Document 32011L0095

Refugees and stateless persons — common standards for qualification

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Multilingual display

Display

Dates

Date of last review: 29/01/2018
Initial creation date: 30/03/2018

Classifications

Summary code:
- 23.01.05.03 Justice, freedom and security / Free movement of persons, asylum and immigration / Asylum / Cooperation and coordination of asylum systems

EUROVOC descriptor:
- stateless person
- refugee
- foreign national
- right of asylum
Refugees and stateless persons — common standards for qualification

SUMMARY OF:
Directive 2011/95/EU — common standards for the qualification and international protection of refugees and stateless persons

WHAT IS THE AIM OF THE DIRECTIVE?
It aims to:
- lay down common standards for the identification of non-EU citizens or stateless persons genuinely in need of international protection in the EU, either as refugees or as beneficiaries of subsidiary protection;
- ensure that those persons can use a minimum level of benefits and rights in all EU countries.

In this way, it seeks to limit the movement between EU countries of the people concerned due to differences in legislation.
The directive revises and replaces Directive 2004/83/EC, to ensure coherence with the case-law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights.

**KEY POINTS**

**Purpose and definitions**

- **Common standards** are set for determining who qualifies as a refugee or as a person eligible for subsidiary protection, and for determining the content of international protection. However, **EU countries remain free to introduce or keep more favourable rules** for the persons in need of protection.

- ‘Refugees’ and ‘persons eligible for subsidiary protection’ are defined, as are their ‘family members’ — extended to the father, mother or other adult responsible for the beneficiary of international protection if the person is under 18 (a minor) and unmarried.

**Assessment of applications**

- EU countries have a shared duty to cooperate actively with the applicant when determining the relevant elements of an application.

- A non-exhaustive list is given of aspects including **facts, statements and circumstances** (for example, if the person has suffered persecution) which must be taken into account in the assessment on an individual, objective and impartial basis.

- When they have made every effort to submit and substantiate their application and the general credibility of their application has been established, asylum seekers should be given the **benefit of the doubt** even if the application lacks documentary or other evidence.

- Applicants may be considered not to need international protection if they can benefit from internal protection from persecution or serious harm in any part of the territory of their country of origin to which they can safely and legally have access and where they can reasonably be expected to settle.

- The directive clarifies that:
  - **protection** against persecution or serious harm can only be provided by the state or parties or organisations, including international organisations, controlling the state or a substantial part of its territory;
  - these parties should be **able and willing** to offer effective and non-temporary protection;
  - the applicant should have **access** to such protection.

- EU countries should use precise and up-to-date **information** from relevant sources, such as the United Nations High Commissioner for Refugees and the European Asylum Support Office.

**Qualifying for refugee status**

- What an ‘**act of persecution**’ is within the meaning of the Geneva Convention is clarified with regard to the status of refugees, and the different forms it can take.
• There must be a reason for the persecution, and the text indicates the aspects — race, religion, nationality, membership of a particular social group or political opinion — to be taken into account for assessing reasons for persecution.

• The absence of protection from persecution for one of the reasons indicated above is also a reason to qualify for refugee status.

Qualifying for subsidiary protection
The ‘serious harm’ a non-EU national concerned would risk suffering if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, includes:

• the death penalty or execution;
• torture or inhuman or degrading treatment or punishment;
• serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of armed conflict.

Losing or being excluded from refugee status or subsidiary protection
The directive lists:

• circumstances in which refugee status or subsidiary protection cease (for instance where the applicant acquires a new nationality) or are excluded (for example if the applicant has committed a war crime or a crime against humanity);

• grounds on which those rights can be revoked, ended or their renewal refused — including when there are reasonable grounds for regarding the applicant as a danger to the security or the community of the host EU country.

Content of international protection
The content of the status of a beneficiary of subsidiary protection is brought closer to that of a refugee, largely eliminating the possibility for EU countries to limit the access to some rights to refugees only.

International protection to be granted by the host EU country includes the following rights.

• Protection from refoulement*

• Access of refugees and beneficiaries of subsidiary protection to information, in a language they can understand or are reasonably supposed to understand, on the rights and obligations related to their status.

• Protection of family unity.

• Unless there are compelling reasons of national security or public order, the issuing of:

  • residence permits — valid for at least 3 years for refugees, and at least 1 year (2 years upon renewal) in the case of subsidiary protection, and

  • travel documents to travel outside the national territory — in the case of subsidiary protection, only when individuals are unable to obtain a national passport.

• Access to employment and employment-related educational and training opportunities, with equal treatment in conditions of employment.

• Access to education — equal treatment with nationals for minors and with legally resident non-EU nationals for adults.
• Equal access to procedures for the recognition of foreign diplomas and professional qualifications.
• Equal treatment with nationals in respect of social welfare (this may be limited to core benefits in the case of subsidiary protection).
• Representation of unaccompanied minors by a legal guardian or, where necessary, by an organisation responsible for the well-being of minors, or by any other appropriate representation as provided within the national legal system.
• Access to accommodation under equivalent conditions to those of other non-EU nationals legally resident.
• Freedom of movement within the national territory under the same conditions and restrictions as for other non-EU nationals legally resident.
• Access to integration facilities.
• If required, assistance for repatriation.

Countries falling outside the scope of the directive
Ireland and the UK (1) have opted out of the directive, as they were allowed to do by Protocol 21 annexed to the Lisbon Treaty. Consequently, they continue to be bound by Directive 2004/83/EC.
Denmark is not bound by either this or by the previous directive due to the Protocol 22 on its position annexed to the Lisbon Treaty.

FROM WHEN DOES THE DIRECTIVE APPLY?

BACKGROUND
Known as the ‘Qualification Directive’, the directive is one of the main instruments within the Common European Asylum System (CEAS) together with the Asylum Procedures Directive, Reception Conditions Directive, Dublin Regulation and EURODAC Regulation. Also important is the strengthening of financial solidarity with the regulation establishing an Asylum, Migration and Integration Fund. In 2016, the European Commission adopted a communication launching the process for a reform of the CEAS.

KEY TERMS
Subsidiary protection: an international protection for persons seeking asylum who do not qualify as refugees. Under the directive, these are persons who would face a real risk of suffering ‘serious harm’ (defined in the text) if returned to the country of origin.
Case-law: the law as established by the outcome of former cases.
Refoulement: the act of forcing refugees or asylum seekers (someone whose claim for refugee status has not yet been determined) to return to a country where they are likely to face persecution.

MAIN DOCUMENT
Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons
eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, pp. 9-26)

**RELATED DOCUMENTS**


Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, pp. 31-59)

Successive amendments to Regulation (EU) No 604/2013 have been incorporated into the original document. This consolidated version is of documentary value only.

Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, pp. 1-30)

(last update 29.01.2018)

(1) The United Kingdom withdraws from the European Union and becomes a third country (non-EU country) as of 1 February 2020.