

Proposal for a Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection

(2002/C 51 E/17)

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(Submitted by the Commission on 30 October 2001)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular point 1(c), 2(a) and 3(a) of the first paragraph of Article 63 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Whereas:

- (1) A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Community.
- (2) The European Council at its special meeting in Tampere on 15 and 16 October 1999 agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967, thus maintaining the principle of *non-refoulement* and ensuring that nobody is sent back to persecution.
- (3) The Geneva Convention and Protocol provide the cornerstone of the international legal regime for the protection of refugees.
- (4) The Tampere Conclusions provide that a Common European Asylum System should include in the short term the approximation of rules on the recognition and content of refugee status.
- (5) The Tampere Conclusions also provide that rules regarding refugee status should be complemented by measures on subsidiary forms of protection, offering an appropriate status to any person in need of such protection.
- (6) The main aim of this Directive is to ensure that a minimum level of protection is available in all Member States for those genuinely in need of it because they cannot reasonably rely on their country of origin or habitual residence for protection.
- (7) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular this Directive seeks to ensure full respect for human dignity, the right to asylum of applicants for asylum and their accompanying family members, and the protection in the event of removal, expulsion or extradition, promoting the application of Articles 1, 18 and 19 of the Charter.
- (8) This Directive should be implemented without prejudice to Member States' existing international obligations under human rights instruments.
- (9) This Directive is without prejudice to the Protocol on asylum for nationals of Member States of the European Union as annexed to the Treaty Establishing the European Community.
- (10) The recognition of refugee status is a declaratory act.
- (11) The Handbook on Procedures and Criteria for Determining Refugee Status of the Office of the United Nations High Commissioner for Refugees provides valuable guidance for Member States when determining refugee status according to Article 1 of the Geneva Convention.
- (12) Minimum standards for the definition and content of refugee status should be laid down to guide the competent national bodies of Member States in the application of the Geneva Convention.
- (13) It is necessary to introduce common concepts of the criteria for recognising applicants for asylum as refugees within the meaning of Article 1 of the Geneva Convention.
- (14) In particular, it is necessary to introduce common concepts of: protection needs arising *sur place*; sources of harm and protection; internal protection; and persecution, including the reasons for persecution.

- (15) In particular, it is necessary to introduce a common concept of the persecution ground 'membership of a particular social group', which shall be interpreted to include both groups which may be defined by relation to certain fundamental characteristics, such as gender and sexual orientation, as well as groups, such as trade unions, comprised of persons who share a common background or characteristic that is so fundamental to identity or conscience that those persons should not be forced to renounce their membership.
- (16) In particular, it is necessary when assessing applications from minors for international protection that Member States should have regard to child-specific forms of persecution, such as the recruitment of children into armies, trafficking for sex work, and forced labour.
- (17) Minimum standards for the definition and content of subsidiary protection status should also be laid down. The subsidiary protection regime should be complementary and additional to the refugee protection regime enshrined in the Geneva Convention.
- (18) It is necessary to introduce criteria on the basis of which applicants for international protection are to be recognised as eligible for subsidiary protection status. Those criteria should be drawn from international obligations under human rights instruments and practices existing in Member States.
- (19) The approximation of rules on the recognition and content of refugee status and subsidiary protection should help to limit the secondary movements of applicants for asylum between Member States, where such movement is purely caused by differences in legal frameworks.
- (20) The Directive should not affect the conditions under which Member States may, in accordance with their own domestic law, permit persons to enter or remain in their territory where the return of those persons to their own country would endanger their safety owing to circumstances not covered by this Directive.
- (21) It is in the very nature of minimum standards that Member States have the power to introduce or maintain more favourable provisions for third country nationals and stateless persons who ask for international protection from a Member State, where such a request is understood to be on the grounds that the person concerned is either a refugee within the meaning of Article 1(A) of the Geneva Convention, or a person who otherwise needs international protection.
- (22) In accordance with Article 2 and Article 3(2) of the Treaty, this Directive, as regards its objectives and content, aims to eliminate inequalities, and to promote equality, between men and women.
- (23) The 'best interests of the child' should be a primary consideration of Member States when implementing this Directive.
- (24) The implementation of this Directive should be evaluated at regular intervals.

- (25) Since the objectives of the proposed action, namely to establish minimum standards for the granting of international protection to third country nationals and stateless persons by Member States cannot be sufficiently attained by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

The purpose of this Directive is to lay down minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection.

Article 2

Definitions

For the purposes of this Directive:

- (a) 'International protection' means refugee status and subsidiary protection status;
- (b) 'Geneva Convention' means the Convention relating to the status of refugees done at Geneva on 28th July 1951, as supplemented by the New York Protocol of 31 January 1967;
- (c) 'Refugee' means a third country national or a stateless person who fulfils the requirements laid down by Article 1(A) of the Geneva Convention and set out in Chapters II-III of this Directive;
- (d) 'Refugee status' means the status granted by a Member State to a person who is a refugee and is admitted as such to the territory of that Member State and/or permitted to remain and reside there;
- (e) 'Person eligible for subsidiary protection' is a person who does not qualify for refugee status but otherwise satisfies the rules regarding international protection set out in Chapters II and IV of this Directive;
- (f) 'Subsidiary protection status' means the status granted by a Member State to a third country national or a stateless person who is a person eligible for subsidiary protection and is admitted as such to the territory of that Member State and/or permitted to remain and reside there;

- (g) 'Application for international protection' means a request by a third country national or a stateless person for protection from a Member State, which can be understood to be on the grounds that the applicant is either a refugee or a person eligible for subsidiary protection. Any application for international protection is presumed to be an application for asylum save where the applicant explicitly requests another kind of protection that can be applied for separately;
- (h) 'Application for asylum' means a request by a third country national or a stateless person for international protection from a Member State, which can be understood to be on the grounds that the applicant is a refugee within the meaning of Article 1(A) of the Geneva Convention;
- (i) 'Application for subsidiary protection' means a request by a third country national or a stateless person for international protection from a Member State which cannot be understood to be on the grounds that the applicant is a refugee within the meaning of Article 1(A) of the Geneva Convention, or follows rejection of such a request, but can be understood to be on the grounds that the applicant is a person eligible for subsidiary protection;
- (j) 'Family members' means:
- (i) the spouse of the applicant or his/her unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples;
 - (ii) the children of the couple referred to in point (i) or of the applicant alone, on condition that they are unmarried and dependent and without distinction as to whether they were born in or out of wedlock or adopted;
 - (iii) other close relatives who lived together as part of the family unit at the time of leaving the country of origin, and who were wholly or mainly dependent on the applicant at that time;
- (k) 'Accompanying family members' means the family members of the applicant who are present in the same Member State in relation to the application for asylum;
- (l) 'Unaccompanied minors' means third-country nationals and stateless persons below the age of eighteen, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of the Member States;
- (m) 'Residence permit' means any permit or authorisation issued by the authorities of a Member State, in the form provided for under that State's legislation, allowing a third

country national or stateless person to reside on its territory;

- (n) 'Country of origin' means the country of nationality or former habitual residence.

Article 3

Scope

This Directive shall apply to all third country nationals and stateless persons who make an application for international protection at the border or on the territory of a Member State and to their accompanying family members and to all those who receive such protection.

Article 4

More favourable provisions

Member States may introduce or retain more favourable standards for determining who qualifies as a refugee or as a person in need of subsidiary protection, and in determining the content of international protection, in so far as those standards are compatible with this Directive.

CHAPTER II

QUALIFICATION FOR INTERNATIONAL PROTECTION

Section 1

International protection

Article 5

The elements of international protection

1. Refugee status shall be granted to any third country national 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, and to any stateless person, who, being outside the country of former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

2. Without prejudice to existing constitutional obligations, subsidiary protection shall be granted to any third country national or stateless person who does not qualify as a refugee, according to the criteria set out in Chapter III of this Directive, or whose application for international protection was explicitly made on grounds that did not include the Geneva Convention, and who, owing to a well-founded fear of suffering serious and unjustified harm as described in Article 15, has been forced to flee or to remain outside his or her country of origin and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.

3. The applicant's fear of being persecuted or exposed to other serious and unjustified harm in the country of origin shall be assessed in accordance with Section 2.

Article 6

Extension of international protection to the accompanying family members

1. Member States shall ensure that accompanying family members are entitled to the same status as the applicant for international protection.

2. The rule laid down in paragraph 1 is not applicable where the accompanying family Member is excluded from refugee and subsidiary protection status pursuant to Chapters III and IV.

Section 2

Assessment of the applicant's fear of being persecuted or exposed to other serious and unjustified harm

Article 7

Assessment of applications for international protection

In assessing an applicant's fear of being persecuted or exposed to other serious and unjustified harm, Member States shall take into account, as a minimum, the following matters:

- (a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application;
- (b) whether the applicant's fear of being persecuted or exposed to other serious and unjustified harm in the country of origin is objectively established, in that there is a reasonable possibility that the applicant will be persecuted or otherwise subjected to serious harm if returned to the country of origin;
- (c) whether the applicant has already been subject to persecution or other serious and unjustified harm or to direct threats of persecution or other serious and unjustified harm, in that this would strongly indicate a reasonable possibility that the applicant might suffer further persecution or harm in the future;
- (d) the individual position and personal circumstances of the applicant, including factors such as background, gender, age, health and disabilities so as to assess the seriousness of persecution or harm. Where the form of persecution is gender-specific or child-specific, account shall be taken of the fact that persecution, within the meaning of the Geneva Convention, may be effected through sexual violence or other gender-specific means;
- (e) whether there is credible evidence that laws or regulations are in force and applied in practice in the country of origin which authorise or condone the persecution of the applicant or the infliction upon the applicant of other serious and unjustified harm.

Article 8

International protection needs arising *sur place*

1. A well-founded fear of being persecuted or otherwise suffering serious unjustified harm may be based on events which have taken place since the applicant left his country of origin.

2. A well-founded fear of being persecuted or otherwise suffering serious unjustified harm may be based on activities which have been engaged in by the applicant since he left his country of origin, save where it is established that such activities were engaged in for the sole purpose of creating the necessary conditions for making an application for international protection. That is not the case where the activities relied upon constitute the expression and continuation of convictions held in the country of origin, and they are related to the grounds for recognition of the need for international protection.

Article 9

Sources of harm and protection

1. Member States shall consider that the fear of being persecuted or of otherwise suffering unjustified harm is well-founded whether the threat of persecution or other serious unjustified harm emanates from:

- (a) the State;
- (b) parties or organisations controlling the State;
- (c) non-State actors where the State is unable or unwilling to provide effective protection.

2. In evaluating the effectiveness of State protection where the threat of persecution or other serious unjustified harm emanates from non-State actors, Member States shall consider whether the State takes reasonable steps to prevent the persecution or infliction of harm, and whether the applicant has reasonable access to such protection. There must be in place a system of domestic protection and machinery for the detection, prosecution and punishment of actions which constitute persecution or other serious and unjustified harm. Where effective State protection is available, fear of being persecuted or otherwise suffering serious unjustified harm shall not be considered to be well founded, in which case Member States shall not recognise the need for protection.

3. For the purpose of this Directive, 'State' protection may also be provided by international organisations and stable quasi-State authorities who control a clearly defined territory of significant size and stability, and who are able and willing to give effect to rights and to protect an individual from harm in a manner similar to an internationally recognised State.

*Article 10***Internal protection**

1. Once they have established that the fear of being persecuted or of otherwise suffering serious and unjustified harm is well-founded, Member States may examine whether this fear is clearly confined to a specific part of the territory of the country of origin and, if so, whether the applicant could reasonably be returned to another part of the country where there would be no well-founded fear of being persecuted or of otherwise suffering serious and unjustified harm.

In carrying out this examination there shall be a strong presumption against finding internal protection to be a viable alternative to international protection if the agent of persecution is, or is associated with the national government.

2. In examining whether an applicant can be reasonably returned to another part of the country in accordance with paragraph 1, Member States shall have regard to the security, political and social circumstances prevailing in that part of the country, including respect for human rights, and to the personal circumstances of the applicant, including age, sex, health, family situation and ethnic, cultural and social links.

CHAPTER III

QUALIFICATION FOR REFUGEE STATUS*Article 11***The nature of persecution**

1. In the determination of whether a well-founded fear of being persecuted has been objectively established, the term persecution shall be considered to cover as a minimum any of the following situations:

- (a) the infliction of serious and unjustified harm or discrimination on the grounds of race, religion, nationality, political opinion or membership of a particular social group, sufficiently serious by its nature or repetition as to constitute a significant risk to the applicant's life, freedom or security or to preclude the applicant from living in his or her country of origin;
- (b) legal, administrative, police and/or judicial measures when they are designed or implemented in a discriminatory manner on the grounds of race, religion, nationality, political opinion or membership of a particular social group and if they constitute a significant risk to the applicant's life, freedom or security or preclude the applicant from living in his or her country of origin;
- (c) prosecution or punishment for a criminal offence if, on the grounds of race, religion, nationality, political opinion or membership of a particular social group:
 - (i) the applicant is either denied means of judicial redress or suffers a disproportionate or discriminatory punishment

- (ii) the criminal offence for which the applicant is at risk of being prosecuted or punished, purports to criminalise the exercise of a fundamental right;

- (d) prosecution or punishment for refusal to meet a general obligation to perform military service on the grounds of race, religion, nationality, political opinion or membership of a particular social group:
 - (i) if the conditions stated in paragraph (c) (i) apply

- (ii) in situations of war or conflict, if the person can establish that performance of military service will require his or her participation in military activities which are irreconcilable with the applicant's deeply held moral, religious or political convictions, or other valid reasons of conscience.

2. The following principles shall, as a minimum, govern the determination of whether a well-founded fear of being persecuted should result in the recognition of an applicant as a refugee:

- (a) it is immaterial whether the persecution stems from the State, parties or organisations controlling the State, or non-State actors where the State is unable or unwilling to provide effective protection;
- (b) it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecutory action, provided that such a characteristic is attributed to him or her by the agent of persecution;
- (c) it is immaterial whether the applicant comes from a country in which many or all persons face the risk of generalised oppression.

*Article 12***The reasons for persecution**

In determining whether a well-founded fear of persecution is based on reasons of race, religion, nationality, political opinion or membership of a particular social group, the following elements shall, as a minimum, be taken in account:

- (a) the concept of race shall include considerations of colour, descent, or membership of a particular ethnic group;
- (b) the concept of religion shall include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

- (c) the concept of nationality shall not be confined to citizenship but shall include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;
- (d) the concept of social group shall include a group which may be defined in terms of certain fundamental characteristics, such as sexual orientation, age or gender, as well as groups comprised of persons who share a common background or characteristic that is so fundamental to identity or conscience that those persons should not be forced to renounce their membership. The concept shall also include groups of individuals who are treated as 'inferior' in the eyes of the law;
- (e) the concept of political opinion shall include the holding of, or the being conceived of as holding, an opinion on a matter related to the State or its government or its policy, whether or not that opinion has been acted upon by the applicant.

Article 13

Cessation of refugee status

1. Member States shall maintain refugee status until and unless the refugee:
- (a) has voluntarily re-availed himself or herself of the protection of the country of nationality; or
- (b) having lost his or her nationality, has voluntarily re-acquired it; or
- (c) has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or
- (d) has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution; or
- (e) can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality;
- (f) Being a person with no nationality, he or she is able, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.

In the cases referred to in points (a) to (f), the residence permit may be revoked.

In considering point (e), Member States shall have regard to whether the change of circumstances is of such a profound and durable nature that the refugee's fear of persecution can no longer be regarded as well-founded.

2. The Member State which has granted refugee status shall bear the burden of proof in establishing that a person has ceased to be in need of international protection for one of the reasons stipulated in paragraph 1.

Article 14

Exclusion from refugee status

1. Member States shall exclude from refugee status any applicant:
- (a) who is at present receiving protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees;
- (b) who is recognised by the competent authorities of the country in which he or she has taken up residence as having the rights and obligations attached to the possession of the nationality of that country;
- (c) where there are serious reasons for considering that:
- (i) the applicant has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (ii) the applicant has committed a serious non-political crime prior to his or her admission as a refugee;
- (iii) the applicant has been guilty of acts contrary to the purposes and principles of the United Nations.
2. The grounds for exclusion shall be based solely on the personal and knowing conduct of the person concerned.
3. Member States shall ensure that persons so excluded have the right to bring proceedings before a court against a decision to exclude them from international protection.
4. The application of the exclusion shall not in any manner affect obligations that Member States have under international law.

CHAPTER IV

QUALIFICATION FOR SUBSIDIARY PROTECTION STATUS*Article 15***The grounds of subsidiary protection**

In accordance with Article 5(2), Member States shall grant subsidiary protection status to an applicant for international protection who is outside his or her country of origin, and cannot return there owing to a well-founded fear of being subjected to the following serious and unjustified harm:

- (a) torture or inhuman or degrading treatment or punishment; or
- (b) violation of a human right, sufficiently severe to engage the Member State's international obligations; or
- (c) a threat to his or her life, safety or freedom as a result of indiscriminate violence arising in situations of armed conflict, or as a result of systematic or generalised violations of their human rights.

*Article 16***Cessation of subsidiary protection status**

1. Member States shall ensure that subsidiary protection status is maintained until such time as it is established by the competent authorities that such protection is no longer required, in which case the residence permit may be revoked.
2. Subsidiary protection may be withdrawn if the circumstances in the country of origin which led to the granting of such status under Article 15, cease to exist, or if a change in circumstances is of such a profound and durable nature that it eliminates the need for subsidiary protection.

*Article 17***Exclusion from subsidiary protection status**

1. Member States shall exclude from subsidiary protection status any applicant where there are serious reasons for considering that:
 - (a) the applicant has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
 - (b) the applicant has committed a serious non-political crime prior to his or her admission as a refugee;
 - (c) the applicant has been guilty of acts contrary to the purposes and principles of the United Nations.
2. The grounds for exclusion shall be based solely on the personal and knowing conduct of the person concerned.

3. Member States shall ensure that persons so excluded have the right to bring proceedings before a court against a decision to exclude them from international protection.

4. The application of the exclusion shall not in any manner affect obligations that Member States have under international law.

CHAPTER V

REFUGEE STATUS AND SUBSIDIARY PROTECTION STATUS*Article 18***Content of international protection**

1. The rules laid down in this Chapter shall be without prejudice to the rights laid down in the Geneva Convention.
2. The rules laid down in this Chapter shall apply both to refugees and persons eligible for subsidiary protection unless otherwise indicated. The level of rights attached to a protection status shall not be lower than that enjoyed by applicants during the determination process and shall be enjoyed equally by the accompanying family members of the qualified beneficiary.

3. When implementing the provisions of this Chapter, Member States shall take into account the specific situation of persons who have special needs such as: minors in general, unaccompanied minors, disabled people, elderly people, single parents with minor children, victims of torture or sexual abuse or exploitation, pregnant women and persons suffering from infirmity, whether mental or physical. Member States shall also take into account the specific situation of single women who are subject to substantial gender-related discrimination in their country of origin.

*Article 19***Protection from refoulement and expulsion**

Member States shall respect the principle of non-refoulement and shall not expel persons enjoying international protection, otherwise than in accordance with their international obligations.

*Article 20***Information**

Member States shall provide persons recognised as being in need of international protection, immediately after status has been granted, with information, in a language likely to be understood by them, in which provisions relating to the respective protection regimes are clearly set out.

*Article 21***Residence permits**

1. As soon as their status has been granted Member States shall issue to refugees and their accompanying family members a residence permit which must be valid for at least five years and renewable automatically.

2. As soon as the status has been granted Member States shall issue to persons enjoying subsidiary protection status and their accompanying family members a residence permit which must be valid for at least one year. This residence permit shall be automatically renewed at intervals of not less than one year, until such time as the granting authorities establish that such protection is no longer required.

Article 22

Long-term residence status

Notwithstanding Article 3(2)(b) of Council Directive .../...EC [concerning the status of third country nationals who are long-term residents] Member States shall grant persons enjoying subsidiary protection status long-term residence status on the same terms as those applicable to refugees under that Directive.

Article 23

Travel documents

1. Member States shall issue to persons to whom they have granted refugee status travel documents in the form set out in the Schedule to the Geneva Convention, for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require.

2. Member States shall issue travel documents to persons enjoying subsidiary protection status who are unable to obtain a national passport.

Article 24

Access to employment

1. Member States shall authorise refugees to engage in employed or self-employed activities under the same conditions as nationals, immediately after the refugee status has been granted.

2. Member States shall ensure that activities such as employment-related education opportunities for adults, vocational training and practical workplace experience are offered to refugees, under the same conditions as nationals.

3. Member States shall authorise persons enjoying subsidiary protection status to engage in employed or self-employed activities under the same conditions as nationals no later than six months after such status is granted.

4. Member States shall ensure that persons enjoying subsidiary protection status have access to activities such as employment-related education opportunities for adults, vocational training and practical workplace experience, under the same conditions as nationals no later than one year after such status is granted.

5. After access to the labour market is granted in accordance with paragraphs 1 and 3, refugees and persons enjoying subsidiary protection status are entitled to equal treatment with nationals in terms of remuneration, access to social security systems relating to employed or self-employed activities, and other conditions of employment.

Article 25

Access to education

1. Member States shall grant full access to the education system to all those minors enjoying international protection under the same conditions as nationals.

2. Member States shall allow adults enjoying international protection access to the general education system, further training or retraining, under the same conditions as nationals.

3. Member States shall ensure equal treatment as between persons enjoying international protection and nationals with regard to the recognition of diplomas, certificates and other qualifications issued by a competent authority.

Article 26

Social welfare

Member States shall ensure that persons enjoying international protection receive, under the same conditions as nationals of the Member State that has granted the protection, the necessary assistance in terms of social welfare and means of subsistence.

Article 27

Health and psychological care

1. Member States shall ensure that persons enjoying international protection have access to health and psychological care under the same conditions as nationals of the Member State that has granted the status.

2. Member States shall provide appropriate medical and psychological care to persons enjoying international protection who have special needs, such as accompanied or unaccompanied minors, or persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence.

3. Member States shall ensure access to rehabilitation services to minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict. To facilitate recovery and reintegration, appropriate mental health care shall be developed and qualified psycho-social counselling shall be provided when it is needed.

*Article 28***Unaccompanied minors**

1. Member States shall take the necessary measures as soon as possible, to ensure the representation of unaccompanied minors enjoying international protection by legal guardianship, or representation by an organisation which is responsible for the care and well-being of minors, or by any other appropriate representation.

2. Member States shall ensure that the minor's needs are duly met in the implementation of the provisions of this Directive by the appointed guardian. The appropriate authorities shall make regular assessments.

3. Member States shall ensure that unaccompanied minors are placed:

- (a) with adult family members; or
- (b) with a foster family; or
- (c) in centres specialised in accommodation for minors; or
- (d) in other accommodation suitable for minors.

4. Member States shall ensure that siblings are kept together. Changes of unaccompanied minors' residence shall be limited to a minimum.

5. If it is in the best interests of the child, Member States shall endeavour to trace the members of the family of unaccompanied minors as soon as possible.

6. Member States shall ensure that those working with unaccompanied minors receive appropriate training on their needs.

*Article 29***Access to appropriate accommodation**

The Member States shall ensure that persons enjoying international protection have access to suitable accommodation or, if necessary, receive the means to obtain housing.

*Article 30***Freedom of movement within the Member State**

Member States shall not limit the freedom of movement within their territory of persons enjoying international protection.

*Article 31***Access to integration facilities**

1. In order to facilitate the integration of refugees into society, Member States shall make provision for specific support programmes tailored to their needs in the fields of,

inter alia, employment, education, healthcare and social welfare.

2. Member States shall grant persons enjoying subsidiary protection access to equivalent programmes, not later than one year after their status is granted.

*Article 32***Voluntary return**

Member States shall grant persons enjoying international protection access to voluntary return programmes for those who wish to return on a voluntary basis to their country of origin.

CHAPTER VI

ADMINISTRATIVE COOPERATION*Article 33***Cooperation**

Member States shall each appoint a national contact point, whose address they shall communicate to the Commission, which shall communicate it to the other Member States.

Member States shall, in liaison with the Commission, take all appropriate measures to establish direct Cooperation and an exchange of information between the competent authorities.

*Article 34***Staff and resources**

1. Member States shall ensure that authorities and other organisations implementing this Directive have received the necessary basic training with respect to the needs of both male and female applicants and their accompanying family members, as well as the specific needs of minors, in particular unaccompanied minors.

2. Member States shall allocate the necessary resources in connection with the national provisions enacted to implement this Directive.

CHAPTER VII

FINAL PROVISIONS*Article 35***Non-discrimination**

Member States shall implement the provisions of this Directive without discrimination on the basis of sex, race, nationality, membership of a particular social group, health, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation.

*Article 36***Reports**

By 30 April 2006 at the latest, the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose any amendments that are necessary. Member States shall send the Commission all the information that is appropriate for drawing up that report. After presenting the report the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States at least every five years.

*Article 37***Transposition**

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 April 2004 at the latest. They shall forthwith inform the Commission thereof.

When the Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such a reference is to be made.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

*Article 38***Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

*Article 39***Addressees**

This Directive is addressed to the Member States.
