



Ad-Hoc Query on Article 29 of the Qualification Directive (2011/95/EU)

Requested by CY EMN NCP on 8th July 2013

Compilation produced on [11/10/2013]

Responses from Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom plus Norway (24 in Total)

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1. Background Information

According to paragraph 1 of Article 29 of the Qualification Directive (2011/95/EU), Member States shall ensure that beneficiaries of international protection receive the necessary social assistance as provided to nationals. However, based on the provisions of paragraph 2, Member States may limit social assistance to beneficiaries of subsidiary protection to core benefits, which will then be provided at the same level and under the same eligibility conditions as nationals. In addition the connected Recital (45) to Article 29 states that the possibility of limiting such assistance to core benefits is to be understood as covering at least minimum income support, assistance in the case of illness, or pregnancy, and parental assistance.

We would very much appreciate your responses by 8th August 2013.

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2. Responses¹

		Wider Dissemination?²	
	Austria	Yes	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	1. Social assistance to beneficiaries of subsidiary protection is not limited to core benefits. Beneficiaries of international protection have equal access to social benefits, as nationals. Some beneficiaries of international protection encounter difficulties in invoking their social rights, especially for what concerns the finding of housing. 2. N/A
	Bulgaria	Yes	The Qualification Directive 2011/956/EU is being transposed into the national law now. According to the Law for the Asylum and the Refugees during the proceedings the foreigner shall have the right to health insurance, accessible medical care and free medical service under the conditions and pursuant to the procedure applicable to the Bulgarian citizens. The foreigners in the Republic of Bulgaria having received asylum or refugee status shall have equal rights and obligations. A foreigner with a granted status of a refugee shall have the rights and the obligations of Bulgarian citizens as regards the social assistance. Foreigners enjoying temporary protection shall have the right to social support and medical care in emergency cases.
	Cyprus	Yes	1. We have not derogated on the basis of paragraph 2 and subsequently have not limited social assistance to beneficiaries of subsidiary protection to core benefits. At the moment, CY Law provides that asylum seekers and beneficiaries of international protection have equal access to social benefits, as nationals 2. N/A
	Czech Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Denmark	Yes	

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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	Estonia	Yes	<p>1. No, Estonia hasn't implemented the Article 29 paragraph 2 of the Qualification Directive (2011/95/EU) about limited social assistance to beneficiaries of subsidiary protection to core benefits. According to Act on Granting International Protection to Aliens § 75 p 1 during his/her stay in Estonia, a person enjoying international protection has the right to receive state pensions, family support, employment services and employment subsidies, social benefits and other assistance on the same grounds provided by legislation as permanent residents of Estonia.</p> <p>2. N/A</p>
	Finland	Yes	1.-2. We have not derogated on the basis of paragraph 2 and subsequently have not limited social assistance to beneficiaries of subsidiary protection to core benefits.
	France	Yes	<p>1. A certain level of social assistance is granted to the beneficiaries of subsidiary protection and the refugees, on the same basis than the social rights that are provided to French citizens. The only difference lies in the length of the residence permit, which is of 1 year for the beneficiaries of subsidiary protection, against 10 for refugees.</p> <p>Beneficiaries of international protection have access to family assistance, assistance in case of illness (CMU, universal illness coverage), minimum income support (RSA) and social housing, on the same level than nationals. Beneficiaries of international protection sign a "welcome and integration contract" (CAI), which gives them access to social support and language classes. These people also benefit from specific support mechanisms to insertion through job and housing, which are financed on the budget "BOB 104 integration and access to citizenship".</p> <p>2. /</p>
	Germany	Yes	In Germany a limitation of social assistance to core benefits for persons referred to in Article 29, para. 2, of the Qualification Directive 2011/95/EU who have been granted subsidiary protection does not take place. Persons entitled to subsidiary protection will receive in Germany – depending on the residence title they have been granted – benefits in accordance with the German Asylum Seekers' Benefit Act or benefits in accordance with the German Code of Social Law. In both cases and in the final analysis social assistance is granted in the same amount as it is granted to persons referred to in Article 29, para. 1, of the Qualification Directive and to German citizens in need of assistance.
	Greece	Yes	Article 28 of Presidential Decree 96 of 2008, which transposed the "old" Qualification Directive, stipulates that beneficiaries of international protection receive necessary assistance on matters of social welfare on the same terms as Greek citizens. Therefore, there is no differentiation between refugees and beneficiaries of subsidiary protection, neither is there any differentiation between "core" social benefits and others. The draft Presidential Decree, which will transpose the "new" Qualification Directive (2011/95/EU) and which will be published shortly, has exactly the same wording in its Article 30
	Hungary	Yes	No. Hungary does not limit the social assistance to beneficiaries of subsidiary protection to core benefits on the basis of Paragraph 2 Article 29 of the Qualification Directive. According to Act LXXX of 2007 on Asylum and other relevant social legislations, Hungary provides the same social benefits to beneficiaries of international protection (uniformly) as to its own nationals.
	Ireland	Yes	
	Italy	Yes	1. Italy has not limited social assistance to beneficiaries of subsidiary protection to core benefits. The recognition of subsidiary

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			<p>protection allows access to occupation, education, health and social care (civil disability, accompaniment benefit, maternity benefit) equal to Italian citizens.</p> <p>2. N/A</p>
	Latvia	Yes	<p>1. Yes, there is a slight difference in relation to social assistance between refugees and beneficiaries of subsidiary protection.</p> <p>2. According to the Law on Social Services and Social Assistance the right to receive social services and social assistance shall be enjoyed by Nationals and persons who have been granted a personal identity number (it means a permanent residence permit in case of refugees), except persons who have received a temporary residence permit (it means - beneficiaries of subsidiary protection). According to the Aforementioned Law the social assistance for beneficiaries of subsidiary protection is limited to a benefit for the provision of the guaranteed minimum income level (minimum income support) and a housing allowance as well Orphans and children left without parental care have the right to receive social care services and the social rehabilitation services.</p> <p>Maternity, paternity, parents' and sickness allowances are provided to anyone person who are socially insured in accordance with the provisions of the Law on State Social Insurance. According to the Law there is no difference between beneficiaries of international protection.</p>
	Lithuania	Yes	<p>1. Lithuania does not limit social assistance to beneficiaries of subsidiary protection to core benefits. According to the national legislation beneficiaries of subsidiary protection have equal access to social benefits, as nationals.</p> <p>2. N/A</p>
	Luxembourg	Yes	<p>1. Luxembourg has not derogated on the basis of paragraph 2of article 29 of the Directive 2011/95/EU and subsequently has not limited social assistance to beneficiaries of subsidiary protection to core benefits (see Asylum Law of 5 May 2006).</p> <p>2. N/A</p>
	Malta	Yes	<p>1. Yes. Legal Notice 243 of 2008 (Subs. Legislation 420.07) Art. 14 (1) (b) states that, a person enjoying subsidiary protection shall be entitled to core social welfare benefits and core State medical care, especially in the case of vulnerable groups.</p> <p>2. Core Social Benefits meaning Social Assistance only without any Statutory Bonus, paid accordingly whether the person is single living by himself or sharing residence with other persons. If a person is living with his wife and children he is paid for himself and his family, as stipulated by the Social Security Act of Malta as in the cases of Maltese nationals. If the applicant is a mother with children and her spouse is still living in his country of origin, she is paid Social Assistance accordingly for herself and her children.</p> <p>This is how the 'core benefits' entitlement is implemented in the public healthcare sector:</p> <p>Urgent care and essential primary and hospital care due to illness or accident:</p> <ul style="list-style-type: none"> ○ Urgent care defined as that care which cannot be deferred without putting into immediate danger the life or the health of the person concerned.

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			<ul style="list-style-type: none"> ○ Essential primary and hospital care defined as those diagnostic and therapeutic interventions on conditions that are not dangerous in the immediate/short term, but that, if left untreated will cause major harm for the health of the person or put his life at risk due to complications, chronification or significant worsening of condition. This includes treatment for chronic conditions <u>only</u> in the case of an episode/complication related to the condition which leads to a hospital episode • Pregnancy and maternity care, from confirmation of pregnancy to up to 4 weeks post-partum. • Full entitlement to health care for minors under 18 years of age. • Vaccinations according to vaccinations schedules. • Infectious diseases: <ul style="list-style-type: none"> - Sexually Transmitted Diseases (STDs) and Tuberculosis (TB) and HIV <p>Entitlement includes Standard Government Formulary List drugs which are <u>NOT</u> protocol-regulated. Requests for protocol-regulated medicines can be considered on an exceptional basis only when there is no alternative.</p>
	Netherlands	Yes	<ol style="list-style-type: none"> 1. The Netherlands has not derogated on the basis of paragraph 2 and subsequently has not limited social assistance to beneficiaries of subsidiary protection to core benefits. Beneficiaries of subsidiary protection receive the same social assistance as provided to beneficiaries of international protection and nationals and have equal access to social benefits. 2. Not applicable.
	Poland	Yes	<ol style="list-style-type: none"> 1. According to the art. 5 of the Act of 12 March 2004 on social assistance in Poland [Journal of Law 2013 item 183, consolidate text] some categories of foreigners residing on the territory of Poland, i.a. beneficiaries of subsidiary protection, have equal access to social benefits, as nationals, unless international agreements state otherwise. 2. n/a
	Portugal	Yes	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Romania	Yes	
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. Slovakia has not derogated and limited social assistance to beneficiaries of international protection to core benefits on the basis of Article 29 of the Qualification Directive (2011/95/EU). According to Slovak law beneficiaries of international protection have the access to social benefits as nationals. 2. N/A.
	Slovenia	Yes	<ol style="list-style-type: none"> 1. We have not derogated on the basis of paragraph 2 and subsequently have not limited social assistance to beneficiaries of subsidiary protection to core benefits. SI Law provides that asylum seekers and beneficiaries of international protection have equal access to social benefits, as nationals.

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			2. N/A
	Spain	Yes	
	Sweden	Yes	1.No, in Sweden we have no limitation of this kind. Everyone getting asylum in Sweden have the same social benefits as everyone else living in Sweden. 2.NA
	United Kingdom	Yes	The UK has not opted into Qualification Directive 2011/95/EU. In any case, the UK has not sought to limit the social assistance provided to beneficiaries of subsidiary protection. Necessary social assistance to beneficiaries of international protection is provided at the same level and under the same eligibility conditions as to nationals.
	Norway	Yes	1. The Act on Social Services in the Labour and Welfare Service (lov om sosiale tjenester i arbeids- og velferdsforvaltningen) of 18 December 2009 state that social assistance is dependent upon legal residence in Norway. Thus, there is no derogation on the basis of paragraph 2 for social assistance. For further information on the Norwegian social security system, see for example: http://ec.europa.eu/employment_social/empl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Norway_en.pdf 2. N/A
