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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	WK 486/2017 REV 1
Subject:	Theme: Socio-Economic Rights of Asylum Seekers and Beneficiaries of International Protection

Delegations will find attached:

- **Annexes I and II: the socio-economic rights of applicants for international protection** (relevant Articles/paragraphs from the Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) (**Reception Conditions Directive**) and of the Proposal 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 Member States by a third-country national or a stateless person (recast) (**Dublin Regulation**));
- **Annex III: the socio-economic rights of beneficiaries of international protection** (relevant Articles/paragraphs from the Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (**Qualification Regulation**)).

The changes in the text are marked as follows: added text is marked in **bold** and underline and deleted text from the original Commission proposal is marked in **bold** and single ~~strikethrough~~.

Proposal for a Directive of the European Parliament and the and of the Council laying down standards for the reception of applicants for international protection (recast)

[...]

Article 15

Employment¹

1. Member States shall ensure that applicants have access to the labour market no later than **9** ~~⇒ 6 ⇒~~ months from the date when the application for international protection was lodged if ~~a first instance~~ ⇒ an administrative ⇐ decision by the competent authority has not been taken and the delay cannot be attributed to the applicant.²

¹ **BG, DE, EL, IT, FI:** scrutiny reservation on the whole article. **IT:** reservation as it goes too much into detail in regulating the issue; might raise a high level of expectations of asylum seekers. **HU:** does not support the proposal. It is not clarified, how the proposed measures and changes contribute to the reduction of secondary movements. Furthermore, need to investigate the accordance of the proposed integration needs, the rejection rates, the goals concerning the enhancement of effectivity of returns, and the concept of the most acute needs for international protection. Access of applicants to the labour market should require previous labour market tests. **AT:** maintain the existing Article 15. Reservation on the new text. **SE:** requires an opinion of CLS on the compatibility of the social security provision with the provisions of the Treaty.

² **IE, ES:** scrutiny reservation. **BE:** supports a shorter period (in BE, the deadline is already 4 months). **IE:** 9 months is realistic; we should not encourage people who want to circumvent migration legislation. **FR:** concerned by the shorter timeframe which is pull factor; 9 months is a fair balance. **NL:** while in favour of 6 months, cannot support the encouragement in the Preamble for an access after 3 months because not in line with the objective to prevent secondary movements. **AT:** should remain 9 months. **PL:** the reduction of the maximum period, after which the applicant must have access to the labour market might have a negative effect by raising the number of applications for access to the labour market (pull factor). **SI:** shorter timeframe to access the labour market; the duration of the administrative procedure itself is not necessarily linked to the decision itself. **SE:** clarify why "an administrative" decision. **COM:** "administrative" corresponds to the terminology in APR.

↓ new

Where the Member State has accelerated the examination on the merits of an application for international protection in accordance with points [(a) to (f)] of Article [40(1)] **or where the application has been declared inadmissible in accordance with Article [36]** of Regulation (EU) No XXX/XXX [Procedures Regulation], access to the labour market shall not be granted.³

↓ 2013/33/EU (adapted)

⇒ new

2. Member States shall ~~decide the conditions for granting access to the labour market for the applicant, in accordance with their national law, while ensuring~~ ☒ ensure ☒ that applicants ☒, who have been granted access to the labour market in accordance with paragraph 1, ☒ have effective access to the labour market.⁴

For reasons of labour market policies, Member States may ~~give priority to~~ ☒ verify whether a vacancy could be filled by nationals of the Member State concerned or by other ☒ Union citizens, ~~and nationals of States parties to the Agreement on the European Economic Area, and to legally resident~~ ☒ or by ☒ third-country nationals ☒ lawfully residing in that Member State ☒.

³ **ES:** scrutiny reservation on practical consequences as the distinction between the different types of application might create significant administrative burden. **AT:** this sub-paragraph is very problematic. **FI:** clarify the situation of researchers; clarify whether this ban can be applied when an application is inadmissible on the basis of Dublin. **COM:** it is linked to a specific administrative procedure, not to admissibility.

⁴ **EL:** this provision provides for the right of the applicants for effective access to the labour market. Art. 7(2), on the other hand, provides for the possibility of the MS to decide on the residence of the applicant in a specific place for the reasons referred to there. It is necessary to clarify in the text that the scope of these two provisions will not be, in practice, in conflict with each other. **COM:** no contradiction between this paragraph and Art. 7(2).

3. Member States shall provide applicants **who have been granted access to the labour market in accordance with paragraph (1)**, with equal treatment with nationals as regards: ⁵
- (a) **terms of employment, including the minimum working age, and** working conditions, including pay and dismissal, leave and holidays, as well as health and safety requirements at the workplace; ⁶
- (b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security; ⁷

⁵ **CZ:** equal treatment within the scope of RCD should be only for persons who are not employed anymore. **DE, NL, SE:** clarify that equal treatment should only apply when people are working. **IE, EL, PT, RO, SI:** scrutiny reservation on para 3. **PL:** too detailed arrangements for applicants to access the labour market. The Directive does not seem to be a place for such detailed arrangements. These issues shall be governed by different national rules and the institutions of the MSs responsible for the system of reception are not competent to control access to the labour market in a range so widely understood. **SI:** not clear whether this provision relates to all applicants or only to those who received access to the labour market. **COM:** asylum seekers are the only third-country nationals who currently do not have the labour market access right; we want these rights for nationals to be equally applicable to asylum seekers. In national legislation, there is already equal treatment rules but not at the EU level; therefore we propose this new text. It is not appropriate to limit the equal treatment to those who are working; however it is possible to limit the equal treatment when the applicant is working (see points (i), (ii) and (iii)). Rights which are not employment related should be applied even if the person is not working.

⁶ **ES:** include at the beginning of the point (a): "Terms of employment, including working age, ...".

⁷ **IT:** this provision cannot be compulsory as it introduces for asylum seekers a treatment equal to the one to which beneficiaries of international protection are entitled to. The repercussions on national legal systems risk to be serious. Therefore point (b) should be deleted or should be a "may" provision.

- (c) education and vocational training, except, study and maintenance grants and loans or other grants and loans related to education and vocational training and the payment of tuition fees in accordance with national law, with respect to access to university and post-secondary education and to vocational training which is not directly linked to the specific employment activity;⁸
- d) recognition of diplomas, certificates and other evidence of formal qualifications in the context of existing procedures for recognition of foreign qualifications, while facilitating, to the extent possible, full access to these procedures for those applicants who cannot provide documentary evidence of their qualifications, without prejudice to Articles 2(2) and 3(3) of Directive 2005/36/EC, as well as to appropriate schemes for the assessment, validation and recognition accreditation of ~~their~~ applicants' prior learning;⁹

⁸ CZ: goes too far. LT: scrutiny reservation. SE: Member States should be able to restrict equal treatment of applicants when it comes to tuition fees. Therefore, insert "*tuition fees*," after "except".

⁹ CZ: reservation. FR: scrutiny reservation. IT: this point cannot be a compulsory provision as it introduces for asylum seekers a treatment equal to the one to which beneficiaries of international protection are entitled. The repercussions on national legal systems risk to be serious. Therefore point (d) should be deleted or should be a "may" provision. PL: replace "evidence" by "*documents*" because "evidence" in the meaning of the first half of the sentence should be understood as documents (on the course of education) other than diplomas or certificates. Whereas the second half of the sentence concerns a situation of lack of documents mentioned in the first half of the sentence. In addition, replace the wording "accreditation of their prior learning" by "*recognition of prior learning outcomes*". The current formulation is incomprehensible in Polish language. Therefore, PL proposes new wording: "*recognition of diplomas, certificates and other documents confirming formal qualifications in accordance with existing procedures of recognition of foreign qualifications, while facilitating, to the extent possible, full access for those applying for international protection, who cannot provide documentation confirming their qualifications to appropriate schemes for the assessment, validation and recognition of prior learning outcomes*". In the English version, the term "accreditation" should be replaced by the term "*recognition*" (in accordance with the Convention on the Recognition of Qualifications concerning Higher Education in the European Region of 11 April 1997 – Lisbon Convention). The used word "accreditation" is incorrect because it deals with whether an institution acts legally. The proper term is "recognition", concerning qualifications of a person. COM: regarding the professional qualifications, access to the procedure and equal treatment within the procedure is provided here, not recognition of the qualification.

(e) branches of social security, as defined in **Article 3** of Regulation (EC) No 883/2004 **for those applicants who are engaged in gainful economic activity.**¹⁰

Member States may restrict equal treatment of applicants **who have been granted access to the labour market in accordance with paragraph (1):**¹¹

(i) pursuant to point (b) of this paragraph, by excluding them from taking part in the management of bodies governed by public law and from holding an office governed by public law;¹²

(ii) pursuant to point (c) of this paragraph, to education and vocational training which is directly linked to a specific employment activity;¹³

~~(iii) pursuant to point (e) of this paragraph by excluding family benefits and unemployment benefits, without prejudice to Regulation (EU) No 1231/2010.~~

¹⁰ **DE:** clarify what kind of assistance. **IE:** reservation on (e). **IT:** this point cannot be a compulsory provision as it introduces for asylum seekers a treatment equal to the one to which beneficiaries of international protection are entitled. The repercussions on national legal systems risk to be serious. Therefore point (e) should be deleted or should be a "may" provision. **NL:** reservation because point (e) refers to equal treatment of applicants with regard to branches of social security. This is an expansion of the rights of asylum seekers which does not correspond to the main goal of preventing secondary movements, as social security system differ widely between MSs and MSs with an extensive social security system will become more attractive. This provision is at odds with many national social security schemes that grant access to third country nationals only if they are legally staying/residing in their territory. The condition of legal stay (residence permit)/residence is also found throughout the EU acquis. In all the EU instruments that provide equal treatment obligations for third-country nationals this equal treatment is linked to some form of legal stay (residence permit) or residence. **SI:** reservation, this provision is disproportionate when considering applicants.

¹¹ **HU:** need to investigate the possibility of providing equal treatment with nationals.

¹² **HU:** clarify which bodies governed by public law in paragraph 3, point i. refers to, and why the restriction is allowed.

¹³ **SE:** Member States should be able to restrict equal treatment of applicants when it comes to tuition fees. Therefore, insert "*tuition fees and*" after "pursuant to point (c) of this paragraph, to".

The right to equal treatment shall not give rise to a right to reside in cases where a decision taken in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation] has terminated the applicant's right to remain.

↓ 2013/33/EU

4.3. Access to the labour market shall not be withdrawn during appeals procedures, where an appeal against a negative decision in a regular procedure has suspensive effect, until such time as a negative decision on the appeal is notified.

↓ new

~~5. Where applicants have been granted access to the labour market in accordance with paragraph 1, Member States shall ensure that the applicant's document as referred to in Article [29] of Regulation (EU) No XXX/XXX [Procedures Regulation] state that the applicant has permission to take up gainful employment.~~¹⁴

¹⁴ **BE:** scrutiny reservation. **CZ:** delete because superfluous (already regulated in APR). **AT:** reservation. **PL:** provides that at the time of granting access to the labour market, such information should be found on the applicants identity document, which would require the need to change the parameters of the data written to document. Opposed to such a solution, which will require time-consuming changes (new document format, replacing the old documents), and will generate additional costs for MSs. The MSs themselves should determine the model in which the applicant has access to the labour market, for example through the issuance of the relevant certificate (this works on the territory of the Republic of Poland). **COM:** in APR, the information should be on the card; in RCD, the right to have the information updated when access is given .

↓ 2013/33/EU (adapted)

~~Article 16~~

~~Vocational training~~

- ~~1. Member States may allow applicants access to vocational training irrespective of whether they have access to the labour market.~~
 - ~~2. Access to vocational training relating to an employment contract shall depend on the extent to which the applicant has access to the labour market in accordance with Article 15.~~
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[...]

Article 17a

Reception conditions in a Member State other than the one in which the applicant is required to be present¹⁵

[...]

¹⁵ **CZ, DE, IE, NL, PL, FI:** scrutiny reservation. **CZ:** this article is outside chapter III; clarify the link with Art. 17 and 19. **HU:** does not support the principle of a single Member State responsible, as set out in the relevant provisions of the Dublin-proposal, Chapter III. **NL:** welcomes the COM's intention but there are differences between this article and the Dublin provisions which need to be clarified. **PT:** this article singles out a group of people which still require protection; should be part of Chapter III.

3. Pending the transfer under Regulation (EU) No XXX/XXX [Dublin Regulation] of a minor to the Member State responsible, Member States shall provide him or her with access to suitable educational activities¹⁶.

↓ 2013/33/EU (adapted)

⇒ new

Article ~~19~~ 18

Health care¹⁷

1. Member States shall ensure that applicants ⇒, irrespective of where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation], ⇐ receive the necessary health care which shall include, at least, emergency care and essential treatment of illnesses ~~and~~ ☒, including ☒ of serious mental disorders.

¹⁶ **BE, DE, IE, FR:** clarify "suitable educational activities". **IT:** "suitable educational activities" seems to suggest that we would need to organise something new, parallel to the national education system, which would be burdensome. **SE:** the right to education is a fundamental right. Minors shall therefore have the right to education on same conditions as nationals. Therefore, replace "suitable educational activities" by "*national education*". **COM:** "suitable educational activities" are not "under similar conditions" referred to in Art. 14.

¹⁷ **DE:** clarify the link between this article and Art. 17a (if in the "wrong MS", does that lead to a reduction of material reception conditions but not of healthcare?) and also the link between para 1 and 2. **HU:** does not support the principle of a single Member State responsible, as set out in the relevant provisions of the Dublin-proposal, Chapter III. Article 18 does not have the international legal basis, neither the Dublin IV proposal, Art. 5(3), if it means that member states have to provide health care free of charge to the applicants. The Dublin IV proposal refers to "emergency health care", while the proposal for a recast of the RCD refers to a more wider category: "necessary health care". In case of a huge number of applicants, health care system would face lack of capacity. **NL:** why not the same terminology as in Dublin ("emergency care")? **COM:** Art. 18 is not excluded under Art. 17a(1). Para 1 and 2 apply both. Terminology should be aligned across all proposals indeed.

↓ 2013/33/EU

2. Member States shall provide necessary medical or other assistance to applicants who have special reception needs, including appropriate mental health care where needed.
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Proposal 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 Member States by a third-country national or a stateless person (recast)

[...]

Article 5

Consequences of non-compliance

[...]

3. The applicant shall not be entitled to the reception conditions set out in Articles 14 to 19 of ~~Directive 2013/33/EU~~ **Directive (EU) XXX/XXX (Reception Conditions Directive)**, ~~with the exception of emergency health care~~, during the procedures under this Regulation in any Member State other than the one in which he or she is required to be present, **except for reception conditions set out in Article 17a (2) and (3) of that Directive.**¹⁸

¹⁸ **ES, IT SE:** scrutiny reservation **CZ:** Doubts on the link between the consequence of non-compliance in paragraph (3) with the obligation to decide individually on reduction of material reception conditions in Article 19 of the new RCD proposal. Individual decision in the case of presence in other Member State than the Member State responsible would cause extreme and unfounded administrative burden. The general solution mentioned in Article 5(3) is preferred; on the contrary it does not agree with the provision mentioned in Article 19 of the new RCD proposal. **NL:** According to Article 4 (3), the provision in paragraph 3 concerns all the Member States where the applicant has lodged an application for international protection. The simple lodging of an application would be sufficient to again ensure entitlement to reception. Is this the intention and, if so, how does this relate to the aim of preventing secondary movements and the obligation for the applicant to apply in the Member State of first irregular entry? **DE:** suggests extension to beneficiaries of international protection. **EL:** This provision is questionable in view of the Charter. **COM:** This provision should be read together with Recital 22. Also see the proposal for recast of the RCD, Article 17a.

Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents

[...]

Article 22

General rules¹⁹

[...]

3. ~~Within the limits set by international obligations, granting of a b~~ **Beneficiaries of international protection shall have access to benefits rights under this Chapter related to information, free movement within the Member State, movement within the Union, employment, education, recognition of qualification and validation of skills, social security, health care, access to accommodation and access to integration measures with regard to access to employment, social security shall require the prior issuing of a residence permit as soon as international protection is granted.**²⁰

¹⁹ **BG, SE:** scrutiny reserve on the whole article, especially on social security issues.

²⁰ **DE, IE, EL, FI:** scrutiny reservation. **CZ:** this paragraph has to be deleted as it is redundant. We grant all benefits from the moment status is granted. **DE:** pursuant to this provision, access to employment and social security benefits should be conditional upon the prior issue of a residence permit. This provision seems at odds with Art. 30. **IE:** especially the access to social security should be examined further. **EL:** the wording is binding while in the current Directive there was discretion for MS; how to apply this provision in conjunction with Art. 26(2)(c) (not renewal of the residence permit)? **COM:** see Case-Law C-373/13: possibility to revoke the residence permit without affecting the rights. The Directive allowed for legal uncertainty; Regulation tries to remedy that. **FI :** the meaning of it is unclear. **SE:** Clarify the type of residence permit aimed at; if only residence permit linked to international protection, it shall be spelled out.

SECTION II

RIGHTS AND OBLIGATIONS RELATED TO RESIDENCE AND STAY

SECTION III

RIGHTS RELATED TO INTEGRATION²¹

Article 30

Access to employment²²

1. Beneficiaries of international protection shall have the right to engage in employed or self-employed activities subject to the rules generally applicable to the profession and to the public service²³, immediately after protection has been granted.²⁴
2. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted protection as regards: ²⁵
 - (a) working conditions, including pay and dismissal, working hours, leave and holidays as well as health and safety requirements at the workplace;
 - (b) freedom of association and affiliation, and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations;

²¹ **BE, BG, ES, PL, FI:** scrutiny reservation on the whole Section III

²² **EL, RO, FI:** scrutiny reservation.

²³ **PL, RO:** scrutiny reservation; a definition of "public service" is needed.

²⁴ **DE, EL, SE:** scrutiny reservation; clarify the link with Art 22(3) which refers to the requirement of the prior issuing of a residence permit, while in Art. 30(1) it says "immediately after protection has been granted". **COM:** the residence permit is not constitutive of the right to work but it is a proof of the status. **EL:** clarify the situation where the residence permit is revoked but the status not, no clear if the person is allowed to work **COM:** if the residence permit is revoked, he/she has not the right to stay or work even if the status is still there. The Geneva Convention provides for rights for unlawful refugees.

²⁵ **DE:** scrutiny reservation on para 2.

- (c) employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience;
 - (d) advice services afforded by employment offices.
3. Competent authorities, where necessary shall facilitate the full access to the activities referred to in **points (c) and (d) of** paragraph (2)~~(c) and (d)~~.²⁶

Article 31

Access to education²⁷

1. Minors granted international protection shall have full access to the education system, under the same conditions as nationals of the Member State that has granted protection.
2. Adults granted international protection shall have access to the general education system, further training or retraining, under the same conditions as third-country nationals legally resident in that Member State who are in a comparable situation.²⁸

Article 32

Access to procedures for recognition of qualifications and validation of skills²⁹

1. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted protection in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.

²⁶ **SE:** scrutiny reservation; clarify "where necessary" and "full access". **COM:** the intention of "where necessary" is to make this obligation more flexible, i.e. a case by case assessment.

²⁷ **NL, RO, FI:** scrutiny reservation.

²⁸ **DE, SE:** scrutiny reservation; clarify "in a comparable situation". **COM:** addition of "in comparable situation" in order to make the applicability of the Regulation more efficient as there are various types of third-country nationals depending on their status; open to better wording suggestions.

²⁹ **EL, NL, RO, FI:** scrutiny reservation. **FR:** reservation.

2. Competent authorities shall facilitate full access to the procedures mentioned in paragraph 1 to those beneficiaries of international protection who cannot provide documentary evidence of their qualifications, without prejudice to Articles 2(2) and 3(3) of Directive 2005/36/EC of the European Parliament and of the Council.^{30 31}
3. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted protection as regards access to appropriate schemes for the assessment, validation and ~~accreditation~~ recognition of their prior learning outcomes and experience.³²

³⁰ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

³¹ **FR, LV:** reservation. **DE, IE, AT, PT:** scrutiny reservation. **FR,** supported by **IE, LV, AT:** concern that this might lead to more favourable treatment for refugees than for other third-country nationals; in addition, this might be also problematic for certain regulated professions related to public health and safety issues. **COM:** this corresponds to Art. 28(2) of the current Directive, only "endeavour" was replaced by "facilitate" which means letting them into the procedure but not recognising their diplomas, certificates etc. Standards (minimum harmonisation rules in sectoral professions) have to be kept, hence cross-reference to Articles 2(2) and 3(3) of Directive 2005/36/EC; for recognition, they still need to present evidence.

³² **PL:** the provision should be clarified, because not the prior learning is to be recognized, but learning outcomes achieved by a person. New wording suggested: "(...) assessment, **confirming** (validation) and ~~accreditation~~ **recognition** of their prior learning **outcomes** and experience".

Article 33
Social security³³

Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted protection with regard to social security.

³³ **IE, LT, AT, RO, FI, SE:** scrutiny reservation. **DE:** reservation if special non-contribution benefits are covered by social security (see comment on Art. 2(17)). Art. 33 restricts Art. 24 of the Geneva Convention. Is this the actual intention of the Commission? It is important that benefits intended to aid a beneficiary's integration into the labour market can be made conditional upon additional prerequisites (in accordance with Art. 24(1)(b)(ii) of the Geneva Convention); therefore insert: "***Within the limits set by international obligations,*** beneficiaries of international protection shall enjoy equal treatment (...)." **COM:** the intention is to cover special non-contribution benefits applicable to all beneficiaries of international protection and their family members (i.e. those who are under family unity article). The Coordination Regulation No 883/2004 only applies when refugee has moved in another MS, while the QR is regulating situation where refugees are confined in one MS. Thus, two different situations. **LV:** reservation on the title and the definition of "social security" in Art. 2. **PL:** the applicable provisions laid down in the Act on the social insurance system provides that Polish social insurance system treats equally all insured persons, regardless of their ethnicity, nationality and place of residence. The principle of equal treatment concerns particularly: 1) conditions of coverage by the social insurance system, 2) obligation of paying and calculating of the amount of social security contributions, 3) calculating of the amount of benefits, 4) benefit period and retention of entitlement to benefits. Additionally, the Polish legislator in Art. 2a(3) of the abovementioned Act introduced the judicial control on compliance by the insurance body with the principle of equal treatment. Every insured person who believes that he or she was not treated in accordance with the principle has the right to bring claims on social insurance before a court of law. The conditions of coverage by the social insurance system are of objective and non-discriminatory nature, thus there is no need for undertaking actions to provide equal treatment of persons who are covered by the proposed EU acts. What is more, attention should be given for inconsistency of the provisions laid down in Art. 30(2)(a) QR and Art. 15(3)(a) of the proposal for the abovementioned Directive COM (2016) 455. In accordance with Art. 30(2) QR, beneficiaries of international protection are treated equally with nationals of the MS that has granted protection as regards: a) working conditions, including **pay** and dismissal, **working hours, leave and holidays** as well as health and safety requirements at the workplace. Whereas in the proposal for the Directive (Art 15(3)(a)) it was laid down that MS provide equal treatment to applicants for international protection with reference to: a) working conditions, including **pay** and dismissal, **leave and holidays**, as well as health and safety requirements at the workplace. It is unclear what is the justification of such difference in both abovementioned provisions. **FI:** in Finland the parliament is currently discussing a government bill, which would mean, that "Labour Market Subsidy" would be issued as "integration assistance" for immigrants (including beneficiaries of international protection). The new subsidy would be lower than the usual Labour Market Subsidy.

Article 34
Social assistance³⁴

1. Beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted protection as regards social assistance.³⁵

Access to certain social assistance specified in national law may be made conditional on the effective participation of the beneficiary of international protection in integration measures, **where such measures are made compulsory in accordance with Article 38 (2).**³⁶

2. **Notwithstanding paragraph 1, for** beneficiaries of subsidiary protection status, Member States may limit social assistance to core benefits.³⁷

³⁴ DE, IE, LT, RO, FI, SE: scrutiny reservation. DE: see comment on Art. 2(17). LV: reservation on the title and the definition of "social assistance" in Art. 2.

³⁵ DE: maintain the current wording of QD "**necessary** social assistance" in order to avoid giving the impression that this draft Regulation is proposing an amendment or widening of scope. COM: it is considered as implied; social assistance is given upon request.

³⁶ DE: this sentence restricts Articles 23 and 24 of the Geneva Convention. Is this the actual intention of the Commission? Germany therefore proposes the following amendment: "**Within the limits set by international obligations**, access to certain social assistance (...)". COM: it is intentional that conditionality is only provided for social assistance and not for social security.

³⁷ DE: clarify why the current wording "which will then be provided at the same level and under the same eligibility conditions as nationals" is deleted. EL: para 1 introduces a mandatory rule of equal treatment between the beneficiaries of international protection and the nationals of the MS. However, para 2 introduces an exception to that rule, as far as it concerns the beneficiaries of subsidiary protection, without any other explanation/justification. Perhaps para 1 should start by "**Without prejudice to paragraph 2 (...)**". ES: scrutiny reservation. Even if this is acquis, is this justified to maintain this differentiation? NL: reservation on the differentiation made between both statuses. COM: we cannot extend the "may" clause to both statuses due to international law (Geneva Convention); therefore, the *status quo* is kept.

Article 35
Healthcare³⁸

1. Beneficiaries of international protection shall have access to healthcare under the same eligibility conditions as nationals of the Member State that has granted such protection.
2. Beneficiaries of international protection who have special needs, such as pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or 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 shall be provided adequate healthcare, including treatment of mental disorders when needed, under the same eligibility conditions as nationals of the Member State that has granted protection.³⁹

³⁸ **DE, ES, RO, FI:** scrutiny reservation.

³⁹ **CZ:** paragraph to delete due to the basic principle that beneficiaries of international protection have access to healthcare under the same conditions as nationals of the Member State.