	0	0	0	0	0	0	0	5	5	0	0	0	5	0	0	0	0	0	0	0	0
HU	135	120	65	5	0	5	45	50	50	0	0	0	10	40	100	40	30	0	0	0	10
LV	0	0	0	0	0	0	0	5	5	0	0	0	0	0	0	0	0	0	0	0	0
LT	0	0	0	0	0	0	0	55	60	0	35	0	20	10	0	0	0	0	0	0	0
MT	5	5	0	5	na	0	na	0	0	0	0	na	0	na	585	380	5	370	na	5	na
PL	20	45	5	15	0	15	5	6670	5440	135	2830	15	1280	1180	10	0	0	0	0	0	0
SK	130	145	0	40	0	20	80	305	340	0	0	0	95	245	10	10	0	10	0	0	0
SI	5	5	0	0	0	5	0	10	5	0	0	0	0	5	0	0	0	0	0	0	0
BG	530	330	0	275	0	10	40	0	5	0	0	0	5	5	0	5	0	0	0	0	0
RO	245	190	105	0	0	75	10	5	5	0	0	0	5	0	30	40	10	0	0	30	0

#### Remarks

Data rounded up to the nearest 5.

EU27 - data for not all MS available.

Italy - no data for 2006 (breakdown by citizenship) and 2007 available.

Luxembourg - no decision data by citizenship available.

Annual total for 2007 for some MS is based on aggregation of monthly figures Jan-Dec.

In following MS only partial statistics for 2007 available:

BE - 2007 Jan-Oct

Source: Impact assessment on Policy plan on asylum: an integrated approach to protection across the EU, table 5 annexes, SEC(2008)2029, Brussels 2008



Table 4 First instance decisions granting Geneva Convention status - Quarterly data (rounded) for 2008

MS	2008q01	2008q02	2008q03	2008q04	Total
BE	575	800	555	:	1,930
BU	5	10	5	5	25
CZ	35	70	30	35	170
DK	40	:	:	:	40
DE	1,975	1,555	1,960	1,820	7,310
EE	5	0	0	0	5
IE	115	75	65	:	255
GR	45	55	245	:	345
ES	60	5	5	50	120
FR	1,325	1,265	915	:	3,505
IT	220	250	115	:	585
CY	:	:	:	:	
LV	0	0	0	:	0
LT	0	5	0	0	5
LU	20	15	5	:	40
HU	20	90	35	:	145
MT	0	10	0	10	20
NL	170	150	105	:	425
AT	570	520	520	:	1,610
PL	25	40	40	:	105
PT	5	0	5	0	10
RO	45	10	20	:	75
SI	0	0	0	0	0
SK	0	0	5	15	20
FI	15	40	10	:	65
SE	235	465	380	:	1,080
UK	1,150	1,275	1,125	:	3,550
<b>Total</b>	<b>6,655</b>	<b>6,705</b>	<b>6,145</b>	<b>1,935</b>	<b>21,440</b>

Source: Eurostat

Table 5 - First instance decisions granting subsidiary protection status - Quarterly data (rounded) for 2008

MS	2008q01	2008q02	2008q03	2008q04	Total
BE	80	125	85	:	290
BU	60	95	105	10	270
CZ	50	65	25	:	140
DK	85	:	:	:	85
DE	400	305	380	355	1,440
EE	0	0	0	0	0
IE	0	0	0	:	0
GR	0	0	0	:	0
ES	45	10	5	20	80
FR	70	40	320	:	430
IT	635	1,275	545	:	2,455
CY	:	:	:	:	
LV	0	0	0	0	0
LT	15	10	10	:	35
LU	:	:	:	:	
HU	0	10	35	:	45
MT	565	120	445	255	1,385
NL	370	380	430	:	1,180
AT	265	285	270	:	820
PL	:	0	345	:	345
PT	30	15	10	5	60
RO	0	5	5	:	10
SI	0	0	0	0	0
SK	15	10	20	20	65
FI	90	105	95	:	290
SE	775	1,310	955	:	3,040
UK	475	570	570	:	1,615
<b>Total</b>	<b>4,025</b>	<b>4,735</b>	<b>4,655</b>	<b>665</b>	<b>14,080</b>

Source: Eurostat

## Annex 14 - Statistics on multiple applications

Evidence of the failure of the Qualification Directive to achieve its objective of limiting the phenomenon of secondary movements is provided by the statistics produced by the EURODAC Central Unit on multiple applications, which show that the percentages of multiple applications remain at the same, significant levels: 17% and 16% in 2006 and 2007. Such figures would suggest that out of the total number of 197,284<sup>63</sup> asylum applications recorded in the system in 2007, in 31,910 cases, the same person had already made at least one asylum application before (in the same or in another Member State). This is a very clear indication that an important number of asylum seekers try to have their asylum claim examined in more than one Member State.

Statistics produced by the EURODAC Central Unit further reveal that, in 2007, 204 refugees lodged a second asylum application after they had been recognised; in this case it may also be presumed that the reasons could include the possibility to obtain a higher level of rights.

*Sources: Annex to the Communication on the Evaluation of the Dublin System, SEC(2007)742, Brussels, June 2007, p.42 ; Annual report to the Council and the European Parliament on the activities of the EURODAC Central Unit 2006, SEC(2007)1184, Brussels, September 2007, pp.48-49*

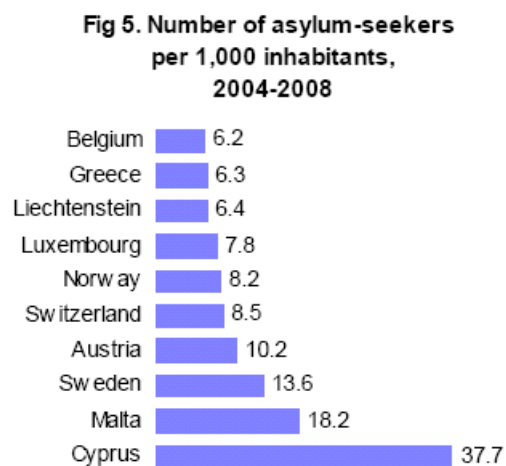
It should be pointed out that differences in recognition rates and practices and secondary movements cannot be solely attributed to the inconsistent application and interpretation of the Qualification Directive. There are various reasons why asylum seekers might find one Member State more attractive than another, such as cultural and linguistic links, family ties, geographic position etc. Other drivers are differences across EU in terms of practices, procedures, diverse country of origin information sources and decision making processes for granting protection as well as poor cooperation and exchange of information between national asylum administrations. It is however undeniable that having better chances of receiving protection or of obtaining a higher level of rights in one Member State than another is a decisive factor in this respect.

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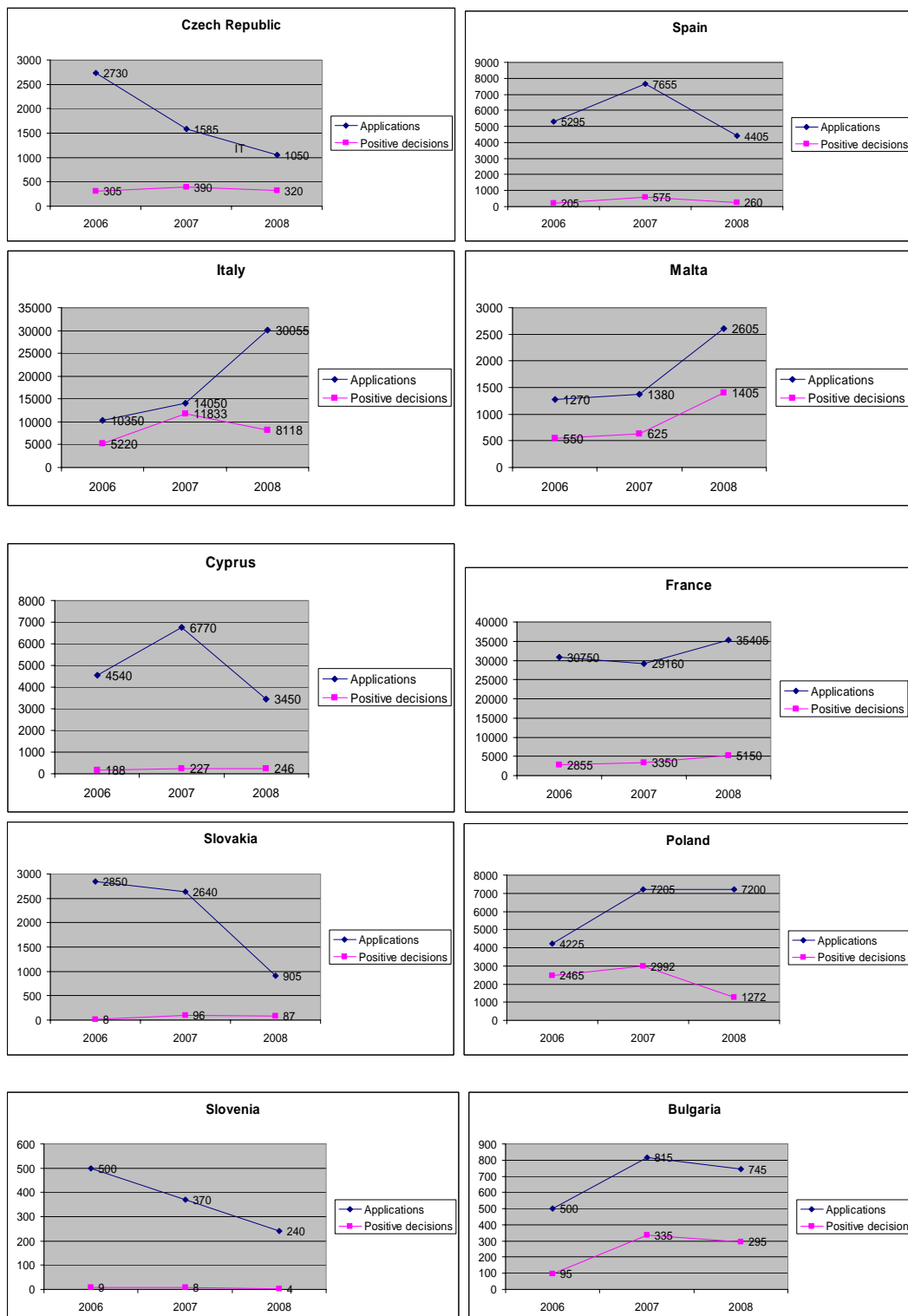
<sup>63</sup>

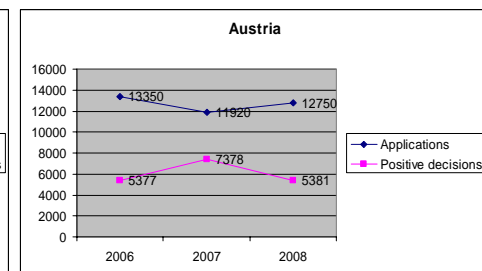
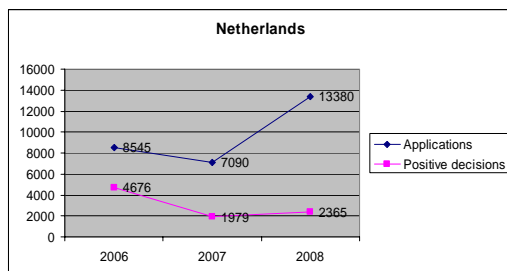
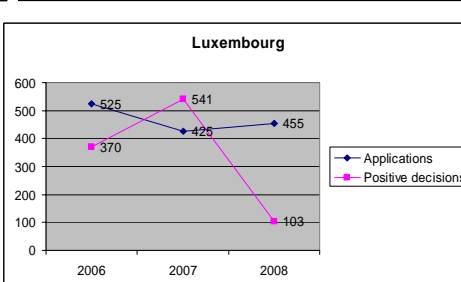
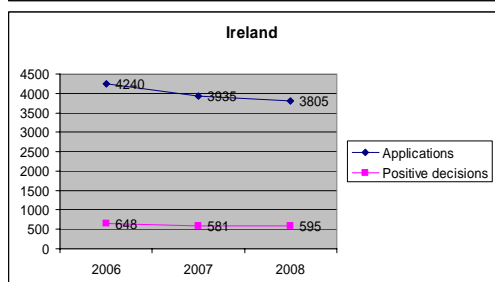
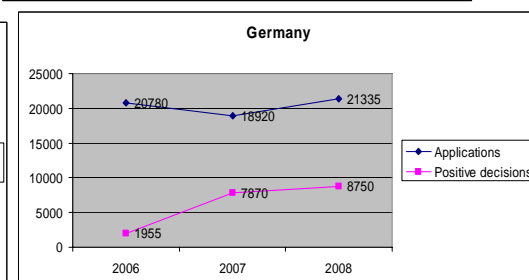
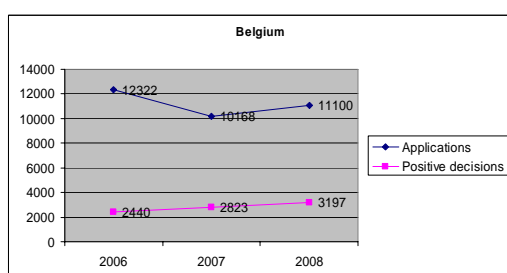
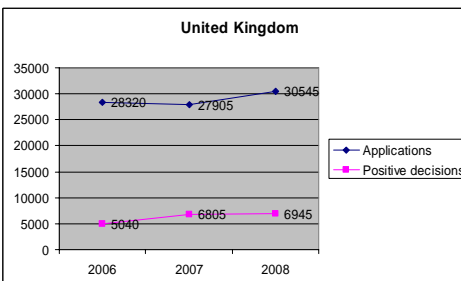
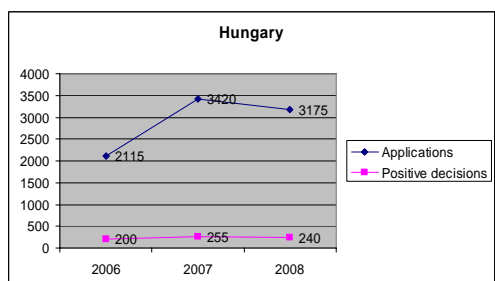
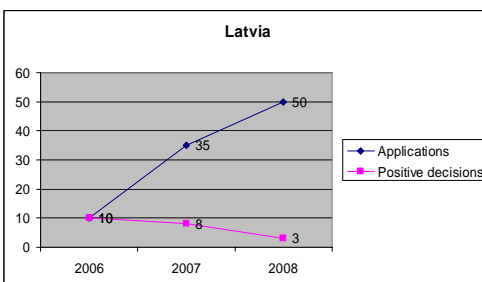
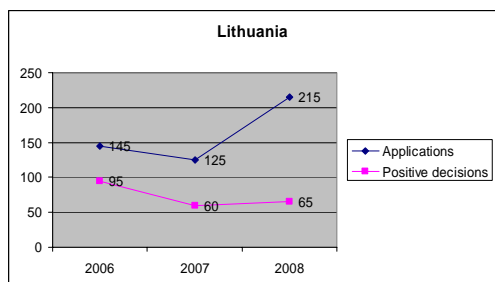
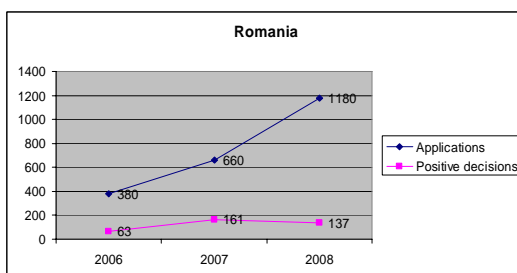
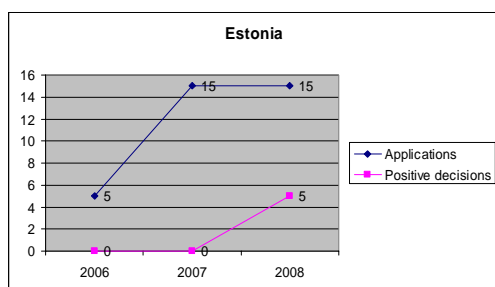
It should be noted that the difference between the recorded 197,284 applications in the Eurodac system and the figure of 222,170 applications used elsewhere in this document (source: Eurostat) is mainly due to the fact that the Eurodac database does not store data for asylum-seekers below the age of 14

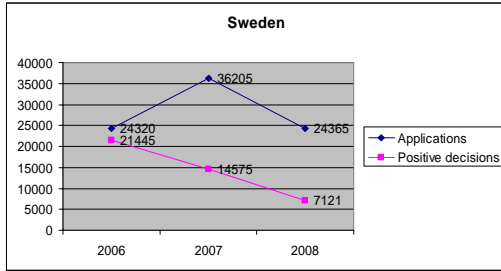
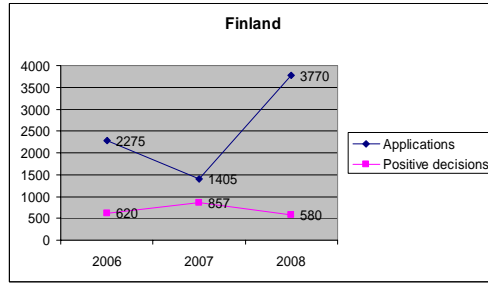
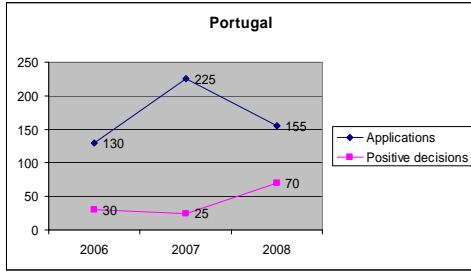
## Annex 15 - Proportions of asylum seekers per 1,000 inhabitants for selected European states



## Annex 16 - Comparison of trends regarding asylum influxes and recognition rates







## Annex 17– Asylum Appeal data for selected Member States

Member State	Recognition rate in first instance %	Rejection decisions	Appeals lodged	Rejection decisions appealed %	Appeals allowed	Appeals allowed %
United Kingdom <sup>64</sup>	26.8%	16755	14055	83%	3385	23%
France <sup>65</sup>	11.6%	25922	22676	87.5%	5415	20%
Belgium <sup>66</sup>	14%	5600	5386	96%	469	10%
Germany <sup>67</sup>	27.6%	20702	10343	49.9%	n/a	n/a
Spain <sup>68</sup>	8.4%	1570	471	30%	27	5.4%
Denmark <sup>69</sup>	55.7%	376	300	79.8%	68	22.7%

If the percentages of rejection decisions appealed and of appeals allowed are weighted according to the relative weight of each of the above MS (measured by its share of the number of asylum applicants in the EU) and extrapolated to the rest of the EU, it appears that:

- **77% of rejection decisions are appealed in the EU;**
- **18.5% of appeals are allowed in the EU (=grant protection status).**

There were 143,956 negative decisions in first instance in the EU in 2007. Application of the 77% appeal percentage would mean that there were 110,846 appeals lodged throughout the EU. If 18.5% of them were successful, it would mean that 20,506 applicants were granted protection in appeal. Combining the two percentages (77% and 18.5%), the percentage of *appeal* recognition rate to be added to the *first instance* recognition rate can be established at 14.2%. The percentage of positive

<sup>64</sup> Source: <http://www.homeoffice.gov.uk/rds/pdfs08/hosb1108.pdf>

<sup>65</sup> Source: [http://www.commission-refugies.fr/IMG/pdf/CNDA-Rapport\\_d\\_activite\\_2007.pdf](http://www.commission-refugies.fr/IMG/pdf/CNDA-Rapport_d_activite_2007.pdf) and [http://www.ofpra.gouv.fr/documents/Rapport\\_OFPRA\\_2007\\_BD.pdf](http://www.ofpra.gouv.fr/documents/Rapport_OFPRA_2007_BD.pdf)

<sup>66</sup> Source: <http://www.rvv-cce.be> and [http://www.cgvs.be/fr/binaries/Rapportannuel2006\\_tcm126-9209.pdf](http://www.cgvs.be/fr/binaries/Rapportannuel2006_tcm126-9209.pdf)

<sup>67</sup> Source: [http://www.bamf.de/cln\\_092/nn\\_442496/SharedDocs/Anlagen/DE/DasBAMF/Publikationen/broschuer-e-asyl-in-zahlen-2007.templateId=raw.property=publicationFile.pdf/broschuere-asyl-in-zahlen-2007.pdf](http://www.bamf.de/cln_092/nn_442496/SharedDocs/Anlagen/DE/DasBAMF/Publikationen/broschuer-e-asyl-in-zahlen-2007.templateId=raw.property=publicationFile.pdf/broschuere-asyl-in-zahlen-2007.pdf)

<sup>68</sup> Source: [http://www.cear.es/files/Informe\\_Cear\\_2008.pdf](http://www.cear.es/files/Informe_Cear_2008.pdf)

<sup>69</sup> Source: <http://www.nyidanmark.dk/NR/rdonlyres/EFB2567D-6C5F-4E4B-A6EF-3AE5F1ACEDDC/0/statisticaloverview2007.pdf>



decisions in first instance for 2007 (incl. also humanitarian statuses) was 25.14%. If 14.2% is added to that, **the global recognition rate would be 39.34%.**

The following table shows the calculation of the weighted averages extrapolated to EU27:

		<b>First rejection appealed %</b>	<b>instance decisions</b>	Percentage of asylum- seekers on total EU		Weighted
	UK	83%		12.56%	29.2	27.07
	FR	87.50%		13.12%	30.5	26.25
	BE	96%		4.50%	10.5	9.6
	DE	49.90%		8.60%	20.0	9.98
	ES	30%		3.23%	7.5	2.25
	DK	79.80%		1%	2.3	1.83
	Total			43.01%	100	<b>76.98</b>

		<b>Percentage of appeals granted</b>	Percentage of asylum- seekers on total EU		Weighted
	UK	23%	12.56%	36.5	8.39
	FR	20%	13.12%	38.1	7.62
	BE	10%	4.50%	13.1	1.31
	ES	5.40%	3.23%	9.4	0.5
	DK	22.70%	1%	2.9	0.65
	1Total		34.41%	100	<b>18.47</b>

2008	Total decisions	Total positive decisions	Percentage
BE	5.238	396	7,6
BG	27	9	33,3
CZ	:	:	#VALUE!
DK	478	164	34,3
DE	11.072	2.777	25,1
EE	1	0	0,0
IE	2.460	293	11,9
GR	1.338	359	26,8
ES	:	:	#VALUE!
FR	24.351	6.319	25,9
IT	1.653	1.621	98,1
CY	2.847	36	1,3
LV	13	0	0,0
LT	36	1	2,8
LU <sup>1)</sup>	668	246	36,8
HU	55	1	1,8
MT	2.688	1.411	52,5
NL	801	413	51,6
AT <sup>2)</sup>	4.592	1.972	42,9
PL	183	29	15,8
PT	1	0	0,0
RO	:	:	#VALUE!
SI	101	0	0,0
SK <sup>3)</sup>	129	66	51,2
FI	94	82	87,2
SE	1.679	823	49,0
UK			#DIV/0!
EU	60.505	17.018	28,1
NO	:	656	
CH	6.256	898	

## Annex 18 - Additional Problems identified, Operational Objectives and Assessment of relevant Policy Options

### PROBLEM DEFINITION

#### 1.1. Denial of protection to certain categories of persons and diverse recognition practices of applicants with similar claims as a result of the restrictive definition of the "causal nexus requirement"

Article 9(3) of the Qualification Directive is a mandatory provision requiring a connection (a "causal nexus") between the acts of persecution and the reasons for persecution under the Geneva Convention: to qualify for refugee status a person must have well founded fear of persecution *by reason* of one of these grounds.

A problem arises with respect to cases where the persecution emanates from non-State actors such as militia, clans, criminal networks, local communities or families and where the decisive factor is the absence of (state) protection. In many such cases the act of persecution is not committed for reasons related to a Geneva Convention ground: these actors do not persecute the individual because of his/her religion, gender, ethnicity etc., but, for instance with criminal motivations or for private revenge. However, it often happens that the State unable or unwilling to provide protection to the individual concerned because of a reason related to the Geneva Convention (for example religion, gender, ethnicity etc).

The Qualification Directive at present does not 'accommodate' situations when a person faces a risk of persecution which is unrelated to a Convention ground, but the inability or unwillingness of the State to offer protection is related to such a ground. In these situations, persons who seek to avoid persecution originated from non-state actors could have limited access to protection. This is particularly relevant for gender-related claims: typical examples include cases of domestic violence committed by a spouse which are tolerated by the state authorities or women threatened with female genital mutilation by their tribal group in a State that prohibits, but cannot stop, the practice<sup>70</sup>.

In order in particular to provide protection in such situations – whose number increases, at least 10 MS<sup>71</sup> adopt in their practice and jurisprudence a broad interpretation of this requirement that is in line with the Geneva Convention but goes beyond the current wording of Article 9(3)<sup>72</sup>. However, at least 7 countries<sup>73</sup> apply a strict definition of the nexus requirement and an asylum seeker would not qualify for protection if there is no connection between the act of persecution and the five Convention grounds.

In view of the above, it appears that the current definition of the causal nexus requirement results on the one hand in denial of protection in cases where persons are persecuted for reasons not related to a Geneva Convention ground but where State protection is withheld for such reasons. On the other hand, it allows for an inconsistent provision of protection in the different MS.

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<sup>70</sup> For more information see Alexander Aleinikoff op.cit pp 51-54

<sup>71</sup> Austria, Belgium, Bulgaria, Estonia, Germany, Hungary, Lithuania, Netherlands, Slovenia, and Sweden

<sup>72</sup> Odysseus study op.cit, p. 51, ECRE study op.cit, pages 144-146

<sup>73</sup> Italy, Latvia, Luxembourg, Portugal, Romania, Slovakia and the United Kingdom

## 1.2. Unwarranted withdrawal of status of persons in need of protection

According to Articles 11(1) and 16(1) of the Qualification Directive, a person ceases to be eligible for refugee or subsidiary protection, respectively, where the circumstances which led to the granting of protection status have ceased to exist or have changed to such a degree that protection is no longer required. These “ceased circumstances” cessation provisions basically reproduce the cessation clauses of Article 1 C of the Geneva Convention and extend their application to beneficiaries of subsidiary protection.

However, in the current text of the Qualification Directive, reference to the *exceptions* to these clauses, set out in Articles 1C(5) and 1C(6) of the Geneva Convention are omitted. These Articles allow for an exceptional continuation of refugee protection for "compelling reasons arising out of previous persecution" and are intended to cover cases where refugees have suffered atrocious forms of persecution and therefore cannot be expected to return to their country of origin. According to the relevant UNHCR Guidelines, this category of persons might include ex-camp or prison detainees, survivors or witnesses of violence against family members, including sexual violence, as well as severely traumatised persons<sup>74</sup>.

It should also be highlighted that, while its wording only relates to refugees, this exception is interpreted as reflecting a general humanitarian principle that is now well-grounded in State practice and is therefore applied beyond its wording<sup>75</sup>.

The fact that this exception has not been incorporated in the Qualification Directive means that, pursuant to Community law, persons who have suffered atrocious forms of persecution may be expected to return to their country of origin. The possibility thus provided to MS to withdraw the protection status in such cases has the potential to lead to violations of international Law. On the basis of the data available, it was impossible however to assess the extent to which this omission leads to the application of cessation in violation of the Geneva Convention.

In particular, the MS' responses to the DG JLS questionnaire provided only some information on the number of final decisions withdrawing refugee status in accordance with Article 11. In particular, it appears that 10<sup>76</sup> out of 16 countries which provided information make use of Article 11. Moreover, it appears that between 2006 and 2008, the number of cases of withdrawal of refugee status in Hungary, Luxembourg, Poland and Sweden ranged from 6 to 22. The Czech Republic further indicated that between July 1990 and December 2007, 30 asylum statuses were withdrawn, whereas four MS<sup>77</sup> reported that they have had no cases of withdrawal of refugee status on the grounds of Article 11.

Data on withdrawals extracted from Eurostat (see table below) shows that Germany in particular makes extensive use of cessation of refugee status but there is no information regarding the extent to which the exceptions to cessation of the Geneva Convention are applied or not in this context.

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<sup>74</sup> UNHCR Guidelines on International Protection: Cessation of Refugee Status under Article 1C (5) and (6) of the 1951 Convention relating to the Status of Refugees, 10 February 2003, paragraph 20

<sup>75</sup> UNHCR Handbook, para. 136; UNHCR ExCom Conclusion No. 69 (XLIII) of 1992

<sup>76</sup> Belgium, Bulgaria, Czech Republic, Hungary, Luxembourg, Poland, Sweden, Slovakia, Romania and Slovenia; no information is available for the following countries: Austria, Cyprus, Finland and United Kingdom

<sup>77</sup> Estonia, Latvia, Slovakia and Slovenia

Geneva Convention					
MS	2008Q01	2008Q02	2008Q03	2008Q04	Total
BE	10	5	0	5	20
BG		0	0	0	
CH					
CZ	0	20	15	5	40
DE	1,505	1,665	1,830	1,110	6,110
EE	0	0	0	0	0
ES	0	0	0	0	0
EU27					
FI	30	25	30		85
FR	20	30	45		95
GR	45	55	245		345
HU	0	0	0		0
IE	0	5	0		5
IS	0	0	0		0
IT	0	0	0		0
LT	0	0	0		0
LV	0	0	0	0	0
MT	0	0	0	0	0
NO					
PL	5	0	0		5
PT	0	0	0	0	0
RO	0	0	0		
SE	0	5	5		10
SI	0	0	0	0	0
SK			0		
TR					
<b>Total</b>					<b>6,715</b>

Source: Eurostat data for 2008, quarterly (rounded)

Finally, the omission of the exception to the cessation clause poses a particular problem with regard to beneficiaries of subsidiary protection. Indeed, while refugees may be protected from an unwarranted withdrawal of protection in line with the Geneva Convention, the Directive leaving a protection gap in relation to beneficiaries of subsidiary protection.

The responses to the JLS questionnaire revealed that five<sup>78</sup> out of nine responding MS make use of Article 16 to withdraw subsidiary protection. The number of withdrawals is higher in Sweden and Slovakia, which have withdrawn such status in 54 and 46 cases respectively between 2007 and 2008 whereas Belgium and Romania have withdrawn status only in 1 and 5 cases respectively.

Data on withdrawals extracted from Eurostat (see table below) shows that Germany in particular makes use of cessation of subsidiary protection status but there is no information regarding the extent to which the exceptions to cessation of the Geneva Convention are applied or not in this context.

<sup>78</sup> Belgium, Romania, Sweden, Slovakia and Poland; Estonia, Hungary, Luxembourg, Latvia and Slovenia indicated that they have so far never withdrawn a subsidiary protection status on the basis of Article 16. No information was available for the following countries: Austria, Bulgaria, Cyprus, Czech Republic, Finland and United Kingdom.

Subsidiary protection					
MS	2008Q01	2008Q02	2008Q03	2008Q04	Total
BE	0	0	0	0	
BG		0	0	0	
CH					
CZ	0	0	0	0	
DE	90	60	60	30	240
EE	0	0	0	0	
ES	0	0	0	0	
EU27					
FI	0	0	0		
FR	0	0	0		
GR	0	0	0		
HU	0	0	0		
IE	0	0	0		
IS	0	0	0		
IT	0	0	0		
LT	0	0	0		
LV	0	0	0	0	
MT	0	0	5	20	25
NO					
PL	0	0	0		
PT	0	0	0	0	
RO	0	0	0		
SE	10	10	20		40
SI	0	0	0	0	
SK			0		
TR					
<b>Total</b>					<b>305</b>

Source: Eurostat data for 2008, quarterly (rounded)

### 1.3. Specific needs of beneficiaries of international protection in relation to integration are not met: Existing possibilities for MS to reduce benefits granted to beneficiaries of international protection

A provision of the Qualification Directive which does not appear conducive to the integration of beneficiaries of international protection is contained in Article 20(6)(7), which allows MS the discretion to reduce the benefits to be granted to beneficiaries of international protection, where the protection status has been obtained on the basis of activities engaged in for the sole or main purpose of securing protection ("manufactured claims").

This discretion has been criticized by UNHCR firstly on the basis that, according to the Geneva Convention, the decisive factor for granting protection is whether the eligibility conditions are in fact fulfilled, taking into account all the relevant facts surrounding the claim and not whether the asylum-seeker acted in "bad faith". The Geneva Convention does not thus provide for sanctions in the case of persons who engage in activities for the sole purpose of securing refugee protection. Although such "manufactured" asylum claims should be discouraged, UNHCR considers that it would be preferable to address such claims by appropriate credibility assessments; such an approach would also be in line with Article 4(3)(d) of the Directive. Secondly, UNHCR points out that the application in particular of

Article 20(6) in practice has the potential to lead to breaches of the principle of non-discriminatory treatment of refugees enshrined in Article 3 of the 1951 Convention<sup>79</sup>.

In addition to the concerns these provisions raise from the perspective of fundamental rights, it appears, on the basis of the information collected in the context of the consultations with MS, that these provisions have very limited added value in practice: only 3 MS have actually implemented them (Bulgaria, Cyprus and Malta).

#### **1.4. Unjustified differences between the content of protection for refugees and beneficiaries of subsidiary protection**

As set out in detail in section 2.2.2., the Directive allows MS the discretion to grant beneficiaries of subsidiary protection in some respects a lower level of rights than those granted to refugees. Such a differentiation is made inter alia with respect to the following issues:

A. The benefits for family members. The Directive allows MS to apply different conditions for the benefits granted to family members of beneficiaries of subsidiary protection. At present it appears that only Poland has made use of this possibility. However, for the reasons outlined in section 2.2.2., a differentiated treatment in the fields of social welfare and health care does not appear to be objectively justified. Arguably, it could even be considered contrary to the prohibition of discrimination enshrined in Article 21 of the EU Charter of Fundamental Rights and in the ECHR, as interpreted in the recent judgments of the ECtHR in cases *Niedzwiecki v Germany* and *Okpisz v Germany*, referred to above. Further concerns are raised in relation to the rights of the child, enshrined in Article 24 of the Charter and in the UN Convention on the Rights of the Child.

B. The reasons for travelling outside the MS' territory. The Directive obliges MS to issue refugees travel documents which enable them to travel outside their territory, unless compelling reasons of national security or public order otherwise require. However, it allows MS to issue beneficiaries of subsidiary protection who are unable to obtain a national passport documents which enable them to travel at least when serious humanitarian reasons arise that require their presence in another State, unless compelling reasons of national security or public order otherwise require. The additional limitation thus allowed in the case of beneficiaries of subsidiary protection and warranted by the assumption regarding the short duration of their protection needs can no longer be considered necessary or justified. Indeed, the MS replies to a relevant query by the Commission showed that, out of the 19 MS which replied, only 3 make use of the possibility to apply this limitation (Austria, Luxembourg and Spain).

## **2. OBJECTIVES**

With a view to achieving the specific objectives set out in section 3.3, the following additional objectives have been identified.

With a view to achieving **specific objectives 1, 4 and 5**, it is necessary to pursue two further operational objectives, namely

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<sup>79</sup> UNHCR Annotated comments on the Qualification Directive, under Articles 5 and 20.

- to ensure a more inclusive interpretation of the “causal nexus requirement” in line with the Geneva Convention
- to prevent the unwarranted cessation of protection status

Moreover, **in the context of the operational objective** “to approximate the rights of beneficiaries of subsidiary protection to those of refugees”, aimed at achieving **specific objectives 2, 4 and 5**, it is necessary to

- ensure the access of family members of beneficiaries of subsidiary protection to benefits under the same conditions as those applicable to family members of refugees
- ensure that beneficiaries of subsidiary protection have the right to travel outside the MS' territory under the same conditions as those applicable for refugees.

Finally, in the context of the operational objective ‘to enhance the integration of beneficiaries of international protection taking into account their specific needs’, aimed at achieving **specific objectives 3 and 5**, a further amendment of the Directive is necessary, in order

- ‘to reduce cases in which MS can limit access to rights and benefits’.

### 3. POLICY OPTIONS

Different policy options, legislative and non-legislative, have been identified for addressing each objective. The preferred policy option could comprise both types of intervention (legislative and practical cooperation) or only one.

#### 3.1 To ensure a more inclusive interpretation of the "causal nexus requirement" in line with the standards of the Geneva Convention

*Option 1 (legislative): It could be envisaged to explicitly allow MS to adopt a broader interpretation of the nexus requirement by providing for the possibility to consider that the connection required in Article 9(3) is also satisfied where there is a link between the acts of persecution and the absence of protection against such acts.*

*Option 2(legislative): The nexus requirement could be broadened in a compulsory manner: it could be made explicit in the provision of Article 9(3) that the causal link condition is fulfilled where there is a connection between the acts of persecution and the absence of protection against such acts.*

*Option 3 (practical cooperation): MS could cooperate to map the application of the nexus requirement and to exchange best practices.*

Option 1 would explicitly endorse the broad interpretation of this requirement which is already adopted by ten MS and possibly encourage others to adopt it. It would therefore bring more clarity about the scope of this notion and create favourable conditions for a more inclusive application of the Geneva Convention.

Option 2 would not only bring clarity about the scope of the concept, but would additionally ensure consistency of national practices. It would further ensure that all MS adopt a progressive and inclusive application of this element of the Geneva Convention and would



comprehensively address the risk of gaps in the provision of the protection flowing for this Convention.

The joint mapping of the interpretation of the nexus requirement and the exchange of best practices that would be part of the practical cooperation option could be particularly helpful to those MS which will need to broaden their current interpretation and application of this concept and could in any case contribute to the approximation of national decision-making.

Comparison of financial impacts: Under both options, it can be expected that MS which currently apply a strict interpretation of the nexus requirement and which would broaden this interpretation would face additional costs as a result of granting protection to higher numbers of applicants. Under Option 2, more MS will have to bear these costs as the broad interpretation will be made compulsory, whereas under Option 1 it constitutes only a possibility to consider. These extra costs will not apply to the 10 MS that have already adopted a broad interpretation of the nexus requirement.

Social effects and fundamental rights: Option 1 creates favourable conditions for a more inclusive application of the Geneva Convention, but, as it is left to the MS to decide whether to adopt this approach, its effect on access to protection will be marginal. As Option 2 makes the broad interpretation of the nexus requirement compulsory for MS, access to protection will be significantly improved in those MS who currently apply the strict interpretation.

Option 2 – and Option 1 to a very limited extent – would also improve access to protection for female applicants for international protection, one of the groups that are particularly affected by persecution by non-State actors (e.g. domestic violence) but denied State protection because of their gender. In those MS that strictly interpret the nexus requirement, the treatment of their claim for international protection will be more favourable under Option 2, increasing their chance of being granted protection.

In MS that have, up until now, adopted a strict interpretation of the nexus requirement, the rights covered under Article 18 and especially Article 19 of the Charter would be better respected under Option 2. The impact of Option 1 is limited due to the fact that the decision to adopt the broad interpretation is left to the MS. Option 2 will ensure a full and inclusive application of the Geneva Convention as to the nexus requirement consistently across the EU.

Overall assessment: To the extent that it implies an optional broadening of the concept, Option 1 would be an inadequate measure in terms of ensuring a consistent interpretation across the EU and it could not prevent potential protection gaps. On the other hand, Option 2 appears adequate and proportionate in view of the stated objectives and has stronger social/fundamental rights impacts. It should therefore be part - in combination with Option 3 - part of the preferred policy option.

### **3.2 To prevent the unwarranted withdrawal of status of beneficiaries of international protection**

#### Regarding cessation of refugee status

The obligation to apply the exceptions to the "ceased circumstances" cessation clauses in the case of cessation of refugee status flows directly from the Geneva Convention, which is binding on all MS. Therefore, the explicit incorporation in Article 11 of the Qualification Directive of these exceptions can be considered as non-controversial. Moreover, since these

obligations are already applicable in the national legal orders, their incorporation in the Qualification Directive will entail no additional administrative burdens or budgetary costs. There is thus no need to identify any other options.

#### Regarding cessation of subsidiary protection

*Option 1 (legislative): It could be envisaged to grant MS the possibility to apply with regard to beneficiaries of subsidiary protection an exception to cessation relating to compelling reasons arising out previous serious harm.*

*Option 2 (legislative): It could be envisaged to include in Article 16 a compulsory exception to cessation relating to compelling reasons arising out previous serious harm.*

Option 1 would offer MS flexibility in the application of these exceptions with regard to beneficiaries of subsidiary protection. Only MS that currently, or as a result of the amendment to the Directive, apply these exceptions would ensure that subsidiary protection is not terminated prematurely. Option 1 therefore would have a limited positive effect on attaining the objective of achieving high protection standards across the EU. Moreover, this option would not contribute to consistency in national cessation practices.

Option 2 would bring about a complete assimilation with respect to the application of the "compelling reasons" exceptions to cessation between refugees and beneficiaries of subsidiary protection. This is necessary and justified to the extent that the reasoning behind the introduction in the Geneva Convention of the "compelling reasons" exceptions to cessation with regard to refugees applies equally with regard to beneficiaries of subsidiary protection. Hence, from a legal point of view, there seems to be no reason for allowing MS flexibility in the application of these exceptions with regard to beneficiaries of subsidiary protection, as would be the case under Option 1.

Option 2 would make a strong contribution to the objectives of achieving high protection standards and reducing diverse recognition rates of persons from the same country of origin.

Comparison of financial impacts: Option 2 would produce additional costs for MS that currently do not apply the exceptions to the "ceased circumstances" cessation clauses in the case of cessation of subsidiary protection, since the validity of the "compelling reasons" invoked by beneficiaries of subsidiary protection to prevent the termination of their protection status will have to be assessed by the State. Furthermore, for those beneficiaries of subsidiary protection whose protection is not / no longer terminated because of "compelling reasons", costs for adequate living standards will have to be continued. Option 1 would imply all the above costs only for those MS which would voluntarily accept to apply the exceptions in question.

Social effects and fundamental rights: The effect of Option 1 on access to protection and justice will be marginal to non-existent as it provides for the *possibility* for MS to apply these exceptions. As Option 2 makes the application of the exceptions to the "ceased circumstances" cessation clauses in the case of cessation of subsidiary protection compulsory for MS, access to protection will be significantly improved in those MS that did not already apply this.

Option 2 will have a considerable positive effect on access to justice as, in the case of (the imminent) withdrawal of subsidiary protection, beneficiaries affected would have the legal

certainty that they can contest this cessation on the basis of the exceptions to the "ceased circumstances" cessation clauses foreseen in the Geneva Convention. Their "compelling reasons" for retaining the subsidiary protection status would have to be heard by the state. This should reduce the risk of (prematurely) terminating protection. In turn, this legal certainty would have a beneficial effect on their psychological well-being and sense of security. In those MS that so far do not apply these exceptions, Option 2 would provide beneficiaries with the emotional tranquillity that if the situation in their country of origin changes to such an extent that their protection status could be withdrawn by the host state that their reasons for why a prolongation of subsidiary protection is required will be heard and given sufficient weight in the state's assessment.

Under Option 2, the rights covered under Article 18 and especially Article 19 of the Charter would be better respected in those MS that, up until now, did not apply the exceptions to the "ceased circumstances" cessation clauses in the case of cessation of subsidiary protection as foreseen in the Geneva Convention.

Overall assessment: To the extent that it implies an optional broadening of the concept, Option 1 would be an inadequate measure in terms of ensuring a consistent interpretation across the EU and it could not prevent potential protection gaps. On the other hand, Option 2 appears adequate and proportionate in view of the stated objectives and has stronger social/fundamental rights impacts. The preferred option would thus be Option 2.

### **3.3 To reduce possibilities for limitations to access to rights and benefits for beneficiaries of international protection**

*Option 1 (legislative): It could be envisaged to allow MS to reduce the benefits granted to beneficiaries of international protection who fall within this description only to a certain minimum level prescribed by Articles 3, 4, 16, 31, 32 and 33 of the Geneva Convention, relating inter alia to non-discrimination, religion, access to courts, education and expulsion.*

*Option 2 (legislative): It could be envisaged to eliminate the possibility currently provided to MS to apply sanctions in the case of persons who engage in activities for the sole purpose of securing international protection.*

Option 1: This option would restrict the flexibility currently allowed to MS by obliging them to grant the persons concerned at least a certain level of rights prescribed by the Geneva Convention. To this end it would use as a reference the core of rights that MS are obliged to grant to persons who are "excluded" from refugee status because of the danger they pose to the security or community of a Member State in accordance with Article 14(4)-(6). However, it might be considered inappropriate to assimilate these two situations from the perspective of rights to be granted to them. Moreover, the limitation of rights under Article 14(4)-(6) relates to a certain kind of "tolerated" status for the persons concerned, whereas such a limitation with respect to refugees might be considered contrary to the principle of the non-discriminatory treatment of refugees, enshrined, inter alia, in Article 3 of the Geneva Convention.

Option 2: By completely eliminating the possibility for derogation from the level of rights that should be guaranteed to beneficiaries of international protection, option 2 would raise the standards provided by the current Qualification Directive. It would also ensure full compatibility of its standards with the Geneva Convention and consistency in the application of these standards throughout the EU.

Comparison of financial impacts: As there is no information available on what precisely the reduction of benefits means in the current practice of the three MS which apply the relevant provision (Bulgaria, Cyprus and Malta), it is not possible to determine whether the introduction of option 1 would incur higher costs for these MS. In any event however, Option 2 would result in higher costs for them, since in those cases when rights and entitlements previously were restricted, costs would be incurred to provide for these rights and benefits.

Social effects and fundamental rights: Both options would enhance equality of treatment (between the group of persons affected and other beneficiaries of international protection), access to social protection, integration and public health. Indeed, with regard to the positive impacts on social protection, if the problems identified not be addressed, they could lead to destitution for those affected. Option 2 will achieve the positive effects to a higher degree than option 1, due to the elimination of the possibility to limit access to rights and benefits for the relevant group of persons.

Options 1 and 2 promote the right to asylum, established in Article 18 and the principle of non- discrimination in Article 21. These rights would be enhanced to a greater extent by option 2 than option 1.

Overall assessment: Both options appear proportionate. However, a treatment assimilating the persons concerned to those who are "excluded" from refugee status because of the danger they pose to the security or community of a Member State raises concerns from the perspective of the principle of non-discrimination. Taking this into account, as well as the higher positive effects of Option 2 in terms of raising standards and ensuring consistency, it appears that Option 2 should be part of the preferred option.

### **3.4 To ensure the access of family members of beneficiaries of subsidiary protection to benefits under the same conditions as those applicable to family members of refugees**

*Option 1 (legislative): Under this option, MS could be allowed to apply different conditions for the benefits granted to family members of beneficiaries of subsidiary protection but only for a period of six months from the date the protection status is granted.*

*Option 2 (legislative): It could be envisaged to impose on MS the obligation to grant benefits to family members of beneficiaries of subsidiary protection under the same conditions applicable to family members of refugees.*

Option 1 would lead to an approximation of the conditions applicable for the benefits granted to family members of beneficiaries of subsidiary protection with those applicable regarding family members of refugees after six months. At this point in time, standards would be increased and consistent application would be promoted.

Option 2 would imply the complete approximation of rights granted to the two categories regarding the benefits granted to their family members, thus raising the standards and enhancing consistency in the application of the Directive.

Comparison of financial impacts: Both options would incur financial costs in those MS that apply specific conditions at present. This may, however, be a limited number (the only country where it has been confirmed that this applies is Poland). Costs could refer for instance to the difference between costs for providing core benefits to family members of beneficiaries

of subsidiary protection (which is the current obligation), e.g. emergency healthcare, and the entitlement to all benefits as provided for in the Directive.

Option 2 would lead to slightly higher costs than option 1 due to the six months period when MS are still allowed to apply different conditions.

Social effects and fundamental rights: Both options will lead to increased access to equality/non-discrimination, social protection, social integration and public health for beneficiaries; however, Option 2 will achieve a higher degree of positive effects than option 1, due to the six months exception.

Both options promote the rights established in the following articles of the Charter of Fundamental Rights: 14 (right to education), 15 (Freedom to choose an occupation and right to engage in work), 16 (freedom to conduct a business), 21 (non-discrimination), 24 (rights of the child), 34 (social security and social assistance) and 35 (healthcare). Option 2 promotes these rights to a higher degree than option 1.

Overall assessment: Both options appear proportionate. However, a differentiated treatment in the fields of social welfare and health care – even for a short period, as proposed under Option 1 - does not appear to be objectively justified; arguably, it could even be considered contrary to the prohibition of discrimination as interpreted in the recent judgments of the ECtHR referred to above. For this reason, Option 2 should be the preferred policy option.

### **3.5 To ensure that beneficiaries of subsidiary protection have the right to travel outside the MS' territory under the same conditions as those applicable for refugees**

*Option 1 (legislative): to allow MS to limit the reasons for which beneficiaries of subsidiary protection may travel outside their territory to serious humanitarian reasons requiring their presence in another State only for a period of 1 year following the granting of status.*

*Option 2 (legislative): to eliminate the possibility to limit the reasons for which beneficiaries of subsidiary protection may travel outside their territory*

Option 1 would allow MS to maintain the current limitation in place for a limited period; it would not result in a similar, high, level of entitlements for beneficiaries of subsidiary protection and refugees, although it would lead to an improvement in the (at least) 3 MS which currently apply the limitation allowed by Article 25(2). This Option would also mean that standards across the EU would still not be entirely consistent.

Option 2 would imply the complete approximation of the reasons for which both categories of protected persons are allowed to travel, thus raising the content of the status of beneficiaries of subsidiary protection and enhancing consistency in the application of the Directive.

Comparison of financial impacts: Option 1 could imply additional costs for the 3 MS affected, to the extent that they would possibly need to change the format of the travel documents they currently issue as well as to issue new travel documents to beneficiaries of subsidiary protection after a year. Option 2 would imply slightly smaller costs for these 3 MS, to the extent that they would not need to issue new travel documents to beneficiaries of subsidiary protection after a year.

Social effects and fundamental rights: Both options promote the rights in Articles 18 and 21 of the Charter and lead to increased equality and freedom of movement for beneficiaries in some MS, but Option 2 will have the strongest positive effect of the two.

Preferred option: Option 2 leads to a complete approximation of rights, enhanced consistency in the application of the Directive and has a higher positive impact on fundamental rights; at the same time it implies lesser costs for the MS affected than Option 1. It therefore appears to be the most effective, cost-efficient and proportionate option.

## Annex 19 – Comparison of baseline scenario and options in terms of effectiveness, efficiency and coherence

In the following tables the different options are rated - from 0 (no impact in terms of effectiveness/efficiency/coherence) to 5 (very high level of effectiveness/efficiency/coherence)- considered against the baseline scenario in terms of effectiveness in achieving the set specific objectives, efficiency and coherence. It should be underlined that **these are only some of the factors taken into account in the overall assessment** in order to determine the elements that should be included in the preferred policy option. Further factors assessed (in the main text of the IA report) include proportionality and the social impacts of the different options and their impacts on fundamental rights. The tables contain the assessment of all options envisaged with a view to achieve the different operational objectives, including those presented in Annex 18

### **A. Specific objectives 1, 4 and 5:**

**-to ensure the full and inclusive application of the Geneva Convention and full respect of the ECHR and of the EU Charter of Fundamental Rights;**

**- to improve the efficiency of the asylum process;**

**- to ensure the consistent application of agreed protection standards across the EU**

### **i) Operational Objective: To limit the broad interpretation of "actors of protection" in line with the standards of the Geneva Convention**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> Current Article 7 does not provide sufficiently clear criteria for assessing the ability of non-State agents to provide protection; the lack of clarity also allows for divergences and does not permit solid decision-making. These problems cannot be adequately and comprehensively addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures or reception services	<b>0:</b> Current Article 7 is not consistent with the Directive's approach to the assessment by MS of whether a change in the situation in the country of origin is "significant and non-temporary nature" in the context of applying cessation (Article 11(2)).
Option 1 (legislative)	<b>3:</b> It would bring clarity as to the exhaustive character of the list and would stipulate with precision under what conditions parties and organisations may be equated to States regarding their ability to provide protection.	<b>3:</b> On the one hand, it may result in higher recognition rates for MS currently adopting a broader interpretation of the concept. On the other hand, it may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; moreover, by reducing differences of legal frameworks and decision-making practices, it can contribute to reducing secondary movements and subsequent costs related in particular to Dublin procedures and to a more equal distribution of asylum seekers and beneficiaries of protection between MS	<b>0:</b> It would have no impact in terms of ensuring consistency with Article 11(2) of the Directive
Option 2	<b>4</b> It would ensure that the sole "willingness" or ability "in principle" to	<b>4:</b> On the one hand, it may result in higher recognition rates for MS	<b>3</b> It would bring consistency with the Directive's approach to

(legislative)	protect may not be deemed sufficient. It would thus exclude NGOs or other parties that do not have the military or legal power to provide effective and durable protection; by emphasizing the operation of an effective legal system it would exclude entities such as criminal networks, warlords or guerrillas as potential actors of protection.	currently adopting a broader interpretation of the concept. On the other hand, it may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; moreover, by reducing differences of legal frameworks and decision-making practices, it can contribute to reducing secondary movements and subsequent costs related in particular to Dublin procedures and to a more equal distribution of asylum seekers and beneficiaries of protection between MS	the assessment by MS of whether a change in the situation in the country of origin is "significant and non-temporary nature" before deciding on cessation (Article 11(2)).
Option 3 (practical cooperation)	<b>2:</b> Practical cooperation may result to a certain extent in raising current standards, in facilitating decision-making and in increased convergence of national practices, but is insufficient, <b>on its own</b> , to systematically and comprehensively address the problems which flow from the ambiguities of the current provisions of the Directive	<b>2:</b> Financial impacts of practical cooperation activities for MS are reduced by the fact that such activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation can only contribute to a limited extent to facilitating first-instance decision-making and reducing appeals overall and to reducing secondary movements and subsequent costs related in particular to Dublin procedures.	<b>0 :</b> It would have no impact in terms of ensuring consistency with Article 11(2) of the Directive



**ii) Operational Objective: To limit the broad interpretation of "internal protection" in line with the standards of the Geneva Convention and the ECHR**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The concept is currently defined in a broad and vague manner which allows for doubt and uncertainty in decision-making, for interpretations contrary to the Geneva Convention and the ECHR as well as for diverse recognition practices. These problems cannot be adequately and comprehensively addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures or reception services	<b>0:</b> The current provisions do not ensure coherence with the Directive's provision on conditions for cessation (Article 14 (2)) and would also be inconsistent with the amended Article 7.
Option 1 (legislative)	<b>3:</b> It would limit the scope for broad and divergent interpretations both of "internal protection" and of "technical obstacles" and would provide a clear framework for the reasonableness analysis, so as to limit the potential for violations of Article 3 ECHR.	<b>2/3:</b> On the one hand, it may result in higher recognition rates for MS currently adopting a broader interpretation of the concept. On the other hand, it may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; moreover, by reducing differences of legal frameworks and decision-making practices, it can contribute to reducing secondary movements and subsequent costs related in particular to Dublin procedures and to a more equal distribution of asylum seekers and beneficiaries of protection between MS  It would imply further costs to those incurred under option 2, to the extent that it would entail additional administrative costs for the MS applying paragraph 3 of Article 8, as a result of the specific time limit introduced for the duration of the technical obstacles, which would require authorities to re-open the files to re-assess the case and to issue a new decision once this period has expired.	<b>0:</b> It would not ensure coherence with the Directive's provision on conditions for cessation (Article 14 (2)) and would also be inconsistent with the amended Article 7.
Option 2 (legislative)	<b>3:</b> It would ensure that the concept of internal protection under EU law is closely modelled on the core obligations flowing for the MS from the ECHR.  To the extent that it would transpose the conditions set by the case law of the ECtHR and by removing the "technical obstacles" derogation, it would bring a greater degree of compatibility with ECHR and the Geneva Convention. As a result, it would have a greater positive effect in terms of achieving higher and more consistent protection standards than option 1.	<b>2/3:</b> On the one hand, it may result in higher recognition rates for MS currently adopting a broader interpretation of the concept. On the other hand, it may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; moreover, by reducing differences of legal frameworks and decision-making practices, it can contribute to reducing secondary movements and subsequent costs related in particular to Dublin procedures and to a more	<b>4:</b> It would further ensure consistency with the notion of protection within the meaning of Article 7, as amended and with Article 11(2) of the current Directive.  Moreover, the reference to the obligation of the competent authorities to obtain precise and up-to-date information on the general situation in the country reflects the requirement for the examination of applications established in Article 8(1) of

		<p>equal distribution of asylum seekers and beneficiaries of protection between MS</p> <p>Costs linked to larger numbers of positive decisions could be higher than those under Option 1, since the possibility to apply the concept of internal protection notwithstanding the existence of technical obstacles would be removed.</p>	the Asylum Procedures Directive.
Option 3 (legislative)	<p><b>4:</b> It would have all the advantages of Option 2 but would also increase access to protection by explicitly placing on MS the burden of proof that an area constitutes an internal flight alternative. As a result, it would have a greater positive effect in terms of achieving higher and more consistent protection standards than option 2.</p>	<p><b>2:</b> It would imply higher costs than Option 2 for those MS which currently place on the applicants the burden of proof that there is no internal protection for them anywhere in the country of origin, as they may have to undertake additional research to collect relevant evidence.</p>	<p><b>4:</b> It would enhance coherence with the similar process followed and rules applied according to the Directive for establishing that the conditions for cessation are fulfilled (Article 14 (2)).</p>
Option 4 (practical cooperation)	<p><b>2:</b> Practical cooperation may result to a certain extent in raising current standards, in facilitating decision-making and in increased convergence of national practices, but is insufficient, <b>on its own</b>, to adequately and comprehensively address the problems which flow from the ambiguities of the current provisions of the Directive</p>	<p><b>2:</b> Financial impacts of practical cooperation activities for MS are reduced by the fact that such activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation can only contribute to a limited extent to facilitating first-instance decision-making and reducing appeals overall and to reducing secondary movements and subsequent costs related in particular to Dublin procedures.</p>	<p><b>0:</b> It would have no impact in terms of ensuring consistency with Article 7, as amended, and with Article 11(2) of the current Directive.</p>

**iii) Operational Objective: To ensure a more inclusive interpretation of the concept "particular social group" in line with the standards of the Geneva Convention**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The ambiguity of the current provision allows for doubt and uncertainty in decision-making, for interpretations which are not compatible with the Geneva Convention and for diverse recognitions practices. These problems cannot be adequately and comprehensively addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures or reception services	<b>0:</b> To the extent that the current provision excludes the possibility to identify a particular social group on the basis of gender-related aspects alone, it affects negatively the access to protection for female applicants. It is thus not in line with the Directive's overall approach towards ensuring equal treatment to both male and female applicants.
Option 1 (legislative)	<b>2:</b> As it provides for the <i>possibility</i> for MS to apply the alternative approach, it would create favourable conditions for a more inclusive application of the Geneva Convention, but its effect on access to protection would be marginal and it would be an inadequate measure in terms of facilitating decision-making and ensuring a consistent interpretation.	<b>2:</b> It may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; it may also result in higher recognition rates. However, both these effects will be limited only to those amongst the MS which currently apply the criteria in a cumulative way and which will voluntarily accept to apply them alternatively	<b>2:</b> To the extent that MS would voluntarily accept to apply the alternative approach, it would be a step towards ensuring consistency with the Directive's overall approach on equal access to protection for both male and female applicants.
Option 2 (legislative)	<b>3:</b> As it would provide specific guidance on the weight to be attached to issues arising from the applicant's gender and would impose an overall obligation to duly consider such issues within the context of the definition of a particular social group, it would not only bring clarity about the scope of the concept, but would additionally ensure consistency of national practices. It would further ensure that all MS adopt a progressive and inclusive application of this Geneva Convention ground and would address the risk of gaps in the provision to women of the protection flowing for this Convention.	<b>3:</b> On the one hand, it may result in higher recognition rates for MS which currently follow a more restrictive approach. On the other hand, it may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; moreover, by reducing differences of legal frameworks and decision-making practices, it can contribute to reducing secondary movements and subsequent costs related in particular to Dublin procedures and to a more equal distribution of asylum seekers and beneficiaries of protection between MS	<b>4:</b> It would have a decisive impact in terms of ensuring consistency with the Directive's overall approach on equal access to protection for both male and female applicants
Option 3 (legislative)	<b>4:</b> As it makes the broad interpretation of the concept in line with the Geneva Convention <i>compulsory</i> for MS, access to protection will be significantly improved in those MS who currently follow the cumulative approach; moreover it would bring consistency of national practices. These positive effects are particularly relevant to gender-related claims.	<b>3:</b> On the one hand, it may result in higher recognition rates for MS currently adopting a cumulative approach. On the other hand, it may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; moreover, by reducing differences of legal frameworks and decision-making practices, it can contribute to reducing secondary movements and subsequent costs related in particular to Dublin procedures and to a more equal distribution of asylum seekers and beneficiaries of protection	<b>4:</b> It would have a decisive impact in terms of ensuring consistency with the Directive's overall approach on equal access to protection for both male and female applicants

		between MS	
Option 4 (practical cooperation)	<p><b>2:</b> The joint mapping of the interpretation of the concept and the exchange of best practices might result to a certain extent in convincing MS currently adopting a cumulative approach to adopt an alternative approach and thus in raising current standards, in facilitating decision-making and in increased convergence of national practices, but it would be insufficient, <b>on its own</b>, to systematically and comprehensively address the problems which flow from the ambiguity of the current provision of the Directive</p>	<p><b>2:</b> Financial impacts of practical cooperation activities for MS are reduced by the fact that such activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation can only contribute to a limited extent to facilitating first-instance decision-making and reducing appeals overall and to reducing secondary movements and subsequent costs related in particular to Dublin procedures.</p>	<p><b>2:</b> To the extent that MS would voluntarily accept to attach more significance to gender-related aspects as a result of practical cooperation, it would be a step towards ensuring consistency with the Directive's overall approach on equal access to protection for both male and female applicants.</p>

**iv) Operational Objective: To ensure a more inclusive interpretation of the “causal nexus requirement” in line with the standards of the Geneva Convention**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provision allows for protection gaps and for an inconsistent provision of protection in the different MS. These problems cannot be adequately and comprehensively addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures or reception services	<b>0:</b> The current provision does not ensure full consistency with the Directive's overall approach towards addressing cases where the actors of protection are non-State entities, as demonstrated in its Article 7.
Option 1 (legislative)	<b>2:</b> It would bring more clarity about the scope of this notion and create favourable conditions for a more inclusive application of the Geneva Convention. However, to the extent that such a broadening of the concept would only be an option offered, it would be an inadequate measure in terms of ensuring a consistent interpretation across the EU and it could not prevent potential protection gaps.	<b>2:</b> It may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; it may also result in higher recognition rates. However, both these effects will be limited only to those amongst the MS which currently apply a strict interpretation and which will voluntarily accept to adopt a broader one	<b>0:</b> It would not ensure full consistency with the Directive's overall approach towards addressing cases where the actors of protection are non-State entities, as demonstrated in its Article 7
Option 2 (legislative)	<b>4:</b> It would not only bring clarity about the scope of the concept and facilitate solid decision-making, but would additionally ensure consistency of national practices. It would further ensure that all MS adopt a progressive and inclusive application of this element of the Geneva Convention and would comprehensively address the risk of gaps in the provision of the protection flowing for this Convention.	<b>3</b> On the one hand, it may result in higher recognition rates for MS currently adopting a stricter interpretation. On the other hand, it may contribute to facilitating and enhancing the quality of first instance examinations and to reducing appeals overall; moreover, by reducing differences of legal frameworks and decision-making practices, it can contribute to reducing secondary movements and subsequent costs related in particular to Dublin procedures and to a more equal distribution of asylum seekers and beneficiaries of protection between MS	<b>5:</b> It would ensure full consistency with the Directive's overall approach towards addressing cases where the actors of protection are non-State entities, as demonstrated in its Article 7
Option 3 (practical cooperation)	<b>2:</b> The joint mapping of the interpretation of the concept and the exchange of best practices could result to a certain extent in raising current standards, in facilitating decision-making and in increased convergence of national practices, but it would be insufficient, <b>on its own</b> , to systematically and comprehensively address the problems which flow from the ambiguities of the current provision of the Directive	<b>2:</b> Financial impacts of practical cooperation activities for MS are reduced by the fact that such activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation can only contribute to a limited extent to facilitating first-instance decision-making and reducing appeals overall and to reducing secondary movements and subsequent costs related in particular to Dublin procedures.	<b>2 :</b> To the extent that MS would voluntarily accept to apply the alternative approach as a result of practical cooperation, it would be a step towards ensuring consistency with the Directive's overall approach on addressing cases where the actors of protection are non-State entities, as demonstrated in its Article 7

**v) Operational Objective: To prevent the unwarranted withdrawal of protection status, regarding cessation of subsidiary protection**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current Directive allows for withdrawals of protection in violation of the Geneva Convention. This problem cannot be adequately and comprehensively addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures or reception services	<b>0:</b> The current provision regarding cessation to subsidiary protection would be inconsistent with the provision that would be introduced under the amended Directive regarding cessation of refugee status
Option 1 (legislative)	<b>2:</b> It would offer MS flexibility in the application of the relevant exceptions to cessation. However, it would have a limited effect on attaining the objective of achieving high protection standards across the EU and would not contribute to consistency in national cessation practices.	<p><b>2:</b> It would produce additional administrative costs for MS that currently do not apply the exceptions to the "ceased circumstances" cessation clauses in the case of subsidiary protection, since the validity of the "compelling reasons" invoked by beneficiaries of subsidiary protection to prevent the termination of their protection status will have to be assessed by the competent authorities. Furthermore, for those beneficiaries of subsidiary protection whose protection is not / no longer terminated because of "compelling reasons", costs linked to their protection status will have to be continued.</p> <p>However, it would imply all these costs only for those MS which would voluntarily accept to apply the exceptions in question. On the other hand, it would have a very limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.</p>	<b>2:</b> It would establish a certain parallelism with the relevant obligation that would be introduced under the amended Directive regarding cessation of refugee status. However (because of the optional element it contains), it would also introduce a discrepancy that could not be justified from a legal point of view
Option 2 (legislative)	<b>4:</b> It would not only bring clarity about the scope of the concept, but would additionally ensure consistency of national practices. It would further ensure that all MS adopt a progressive and inclusive application of this element of the Geneva Convention and would comprehensively address the risk of gaps in the provision of the protection flowing for this Convention.	<b>3:</b> It would produce the same type of additional administrative costs and costs linked to the maintenance of protection statuses as option 1, with the difference that all MS would incur such costs. On the other hand, it would have a much stronger impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>5:</b> It would ensure a perfectly coherent approach within the Directive regarding exceptions to the "ceased circumstances" cessation clauses

## **B. Specific objectives 2, 4 and 5:**

- To approximate the content of protection granted to refugees and beneficiaries of subsidiary protection;
- to improve the efficiency of the asylum process;
- to ensure the consistent application of agreed protection standards across the EU

### **i) Operational Objective: to approximate the rights of beneficiaries of subsidiary protection to those of refugees regarding the duration of residence permits**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provision allows for unjustified differences in the duration of the residence permits granted to the two categories of beneficiaries of international protection as well as for a wide variation of relevant national practices. These problems cannot be adequately and comprehensively addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be inadequate in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> To the extent that it provides the possibility for a differentiation, the current provision does not allow for a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand – and thus for giving effect to the call of the Hague Programme for the establishment of a uniform status.
Option 1 (legislative)	<b>2:</b> It would raise current standards in those MS that currently grant resident permits of less than 2 years, but would not result in a similar level of entitlements for beneficiaries of subsidiary protection and refugees, and would not achieve a level playing field. Moreover, it would have no effect in terms of streamlining administrative procedures	<b>2:</b> It would result in a limited reduction of the costs associated with the renewal of residence permits for those MS which issue permits valid for one year only.  Moreover, it would have a very limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>2:</b> It would accomplish only a partial approximation of the treatment reserved by the Directive's legal framework to refugees, on the one hand, and to beneficiaries of subsidiary protection, on the other hand.
Option 2 (legislative)	<b>4:</b> It would imply the complete approximation of the duration of residence permits granted to the two categories, thus raising the content of the status of beneficiaries of subsidiary protection, streamlining administrative procedures and enhancing consistency in the application of the Directive	<b>3:</b> The introduction of an obligation to verify whether protection needs persist at the end of the 3 year period would imply an additional administrative burden on the MS, in particular for those countries that currently issue permits valid three years or more, and only re-assess the need on a case by case basis. For the MS which assess the need for protection on a yearly or every second year basis, an assessment every three years could, however, even imply a cost reduction.  More generally, it would contribute to establishing a level-playing field, and to a decrease of costs related to Dublin procedures and the unequal	<b>3:</b> It would be a positive step towards a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand; however, it would maintain a certain differentiation.

		distribution of asylum seekers and beneficiaries of protection.	
Option 3 (legislative)	<b>4:</b> It would imply the complete approximation of the duration of residence permits granted to the two categories, thus raising the content of the status of beneficiaries of subsidiary protection, streamlining procedures and enhancing consistency in the application of the Directive.	<p><b>4:</b> It would result in an important reduction of the costs associated with the renewal of residence permits for those MS that issue permits valid for less than 3 years.</p> <p>More generally, it would contribute to establishing a level-playing field, and to a decrease of costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of protection.</p>	<b>5:</b> It would ensure a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand – in line with the call of the Hague Programme for the establishment of a uniform status as an end goal of the CEAS.



**ii) Operational Objective: To ensure that beneficiaries of subsidiary protection have the right to travel outside the MS' territory under the same conditions as those applicable for refugees**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provision allows for unjustified differences in the reasons for which refugees and beneficiaries of subsidiary protection can travel outside the MS territories as well as for inconsistent national implementations. These problems cannot be adequately and comprehensively addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be inadequate in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> To the extent that it provides the possibility for a differentiation, the current provision does not allow for coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand – and thus for giving effect to the call of the Hague Programme for the establishment of a uniform status.
Option 1 (legislative)	<b>2:</b> It would raise standards in those MS that currently apply the limitation allowed by the Directive, but would not result in a similar level of entitlements for beneficiaries of subsidiary protection and refugees; it would also mean that standards across the EU would still not be entirely consistent.	<b>2:</b> It would imply additional costs for the 3 MS affected, to the extent that they might need to change the format of the travel documents they currently issue as well as to issue new travel documents to beneficiaries of subsidiary protection after a year.  On the other hand, it would have a very limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>2:</b> It would achieve certain progress towards a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand; however, it would maintain in place a certain differentiation
Option 2 (legislative)	<b>4:</b> It would imply the complete approximation of the reasons for which both categories of protected persons are allowed to travel, thus raising the content of the status of beneficiaries of subsidiary protection, streamlining procedures and enhancing consistency in the application of the Directive.	<b>4:</b> It would imply additional costs for the 3 MS affected, to the extent that they might need to change the format of the travel documents they currently issue; however, contrary to option 1, it would not incur costs linked to issuing new documents to beneficiaries of subsidiary protection after a year.  More generally, it would contribute to establishing a level-playing field, and to a decrease of costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of protection.	<b>5:</b> It would ensure a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand – in line with the call of the Hague Programme for the establishment of a uniform status as an end goal of the CEAS.

**iii) Operational Objective: to approximate the rights of beneficiaries of subsidiary protection to those of refugees regarding access to employment**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<p><b>0:</b> The current provision allows for unjustified differences regarding access to employment granted to the two categories of beneficiaries of international protection as well as for divergences at the national level. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be inadequate in this respect.</p>	<p><b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services</p>	<p><b>0:</b>The current provision would be inconsistent with the approach adopted in the Proposal for the amendment of Council Directive 2003/9/EC, which grants unconditional access of asylum seekers to the labour market</p> <p>To the extent that it provides the possibility for a differentiation, the current provision does not allow for coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand – and thus for giving effect to the call of the Hague Programme for the establishment of a uniform status.</p>
Option 1 (legislative)	<p><b>2:</b> It would reduce the scope of discretion currently provided by the Directive with regard to access to the labour market for beneficiaries of subsidiary protection, but it would not result in a complete approximation nor in streamlining procedures and would not achieve a level playing field.</p>	<p><b>2:</b> It would impact – in different degrees - on the labour markets of the three MS which currently apply the limitation allowed by the Directive. At the same time, it would have a limited impact in terms of increasing the possibilities for beneficiaries of international protection to become self-sufficient and thus in particular in terms of reducing social welfare costs and increasing fiscal contributions. Relevant national measures would be eligible for co-funding under the ERF.</p> <p>More generally, it would have a very limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.</p>	<p><b>2:</b> It would accommodate MS' obligations under the transitional arrangements set by the Accession Treaties: (according to the principle of "Community preference").</p> <p>On the other hand, it would accomplish only a partial approximation of the treatment reserved by the Directive's legal framework to refugees, on the one hand, and to beneficiaries of subsidiary protection, on the other hand.</p>
Option 2 (legislative)	<p><b>3:</b> It would increase, but not completely approximate the entitlements of beneficiaries of subsidiary protection with those of refugees. Consistent application of standards across the EU would be promoted; however, differences would be likely to remain between those countries that would choose not to restrict the access to six months after receiving the status and those countries which</p>	<p><b>3:</b> It would impact – in different degrees - on the labour markets of the three MS which currently apply the limitation allowed by the Directive. At the same time, it would have a limited impact in terms of increasing the possibilities for beneficiaries of international protection to become self-sufficient and thus in particular in terms of reducing social welfare costs and</p>	<p><b>3:</b> It would be a positive step towards a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand; however, it would maintain a certain differentiation.</p>

	would apply this restriction	<p>increasing fiscal contributions. Relevant national measures would be eligible for co-funding under the ERF.</p> <p>More generally, it would have a very limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.</p>	
Option 3 (legislative)	<p><b>4:</b> It would imply the complete approximation of access to employment for the two categories, thus improving the content of the status of beneficiaries of subsidiary protection, streamlining procedures and enhancing consistency in the application of the Directive.</p>	<p><b>4:</b> It would have higher positive impacts than the other two options, both in terms of labour market policies and in terms of increasing the possibilities for beneficiaries of international protection to become self-sufficient and thus in terms of reducing social welfare costs and increasing fiscal contributions. Relevant national measures would be eligible for co-funding under the ERF.</p> <p>More generally, it would contribute to establishing a level-playing field, and to a decrease of costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of protection.</p>	<p><b>5:</b> It would ensure consistency with the approach adopted in the Proposal for the amendment of Council Directive 2003/9/EC, which grants unconditional access of asylum seekers to the labour market.</p> <p>More generally, it would ensure a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand—in line with the call of the Hague Programme for the establishment of a uniform status as an end goal of the CEAS.</p>

**iv) Operational Objective: to approximate the rights of beneficiaries of subsidiary protection to those of refugees regarding access to integration facilities**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provision allows for unjustified differences regarding access to integration facilities granted to the two categories of beneficiaries of international protection as well as for divergences at the national level. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be inadequate.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> To the extent that it provides the possibility for a differentiation, the current provision does not allow for coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand – and thus for giving effect to the call of the Hague Programme for the establishment of a uniform status.
Option 1 (legislative)	<b>2:</b> It would increase protection standards in the MS which currently limit the access of beneficiaries of subsidiary protection to integration facilities to situations 'where it is considered appropriate': the rights of beneficiaries of subsidiary protection would be approximated to a level equivalent to that of refugees after a period of one year. The consistent application of protection standards across the EU would therefore also be promoted, but to a limited extent.	<b>2:</b> It would imply increased costs for the MS that currently apply limitations, but to a lower level than the other options, as the MS would not have to provide integration programmes until after one year. Relevant national measures would be eligible for co-funding under the ERF. More generally, it would have a very limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>2:</b> It would accomplish only a partial approximation of the treatment reserved by the Directive's legal framework to refugees, on the one hand, and to beneficiaries of subsidiary protection, on the other hand.
Option 2 (legislative)	<b>3:</b> It would raise current standards by removing the discretion of MS to provide access to integration facilities only where they consider it appropriate while at the same time allowing MS a certain degree of flexibility in the content and structure of the integration programmes to be provided to beneficiaries of subsidiary protection.  On the other hand, as the term "equivalent" is not specific enough, it would still allow for divergent national practices	<b>2:</b> By obliging MS to grant beneficiaries of subsidiary protection access to integration programmes <i>equivalent</i> to those provided to refugees, it would imply higher costs than option 1; such costs are likely to vary between the MS depending on how they interpret or apply 'equivalent' and what measures are put in place for refugees. Relevant national measures would be eligible for co-funding under the ERF.  More generally, it would have a very limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>3:</b> It would be a positive step towards a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand; however, it would allow for differentiations.
Option 3 (legislative)	<b>4:</b> It would imply the complete approximation of access to integration facilities for the two categories, thus improving the content of the status of beneficiaries of subsidiary protection,	<b>4:</b> By ensuring that the same integration programmes are provided to both categories, it would imply higher costs for the MS affected. More generally, it would	<b>5:</b> It would ensure a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary

	streamlining procedures and enhancing consistency in the application of the Directive.	contribute to establishing a level-playing field, and to a decrease of costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of protection.	protection, on the other hand – in line with the call of the Hague Programme for the establishment of a uniform status as an end goal of the CEAS.
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**v) Operational Objective: to approximate the rights of beneficiaries of subsidiary protection to those of refugees regarding access of their family members to benefits**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provision allows for an unjustified difference of treatment, to the extent that it allows MS to apply different conditions for the benefits granted to family members of beneficiaries of subsidiary and results in divergences at the national level. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be inadequate.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> To the extent that it provides the possibility for a differentiation, the current provision does not allow for coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand – and thus for giving effect to the call of the Hague Programme for the establishment of a uniform status.
Option 1 (legislative)	<b>2:</b> It would increase protection standards in the 1 MS which currently applies different conditions to the access of family members of beneficiaries of subsidiary protection to integration facilities to benefits: the rights of beneficiaries of subsidiary protection would be approximated to a level equivalent to that of refugees after a period of six months. The consistent application of protection standards across the EU would therefore also be promoted, but to a limited extent. Procedures would not be streamlined.	<b>2:</b> It would imply increased costs for the 1 MS which currently applies different conditions, but to a lower level than the other option, as the MS would not have to provide the same conditions until after one year. Relevant national measures would be eligible for co-funding under the ERF.  More generally, it would have a very limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>2:</b> It would accomplish only a partial approximation of the treatment reserved by the Directive's legal framework to refugees, on the one hand, and to beneficiaries of subsidiary protection, on the other hand.
Option 2 (legislative)	<b>4:</b> It would imply the complete approximation of access to benefits for family members of the two categories, thus improving the content of the status of beneficiaries of subsidiary protection, streamlining procedures and enhancing consistency in the application of the Directive.	<b>4:</b> By ensuring that the same conditions apply with regard to access to benefits for family members of both categories, it would imply higher costs for the 1 MS affected. Relevant national measures would be eligible for co-funding under the ERF.  More generally, it would contribute to establishing a level-playing field, and to a decrease of costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of protection.	<b>5:</b> It would ensure a coherent approach within the Directive's legal framework towards refugees, on the one hand, and beneficiaries of subsidiary protection, on the other hand – in line with the call of the Hague Programme for the establishment of a uniform status as an end goal of the CEAS.

### **C. Specific objectives 3 & 5:**

**- To raise the overall content of protection taking into account the specific needs of beneficiaries of international protection**

**- To ensure the consistent application of agreed protection standards across the EU**

**i) Operational Objective: To enhance the integration of beneficiaries of international protection taking into account their specific needs, and in particular to enhance their access to procedures for recognition of qualifications**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<p><b>0:</b> By granting beneficiaries of international protection equal treatment with nationals in the context of national recognition procedures, the Directive does not adequately address the practical difficulties they encounter, to the extent that these are linked to their specific situation and are of a different nature than those faced by EU nationals. In addition, to address this gap, certain MS have taken specific measures; as a result national practices vary. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.</p>	<p><b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services</p>	<p><b>0:</b> The current provisions have no impact in terms of coherence with the priorities set and the initiatives called for in the context of the EU framework on integration</p>
Option 1 (legislative)	<p><b>3:</b> It would constitute a positive step in the direction of meeting the specific needs of beneficiaries: it would cover all types of qualifications and address the problems linked to the absence of documentary evidence and the financial constraints.</p> <p>Because of the absence of binding effect, its impact in terms of effectively raising the current standards and ensuring a consistent application would be more limited than that of option 2.</p>	<p><b>3:</b> It would entail additional costs for those MS which would positively respond to the encouragement to develop alternative procedures and to help beneficiaries of international protection meet the costs of recognition procedures. Relevant national measures would be eligible for co-funding under the ERF.</p> <p>Costs related to alternative procedures will be more limited than under option 2 to the extent that this option covers only cases of absence of documentary evidence; on the other hand, they could be higher than under option 2 to the extent that this option addresses all types of qualifications.</p> <p>Regarding the provision of financial support, it might entail lesser costs than option 2, as it does not impose an obligation. On the other hand, it does not oblige MS to limit their exemptions to only those beneficiaries of international protection which can produce evidence of their inability to meet the relevant costs.</p> <p>Overall, it would have limited</p>	<p><b>4:</b> It would ensure the compatibility of any national measures for the validation of professional with the EU acquis on the mutual recognition of professional qualifications</p> <p>More generally, it would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration</p>

		impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	
Option 2 (legislative)	<p><b>4:</b> It would have a decisive impact in terms of addressing the specificities of the situation of beneficiaries of international protection to the extent that it would impose an obligation on MS to take appropriate measures, also going beyond cases related to the lack of documentary evidence.</p> <p>On the other hand, it would only cover to qualifications obtained in one of the Contracting Parties to the Lisbon Convention and only the recognition of higher education.</p> <p>Because of its compulsory character, its impact in terms of effectively raising the current standards and ensuring a consistent application would be higher than that of option 2.</p>	<p><b>3:</b> Overall, the introduction of the obligations envisaged under this option would entail higher costs than those resulting from Option 1. A more detailed comparison of costs was made above. Relevant national measures would be eligible for co-funding under the ERF.</p> <p>On the other hand, it would contribute to a higher degree than option 1 to establishing a level-playing field.</p>	<p><b>2:</b> It would ensure coherence between the EU asylum acquis and the obligations flowing from the Lisbon Convention for 22 MS</p> <p>More generally, it would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration</p>
Option 3 (practical cooperation)	<p><b>1:</b> It could facilitate the task of competent authorities in different MS who are called upon to make assessments of qualifications of beneficiaries of international protection, as it would increase their knowledge about the trainings and curricula provided in different third countries; moreover it would facilitate the exchange and further development of existing national good practices. However, applied on its own, it would have only a marginal impact in terms of effectively addressing the problems of beneficiaries of international protection linked to the absence of documentary evidence and the financial constraints..</p>	<p><b>1:</b> Such cooperation activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation can only contribute to a limited extent to reducing secondary movements and subsequent costs related in particular to Dublin procedures.</p>	<p><b>3:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration; more specifically it would be compatible with the work being carried out by the Network of National Contact points on integration.</p>

**ii) Operational Objective: To enhance the integration of beneficiaries of international protection taking into account their specific needs, and in particular to enhance their access to vocational training and employment**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provisions do not address the specific obstacles that hinder the effective access of beneficiaries of international protection to vocational training and employment. In addition, to address this gap, certain MS have taken specific measures; as a result national practices vary. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> The current provisions have no impact in terms of coherence with the priorities set and the initiatives called for in the context of the EU framework on integration
Option 1 (legislative)	<b>3:</b> It would enhance the access of beneficiaries of protection to training and employment. However, to the extent that it only encourages MS to take measures for the financial facilitation of access to training and to provide access to suitable training courses, its impact in terms of effectively raising the current standards and reducing differences between MS would be more limited than that of option 2.	<b>3:</b> It would imply additional costs for those MS that currently do not provide 'suitable' training courses, or relevant financial support and which would decide to follow its encouragement and implement such measures. It would further incur compulsory costs for those MS which do not currently provide employment counselling services.  Overall, it would have limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>4:</b> It would ensure consistency with the Commission's Proposal for an "EU Blue Card" Directive which grants third country nationals falling within its scope access to counselling services afforded by employment offices  More generally, it would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration
Option 2 (legislative)	<b>4:</b> Because of its compulsory element and the broad scope of the obligations it would entail for MS, option 2 would have a decisive impact in terms of effectively and comprehensively addressing the specific problems encountered by beneficiaries of international protection regarding access to vocational training and employment as well as ensuring consistent standards in all MS.	<b>3:</b> Compared to option 1, Option 2 would lead to higher costs as it would involve an <i>obligation</i> to offer suitable training courses and to provide financial facilitation measures. On the other hand however, it would contribute to a higher degree than option 1 to establishing a level-playing field.	<b>3:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration
Option 3 (practical cooperation)	<b>12:</b> It could facilitate the exchange and further development of existing national good practices. However, applied on its own, it would have only a marginal impact in terms of effectively addressing the specific needs and problems of beneficiaries of international protection regarding access to vocational training and employment	<b>1:</b> Such cooperation activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation could contribute only to a limited extent to reducing secondary movements and subsequent costs related in particular to Dublin procedures.	<b>3:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration; more specifically it would be compatible with the work being carried out by the Network of National Contact points on integration.



**iii) Operational Objective: To enhance the integration of beneficiaries of international protection taking into account their specific needs, and in particular to enhance their access to integration facilities**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provisions on the integration programmes to be provided to beneficiaries of international protection do not address the particularities of their situation; as a result the integration programmes they are offered in several MS do not adequately take into account the different educational levels, professional backgrounds, family commitments, the lack of linguistic ability etc. Moreover, there is variation in national practices. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> The current provisions have no impact in terms of coherence with the priorities set and the initiatives called for in the context of the EU framework on integration
Option 1 (legislative)	<b>3:</b> It would enhance current standards, as it would require MS to develop in their integration policies the targeted response that they consider appropriate in relation to the specific needs of beneficiaries of international protection. On the other hand, the flexibility it provides for means that its impact in terms of effectively raising the current standards and reducing differences between MS would be more limited than that of option 2.	<b>3:</b> It would imply additional costs for those MS that currently do not provide integration programmes targeted at the needs of beneficiaries of international protection. The costs it would incur in terms of developing and providing introduction programmes and language courses tailored <i>as far as possible</i> would be lower than those implied under Option 2 in order to take into account the specific needs of the target group <i>as an obligation</i> in the programmes offered. Overall, it would have limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>3:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration
Option 2 (legislative)	<b>4:</b> As it would oblige MS to give to beneficiaries of international protection access to integration programmes specifically designed to meet the particular integration challenges they encounter, it would have a decisive impact in terms of effectively raising current standards as well as ensuring consistent standards in all MS.	<b>4:</b> Compared to option 1, Option 2 would lead to higher costs as it would involve an <i>obligation</i> for MS to ensure access to integration programmes specifically designed to meet their needs. On the other hand, it would contribute to a higher degree than option 1 to establishing a level-playing field.	<b>3:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration
Option 3 (practical cooperation)	<b>1:</b> It could facilitate the exchange and further development of existing national good practices. However, applied on its own, it would have only a marginal impact in terms of effectively addressing the specific integration needs and problems of beneficiaries of international protection	<b>1:</b> Such cooperation activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation could contribute only to a limited extent to reducing secondary movements and subsequent costs related in particular to Dublin procedures.	<b>3:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration; more specifically it would be compatible with the work being carried out by the Network of National Contact points on integration.

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**iv) Operational Objective: To enhance the integration of beneficiaries of international protection taking into account their specific needs, and in particular to reduce possibilities for limitations of their access to rights and benefits**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provision gives MS the discretion to reduce the benefits to be granted to beneficiaries of international protection, where the protection status has been obtained on the basis of activities engaged in for the sole or main purpose of securing protection. To this extent, it is not conducive in terms of enhancing their integration, has the potential to lead to violations of the Geneva Convention and allows for divergent national practices. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be inadequate.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> The current provision has no impact in terms of coherence with the priorities set and the initiatives called for in the context of the EU framework on integration
Option 1 (legislative)	<b>2:</b> This option would restrict the flexibility currently allowed to MS by obliging them to grant the persons concerned at least a certain level of rights prescribed by the Geneva Convention; it might thus bring a limited improvement of current standards and it would enhance consistency of application.	<b>2/3:</b> As there is no information available on what precisely the reduction of benefits means in the current practice of the three MS which apply the relevant provision, it is not possible to determine whether the introduction of option 1 would incur higher costs for these MS; it could imply additional costs for these 3 MS to the extent that they might need to grant the persons concerned additional rights and benefits compared to those that they grant currently.  It would have a certain impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>3 :</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration
Option 2 (legislative)	<b>4:</b> By completely eliminating the possibility to apply such sanctions, it would considerably raise standards, ensure full compatibility with the Geneva Convention and consistency in the application of these standards throughout the EU.	<b>3:</b> It would imply additional costs for the 3 MS affected, to the extent that they might need to provide for rights and benefit in cases where previously they applied restrictions.  More generally, it would contribute to establishing a level-playing field, and to a decrease of costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of protection.	<b>3:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration

**v) Operational Objective: To enhance the integration of beneficiaries of international protection taking into account their specific needs, and in particular to enhance their access to accommodation**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current provision does not address the problems faced by beneficiaries of international protection in the housing market and is therefore not conducive to their effective integration. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be insufficient in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> The current provision has no impact in terms of coherence with the priorities set and the initiatives called for in the context of the EU framework on integration nor with the standards established in other instruments of the EU acquis or within the Directive
Option 1 (legislative)	<b>2:</b> As it would encourage MS to put in place policies aimed at preventing discrimination of beneficiaries of international protection and at ensuring equal opportunities regarding access to accommodation, it might enhance standards in those MS which would voluntarily accept to implement it. However, the lack of binding effect means that its impact in terms of effectively and comprehensively raising standards and reducing differences between MS would be more limited than that of the other legislative options.	<b>3:</b> It would imply additional costs for those MS which currently do not have in place policies banning discrimination regarding access to accommodation <u>and</u> which would voluntarily endeavour to develop such policies in response to the call of this option  Overall, it would have limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>2:</b> It would constitute a step towards bringing the standards regarding accommodation in line with the priorities set and the initiatives called for in the context of the EU framework on integration, but only in those MS which would implement it
Option 2 (legislative)	<b>2:</b> As it would encourage MS to grant beneficiaries of international protection access to accommodation under the same conditions as nationals, it might enhance standards in those MS which would voluntarily accept to implement it. However, the lack of binding effect means that its impact in terms of effectively and comprehensively raising standards and reducing differences between MS would be more limited than that of the other legislative options.	<b>2:</b> It would imply additional costs for those MS which currently do not provide beneficiaries of protection access to accommodation under the same conditions as nationals <u>and</u> which would voluntarily endeavour to raise their standards.  Overall, it would have limited impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>1:</b> It might constitute a step towards bringing the standards regarding accommodation in line with the priorities set and the initiatives called for in the context of the EU framework on integration, in those MS which would implement it
Option 3 (legislative)	<b>4:</b> It would give effect to the political mandate on integration by raising current standards to the level of rights enjoyed by nationals. Due to its compulsory nature, it would be more effective in enhancing the integration of beneficiaries of international protection and in reducing divergences in national practices than Option 1.	<b>2/3:</b> Compared to options 1 and 2, Option 3 would lead to costs for more MS, since all MS which currently do not apply this standard would have to implement it.  On the other hand, it would have a more decisive impact than options 1 and 2 in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international	<b>5:</b> It would ensure consistency with the standards established in the "Long-term residents Directive" (equal access with nationals to procedures for obtaining housing)  - It would be compatible with the overall approach followed by the Qualification Directive: the same standard (same conditions as nationals) applies for instance regarding the access of refugees to

		<p>protection</p> <p>In the absence of precise information on the current legislations and practices of the different MS in terms of providing access to accommodation beneficiaries of international protection, it is not possible to determine the size of the additional costs it would imply and to compare it with Option 4. It is however reasonable to assume that it would be more costly than Options 1 and 2.</p>	<p>employment, to social welfare and to health care and the access of minors to education.</p> <p>- It would be in line with the approach advocated in the Handbook on Integration (ensure equal opportunities in the housing market, in terms of access and quality)</p>
<p>Option 4 (legislative)</p>	<p><b>3:</b> As it would require that the accommodation for beneficiaries of international protection should guarantee an adequate standard of living, it would have significant impact in terms of effectively raising current standards as well as ensuring consistent standards in all MS.</p> <p>However, the reference to "adequate standards" is not specific enough as a benchmark to allow the Commission to monitor the level of standards available in the MS</p>	<p><b>2:</b> Compared to options 1 and 2, it would lead to costs for more MS as since all MS which currently do not apply this standard would have to implement it. On the other hand, it would contribute to a higher degree than these options to establishing a level-playing field.</p> <p>In the absence of precise information on the current legislations and practices of the different MS in terms of providing access to accommodation beneficiaries of international protection, it is not possible to determine the size of the additional costs it would imply and to compare it with Option 3. It is however reasonable to assume that it would be more costly than Options 1 and 2.</p>	<p><b>4:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration</p> <p>- it would provide a link the Directive's standards directly to those set by the relevant human rights instruments, such as the EU Charter on Fundamental Rights (Article 34(3)) and the International Covenant on Economic, Social and Cultural rights (Article 11(1)).</p> <p>- it would be in line with the standards provided in the Reception Conditions Directive, which imposes an equivalent obligation with regard to asylum seekers.</p>
<p>Option 5 (practical cooperation)</p>	<p><b>1:</b> It could facilitate the exchange and further development of existing national good practices as well as the identification of the most cost-efficient solutions for the provision of assistance in the search for accommodation. However, applied on its own, it would have only a marginal impact in terms of effectively addressing the specific problems of beneficiaries of international protection regarding access to adequate accommodation</p>	<p><b>1:</b> Such cooperation activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation could contribute only to a limited extent to reducing secondary movements and subsequent costs related in particular to Dublin procedures.</p>	<p><b>3:</b> It would be compatible with the priorities set and the initiatives called for in the context of the EU framework on integration; more specifically it would be compatible with the work being carried out by the Network of National Contact points on integration, resulting in mutual benefits</p>

- **vi) Operational Objective: To better ensure the right of beneficiaries of international protection for respect of family life.**

	Effectiveness	Efficiency	Coherence
Baseline scenario	<b>0:</b> The current definition of family members does not sufficiently take into account the specificities of their situation. Moreover, it allows and – to a certain extent – even encourages divergences in national practices. These problems cannot be addressed by possible guidance by jurisprudence or infringement procedures. Practical cooperation would also be inadequate in this respect.	<b>0:</b> It does not affect current costs related to Dublin procedures, asylum procedures and reception services	<b>0:</b> The current definition is inconsistent with the broadened definition of family members provided for in the Commission's proposals for the amendment of the Reception Conditions Directive and the Dublin Regulation.
Option 1 (legislative)	<b>2:</b> It would address as the wide range of situations where a minor might be considered dependent, while ensuring that the decisive criterion is the best interest of the child. It would thus have a decisive impact in terms of effectively raising current standards as well as in ensuring consistent standards in all MS	<b>3/4:</b> There is no data available on numbers of family members that would be affected by the broadening of the definition. However, both legislative options would lead to additional costs in relation to the provision of adequate living standards for the MS which do not currently apply broader definitions than those prescribed by the current Directive. Overall, Option 2 would lead to higher costs than option 1, since it would have a larger group of potential beneficiaries. On the other hand, procedural costs would be higher for the processing of applications under Option 1, since it would be necessary to determine on a case by case basis not only the family or other relevant link but also whether it is in the best interests of the minor involved to resided in the same country as the other persons concerned.	<b>4:</b> It would ensure coherence with the broadened definition of family members provided for in the Commission's proposals for the amendment of the Reception Conditions Directive and the Dublin Regulation.
Option 2 (legislative)	<b>3:</b> Option 2 would have all the advantages of Option 1, whereas additionally allowing for a broader application of the concept of family members	<b>3/4:</b> As indicated above, Option 2 would lead to higher costs than option 1, since it would have a larger group of potential beneficiaries. On the other hand, procedural costs would be higher for the processing of applications under Option 1, since it would be necessary to determine on a case by case basis not only the family or other relevant link but also whether it is in the best interests of the minor involved to resided in the same country as the other persons concerned.	<b>4:</b> It would ensure coherence with the broadened definition of family members provided for in the Commission's proposals for the amendment of the Reception Conditions Directive and the Dublin Regulation.
Option 3 (legislative)	<b>4:</b> It would address more comprehensively than options 1 and 2 the specificities of the situation of beneficiaries of international protection while ensuring that the decisive criterion is the best interest of the child. It would thus have a decisive impact in terms of effectively raising current standards as	<b>4:</b> It would imply additional costs for those MS which do not apply broader definitions than the minimum currently imposed by the Directive. Due to its conditioning on vulnerability or special needs, it would imply lower costs than option 2, since it would have a smaller	<b>4:</b> It would ensure coherence with the broadened definition of family members provided for in the Commission's proposals for the amendment of the Reception Conditions Directive and the Dublin

	well as in ensuring consistent standards in all MS	group of potential beneficiaries. However, it would imply higher procedural costs for processing of applications than option 4, since it would be necessary to determine not only whether the close relatives are wholly or mainly dependent on the beneficiary, but also whether they are vulnerable or have special needs.	Regulation.
Option 4 (legislative)	<b>4/5:</b> It would increase protection standards and ensure consistency to a higher degree than option 3, due to the absence of a condition linked to vulnerability or special needs.	<b>3/4:</b> As indicated above, it would have a larger group of potential beneficiaries than option 3, resulting in higher costs. On the other hand it would imply lesser procedural costs. Overall, it would have a larger impact in terms of establishing a level-playing field, and thus in terms of reducing costs related to Dublin procedures and the unequal distribution of asylum seekers and beneficiaries of international protection.	<b>4:</b> It would ensure coherence with the broadened definition of family members provided for in the Commission's proposals for the amendment of the Reception Conditions Directive and the Dublin Regulation.
Option 5 (practical cooperation)	<b>1:</b> It would help MS to better define the notions and criteria related to the best interests of the child. . However, applied on its own, it would have only a marginal impact in terms of effectively addressing the deficiencies of the legislative provisions.	<b>1:</b> Such cooperation activities are eligible for ERF support and would also be covered by the EASO mandate. However, given the limitations of its effectiveness on its own, practical cooperation could contribute only to a limited extent to reducing secondary movements and subsequent costs related in particular to Dublin procedures.	<b>2:</b> It would enable MS to draw on practices for the verification of family links developed in other related policy contexts, such as family reunification.

## Annex 20 - Assessment of the status quo

Assessment Criteria	Rating (from 0, i.e.no impact, to 5)	Motivation of the rating
<i>Relevance</i>		
1 To enhance the full and inclusive application of the 1951 Refugee Convention and full respect of the ECHR and of the EU Charter of Fundamental Rights	0	<p>Certain standards of the Directive do not fully reflect international standards and are not applied consistently. These problems could not be adequately addressed by infringement procedures against MS, as the level of ambiguity of the text of the Directive makes it difficult to clearly substantiate infringement cases. The ECJ and the ECtHR may be asked – as they have in the past - to provide guidance aimed at addressing such inconsistencies and possible protection gaps. However, by its very nature, such guidance cannot systematically or fully address the identified problems, but only on a case-by-case basis. Progress on the basis of case law could only be expected to address some of the identified problems, such as:</p> <ul style="list-style-type: none"> <li>▪ The risk that persons are returned to a country where they cannot have access to effective and durable protection;</li> <li>▪ The risk that persons are returned to (part of) a country that is not safe or not possible to access;</li> <li>▪ Denial of protection in cases where persons are persecuted for reasons not related to a Geneva Convention ground, but where State protection is withheld for such reasons (the nexus requirement);</li> <li>▪ Denial of protection due to a restrictive interpretation of ‘membership of a particular social group’ with regard to the significance of gender-related aspects; and,</li> <li>▪ The lack of possibility for refugees who are considered to constitute a danger to their security or their community to challenge the assertion of a security risk before an impartial tribunal and the negative effects of the withdrawal of refugee status in such cases for the family members present in the Member State.</li> </ul> <p>Practical cooperation (and advocacy), may lead to some ‘voluntary’ raising of current standards and to increased convergence of national practices, but is insufficient, on its own, to adequately and comprehensively address the problems identified, which flow from the ambiguities and possibilities for derogations in the legislation itself. Moreover it is questionable whether those MS where improvements are most urgently needed will respond to a voluntary approach.</p> <p>Developments at MS level (e.g. change of government, factual developments, reevaluation of the situation etc.) may have either positive or negative consequences for asylum applicants in terms of access to protection. The current financial crisis may even entail an increased risk of pressures to resort to measures which could undermine the effective protection of fundamental rights, e.g. the right to asylum. MS may choose for instance to focus on their own nationals before allocating resources, allowing unconditional access to the labor market etc to beneficiaries of international protection or even to lower their standards regarding the grounds for protection in an effort to reduce the influxes of asylum seekers and the numbers of beneficiaries of international protection they are hosting.</p>
2 To approximate the content of protection granted to refugees and beneficiaries of subsidiary protection;	0	<p>The Qualification Directive allows MS in some respects to grant beneficiaries of subsidiary protection a lower level of rights than those granted to refugees</p> <p>As it is increasingly acknowledged that the distinction between the two groups as to protection needs is theoretical rather than real, most MS are already making changes in the direction of removing or closing the gaps between the two protection statuses. However, some countries still differentiate between these two categories and at least one country has introduced new legislation concerning varying conditions as late as in January 2009. The trend is therefore not only positive and, as mentioned above under objective 1.1, the current financial crisis entails an increased risk of negative trends in this respect. This objective cannot therefore be expected to be achieved if the status quo is maintained.</p>
3 To raise the overall level of protection taking into account the specific needs of beneficiaries of international protection	0	<ul style="list-style-type: none"> <li>▪ The Qualification Directive does not take sufficiently into account the specific needs and integration challenges faced by beneficiaries of international protection, including with regard to</li> <li>▪ Having their skills and competences recognised;</li> </ul>

Assessment Criteria	Rating (from 0, i.e.no impact, to 5)	Motivation of the rating
		<ul style="list-style-type: none"> <li>▪ Accessing relevant training and employment;</li> <li>▪ Accessing adequate integration programmes;</li> <li>▪ Accessing accommodation;</li> <li>▪ Accessing an adequate level of rights and benefits even where they obtained protection on the basis of "manufactured claims"</li> </ul> <p>Similar to objective 1.1., peer pressure, the identification and exchange of good practices, advocacy and cooperation may have some positive impacts. There may also be some changes in MS due to national developments. However, in view of the current financial crises, it is more likely that such developments will result in decreases of the level of protection granted to beneficiaries of international protection.</p> <p>On balance, it is not expected that the objective will be achieved through the status quo. In particular, the countries where improvements are most urgent are likely to be least 'willing to learn' on a voluntary basis.</p>
4 To improve the efficiency of the asylum process	0	<p>Because of the vague and ambiguous formulation of several provisions of the Directive, current substantial criteria for the identification of protection needs do not allow the asylum authorities to take robust decisions, based on a properly established assessment of the claims. As a result decision-makers have difficulties to reach quickly decisions on individual applications, whereas the possibility to interpret concepts in different ways results in intensive recourse to appeals and to subsequent applications, and in high rates of successful appeals against negative decisions.</p> <p>Practical cooperation and guidance by the ECJ and ECHR may help bring a certain degree of clarification that will facilitate decision making but only on a case by case basis and not systematically or comprehensively.</p>
5 To ensure the consistent application of agreed protection standards across the EU	0	<p>As indicated above, because of derogations allowed for in the current text of the Qualification Directive and unclear definitions, the Directive has been transposed and is being implemented in different ways in the MS, leading to widely divergent recognition rates and practices, the provision of different levels of rights, and consequently to secondary movements and the uneven distribution of asylum seekers and beneficiaries of international protection amongst MS.</p> <p>Interpretative guidance by the ECJ and ECHR may address such divergences but only on a case by case basis and not systematically or comprehensively. Practical cooperation, to be reinforced through the establishment of the European Asylum Support Office, can also be expected to increase convergence. However, progress can only be achieved on a voluntary basis. Maintaining the status quo would therefore have no impact in terms of addressing secondary movements and the unequal distribution of asylum seekers and beneficiaries of international protection amongst MS</p> <p>Moreover, it cannot be excluded that, in view in particular of the current financial crisis, MS might be inclined to lower their protection standards (making more extensive use of the relevant possibilities/derogations allowed by the Directive) in order to reduce the inflows of asylum seekers and the numbers of beneficiaries of international protection they are hosting, so that convergence might be achieved at the level of the lowest common denominator. .</p> <p>It appears therefore unlikely that this objective could be achieved through the status quo.</p>
<b>Feasibility</b>		
Transposition and implementation feasibility	0	The policy option does not involve any legislative action, i.e. no provisions will need to be transposed.
Financial feasibility	0	Status quo would not bring about any additional financial costs.
<b>Expected impacts</b>		
Financial and economic impacts	0	<p>The economic impacts of maintaining the status quo with regard to the level of rights granted would vary amongst the MS depending on the number of beneficiaries of international protection in the country, as well as the number of them who are able to access employment and integrate successfully</p> <p>MS which do not take measures adequately supporting beneficiaries' access to</p>



Assessment Criteria	Rating (from 0, i.e.no impact, to 5)	Motivation of the rating
		<p>employment, accommodation and more generally to integration, can be expected to miss out on the potential labour supply and contributions to the economy that this category of persons can offer, and instead carry the costs of social welfare and healthcare benefits as well as the more general negative social consequences of dependency.</p> <p>Neither the 'burden' nor the potential of beneficiaries of international protection to contribute to the economic development of the host country can therefore be expected to be shared more equally amongst MS under the status quo.</p> <p>Moreover, the persistence of divergences would continue to encourage secondary movements and the ensuing unequal distribution of asylum seekers and beneficiaries of international protection amongst MS. This in turn would mean that there would be no reduction of the MS' costs regarding the implementation of the Dublin system nor any improvement in terms of addressing the overburdening of those MS providing higher standards.</p>
Social impacts	0	<p>Maintaining the status quo would mean that there would continue to be protection gaps and divergent recognition rates and practices, negatively affecting the access to protection and justice. Furthermore, there would be (in some MS) negative impacts on social integration and access to the labour market because of insufficient provision of (and access to) support and measures for beneficiaries of international protection to integrate socially and vocationally in the host society, taking into account their special needs. There would also continue to be unequal and inadequate access to housing, social welfare and healthcare due to the great differences in the application of the Directive in the MS, as well as differentiations between the rights attached to the two protection statuses, negatively affecting equality/non-discrimination. The persistence of current secondary movements may also negatively influence the perception of nationals in relation to asylum applicants and beneficiaries of international protection across the EU.</p>
Impacts on fundamental rights	0	<p>As outlined in the problem assessment, certain standards of the Qualification Directive do not fully reflect international standards. The outcome of possible infringement procedures and interpretative guidance by the ECJ and ECHR might address such deficiencies but only on a case by case basis and not systematically or comprehensively. Improvement might also occur through peer pressure, the identification and exchange of good practices, advocacy etc but progress on this basis would depend on the willingness of MS to raise their protection standards.</p> <p>Furthermore, as explained above, MS might even be inclined to lower their standards in certain respects. This would entail the risk of further undermining respect for fundamental rights</p> <p>It is therefore likely that several rights of the EU Charter of Fundamental Rights would be insufficiently promoted if the status quo is maintained. These include:</p> <ul style="list-style-type: none"> <li>▪ Article 7: Respect for private and family life</li> <li>▪ Article 14: Right to education</li> <li>▪ Article 15: Freedom to choose an occupation and right to engage in work</li> <li>▪ Article 16: Freedom to conduct a business</li> <li>▪ Article 18: Right to asylum</li> <li>▪ Article 19: Protection in the event of removal, expulsion or extradition</li> <li>▪ Article 21: Non-discrimination</li> <li>▪ Article 24: Rights of the child</li> <li>▪ Article 34: Social security and social assistance</li> <li>▪ Article 35: Healthcare</li> </ul>
Impacts on third countries	0	<p>It is extremely difficult to assess what impacts the status quo could have on third countries; In particular, it would be impossible to determine if –and to what extent- the maintenance of the status quo would have any impact on the overall asylum flows to the EU, since, as outlined above, refugee flows are mainly driven by push factors</p>

## **Annex 21 - Presentation of the preferred policy option**

On the basis of the assessment of the policy options as presented in section 4 it is clear that none of the individual policy options completely addresses the problems or fully achieves the objectives sought. However, by combining different policy options, a higher degree of effectiveness could be achieved.

Accordingly, the preferred option has been designed by merging the policy options that correspond to each specific objective. The preferred policy option combines legislative amendments with a view to ensuring higher standards of treatment for asylum seekers and practical cooperation measures that would allow more coherent and efficient implementation of the legislation.

The elements that form part of the preferred option are outlined in the table below.

Content of the preferred option		
Main issue/objective	Sub-issue (where relevant)	Description of preferred sub-options
4.2 To limit the broad interpretation of "actors of protection" in line with the standards of the Geneva Convention and the ECHR	NA	<p><i>Legislative option 2 in combination with practical cooperation</i></p> <p><u>Option 2:</u> This option would specify that the list of actors of protection contained in Article 7 is an exhaustive one, and would require that protection must be effective and durable and that the parties and organisations in question are willing and able to enforce the rule of law.</p> <p><u>Practical cooperation:</u> MS could cooperate to explore the different interpretations of “parties” and jointly define which actors of protection in certain third countries are potentially able to effectively ensure such protection. Such cooperation could take place in the context of EURASIL and could benefit eventually from the creation of a European Asylum Support Office.</p>
4.3 To limit the broad interpretation of the concept of "internal protection" in line with the standards of the Geneva Convention and the ECHR	NA	<p><i>Legislative option 2</i></p> <p><u>Option 2</u> would require that the applicant should be able to travel to, gain admittance and settle in the proposed alternative location; it would delete the possibility to apply the internal flight alternative despite technical obstacles and would refer to the obligation of the competent authorities to obtain precise and up-to-date information on the general situation in the country.</p> <p><u>Practical cooperation:</u> MS could cooperate to map the criteria they apply in the context of the “reasonableness” analysis and exchange information relevant for the assessment of the existence of an internal flight alternative in specific third countries, possibly with the assistance of the EU Portal on Country of Origin information and more generally of the EASO.</p>
4.4 To ensure a more inclusive interpretation of the "nexus requirement" in line with the standards of the Geneva Convention	NA	<p><i>Legislative option 2 in combination with practical cooperation</i></p> <p><u>Option 2:</u> The nexus requirement could be broadened in a compulsory manner: it could be made explicit in the provision of Article 9(3) that the causal link condition is fulfilled where there is a connection between the acts of persecution and the absence of protection against such acts.</p> <p><u>Practical cooperation:</u> MS could cooperate to map the application of the nexus requirement in the MS and its effects on the process and outcomes of determining whether an applicant is to be granted international protection or not. The exchange of this information and best practices would serve as a basis to approximate national decision-making on the matter.</p>
4.5 To ensure a more inclusive interpretation of the concept "Particular social group" in line with	NA	<p><i>Legislative option 2 in combination with practical cooperation</i></p> <p><u>Option 2:</u> The option would specify that gender related aspects should be given due consideration for the purposes of recognising membership of a particular social</p>

Content of the preferred option		
Main issue/objective	Sub-issue (where relevant)	Description of preferred sub-options
the standards of the Geneva Convention		<p>group or identifying a characteristic of such a group.</p> <p><u>Practical cooperation</u>: MS could cooperate to jointly map the interpretation of the ground "membership of a particular social group" with regard to gender-related issues and its effects on the process and outcomes of determining whether an applicant is to be granted international protection or not. The exchange of this information and best practices would serve as a basis to approximate national decision-making on the matter.</p>
4.6 To prevent the unwarranted withdrawal of status of beneficiaries of international protection	4.6.1 Cessation regarding refugees	To incorporate in the Directive the obligation to apply the exceptions to the "ceased circumstances" cessation clauses in the case of cessation of refugee status ( <i>Uncontroversial and therefore not assessed</i> ).
	4.6.2 Cessation regarding beneficiaries of subsidiary protection	<p><b>Legislative option 2</b></p> <p><u>Option 2</u>: It could be envisaged to include a compulsory exception to cessation relating to compelling reasons arising out previous serious harm in Article 16. This would bring about a complete assimilation with respect to the application of the "compelling reasons" exceptions to cessation between refugees and beneficiaries of subsidiary protection.</p>
4.7 To approximate the rights of beneficiaries of subsidiary protection to those of refugees	4.7.1 Duration of residence permit	<p><b>Legislative option 3</b></p> <p><u>Option 3</u>: To oblige MS to grant beneficiaries of subsidiary protection residence permits valid for at least 3 years, as is currently the case for refugees.</p>
	4.7.2 Access to benefits for family members of beneficiaries of subsidiary protection	<p><b>Legislative option 2</b></p> <p><u>Option 2</u>: To impose on MS the obligation to grant benefits to family members of beneficiaries of subsidiary protection under the same conditions applicable to family members of refugees.</p>
	4.7.3 Access to employment	<p><b>Legislative option 3</b></p> <p><u>Option 3</u>: MS would be obliged to grant beneficiaries of subsidiary protection unconditional access to employment and to activities such as employment-related education opportunities, vocational training and practical workplace experience, as is currently the case with refugees.</p>
	4.7.4 Social welfare and health care	<p><b>Legislative option 2</b></p> <p><u>Option 2</u>: To eliminate the possibilities for MS to reduce social welfare and health care for beneficiaries of subsidiary protection to core benefits.</p>
	4.7.5 To enhance access to integration facilities	<p><b>Legislative option 3</b></p> <p><u>Option 3</u>: To oblige MS to grant beneficiaries of subsidiary protection access to integration facilities under the same conditions as to refugees.</p>

Content of the preferred option		
Main issue/objective	Sub-issue (where relevant)	Description of preferred sub-options
4.8 To enhance the integration of beneficiaries of international protection taking into account their specific needs	4.8.1 To facilitate the recognition of qualifications	<p><b>Legislative option 1 in combination with practical cooperation</b></p> <p><u>Option 1:</u> MS could be encouraged to grant beneficiaries of international protection who cannot provide documentary evidence of their qualifications access to alternative appropriate schemes for the assessment, validation and accreditation of their prior learning. It would be further specified that any such measures should not affect MS' obligations under the EU rules on the recognition of professional qualifications. Moreover MS could be encouraged to exempt beneficiaries of international protection from the fees involved or to grant them financial assistance to meet these costs where they consider it necessary.</p> <p><u>Practical cooperation</u> between MS to exchange best practices and information on the assessment of qualifications of beneficiaries of international protection obtained in different third countries, for instance, regarding the curricula or the training courses followed. MS could share knowledge gained and tools developed in this area. This option could also include the development of tools such as handbooks or databases containing information collected in the context of previous evaluations of qualifications regarding nationals of different third countries as well as the identification of cost-efficient solutions for provision of financial support.</p>
	4.8.2 To enhance access to vocational training and employment	<p><b>Legislative option 1 in combination with practical cooperation</b></p> <p><u>Option 1:</u> would encourage MS to provide beneficiaries of international protection with access to suitable training courses to upgrade their skills. Option 1 would further broaden the list of the employment-related education activities which MS are obliged to offer beneficiaries of international protection under the current Qualification Directive by including counselling services offered by employment offices. Moreover, it could be envisaged to encourage MS to facilitate, where necessary, the participation of beneficiaries of international protection in vocational training through "part-work / part-study" programmes or maintenance grants and loans.</p> <p><u>Practical cooperation:</u> MS' competent authorities could cooperate to explore what works best in terms of facilitating access to vocational training and employment, including through the exchange of experience and good practice in the context of the Network of National Contact Points on Integration, and through good practices developed in the context of the European Refugee Fund, the Integration Fund and the European Social Fund.</p>
	4.8.3 To enhance access to integration facilities	<p><b>Legislative option 1 in combination with practical cooperation</b></p> <p><u>Option 1:</u> It could be envisaged to include in the relevant provision of the Directive (Article 33(1)) a reference to the 'specific needs' of beneficiaries of international protection, so as to impose on MS the obligation "to ensure access to integration programmes which they consider appropriate so as to take into account" the specific needs of beneficiaries of international protection. As examples of such integration programmes, reference could be made to introduction programmes and language training courses tailored as far as possible to these specific needs.</p> <p><u>Practical cooperation</u> to develop common approaches and tools with regard to integration programmes and support provided to beneficiaries of international protection on the basis of good practices identified in the MS and transnational cooperation projects.</p>

Content of the preferred option		
Main issue/objective	Sub-issue (where relevant)	Description of preferred sub-options
	4.8.4 To enhance access to accommodation	<p><b>Legislative option 1 in combination with practical cooperation</b></p> <p><u>Option 1:</u> To encourage MS to put in place policies aimed at preventing discrimination of beneficiaries of international protection and at ensuring equal opportunities regarding access to accommodation.</p> <p><u>Practical cooperation</u> to explore what works best in particular in terms of facilitating access to the private housing market and in assisting individuals who cannot compete on the private housing market in finding social housing, as well as funding for specific programmes and projects to cover the costs of providing accommodation (e.g. good practices from ERF, Integration Fund, ESF) .</p>
	4.8.5 To reduce possibilities for limitations to access to rights and benefits	<p><b>Legislative option 2</b></p> <p><u>Option 2:</u> It could be envisaged to completely eliminate the possibility currently provided to MS to apply sanctions in the case of persons who engage in activities for the sole purpose of securing international protection.</p>
4.9 To better ensure respect for the right of beneficiaries of international protection to family life	NA	<p><b>Legislative option 1 in combination with practical cooperation</b></p> <p><u>Option 1:</u> to include in the definition of family members all the minor (married and unmarried) children of the beneficiary as well as the minor unmarried siblings of the beneficiary when the later is a minor and unmarried, provided it is in their best interests to reside in the same country as the beneficiary and, where the beneficiary is a minor, his/her parents or another adult relative responsible for him/her.</p> <p><u>Practical cooperation:</u> Option 3 (practical cooperation): MS could jointly map the notions and criteria they use to determine the best interests of the child and exchange good practices</p>

## **Annex 22 – Main advantages of the preferred policy option**

The key advantages of the preferred policy option may be summarized as follows:

### 1. Improving and further harmonising the personal scope of protection

The options that together make up the preferred policy option would strongly help to clarify and overall improve the definition of certain concepts so as to reduce potential protection gaps, as well as to enhance their consistent application across the EU. The amendments proposed to concepts such as ‘actors of protection’, ‘internal protection’, as well as to the ‘nexus requirement’ and the ‘particular social groups’ concepts will all lead to a more consistent and harmonised application across the EU, which should ultimately contribute to a decrease in the occurrence of diverse recognition practices and rates regarding persons having the same nationality and similar backgrounds – and to a subsequent reduction of secondary movements as well as to an overall improvement of the quality of the first-instance examination of asylum applications.

In addition, the improvements that are included in the preferred policy option will lead to higher protection standards overall, contributing in particular to ensuring a full and inclusive application of the Geneva Convention and full respect for the ECHR and the EU Charter of Fundamental Rights. These improvements have the potential to enhance access to protection for several categories of asylum applicants, depending on their individual circumstances and the particularities of their claims, and in particular for female asylum seekers, for example through the improvements to the definition and application of the concepts "nexus requirement" and "particular social group".

The preferred policy option responds thus to the call of the Hague programme and the European Pact on Asylum and Immigration for more uniformity of protection as well as for a higher degree of protection, addressing in particular the concerns expressed in the Pact on the persistence of considerable disparities between on MS and another concerning the grant of protection and the forms that protection takes.

### 2. Improving and further harmonising the rights and benefits of beneficiaries of international protection

The various options that form part of the preferred policy option will bring substantial improvements to the rights and benefits of beneficiaries of international protection and thus also increase protection standards overall. The specific needs of these beneficiaries will be adequately reflected in the preferred policy option and MS will be either encouraged or obliged to take these into account in all measures aimed at securing their successful integration, including access to recognition of qualifications, training and employment, as well as in their approaches towards integration programmes and provision of accommodation. Such integration support can have in the long term positive effects in terms of enhancing the possibilities of beneficiaries of international protection to contribute to the economic and socio-cultural development of the host States.

### 3. Removing the unjustified differences in rights between beneficiaries of subsidiary protection and refugees

Several of the options included in the preferred policy option focus on removing the differences in rights and entitlements between beneficiaries of subsidiary protection and

refugees, which affect, albeit in a limited number of MS, the quality of the content of protection provided to beneficiaries of subsidiary protection. The preferred policy option proposes equal treatment with regard to access to employment, social welfare and healthcare and to integration facilities. It also proposes to streamline the duration of the residence permits and to no longer discriminate access to benefits for family members of beneficiaries of subsidiary protection.

The options will, overall, enhance the integration opportunities for beneficiaries of subsidiary protection and increase the consistency in the application of the Qualification Directive. A differentiated treatment does not appear to be objectively justified and could even be considered contrary to the principle of non-discrimination as enshrined in the Charter of Fundamental Rights and other human rights instruments. The approximation of rights and benefits could furthermore also contribute, to some extent, to a reduction in secondary movements towards MS which do not differentiate between the treatment of the two groups of beneficiaries.

#### 4. Improving the quality and efficiency of the asylum process

As a result of the removal of the current ambiguities and of the clarification of the grounds for protection, the Directive's notions would leave less room for doubt, uncertainty and administrative error. The preferred option can thus be expected to facilitate, streamline and enhance the quality, the fairness and the effectiveness of the asylum procedure, while at the same time allowing for significant administrative and financial savings. It would enable asylum authorities to better deal with cases of unfounded and abusive applications and more generally to process claims more rapidly while reaching robust decisions, so that more cases would result in a final decision already in the first instance and prolonged litigations would be avoided. This would also lead to quicker access to the rights set out in the Qualification Directive for persons genuinely in need of protection while at the same time supporting MS' efforts to rapidly remove from the territory failed asylum seekers and improving the credibility of the whole process leading to a better public perception of asylum.

#### 5. Improving cooperation and learning between MS

Nine of the options that together make up the preferred policy option are to be accompanied by practical cooperation between the MS, aimed at providing effective practical support to national administrations, enhancing the quality and increasing convergence of decision-making practices on the basis of higher protection standards. The European Asylum Support Office, which will coordinate and monitor various activities (e.g. common training, development of guidelines, identification of good practices, etc.) will have an important role to play in further encouraging the MS in adopting practices and approaches on the level of higher protection standards.

The preferred policy option would encourage MS in particular to jointly map the different interpretations of concepts and criteria, to share good practices with regard to improving and harmonising rights and entitlements and to identify cost-effective ways to further stimulate the integration process of beneficiaries of international protection.



## Annex 23 – Comparison of current standards of the Directive with standards/objectives to be attained and envisaged legislative amendments

Standard/Objective to be attained in the second phase <sup>80</sup>	Current standard of the Directive	Envisaged legislative amendment
<b><u>Notion "actors of protection"</u></b>		
Article 1(A) of the Geneva Convention <sup>81</sup> as interpreted by UNHCR requires the existence of <u>effective</u> protection in the country of origin as a condition for returning applicants there: If the applicant is " <u>unable</u> " to avail himself of the protection of his country of origin he should be granted refugee status	The definition of "actors of protection" in Art. 7 allows MS to consider clans and tribes or NGOs as potential actors of protection and thus to return applicants to their country of origin despite the lack of effective protection	To specify that the list of actors of protection in Article 7 is exhaustive, as well as to require that protection must be effective and durable and that the parties and organisations in question are willing and able to enforce the rule of law.
<b><u>Notion "internal protection"</u></b>		
Article 1(A) of the Geneva Convention, as interpreted by UNHCR, and the principle of non-refoulement enshrined in Article 3 ECHR, as interpreted by the ECtHR require  - that the proposed alternative location – and thus, protection – should be <u>practically, safely and legally accessible</u> to the applicant.	The definition in Article 8  - merely requires the absence of a well-founded fear of persecution, and not the accessibility (also in safe and legal terms) of effective and durable protection  - it allows the use of the concept despite technical obstacles, and thus in cases where the proposed location is not practically accessible	- To specify that in the alternative area the applicant should have access to effective and durable protection  - to require that the applicant should be safely, legally and practically able to travel to, gain admittance and settle in the alternative location;  - to delete the possibility to apply the concept despite technical obstacles
<b><u>Causal nexus requirement</u></b>		
According to Article 1(A) of the Geneva Convention, a	The current wording of Article 9(3) does not	To specify that the causal nexus requirement is also

<sup>80</sup> As indicated in the problem definition, the objectives pursued in the second phase are to ensure compatibility with international human rights and refugee law standards, taking into account their authoritative interpretation by competent organisations and courts and/or to fulfil the mandate of the Hague Programme.

<sup>81</sup> Qualifies as a refugee a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country,

<p>prerequisite for qualification as a refugee is that the person is persecuted <u>for reasons of</u> race, religion, nationality, political opinion or membership of a particular social group. It requires thus a "causal nexus" between the acts of persecution and the reasons for persecution</p> <p>This nexus is interpreted by UNHCR as covering cases where the reason for the persecution is not related to a Geneva Convention ground but where the State withholds its protection because of such a ground</p>	<p>explicitly accommodate situations where persons are persecuted for reasons not related to a Geneva Convention ground but where State protection is withheld for such reasons, allowing thus for denial of protection in such cases.</p>	<p>fulfilled where there is a connection between the acts of persecution and the absence of protection against such acts</p>
<p align="center"><b><u>Notion "Membership of a particular social group"</u></b></p>		
<p>According to Article 1(A) of the Geneva Convention, persons qualify for refugee status where they have a well-founded fear of persecution, inter alia, because of their membership to a particular social group. According to UNHCR, this provision should be interpreted in an inclusive manner, in particular regarding the significance of gender-related elements of the asylum claims for the purposes of identifying a particular social group. According to the relevant UNHCR Guidelines, women are a clear example of a social subset defined by innate and immutable characteristics and who are frequently treated differently than men. Their characteristics also identify them as a group in society, subjecting them to different treatment and standards in some countries.</p>	<p>Article 10(1) (d) of the Directive precludes the use of gender-related aspects as the sole basis for the identification of a particular social group. To this extent, it hinders access to protection for women and allows for gaps which may be incompatible with an inclusive interpretation of the Geneva Convention.</p>	<p>To provide that gender related aspects should be given due consideration for the purposes of defining a “particular social group”.</p>

<b><u>Exceptions to cessation</u></b>		
Articles 1C(5) and 1C(6) of the Geneva Convention provide for exceptions to cessation of refugee status in cases where there are compelling reasons arising out previous persecution. These exceptions are interpreted as reflecting a general humanitarian principle that is now well-grounded in State practice and is therefore applied beyond its wording	In Articles 11 and 16 of the Qualification Directive, reference to these exceptions has been omitted. Member States may thus return beneficiaries of international protection to their country of origin in cases where this would not be permitted by principle enshrined in the Geneva Convention.	To provide for exceptions to the cessation of refugee and subsidiary protection status relating to compelling reasons arising out previous persecution/serious harm.
<b><u>Level of rights granted to beneficiaries of subsidiary protection</u></b>		
<p><u>The principle of non-discrimination</u> enshrined in Article 21 of the EU Charter on Fundamental Rights and in Article 14 ECHR requires an objective and reasonable justification for the different treatment of persons whose situations are not significantly different.</p> <p>The Hague programme calls for the establishment of a <u>uniform protection status</u></p>	<p>The Directive allows MS to grant beneficiaries of subsidiary protection a lower level of rights than those granted to refugees regarding certain elements of the content of protection.</p> <p>This possibility for differentiation was based on the assumption that the protection needs of beneficiaries of subsidiary protection would be of a short duration. Practical experience with the implementation of subsidiary protection showed that the initial assumption was inaccurate and can no longer serve as justification of these differences in the content of protection.</p>	<p>To grant beneficiaries of subsidiary protection the same rights as refugees regarding</p> <ul style="list-style-type: none"> <li>-the duration of residence permits,</li> <li>-the reasons for travelling outside the MS' territory,</li> <li>-access to employment,</li> <li>- access to social welfare,</li> <li>- access to healthcare</li> <li>- access of family members to benefits</li> <li>- access to integration programmes.</li> </ul>
<b><u>Overall rights of beneficiaries of international protection</u></b>		
The relevant human rights standards regarding employment are enshrined, with	The provisions of the Directive regarding the access of beneficiaries of	To enhance the access of beneficiaries of international protection to

<p>respect to refugees, in <u>Articles 17 and 19 of the Geneva Convention</u>. Article 17, on the right to engage in wage-earning employment, obliges States to accord refugees the most favourable treatment accorded to nationals of a foreign country in the same circumstances, whereas Article 19, on the right to practice a profession, obliges States to provide refugees with treatment as favourable as possible and, in any case, not less favourable than that accorded to aliens generally in the same circumstances.</p> <p>More general provisions are contained in <u>Article 6 of the International Covenant on Economic, Social and Cultural rights</u>, which additionally indicates the steps to be taken by states to achieve the full realization of the right to work, including technical and vocational guidance and training programmes. <u>The relevant provisions of the EU Charter can be found in Article 15.</u></p> <p>With regard to housing, <u>Article 21 of the Geneva Convention</u> obliges States to grant refugees treatment as favourable as possible and, in any case, not less favourable than that accorded to aliens generally in the same circumstances. Further applicable standards flow from <u>Article 34(3) of the EU Charter</u> (right to housing assistance so as to ensure a decent existence for all those who lack sufficient resources), <u>Article 31 of the European Social Charter</u> (on access to housing of and adequate standard) and <u>Article</u></p>	<p>international protection to employment, and employment-related education opportunities, to accommodation and to integration facilities reflect the legal standards provided by relevant refugee law and human rights instruments. However, as they do not take sufficiently into account the specific challenges and practical difficulties and obstacles they face, the rights formally granted by these provisions are often <i>de facto</i> unavailable.</p> <p>Thus, although they formally comply with the relevant human rights standards, <u>in practice these provisions are not adequate to ensure effective access to the rights guaranteed by the international instruments in a consistent manner throughout the EU nor to give effect to the integration mandate</u> set by the Tampere and the Hague Programmes and more generally by the EU integration policy framework.</p>	<p>the relevant rights by taking into account their specific needs, and in particular</p> <ul style="list-style-type: none"> <li>- to encourage MS to grant beneficiaries of international protection who cannot provide documentary evidence of their qualifications access to alternative appropriate schemes for the assessment, validation and accreditation of their prior learning and to exempt them from the fees involved or to grant them financial assistance to meet these costs, where they consider it necessary.</li> <li>- to encourage MS to provide beneficiaries of international protection with access to suitable training courses to upgrade their skills.</li> <li>- to oblige MS to offer beneficiaries of international protection counselling services offered by employment offices.</li> <li>- to encourage MS to facilitate, where necessary, the participation of beneficiaries of international protection in vocational training through "part-work / part-study" programmes or maintenance grants and loans</li> <li>- to oblige MS to ensure beneficiaries of international protection access to integration</li> </ul>
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<p><u>11(1) of the International Covenant on Economic, Social and Cultural rights</u> (on the right to an adequate standard of living, including adequate housing).</p> <p>Regarding integration, the Geneva Convention enumerates a series of social and economic rights designed to assist the integration process of refugees, whereas in its <u>Article 34</u> it calls on States to facilitate their assimilation and naturalization.</p> <p><u>The promotion of the social, economic and cultural integration</u> of beneficiaries of international protection contributes to <u>economic and social cohesion</u>, the maintenance and strengthening of which is established in Articles 2 and 3(1)(k) TEC as one of the Community's fundamental tasks .</p> <p>The Tampere European Council conclusions called for the <u>legal status of third-country nationals to be approximated to that of Member States' nationals</u>. The Hague Programme called for further progress with respect to the <u>fair treatment</u> of legally resident third-country nationals in the EU and the <u>active elimination of obstacles to the integration</u> of all third-country nationals settled on a long-term basis in the MS.</p> <p>The <u>Common Basic Principles on Integration</u>, the <u>Common Agenda on Integration</u> and the <u>Handbook on Integration</u> identify and promote best practices and establish a working framework for the integration of third-country</p>		<p>programmes which they consider to be appropriate so as to meet their specific needs</p> <ul style="list-style-type: none"> <li>- to encourage MS to put in place policies aimed at preventing discrimination of beneficiaries of international protection and at ensuring equal opportunities regarding access to accommodation.</li> <li>- to eliminate the possibility currently provided to MS to apply sanctions in the case of persons who engage in activities for the sole purpose of securing international protection.</li> </ul>
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nationals.		
<b><u>Definition of "family members"</u></b>		
<u>Respect for the rights of the child</u> , as enshrined in Article 24 of the EU Charter and in the UN Convention on the Rights of the Child require that the best interests of the child should be a primary consideration for MS when implementing EU law.	The definition of family members flowing from Articles 2(h) and 23(4) of the Directive does not address the case where the beneficiary of protection is a minor nor the wide range of situations where a minor might be considered dependent and does not sufficiently take into account the principle of the primacy of the best interests of the child.	To include in the definition of family members  - all the minor (married and unmarried) children of the beneficiary as well as the minor unmarried siblings of the beneficiary when the later is a minor and unmarried, provided it is in their best interests to reside in the same country as the beneficiary and, where the beneficiary is a minor, his/her parents or another adult relative responsible for him/her.

**Annex 24 - Population of beneficiaries of international protection recognised between 2005 and 2008 and comparison with population of third-country nationals in MS**

		Total number of persons receiving protection status between 2005-2008			Percentages		
	TCN population (thousands)	Ref 05-08	SP 05-08	Total 05-08	Ref	SP	Total
BE	300,8	10320	640	10960	3,43	0,21	<b>3,64</b>
BG	21,6	60	755	815	0,28	3,49	<b>3,77</b>
CZ	186,4	740	525	1265	0,40	0,28	<b>0,68</b>
DK	196,9	315	685	1000	0,16	0,35	<b>0,51</b>
DE	4788,8	18320	3375	21695	0,38	0,07	<b>0,45</b>
EE (3)	229,7	5	0	5	0,00	0,00	<b>0,00</b>
IE	141,2	1525	5	1530	1,08	0,00	<b>1,08</b>
EL (3)	729,9	555	305	860	0,08	0,04	<b>0,12</b>
ES	2856,8	780	215	995	0,03	0,01	<b>0,03</b>
FR (2)	2369,5	14345	1115	15460	0,61	0,05	<b>0,65</b>
IT	2332,7	4900	22070	26970	0,21	0,95	<b>1,16</b>
CY	47,2	95	445	540	0,20	0,94	<b>1,14</b>
LV	426,7	5	15	20	0,00	0,00	<b>0,00</b>
LT	37,4	45	235	280	0,12	0,63	<b>0,75</b>
LU	27,2	340	840	1180	1,25	3,09	<b>4,33</b>
HU	66,8	535	350	885	0,80	0,52	<b>1,32</b>
MT	4,6	90	3010	3100	1,95	65,07	<b>67,02</b>
NL	437,0	1840	13455	15295	0,42	3,08	<b>3,50</b>
AT	550,1	14355	105	14460	2,61	0,02	<b>2,63</b>
PL	31,0	1070	7820	8890	3,46	25,26	<b>28,72</b>
PT	339,3	45	95	140	0,01	0,03	<b>0,04</b>
RO	20,1	295	35	330	1,47	0,17	<b>1,64</b>
SI	50,5	15	25	40	0,03	0,05	<b>0,08</b>
SK	12,9	45	160	205	0,35	1,24	<b>1,59</b>
FIN	79,3	200	1155	1355	0,25	1,46	<b>1,71</b>
SE	266,5	3560	43730	47290	1,34	16,41	<b>17,74</b>
UK	2203,0	14335	9880	24215	0,65	0,45	<b>1,10</b>
<b>EU27</b>	<b>18754,0</b>	<b>88735</b>	<b>111045</b>	<b>199780</b>	<b>0,47</b>	<b>0,59</b>	<b>1,07</b>

## Annex 25 - The likely administrative costs of the preferred policy option

Administrative costs<sup>82</sup> have been assessed with regard to obligations to provide information associated to:

- The obligation to provide applicants with general information about the various relevant elements of the Qualification Directive
- The obligation to provide beneficiaries of international protection with information on their rights and benefits (including how and whether to obtain certain benefits, which organisations to address, etc.)
- The tools for practical cooperation (identification and diffusion of best practices, mapping studies of particular approaches, etc)

The main elements of the preferred policy option (PO) which entail additional administrative costs and which have been associated with the types of obligation and required actions are listed in the table below.<sup>83</sup>

Table A.1: Main elements of the preferred PO entailing additional administrative costs		
Policy measure	Type of obligation	Type of action required
Obligation to provide applicants with general information the various relevant elements of the Qualification directive	Other — Creation of information	Familiarising with the information obligation
		Training authorities on the information obligation
The obligation to provide beneficiaries of international protection with information on their rights and benefits	Other — Creation of information	Familiarising with the information obligation
		Training authorities on the information obligations
		Producing new data
		Submitting the information
Identification and diffusion of best practices Mapping studies	Other — Creation of information	Producing new data
		Submitting the information

<sup>82</sup> According to the EC IA guidelines, 'Administrative costs are defined as the costs incurred by enterprises, the voluntary sector, public authorities and citizens in meeting legal obligations to provide information on their action or production, either to public authorities or to private parties. Information is to be construed in a broad sense, i.e. including costs of labelling, reporting, monitoring and assessment needed to provide the information and registration'.

<sup>83</sup> The provided classification of type of obligation and actions required in relation to each individuated policy measure entailing additional administrative costs have been established according to the EU Standard Cost Model Manual.



Firstly, the legal duty of staff to provide information to of applicants for international protection with general information on the various relevant elements of the Qualification Directive requires staff in the determining authorities to be aware of the changes that are relevant to their national systems which have to be communicated to the applicants. It is likely that some training of staff would be required.

The obligation to provide beneficiaries of international protection with information on their rights and benefits relates specifically to access to education, training, employment, integration facilities, housing and social and healthcare. Specific information to be provided, for example, relates to the type of integration programmes that are available, the procedures for recognition of skills and competences, etc. This could for example be provided through in the shape of a short guide or leaflet.

Finally, the preferred PO includes, as part of practical cooperation, the mapping, identification and exchanges of good practices, which will require time inputs at EU level for coordination and dissemination.

### **Main assumptions used to assess the costs associated with the preferred policy option**

On the basis of these elements, the administrative costs have been assessed according to two scenarios:

- Scenario “t0”: first year of implementation of the preferred PO.
- Scenario “t0+2”: third year of implementation of the preferred PO.

These scenarios have been developed in order to assess the main administrative costs related to the “start-up” expenses of the new measures and those related to the costs needed to maintain these measures.

#### ***Main assumptions of Scenario “t0”***

With reference to Table A.2, the following main assumptions have been made in order to provide an estimate of the administrative costs the preferred policy option entails:

- Concerning implementation costs for familiarisation with the obligations and training of the personnel of MS Asylum Services:
  - An average of 3 senior officials (director, deputy directors and heads of units) per MS would be deputed to familiarise themselves with the revised obligations (assumption: two working days required, for an estimated total of 48 working hours per MS);
  - An average of 10 officials per MS would be involved in training about the revised obligations (assumption: training course lasting two working days, with an estimated total of 160 hours per Member State).

- Concerning implementation costs to provide beneficiaries of international protection with information on their rights and benefits by the personnel of MS Asylum Services:
  - An average of 3 senior officials (director, deputy directors and heads of units) per MS would be deputed to familiarise themselves with the revised obligations (assumption: two working days required, for an estimated total of 48 working hours per MS);
  - An average of 5 officials per MS would be involved in training about the revised obligations (assumption: training course lasting two working days, with an estimated total of 80 hours per Member State);
  - The collection and organisation of information to be included in the short guide or leaflet on the revised rights and benefits is estimated to require 40 working hours per Member State;
  - The provision of information on the rights and benefits to the applicants is estimated to require 0.5 hour per applicant. Based on the average number of applications per Member State in the past 5 years (2003-2007: 255,146 applicants), this amounts to 127,573 hours.
- 160 working hours for the Commission's DG JLS to identify the best practices on the application of the policy option and 80 working hours to diffuse these.

### **Assumptions for the hourly labour costs of Member State asylum personnel**

The hourly labour costs of Member State asylum personnel have been estimated on the basis of the EU average hourly labour costs in public administration (NACE L), extracted from Eurostat. Eurostat provides hourly and monthly labour costs and gross earnings per economic sector. However, for government (NACE section L, public administration and defence; compulsory social security), we only have information on the New MS. Additional data were required to extend our information on labour costs to the entire EU-27.

Eurostat provides a number of possible indicators, namely average personnel costs in services in the EU27 in 2003 (NACE sections G, H, I, and K)<sup>84</sup>, median gross annual earnings in industry and services in the EU25 in 2002 (the outcome of the Structure of Earnings Survey 2002)<sup>85</sup>, and average hourly labour costs in industry and services of full-

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<sup>84</sup> Eurostat, 'Main features of the services sector in the EU', *Statistics in Focus — Industry, trade and services* 19/2007.

<sup>85</sup> Eurostat, 'Earnings disparities across European countries and regions. A glance at regional results of the Structure of Earnings Survey 2002', *Statistics in Focus — Population and social conditions* 7/2006.

time employees in enterprises with 10 or more employees in 2002)<sup>86</sup>. The relative differences between MS in the level of labour costs according to the various sources compare fairly well. OECD data were used to forecast the level of annual labour costs per Member State in 2008<sup>87</sup>. Information on the annual hours worked per employee in the total economy per Member State in 2005 was taken from the total economy database of the Groningen Growth and Development Centre<sup>88</sup>. The end result is an average hourly labour cost per employee in NACE section L (public administration and defence; compulsory social security) of €24.30 in the EU-27 in 2008, and €23.30 excluding Denmark. On the basis of this result, the hourly rate for 2009 has been estimated by applying the growth rate for average hourly labour costs in the EU-27 between 2000 and 2005, thus obtaining a final rate of **€23.84**.

### ***Main assumption of Scenario “t0+2”***

With reference to Table A.3, the following main assumptions have been made in order to provide an estimate of the administrative costs the preferred policy option entails:

- Concerning implementation costs for familiarisation with the obligations and training of the personnel of MS Asylum Services, no additional costs should be sustained two years after starting the implementation of the preferred PO.
- Concerning implementation costs to provide beneficiaries of international protection with information on their rights and benefits by the personnel of MS Asylum Services, some additional costs could be incurred as a result of changed arrangements in relation to access to education, training, employment, integration facilities, housing and social and healthcare, as it can be expected that some services will only be improved / better geared towards the need of beneficiaries of international protection over time. The time inputs required to update the information are estimated as follows:
  - An average of 3 senior officials (director, deputy directors and heads of units) per MS would be deputed to familiarise themselves with the revised obligations (assumption: one working day required, for an estimated total of 24 working hours per MS);
  - The revision and reorganisation of information to be included in the short guide or leaflet on the revised rights and benefits is estimated to require 15 working hours per Member State;

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<sup>86</sup> Eurostat, *Europe in Figures 2005*, p. 169.

<sup>87</sup> OECD Economic Outlook 81 database. The average increase in labour costs in Poland, Hungary, the Slovak Republic and the Czech Republic was used for the New MS that are not members of the OECD.

<sup>88</sup> Groningen Growth and Development Centre and the Conference Board, Total Economy Database, January 2007, <http://www.ggdc.net>. The average annual number of hours worked in the New MS was 1 855 hours per worker, while the Eurostat data on labour costs per hour and per month result in an annual number of 1 800 hours worked in NACE section L, suggesting that the data match.

- The provision of information on the rights and benefits to the applicants will continue to exist and is estimated to require 0.5 hour per applicant. Based on the average number of applications per Member State in the past 5 years (2003-2007: 255,146 applicants), this amounts to 127,573 hours.
- Continuation of the 160 working hours for the Commission's DG JLS to identify the best practices on the application of the policy option and 80 working hours to diffuse these.

Tariffs: no significant changes in the tariffs (see Scenario "0") due to the limited period elapsed from "Scenario 0" and the expected inflation rates at EU level (even though in the light of the economic crisis a minor decrease of the tariff could be expected).

**Table A.2: Policy Options Obligations in 'Scenario t0'**

Proposal for the future development of measures of the qualification and status of third country nationals or stateless persons as persons in need of international protection and on the content of the protection granted, based on Council Directive 2004/83/E						Tariff (€per hour)		Time (hour)		Price (per action or equip)	Freq (per year)	Nbr of entities	Total nbr of actions	Total cost	Regulatory origin (%)			
No.	Ass. Art.	Orig. Art.	Type of obligation	Description of required action(s)	Target group	i	e	i	e						Int	EU	Nat	Reg
1			Other	Familiarising with the information obligation	MS Asylum Services	24		48.00		1,144.3	1.00	27	27	30,897		100%		
2			Other	Training members and employees about the information obligations	MS Asylum Services	24		160.00		3,814.4	1.00	27	27	102,989		100%		
3			Other	Familiarising with the information obligation	MS Asylum Services	24		48.00		1,144.3	1.00	27	27	30,897		100%		
4			Other	Training members and employees about the information obligations	MS Asylum Services	24		80.00		1,907.2	1.00	27	27	51,494		100%		
5			Other	Designing information material (leaflet conception...)	MS Asylum Services	24		40.00		953.6	1.00	27	27	25,747		100%		
6			Other	Submitting the information (sending it to the designated recipient)	MS Asylum Services	24		127,573.00		3,041,340.3	1.00	1	1	3,041,340		100%		
7			Other	Producing new data	DG JLS	24		160.00		3,814.4	1.00	1	1	3,814		100%		
8			Other	Designing information material (leaflet conception...)	DG JLS	24		80.00		1,907.2	1.00	1	1	1,907		100%		
Total administrative costs (€)														3,289,086				

**Table A.3: Policy Options Obligations in 'Scenario t0+2'**

Proposal for the future development of measures of the qualification and status of third country nationals or stateless persons as persons in need of international protection and on the content of the protection granted, based on Council Directive 2004/83/E						Tariff (€per hour)		Time (hour)		Price (per action or equip)	Freq (per year)	Number of entities	Total number of actions	Total cost	Regulatory origin (%)			
No.	Ass. Art.	Orig. Art.	Type of obligation	Description of required action(s)	Target group	i	e	i	e						Int	EU	Nat	Reg
1			Other	Familiarising with the information obligation	MS Asylum Services	24		48.00		1,144.3	1.00	27	27	30,897		100%		
2			Other	Designing information material (leaflet conception...)	MS Asylum Services	24		24.00		572.2	1.00	27	27	15,448		100%		
3			Other	Submitting the information (sending it to the designated recipient)	MS Asylum Services	24		127,573.00		3,041,340.3	1.00	1	1	3,041,340		100%		
4			Other	Producing new data	DG JLS	24		160.00		3,814.4	1.00	1	1	3,814		100%		
5			Other	Designing information material (leaflet conception...)	DG JLS	24		80.00		1,907.2	1.00	1	1	1,907		100%		
Total administrative costs (€)														3,093,407				

## Annex 26 - Refugees and beneficiaries of subsidiary protection in working age (see explanations below)

	Refugee status beneficiaries 2005-2008	Percentage of those between ages 18-64 (same as for SP)	Number of Refugees after application of percentage for 2008	SP beneficiaries 2005-2008	Percentage of SP between 18-64 in 2008	Number of SP after application of percentage for 2008	Total international protection ages 18-64 for 2005-2008
<b>Belgium</b>	10320	63,3	6528	640	63,3	405	<b>7636</b>
<b>Bulgaria</b>	60	88,1	53	755	88,1	665	<b>1561</b>
<b>Czech Republic</b>	740	73,4	543	525	73,4	386	<b>1527</b>
<b>Germany</b>	18320	57,0	10448	3375	57,0	1925	<b>15804</b>
<b>Estonia</b>	5	0,0	0	0	0,0	0	<b>0</b>
<b>Ireland</b>	1525	73,8	1125	5	73,8	4	<b>1207</b>
<b>Greece</b>	555	74,3	413	305	74,3	227	<b>1019</b>
<b>Spain</b>	780	62,5	488	215	62,5	134	<b>899</b>
<b>France</b>	14345	85,6	12284	1115	85,6	955	<b>14439</b>
<b>Italy</b>	4900	94,1	4610	22070	94,1	20763	<b>47537</b>
<b>Latvia</b>	5	n/a	n/a	15	n/a	n/a	
<b>Lithuania</b>	45	69,2	31	235	69,2	163	<b>498</b>
<b>Luxembourg</b>	340	60,0	204	840	60,0	504	<b>1608</b>
<b>Hungary</b>	535	75,0	401	350	75,0	263	<b>1089</b>
<b>Malta</b>	90	94,3	85	3010	94,3	2839	<b>6028</b>
<b>Netherlands</b>	1840	75,8	1395	13455	75,8	10202	<b>25128</b>
<b>Austria</b>	14355	12,7	1821	105	12,7	13	<b>1952</b>
<b>Poland</b>	1070	46,2	495	7820	46,2	3616	<b>11977</b>
<b>Portugal</b>	45	64,3	29	95	64,3	61	<b>249</b>
<b>Romania</b>	295	57,9	171	35	57,9	20	<b>284</b>
<b>Slovenia</b>	15	n/a	n/a	25	n/a	n/a	
<b>Slovakia</b>	45	94,1	42	160	94,1	151	<b>447</b>
<b>Finland</b>	200	67,0	134	1155	67,0	774	<b>2130</b>
<b>Sweden</b>	3560	68,7	2444	43730	68,7	30027	<b>76270</b>
<b>United Kingdom</b>	14335	53,9	7730	9880	53,9	5328	<b>22992</b>
<b>EU27</b>	88325	67,2	59373	111045	67,2	74646	<b>245132</b>

In order to estimate the percentage and absolute number of subsidiary protection beneficiaries living in the MS who are in working age and who could benefit from labour training and other measures to facilitate their employment, the data used are the number of persons who have received a positive subsidiary protection decision between 2005 and 2008 (since the entry into force of the Directive).

Data for the years 2005-2007 are not disaggregated by age. In 2008, however, EUROSTAT started collecting data disaggregated by age by virtue of the Statistics regulation<sup>89</sup>. On the basis of this data, the percentage of beneficiaries of subsidiary protection who were in working age for the EU as a whole for 2008 can be calculated at 67%. Assuming that this percentage was stable at this level in the previous three years, the table above contains estimates of the numbers of working age refugees and beneficiaries of subsidiary protection in the different MS for the period 2005-2008, based on the application of the percentage of 67% to the corresponding numbers of beneficiaries of international protection in these MS.

**Table on Active populations in EU 27 (2008)**

Union européenne	238533,8
Belgique	4779,1
Bulgarie	3560,4
République tchèque	5232,5
Danemark	2951,8
Allemagne	42020,9
Estonie	695
Irlande	2242
Grèce	4937,4
Espagne	22848,4
France	28234
Italie	25096,4
Chypre	397,9
Lettonie	1215
Lituanie	1614
Luxembourg	212,9
Hongrie	4208,7
Malte	170,3
Pays-Bas	8835,9
Autriche	4252,1
Pologne	17010,6
Portugal	5625,1
Roumanie	9944,6
Slovénie	1041,8
Slovaquie	2689,5
Finlande	2702,9
Suède	4895,7
Royaume-Uni	31119,7

Source: EUROSTAT

<sup>89</sup> Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, p. 123)



## Annex 27 - Prevalence of torture among asylum seekers and refugees

Source: International Rehabilitation Council for Torture victims

Torture and torture sequels are a common problem in refugee populations, as persecution and torture are major reasons for fleeing one's country of origin. Various studies over the last decades have documented the high exposure rate to torture in refugee populations. Researchers commonly estimate that between 4-35% of any given refugee/asylum seeking group have experienced torture.<sup>90</sup> For example, the United States government Office of Refugee Resettlement counts between 400,000 – 500,000 torture survivors among refugees/asylum seekers in that country.

The Netherlands based War Trauma Foundation has calculated that worldwide, over 300 million persons have been affected by war and violence in conflicts since WWII. By extrapolation, 60-120 million suffer from post-traumatic stress disorder (PTSD) or related conditions after experiencing violence of war/conflict. Many post-conflict areas have less than one psychiatrist/psychologist per 100,000 to 1 million people.

**In 2008, IRCT members in Europe (including non-EU states) treated 23,883 clients.** This number is second only to the Sub-Saharan African region for numbers seen. In the following you find the numbers of tortured refugees/asylum seekers treated by the IRCT member centres based in the EU; the data (if available) are taken from the centre's annual reports and IRCT's global directory *IRCT member centres and programmes* published in 2008.<sup>91</sup> With a few exceptions, all clients of the European rehabilitation centres originate from foreign countries.

It should be noted that these figures represent only those persons treated at IRCT member centres in the EU. Due to financial constraints rehabilitation centres are only able to provide specialized services to a very small part of the population in need. In average rehabilitation centres treat around 400 clients per year. Many more torture survivors may have received treatment at non-IRCT centres or through the public health system, and thousands more likely receive no support at all - especially those who are in immigrant detention facilities.

In 2007 IRCT had estimated the number of asylum seekers and refugees (based on the 2005 United Nations High Commissioner for Refugees figures<sup>92</sup>) that would need specialized rehabilitation services every year in some European host countries – presuming that approximately 20% of the asylum seekers have been subject to any form of violence or torture. Please see the tables below. Although this survey is 2 years old, it may still be a good estimate of EU refugee populations in need as the situation has probably not changed considerably since 2007.

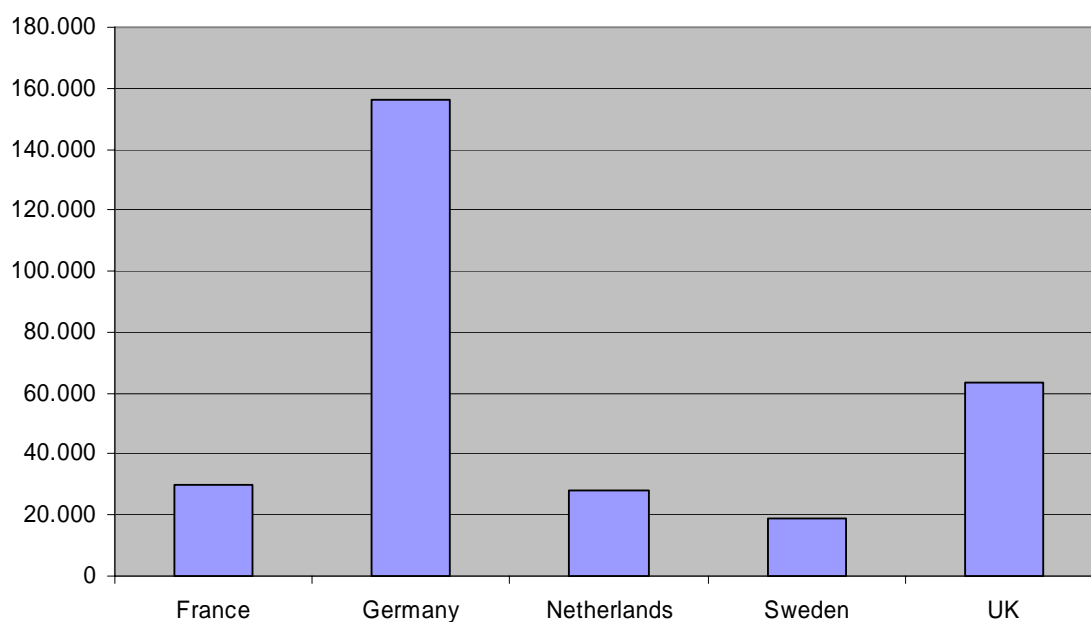
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<sup>90</sup> See for example Baker R. Psychological consequences for tortured refugees seeking asylum and refugee status in Europe. In *Torture and its consequences*. Cambridge University Press, 1992, p.83-106; Jose Quiroga and James M. Jaranson, Politically-motivated torture and its survivors; A desk study review of the literature, Volume 15, No. 2-3, *Journal on Rehabilitation of Torture Victims and Prevention of Torture* 2005, pp. 6-7; Miserez D. *Refugees: the trauma of exile: the humanitarian role of the Red Cross and Red Crescent*. Dordrecht: Martinus Nijhoff Publishers, 1980:80-6.

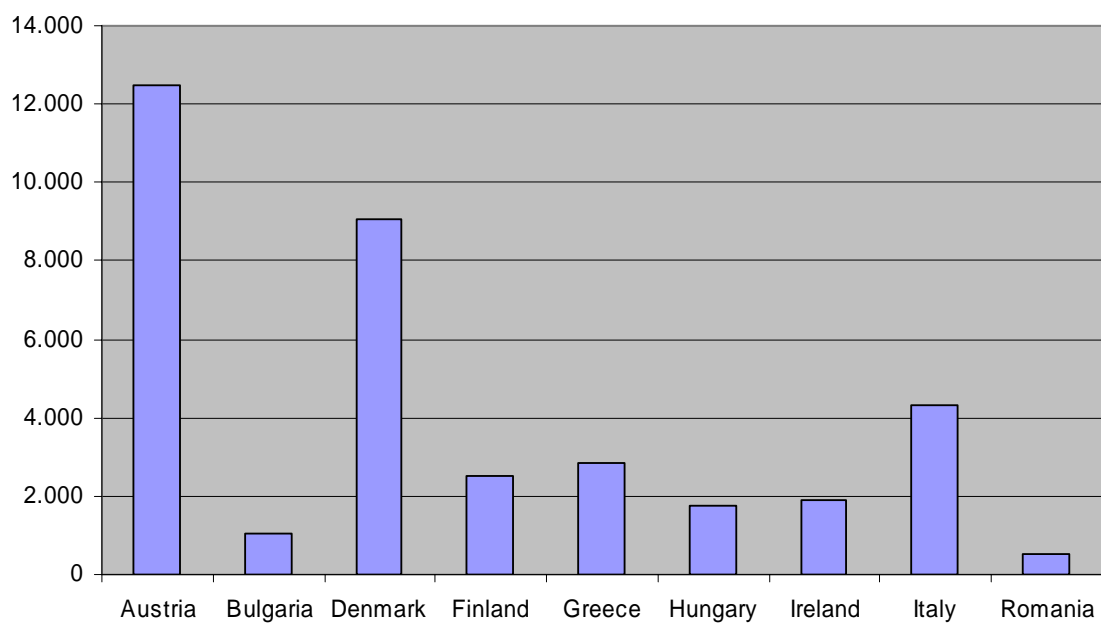
<sup>91</sup> Available at <http://www.irct.org/Find-IRCT-members-33.aspx>.

<sup>92</sup> Population of Concern including refugees and asylum seekers 2005 in the EU (date extracted 24 April 2007). Source: UNHCR Statistical Population Database, available at: <http://www.unhcr.org/statistics/45c063a82.html>.

**Estimated Torture Victims**



**Estimated Torture Victims**



## Annex 28 - Costs incurred by MS for providing integration programmes

There are currently great differences between MS regarding the provision of integration programmes: most have integration packages targeted at all migrants with little to no differentiation between categories. As a result of this, as well as of lack of information concerning how many persons benefit from these integration programmes, it is difficult to estimate the costs of integration programmes for beneficiaries of international protection in the MS. **Poland** was the only country that provided data on numbers of refugees and costs of integration programmes. The costs were as follows (per capita and total costs): 2005: 670 euro (486 refugees benefitted, total costs were 338,405 euro); 2006: 757 euro (709 refugees benefitted, total costs were 536,380 euro); and, 2007: 621 euro (640 refugees benefitted, total costs were 397,262 euro). Information provided by other countries was not specific enough to be able to make per capita estimations. All data obtained are set out below

MS	Elements of integration/integration programmes	Costs
MT	Management of the open accommodation centres by O.I.W.A.S and the organisations that administer certain homes on their behalf	Exceeded EUR 1.7M in 2007
LT	Integration of refugees	LTL 1,100,000 (EUR 318,582) for 2006 LTL 1,200,000 (EUR 347,544) for 2007
LU	Funds allocated to organisations supporting asylum seekers and refugees	EUR 18,406,634 in 2006 (total cost, the share allocated to the organisations was not specified)
LV	Adaptation programme for general education for children of people who have received asylum seeker status	EUR 29,026 in 2008
PL	Poviat Family Support Centers:	1,614,792 PLN (EUR 338,405) in 2005
	Individual Integration Programmes in Poland covered the following number of people in particular years: in 2005 - 486 refugees, in 2006 – 709 persons with the refugee status and in 2007 – 640 persons (data from the Ministry of Labour and Social Policy).	2,559,482 PLN (EUR 536,380) in 2006 1,895,646 PLN (EUR 397,262) in 2007
	Public funds transferred by the public administration for non-governmental organisations implementing programmes for the integration of refugees <sup>93</sup>	122,300 PLN (EUR 25,630) in 2005 161,000 PLN (EUR 33,740) in 2006 1,541,964 PLN (EUR 323,143) in 2007
EE	Within the framework of the measure “Education” of the National Integration Programme 2000-2007, state co-financing of the mission “Creation of a Schooling System for the Children of New Immigrants and Refugees in Order to Allow them to Acquire Education in the Estonian Education System”	5,048,314 Estonian kroons (EUR 337,025) in 2000-2007
	State financing within the framework of the European	403,750 Estonian kroons (EUR 26,954)

<sup>93</sup> Pursuant to the Act on Public Benefit and Volunteer Work and the Act on Social Assistance, public institutions may fund non-governmental organizations also by implementing the programmes for social integration of refugees. The table below illustrates the funding of non-governmental organizations in this field in the years 2005-2007 - the data from the Mazowieckie Voivodeship Office, the Office of the Capital City of Warsaw and the Ministry of Labour and Social Policy (Citizens Initiatives Fund).

MS	Elements of integration/integration programmes	Costs
	Social Fund's EQUAL project "Improvement of Estonia's Readiness for Integration of Asylum Seekers into the Society"	(year unknown)
FI	Projects promoting integration	EUR 200,000 in 2007
	Training within the framework of basic education	EUR 2.2 million in 2006
	Remedial immigrant education within the framework of basic education	EUR 1.8 million in 2006
	Preparatory classes for elementary education	EUR 7.7 million in 2006
	Preparatory classes for basic vocational education	EUR 7.8 million
SI	Accommodation and care of applicants and persons who have obtained international protection	EUR 1.5 million in 2008-2013
GR	Receiving, accommodating, providing social support to and arranging the voluntary return of asylum seekers and refugees	EUR 1,974,501 in 2005 EUR 2,165,000 in 2006 EUR 2,265,000 in 2007
UK	Six funding streams which assist the integration of refugees with full or subsidiary forms of refugee protection status	EUR 4.66 million in 2006-2008
NL	Specific budget for integration policy in the Netherlands from the Minister for Residents, Neighbourhoods and Integration (Specific amounts for the refugee policy are unknown. The amounts in the budgets for the specialist ministers involved in integration such as the Minister for Social Affairs and Employment and the Minister for Education, Culture and Science are not stated)	See Table below
CY	The state bears a large part of the financial cost involved in hosting asylum seekers and also makes a large contribution towards the integration of groups (refugees, persons under subsidiary protection etc.).	
	Benefits to asylum seekers and recognised refugees/persons under subsidiary protection	EUR 17,000,000 in 2007
	Remedial Greek education programmes to immigrant pupils at all levels of education	EUR 2,220,000 per annum
	Operating the three existing educational priority zones	EUR 1,366,000 per annum
IT	Resources for integration of asylum seekers and refugees	EUR 27,670,067.05 in 2006 EUR 26,676,980.39 in 2007 EUR 21,181,883.08 in 2008
	Project for consolidation and development of a national network of reception, assistance, protection and integration for asylum seekers and beneficiaries of international protection	EUR 8,200,000 in 2007

Source: Indications from the ERF Multi-Annual Programmes 2008-2013, "Total National resources allocated"

Information for the Netherlands:

<b>Year</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>Obligations:</b>	<b>461,159</b>	<b>483,324</b>	<b>478,061</b>	<b>443,990</b>	<b>442,131</b>	<b>442,131</b>
<i>Including commitments by way of guarantee</i>	-	-	-	-	-	-
<b>Expenditure:</b>	<b>461,159</b>	<b>483,324</b>	<b>478,061</b>	<b>443,990</b>	<b>442,131</b>	<b>442,131</b>
<i>Including legal obligations</i>	-	414,406	253,414	57,431	55,432	54,432
<b>Programme:</b>	<b>461,159</b>	<b>483,324</b>	<b>478,061</b>	<b>443,990</b>	<b>442,131</b>	<b>442,131</b>
Naturalisation and ethnic minorities	380,939	397,416	397,273	366,635	366,295	366,295
Facilitating naturalisation	380,939	397,416	397,273	366,635	366,295	366,295
<i>Including irrelevant expenditure loan facility</i>	27,074	27,074	27,074	27,074	27,074	27,074
Reducing the economic, social and cultural gap	80,220	85,908	80,788	77,355	75,836	75,836
Facilitating re-migration	33,343	36,406	36,414	36,431	36,432	36,432
Other instruments	46,877	49,502	44,374	40,924	39,404	39,404
<b>Receipts:</b>	<b>2,349</b>	<b>7,142</b>	<b>11,723</b>	<b>16,320</b>	<b>20,404</b>	<b>24,464</b>
<i>Including irrelevant expenditure loan facility</i>	1,895	6,688	11,269	15,866	19,950	24,010

Source: Indications from the ERF Multi-Annual Programmes 2008-2013, "Total National resources allocated"

## Annex 29 - Costs of training and educational assistance for beneficiaries of international protection

Member State	Cost
AT	€433,211.28
CY	<p>EMS - "All Together in Cyprus" – Raising awareness in Cyprus on issues that concern refugees and persons under subsidiary protection, €17,173.99  IMCS – Intercollege – Vocational training to refugees and persons with subsidiary protection, €48,339.67  IMCS – Intercollege – Provision of Greek language programs to refugees and persons with subsidiary protection, €83,517.81.  IMH – "Integration Routes" – Vocational training of refugees and persons under subsidiary protection, €56,926.67</p> <p>2007:  EMS - "All Together in Cyprus" – Raising awareness in Cyprus on issues that concern refugees and persons under subsidiary protection, €127,481.00  University of Nicosia – Vocational training to refugees and persons with subsidiary protection, €42,715.00  Frederick – Orientation programs for refugees and persons with subsidiary protection, €25,629.00  MMC Management Centre Ltd – Provision of Greek language programs to refugees and persons with subsidiary protection, €84,669.74</p>
CZ	<p>Czech language courses (free of charge):  2006: 37600€  2007: 130 000€  2008: 148 000€(until 31.7.2008)</p>
SE	<p>2006: ca 120,000 SEK (€1298) per person received  2007: ca 175 000 SEK (€16476) per person received  2008: ca 220 000 SEK (€20713) per person received (estimated)</p>

Source: Information collected through consultation with MS

It also appears from responses to the questionnaires that countries offering beneficiaries of protection training courses tailored to their professional abilities and needs include Cyprus, France, Lithuania and Poland, whereas countries providing them with different types of employment support include Austria, Cyprus, Hungary, Latvia and Slovenia.

## Annex 30 – Costs for reception of asylum seekers in various MS

The following information was provided by MS in reply to relevant questions in the Country Reports Study on the Reception Directive:

- Q 40 B What is the total budget of reception conditions in euro for the last year for which figures are available?
- Q 40 C What is the average cost of reception conditions in euro per asylum seeker for the last year for which figures are available?

Country	Question 40 B	Question 40 C
<b>Belgium</b>	En 2005, le budget total de l'Agence (FEDASIL) s'est élevé à 238.041.764 Euros se répartissant comme suit : dotation fédérale de 223.176.000 Euros, dotation de la Loterie Nationale de 13.500.000 Euros et une contribution du Fonds européen pour les réfugiés de 1.365.764 Euros. Il y a lieu de remarquer que ce budget n'est pas uniquement alloué aux demandeurs d'asile mais comprend également l'accueil des personnes en séjour illégal ayant des enfants mineurs en état de besoin et les personnes ne pouvant, pour des raisons médicales ou des raisons indépendantes de leur volonté, retourner dans leur pays d'origine. Par ailleurs, il faut également prendre en considération l'aide sociale octroyée par les centres publics d'aide sociale.	<ul style="list-style-type: none"> <li>• Aide matérielle : Cette donnée n'est pas disponible.</li> <li>• Aide sociale octroyée par un Centre public d'aide sociale : Personne cohabitante 417,07 Euros/mois Personne isolée 625,60 Euros/mois Personne avec ménage à charge 834,14 Euros/mois</li> </ul>
<b>Czech Republic</b>	<p>Total budget of the RFA for running asylum centres in 2005 was 334,554,000 CZK (€1,665,195).55 This 9.5 % less than in 2004 (370,085,000 CZK)56 but expenses per day (of stay in asylum centre) increased by 28 %, i.e. from 444 CZK (€15,5) to 499 CZK (€17.4).</p> <p>Total budget of the RFA in 2005 consists of: reception conditions <i>stricto sensu</i> (57%; 189,933,623 CZK, €6,622,586); wages (36%; 120,414,000 CZK, €4,198,583); and investment expenses (7%; 24,206,422 CZK, €844,027). Furthermore, the RFA provided financial contribution to the municipalities that consisted of 3,473,000 CZK (€121,096) for expenses related to the running and management of the asylum facilities and 110,000 CZK (€3,836) for expenses related to the education of minor asylum seekers.</p> <p>Total estimated budget of the RFA in 2006 is 288,057,000 CZK (€) and consists of: reception conditions <i>stricto sensu</i> (46%; 131,083,000 CZK, €4,570,589); wages (47%; 136,595,000 CZK, €4,762,780); and investment expenses (7%; 20,379,000 CZK, €710,573).</p>	<p>According to the Small Scale Study on Reception Conditions of the European Migration</p> <p>Network (see Q.8), the amount paid for an applicant per residential day is approximately 388</p> <p>CZK (excepting investments and employee wages), i.e. 11.640 CZK per month (€412).</p> <p>According to the information on website of the RFA, it amounts approximately to 350 CZK per day, i.e. 10.050 CZK per month (€372). And finally, if we calculate the compulsory</p> <p>financial contribution of the applicants who have sufficient resources, it amounts to 258 CZK per day, i.e. 7.740 CZK per month (€274).</p>
<b>Germany</b>	<p>In 2003, 1.4 billion Euro have been spent on benefits under the Act on</p> <p>Benefits for Asylum Seekers. However, this number has to be read with the same reservations as above.</p>	<p>The average cost for reception conditions can hardly be determined</p> <p>since they depend on too many factors: the type of accommodation</p> <p>facility, if single men/women or families are concerned, if unaccompanied minors are concerned, the stage of the asylum procedure etc.</p>
<b>Estonia</b>	<p>According to the Estonian European Refugee Fund plan for the years 2005-2007, planned salary of CMB decision makers (five people) in 2005 was 1 076 010 EEK = 68798 EUR .</p> <p>Expenses on translators in 2005 for nine months was 21 600 EEK = 1381 EUR. Costs of the reception centre in 2005 are 1 186 265</p>	<p>No direct figures available, but if we add above mentions costs and divide them by number of</p> <p>asylum seekers then the amount per asylum seeker is 207 625 EEK or 13 275 EUR. In reality the sum is bigger as also finances that NGOs use should be added.</p>

Country	Question 40 B	Question 40 C
	EEK = 75848 EUR. There are also projects managed by NGOs and financed by EU funds that support the reception conditions improvements. 44	
<b>Spain</b>	<p>The only information received by the Spanish authorities refers to the information provided by Spain to Eurostat. Relating the target group of article 3.3 European Refugee Fund II, the amounts are in the last three years:</p> <ul style="list-style-type: none"> <li>- 2003: 5927.</li> <li>- 2004: 5553.</li> <li>- 2005: 5257.</li> </ul>	<p>Q.40. C and D answered jointly:</p> <p>The costs of reception conditions are supported by the central government, taking into account also the funds of the European Refugee Fund and the ENEAS EQUAL programme.</p> <p>About financing Reception Centres, see Article 7 of Ministerial Order of 13 January 1989, regulating the Reception Centres for Refugees.</p>
<b>France</b>	<p>Selon les travaux parlementaires, le budget alloué à l'hébergement des demandeurs d'asile s'élevait en 2005 à 182 305 828 euros. Celui affecté à l'allocation d'insertion pour les demandeurs d'asile à 152 000 000 euros.</p> <p>Concernant les dépenses de santé, la Mission d'évaluation et de contrôle estimait que les dépenses dégagées par l'Etat en 2004 (sur la base approximative de 90 000 demandeurs d'asile en cours de procédure) s'élevaient à 204 500 000 (évaluation comprenant la CMU de base et la complémentaire).</p> <p>Au total, les dépenses engagées par la France au titre des conditions d'accueil des demandeurs d'asile peuvent être évalué à 538 805 828 euros (cette évaluation ne comprenant pas les crédits déconcentrés aux collectivités territoriales [environ 11 500 000 euros], qui gèrent les situations de mineurs isolés ainsi que les centres de rétentions administratives, et les aides versées aux associations (1 620 000 euros).</p>	<p>Le coût journalier d'une place en CADA est d'environ 25 euros et plus exactement de 24, 82 euros. Le directeur de la DPM, lors de son audition par la MEC26 indique : "le coût moyen d'une place en CADA est exactement de 24,82 euros par personne et par jour. Ce chiffre, qui recouvre l'hébergement, la nourriture, l'accompagnement social, le transport vers l'OFPRA, le financement des éléments de la scolarisation des enfants et les petites dépenses de la vie quotidienne, ne paraît pas exorbitant. Par comparaison, une place en CHRS revient à presque 40 euros... Le coût de l'hébergement d'urgence est quant à lui estimé à un peu moins de 17 euros. Signalons toutefois, par honnêteté, que nous avons une mauvaise appréciation des coûts de l'hébergement en urgence alors que, pour les CADA, nous les connaissons à l'euro près, même si nous sommes en train d'en revoir totalement la structure avec les organismes gestionnaires, conformément aux exigences de la LOLF".</p> <p>Il n'existe pas d'évaluation disponible sur le coût moyen d'un demandeur d'asile par an. Sur le fondement des données délivrées par la Mission d'évaluation et de contrôle, il est possible d'estimer que le coût moyen d'un demandeur d'asile hébergé en CADA (hébergement et soins de santé) s'élève à 11 332 euros par an (9060 euros d'hébergement et 2 273 euros de soins). Pour un demandeur d'asile qui ne bénéficie pas d'un hébergement en centre d'accueil, le coût annuel s'élève approximativement à 5 813 euros (allocation d'insertion et soins de santé).</p>
<b>Italy</b>	<p>Activities and interventions in favour of asylum seekers are financed through a National Fund for asylum policies and services, instituted within the Ministry of Interior. This Fund includes:</p> <ul style="list-style-type: none"> <li>- Government budget in favour of asylum seekers and refugees;</li> <li>- Financial contribution from the European Fund for refugees;</li> <li>- Financial contributions and gifts of private entities, associations and organisations, also at the international level, and made by other entities of the European Union. Pursuant to article 13 of legislative Decree 140/05, the government budget amounted in 2004 to Euro 5,16 million. In 2005 such amount was increased of Euro 8.865.500 and in 2006 of</li> </ul>	<p>Official figures are not available. However, based upon the calculation that has been performed by ICS in their 2006 report, taking into account the funds allocated to accommodation of asylum seekers and the number of asylum seekers who have benefited from such accommodation, it results that in 2005 the average cost per person amounted to approximately 19 Euro.</p> <p>As ICS points out such amount is all inclusive since it refers to the costs for housing and food, as well as for all the services that are supplied to the asylum seeker and to his/her family.</p>



Country	Question 40 B	Question 40 C								
	<p>Euro 17.731.000. Based upon the 2006 ICS report, it results that the total budget granted to the SPRAR in 2005 amounted to Euro 14.970.354. Out of this amount only Euro 10.604.732 were destined to ensure the activity of the accommodation centres. The residual amount was destined to cover</p> <p>the following costs: 1) activity of the central system of protection; 2) assisted repatriation; 3) contributions of first assistance.</p>									
Cyprus	<p>The total budget for reception conditions is 420,000 Cyprus pounds.</p> <p>(Approximately 700000 Euros)</p>	511 Euro per person per month								
Latvia	<p>In 2005 and in 2006 the annual total budget for the reception system was LVL 87 723 (EUR 125 318, 56).</p>	<p>It is not possible to provide the average cost since the budget for the reception does not</p> <p>provide for such a detailed calculation. However please take into account that in 2006 LVL</p> <p>87 723 (EUR 125 318, 56) are available for the reception centre, where 200 inhabitants can be</p> <p>house and only 5 asylum seekers stayed or continue staying in this centre during first 6</p> <p>months of 2006.</p>								
Lithuania	<p>There are no numbers available as to the total budget specifically for reception conditions, thus only the data on expenses for accommodation of asylum seekers in the reception centres could be</p> <p>presented. Furthermore, the financial data was only available for 2004 for the FRC. Total budget for reception of foreigners in the Foreigners' Registration Centre in 2004 was 850,295 Euro, fully covered from the state budget. Asylum seekers' reception constituted 323,538 Euro. It covered health care, nutrition, heating and electricity costs, monthly allowances, etc. The budget for reception at the Refugee Reception Centre in 2004</p> <p>(also fully funded from the state budget) was 469,156 Euro. In 2005, the budget of the RRC was approximately 481,159 Euro.</p>	No such calculations are available.								
Luxembourg	<p>D'après les chiffres donnés par le Commissariat du Gouvernement aux Etrangers, en 2005, le coût de l'accueil et de l'entretien, s'est élevé à 18.468.319,21.-€ Ce montant comprend entre autre les frais de personnel engagés par des ONGs en application d'accords de collaboration</p> <p>conclus entre le Commissariat du Gouvernement aux Etrangers, la Croix Rouge Luxembourgeoise et la Caritas. Ce montant ne comprend pas le coût du personnel de l'Etat, des fonctionnaires, des employés et du personnel administratif et technique du Commissariat du Gouvernement aux Etrangers, ni les charges de l'accueil et le suivi psychosocial et sanitaire des demandeurs d'asile.</p>	D'après les chiffres du Commissariat du Gouvernement aux Etrangers, le coût moyen en termes d'acceil d'un demandeur d'asile en 2005, s'est élevé à 9.267,06.-€								
Hungary	<p>No such data is available at the moment. the magnitude of the costs can be calculated in the</p> <p>following way:</p> <p>The daily person/day overall average cost is available for all the three centers. That can be multiplied by the days and persons actually spent there</p>	<table><tr><td>Center</td><td>Average cost in Euro*</td></tr><tr><td>Békéscsaba</td><td>24.76</td></tr><tr><td>Bicske</td><td>18,43</td></tr><tr><td>Debrecen</td><td>17,52</td></tr></table>	Center	Average cost in Euro*	Békéscsaba	24.76	Bicske	18,43	Debrecen	17,52
Center	Average cost in Euro*									
Békéscsaba	24.76									
Bicske	18,43									
Debrecen	17,52									

Country	Question 40 B	Question 40 C																														
	<p>* Rate vaguely that of December 2005 = 1 Euro = 250 HUF</p> <table><thead><tr><th>Center</th><th>Average cost in HUF</th><th>Days in 2005</th><th>Total in HUF</th><th>Total in EUR*</th></tr></thead><tbody><tr><td>Békéscsaba</td><td>6.190</td><td>30.196</td><td>186.913.240</td><td></td></tr><tr><td>Bicske</td><td>4608</td><td>49.402</td><td>227.644.416</td><td></td></tr><tr><td>Debrecen</td><td>4.380</td><td>88.202</td><td>438.088.202</td><td></td></tr><tr><td>Grand total</td><td></td><td></td><td>852.645.858</td><td></td></tr><tr><td></td><td></td><td></td><td>3.410.583</td><td></td></tr></tbody></table>	Center	Average cost in HUF	Days in 2005	Total in HUF	Total in EUR*	Békéscsaba	6.190	30.196	186.913.240		Bicske	4608	49.402	227.644.416		Debrecen	4.380	88.202	438.088.202		Grand total			852.645.858					3.410.583		*Rate vaguely that of December 2005 = 1 Euro = 250 HUF
Center	Average cost in HUF	Days in 2005	Total in HUF	Total in EUR*																												
Békéscsaba	6.190	30.196	186.913.240																													
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Grand total			852.645.858																													
			3.410.583																													
Malta	<p>The total budget has been calculated by JHA to have been in the region of Lm5,000,000 (x 2.3 in euros) for the past year, but infrastructural works to improve and extend reception areas are in progress. Repair to damages</p> <p>caused, the detailing of personnel on land, at sea and in the air, fuel, wearand-tear, including police and army services, medical attention and hospital care, teachers and school, counsellors and coordinators, food and drink, transport, telephone cards which are given to inmates every two months, transport allowance, repatriations, upkeep, etc., all cost money, in a country where there has not been a rise in government-related salaries for years, in spite of a spiralling cost of living and unemployment above the EU average.</p>	That would be approximately Lm5 million divided by the numbers in open and closed centres, which are not static, but would be at least about 2,000 (some 800 staying at the Marsa open centre alone).																														
Netherlands	Based on a capacity of 24 142 places, the COA’s total costs for 2006 are estimated at €418.4 million (Minister of Justice and Minister for Alien Affairs and Integration: Determination of the budget of the Ministry for Justice (VI) for the year 2006 (published in the Bulletin of Acts, Orders and Decrees 2006, 63): Explanatory Memorandum). This includes amongst others the costs for COA’s products and services and the costs for benefits provided to asylum seekers.	No itemized figures available.																														
Austria	A total budget cannot be given, because the Laender calculate independently and often benefits granted (like psychological care, schooling for asylum seekers etc) are not cited under the title of care for asylum seekers. The most reliable figure is probably the amount given in the explanatory notes of the Government Bill for the Basic Welfare Support Agreement: the estimated costs of reception conditions amounted to Euro <b>125.675.660,00</b> , based on the assumption that 16 000 asylum seekers are in the care system (based on figures of 2002). – In view of the above mentioned number of asylum seekers enjoying reception conditions of course this figure is no longer up to date.	The Government Bills for a Basic Welfare Support Act for Burgenland and Upper Austria calculated €7.300,- per person and year.																														
Poland	In 2005 the Office spent about 42 618 000 PLN (it is almost 11 000 000 euro), including 1 818 000 thousands PLN for medical treatment (about 466 153 euro).	It about 1000 PLN per person (on average).It is about 250 euro per month per person.																														
Portugal	Le budget total du Conseil portugais pour les réfugiés a été de 209 011, 42 euros pour 2005.	2.049,13 euros pour demandeur d’asile en 2005.																														
Slovenia	Total budget for reception conditions for 2004 was 1,057,365.21 EUR. The figure for 2005 is not available.	The average cost of reception conditions in 2005 were approximately 18.19 EUR per asylum seeker per day.																														
Slovakia	The total budget for 2005 was approximately 2 576 000 EUR. In the budget are included not only expenses for accommodation, food, pocket money, hygienic and other items, and health care, but also operational costs.	The average cost per asylum seeker is approximately 20 EUR. In the budget are included not only expenses for accommodation, food, pocket money, hygienic and other items, and health care, but also operational costs.																														
Finland	The total figure in 2005 was 34.362.355 euros.	The average cost in 2005 per place in a reception centre was 14.124/place/year, and in the reception units for unaccompanied minors, 39.650 euros/place/year.																														

Country	Question 40 B	Question 40 C
Sweden	The total cost for reception conditions in 2005 was 388,573,000 Euro (SEK 3,603,781 000). <sup>91</sup>	The average cost for reception conditions for twenty-four hours to an individual in 2005 was 28,4 Euro (SEK 263). <sup>92</sup> From this amount the cost for an individual for a one year period should be around 10,353 Euro (SEK 96,000) per year.
United Kingdom	Costs estimates for asylum support for 2005-06 are around £170 million (€250 million). (See NASS evidence to House of Lords 32nd Report of Session 2005-06, p.52)	The cost of accommodation and cash support per person in dispersed accommodation is £610 (€900) per month. The cost of cash support for those requiring "subsistence only" support is £170 (€250) per month (see NASS evidence to House of Lords 32nd Report of Session 2005-06, p.52).

Additional information collected ad hoc provides the following data:

### Italy

- Asylum seekers who cannot be accommodated in reception centres receive some financial support, namely around 18 euro per day for a maximum of 45 days (Study of the European Migration Network, "Reception systems, their capacities and the Social situation of Asylum applicants within the Reception System in the EU Member States", page 17 )
- Costs for reception in the region of Veneto are nearly 30 euro per person per day, whilst reception of vulnerable persons costs around 35 euro per day. This includes reception (accommodation, meals, etc), integration assistance, a public transport card and pocket money of 90 euro per month. The costs also cover administration and management (according to information provided on 5 May 2009 by Sara Scaggiante, responsible for the BOA Reception Centre).

### UK

- Disabled asylum seekers are entitled to a community care assessment on which basis the local authority may decide to offer services to meet eligible assessed needs. They are not generally eligible for benefits, but can be provided with accommodation and minimal financial support (around 40 GBP per week) from the National Asylum Support Service.