Comparative overview of national protection statuses in the EU and Norway

Common Template for EMN Study 2019

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Action: EMN NCPs are invited to submit their completed Common Templates by **Monday, 13th May 2019.**

If needed, further clarifications can be provided by directly contacting the EMN Service Provider at emn@icf.com and to Sonia Gsir (Sonia.Gsir@icf.com), Sara Bagnato (Sara.Bagnato@icf.com) and to Tatiana Kistruga (Tatiana.kistruga@icf.com) in copy.

1 STUDY AIMS AND OBJECTIVES

Much comparative information exists on the practices in the Member States and Norway concerning the EU-harmonised protection statuses – or equivalent,[1] and on certain national practices concerning specific vulnerable groups such as unaccompanied minors.[2] There is however a lack of up-to-date information on the practices and forms of national (or non-harmonised) protection.

This EMN study aims to provide a handbook guide to statuses granted in the Member States and Norway, which address a protection need, other than international protection as harmonised by the Qualification[3] and Temporary Protection Directives.[4] This guide will consist of a synthesis overview of national statuses granted on particular protection grounds, their related procedures, key rights and content of protection.

The 2010 EMN study 'The Different National Practices Concerning Granting of Non-EU Harmonised Protection Statuses'[5] is a useful and comprehensive overview of practices in 23 Member States[6] but it is now very out of date. The present study will, to some extent, update the 2010 EMN study and, where relevant, highlight statuses that have emerged since 2010 and identify those that no longer exist.

[1] See for example the following EMN studies on: 'The Changing Influx of Asylum Seekers In 2014-2016' (2018), 'Family Reunification of Third-Country Nationals in the EU and Norway: National Practices' (2016), 'Returning Rejected Asylum Seekers: Challenges and Good Practices' (2016), 'Resettlement and Humanitarian Admission Programmes in Europe – What Works?' (2016); 'Integration of Beneficiaries of International/Humanitarian Protection into the Labour Market: Policies and Good Practices' (2015).

[2] See for example the 2018 EMN study on 'Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway'.

[3] Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.
Ireland did not participate in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU. The UK participated in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU.

[4] Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

[5] Available at : https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/0_emn_synthesis_report_noneuharmonised_finalversion_january2011_en.pdf.

[6] Member States that participated in the 2010 study were Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.

Owing to the fact that the statuses mapped in this study are governed at national level, it is not possible to compare statuses among Member States. Where possible, this study will rather consider the differences between the procedures and content of protection (a) of the national statuses and (b) those of the EU protection statuses.

An overview of EU-harmonised protection statuses[7] and the content of protection as set out in EU asylum instruments will be presented in Annex 2 to support this comparative analysis. All Member States implemented the provisions of the recast Qualification Directive, with the exception of Ireland and the UK,[8] and of the Temporary Protection Directive. Norway, a State not participating to these Directives, has adopted in its national legislation equivalent protection statuses.

This study is timely in light of efforts undertaken since 2016 to strengthen the Common European Asylum System (hereafter CEAS) to complement existing legal pathways for admission to the EU of those in need of protection.[9] Building on the 2018 EMN study on 'Changing Influx of Asylum Seekers' and the 2017 EMN study on 'Resettlement and Humanitarian Admission Programmes', this study could also inform the proposed Union Resettlement Framework Regulation and the increasing interest given to other legal pathways for persons in need of protection (e.g. private sponsorship programmes). Finally, the study could complement and support on-going EMN work on the concept of sustainable migration.

2 STUDY RATIONALE AND BACKGROUND

In the EU law-making context, harmonisation refers to the approximation of national laws through common (and sometimes minimum) standards set by EU legislation to ensure consistency and convergence of standards and practices across the EU. In the field of asylum, EU legislation requires Member States to harmonise their legislation and practices in line with the CEAS. From the perspective of protection statuses, the aim of the CEAS, with the adoption of the 'first' and 'second phase' CEAS instruments, was to codify the status of persons identified as needing international protection and harmonise the content of protection granted. Consequently, the refugee status was included in the Qualification Directive of 2004 and in its recast of 2011 as a means to embrace, in EU law, the concept of refugee as defined by the 1951 Refugee Convention. In contrast, the statuses of beneficiaries of subsidiary and temporary protection were introduced in EU legislation independent of the 1951 Refugee Convention because there were asylum seekers in need of international protection who did not fall under the scope of the Convention but were considered in need of protection in accordance with Member States' obligations under international human rights instruments and/or national practices.[10]

More specifically, subsidiary protection codified and aimed to harmonise a number of existing practices in Member States. However, subsidiary protection, as now defined in the recast Qualification Directive, does not cover all cases where Member States grant protection. Indeed, Member States may grant other forms of protection, either stemming from international obligations not covered by the Qualification Directive or based on discretionary grounds adopted by national legislation. These forms of protection can include for example situations where third-country nationals are excluded from refugee status or subsidiary protection, but face death penalty or execution and torture or inhuman or degrading treatment or punishment based on absolute *non-refoulement* principle, exceptional health situations, etc.

This state of play is, to a certain extent, recognised by the recast Qualification Directive: authorisations to stay in the territory of a Member State for reasons not due to a need of international protection but on a discretionary basis on compassionate or humanitarian grounds fall outside the scope of the recast

[7] The recast Qualification Directive of 2011 further aligned the content of protection granted to refugees and beneficiaries of subsidiary protection compared to the minimum harmonisation ensured by the 2004 Qualification Directive. The Temporary Protection Directive adopted in 2001 established minimum standards of protection in the event of a mass influx, the implementation of which remains dependent on a collective decision of Member States. The temporary protection foreseen in this Directive has never been invoked.
[8] Ireland participated in Directive 2004/83/EC but is not bound by the recast Directive 2011/95/EU. The UK participated in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU.
[9] European Commission, Communication 'Towards A Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe', COM(2016) 197, 6 April 2016.
[10] Subsidiary protection is distinct from temporary protection on the basis that it was granted following an individual status determination on specifically defined grounds related to broader application of the non-refoulement principle in international human rights law, while temporary protection concerns protection granted in a mass influx situation.

Qualification Directive.[11] The 2016 proposal for a Qualification Regulation adds that Member States are free to grant a national humanitarian status to those who do not qualify for international protection.[12]

Furthermore, EU legislation allows Member States to adopt statuses on grounds not harmonised by it and adopt, for example, more favourable standards, as long as they do not undermine EU action and are compatible with existing EU legislation. This is reiterated in the recast Qualification Directive (Article 3) and also recalled by the proposal for a Qualification Regulation. In light of this, the concept of 'constitutional asylum', namely the right to asylum embedded in the constitution of a State, could be considered as setting more favourable standards than the refugee status contained in the recast Qualification Directive, yet this would require a closer analysis of the constitutional provisions and implementing national asylum legislation where relevant. In theory, and as confirmed by the Court of Justice of the European Union (hereafter CJEU), the 'right to asylum' is a broader concept than the refugee status and "Member States may grant a right of asylum under their national law to a person who is excluded from refugee status".[13] The right to asylum is provided in the constitutions of about half of Member States.[14] In some Member States, the constitutional provisions on the right to asylum echo the definition of refugee contained in the 1951 Refugee Convention (e.g. Hungary and Spain), while in others, constitutions provide a more limited definition of refugee (e.g. in Czech Republic, Germany and the Slovak Republic where the right to asylum is limited to the ground of persecution for political opinions).[15] Constitutions in only a few Member States (e.g. France and Italy) contain a right to asylum broader than the grounds for refugee protection in the 1951 Refugee Convention and in the recast Qualification Directive.[16] Notwithstanding the remit of application of the right to asylum compared to refugee protection, in practice, the content of protection granted to beneficiaries of constitutional asylum largely equate to that of beneficiaries of refugee protection. The 'enforcement' of the right to asylum often depends on the adoption of national legislation setting out details on procedure to follow and status to be granted.[17] Thus, States bound by the EU asylum acquis, in particular the recast Qualification Directive, often grant beneficiaries of a right to asylum a refugee status either in line with this Directive or exactly the same status. The present study will therefore research cases of constitutional asylum where the content of protection granted is either more or less favourable than the content of protection of refugee status set in the Qualification Directive.

Likewise, the concept of 'collective protection' exists in certain Member States: in some cases, the level of protection granted is similar to that of the Temporary Protection Directive; in other States, it is a form of national temporary protection, distinct from the EU-harmonised temporary protection, and which this study aims to map.[18]

3 SCOPE OF THE STUDY

The aim of this study is to specifically analyse the different practices concerning the granting of national protection statuses in Member States and Norway, meaning: any other protection status granted to a third-country national on the basis of national provisions that do not fall under international protection as established in EU law (i.e. refugee, subsidiary and temporary protections). This sub-section aims to

[11] See Recital 15 of recast Directive 2011/95/EU of 13 December 2011.
[12] See Article 3(2) of the proposal (which states that "*This Regulation does not apply to other national humanitarian statuses issued by Member States under their national law to those who do not qualify for refugee status or subsidiary protection status. These statuses, if issued, shall be issued in such a way as not to entail a risk of confusion with international protection.*", European Commission, Proposal for a Regulation 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, COM(2016) 466 final, 13 July 2016.
[13] See CJEU, *B & D*, Joined Cases C-57/09 and C-101/09, judgment (Grand Chamber) of 9 November 2010, ECLI:EU:C:2010:661, para. 121
[14] See analysis of constitutional asylum by Stephen Meili, *The Constitutional Right to Asylum: The Wave of the Future in International Refugee Law?* in Fordham International Law Journal, Volume 41, Issue 2, Article 3, pp. 383-424, April 2018, available at: https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2693&context=ilj. See in particular analysis from p. 399 onward: the right to asylum is included in the constitutions of Bulgaria, Czech Republic, France, Germany, Hungary, Italy, Poland, Portugal, Romania, Slovak Republic, Slovenia and Spain.
[15] *Ibid.*
[16] *Ibid.*
[17] *Ibid.*
[18] Organisation for Economic Cooperation and Development, Trends in International Migration, 1999, pp. 184-185; Joanne van Selm, Kosovo's Refugees in the European Union, A&C Black, 2000, p. 273.

clarify which specific statuses are included in the remit of the present study and those which fall outside of it.

Humanitarian grounds

National protection granted for humanitarian (or compassionate) reasons is one of the most common discretionary grounds present in national legislation albeit the concept is not commonly defined.[19] It is often a product of national protection policies and encompasses a variety of situations, eventually decided by national judges and national authorities, including Ministers or even Heads of State, with varying levels of discretion.

In the context of EU (migration) law, CJEU was called on to decide on the concept of 'humanitarian grounds'. In the *X and X* and *Jafari* cases, the Opinions of the Advocates General on these cases expressed the view that 'humanitarian grounds' is an autonomous and broad concept of EU law, and cannot be limited, for example, to cases of medical assistance or health care.[20] In the frame of EU asylum law, and as clarified in section 2, the Qualification Directive makes a clear distinction between the scope of statuses granted based on international protection grounds embedded in EU law and those granted based on national humanitarian grounds. In this context too, the CJEU was asked to rule on the distinction between subsidiary protection and humanitarian grounds, particularly challenging in cases concerning the state of health of a third-country national. Relevant rulings include, for example:

- The *M'bodj* case[21] concerned the scope of application of the Qualification Directive to third-country nationals suffering from illness and whose removal would amount to inhuman or degrading treatment. In this case, among others, the CJEU ruled that Member States could not extend subsidiary protection to medical cases on the basis of Article 3 of the Qualification Directive;
- In *Moussa Abdida* case,[22] CJEU confirmed that an application under national legislation granting leave to remain due to a serious illness coupled to a lack of medical treatment in the country of origin did not constitute a claim for subsidiary protection within the scope of the Qualification Directive;
- More recently, in the *MP* case of 24 April 2018, the CJEU ruled that cases where the medical situation of a third-country national could be attributed to the intentional failure to act of the authorities of the country of origin to provide appropriate medical care fell under the scope of subsidiary protection as harmonised by the Qualification Directive.[23]

Thus, at this stage of development of CJEU jurisprudence, it appears that the decisive criterion for determining whether a medical case falls under subsidiary protection or (national) humanitarian protection is the existence or not of the intentional denial of medical treatment in the country of origin; the substantial aggravation of a third-country national's health alone cannot be regarded as inhuman or degrading treatment in the country of origin.

ECHR and the broader *non-refoulement* principle

The European Court of Human Rights (hereafter the ECtHR) has reiterated on many occasions that the European Convention for Human Rights (hereafter the ECHR) and its protocols do not contain a right to asylum. This stems from the right of States party to the ECHR, as a matter of well-established

[19] See for example the following EMN Ad-Hoc Queries on the *Number of applications for humanitarian reasons (third country nationals applying for residence permits for medical reasons) limited to NO, SE, FI, BE, DE, AT, NL, LU, FR and UK*, requested by FR EMN NCP on 19th September 2018 and the one on *Humanitarian Protection*, requested by ES EMN NCP on 2nd June 2017.
[20] Opinion of the Advocate General in *X and X*, C-638/16 PPU, EU:C:2017:93, paragraph 130, in relation to Article 25 of the Visa Code and Opinion of the Advocate General in *Jafari,* C-646/16, paragraph 202, ECLI:EU:C:2017:443.
[21] CJEU, C-542/13, Judgment of the Court (Grand Chamber) of 18 December 2014, *Mohamed M'Bodj v État belge*, ECLI:EU:C:2014:2452.
[22] CJEU, C-562/13, Judgment of the Court (Grand Chamber), 18 December 2014, *Centre public d'action sociale d'Ottignies-Louvain-La-Neuve v Moussa Abdida*, ECLI:EU:C:2014:2453.
[23] CJEU, C-353/16, Judgment of the Court (Grand Chamber) of 24 April 2018, MP v Secretary of State for the Home Department, ECLI:EU:C:2018:276, paragraph 58: "*a third country national who in the past has been tortured by the authorities of his country of origin and no longer faces a risk of being tortured if returned to that country, but whose physical and psychological health could, if so returned, seriously deteriorate, leading to a serious risk of him committing suicide on account of trauma resulting from the torture he was subjected to, is eligible for subsidiary protection if there is a real risk of him being intentionally deprived, in his country of origin, of appropriate care for the physical and mental aftereffects of that torture, that being a matter for the national court to determine*."

international law, to control the entry, residence and expulsion of aliens. Nonetheless, the ECtHR has pointed out that this right is not unqualified and is subject to States' treaty obligations, including under the ECHR, which contains various protections concerning the expulsion and other forms of removal of third-country nationals such as protection against *refoulement*.[24]

In addition to the ECtHR jurisprudence on non-refoulement that was, to a certain extent, codified under the subsidiary protection concept in the recast Qualification Directive, a range of other protection grounds were defined by the ECHR and the ECtHR, covering for instance exceptional medical cases, family reasons and best interest of the child,[25] or expulsion of persons excluded from international protection who are at risk of the death penalty or torture in their country of origin.[26]

States parties to ECHR that are also EU Member States are also bound by the provisions of the recast Qualification Directive of 2011[27] according to which subsidiary protection status is to be granted, among others, to third-country nationals who do not qualify as refugees but who nevertheless face a real risk of torture or inhuman or degrading treatment or punishment in their country of origin. In the frame of the present study, the distinction between the grounds leading to subsidiary protection, as defined in the Qualification Directive (Article 15), and the prohibition of torture or inhuman or degrading treatment or punishment, as included in the ECHR (Article 3), is most relevant. From the perspective of the CJEU, it ruled in *Elgafaji* that Article 15(b) of the Qualification Directive corresponds in essence to Article 3 ECHR. However, the *M'Bodj* case shows that some situations falling within the scope of Article 3 ECHR are excluded from subsidiary protection, thus falling under the remit of national legislations and the 'humanitarian grounds' category. While the CJEU indicated situations falling outside the scope of subsidiary protection, they still can, according to the ECtHR case law, be considered as grounds of protection and include, for example, protection against expulsion of seriously or terminally ill third-country nationals.[28]

This study thus aims to map possible grounds of national protection statuses outside the scope of the Qualification Directive yet falling under Article 3 of the ECHR and related ECtHR case law.

Protection grounds and statuses not covered by this study

The recognition of stateless persons is established in accordance with the 1954 Convention on the Reduction of Statelessness. A 2016 EMN Inform on Statelessness in the EU[29] provided an overview of the legislation and practices in 23 countries[30] concerning the determination of statelessness and the issuance of a residence permit. As this study will deal with 'national protection statuses' as opposed to those deriving from international law, the status of stateless person falls outside the remit of this study.

Likewise, statuses granted to victims of crime (e.g. trafficking in human beings or victims of smuggling or witnesses of criminal proceedings) are not covered by this study due to criminal law governing most aspects of the grounds and the procedure. The same approach was taken with regard to witness protection programmes.

While this study will map national humanitarian protection statuses granted to third-country nationals already present on the territory of Member States and Norway, it will not include 'humanitarian visas', aimed to provide access to the territory of Member States of persons in need of protection.

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[24] UN High Commissioner for Refugees (UNHCR), UNHCR Manual on the Case Law of the European Regional Courts, June 2015, 1st edition, available at: https://www.refworld.org/docid/558803c44.html [accessed 11 January 2019], p. 188. See also the following ECtHR case law: *Soering v. the United Kingdom,* 1989*; Cruz Varas and Others v. Sweden,* 1991*; Vilvarajah and Others v. the United Kingdom,* 1991, *Babar Ahmed and Others v. the United Kingdom,* 2012; *T.I. v. the United Kingdom*, 2000; *K.R.S. v. the United Kingdom*, 2008; *M.S.S. v. Belgium and Greece*, 2011; *Abdolkhani and Karimnia v. Turkey*, 2009; *Hirsi Jamaa and Others v. Italy*, 2012.

[25] Examples of ECtHR case law in: *Amrollahi v. Denmark*, 2002; *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 2007; *Guliev v. Lithuania*, 2008; *Hode and Abdi v. The United Kingdom*, 2012; *Berisha v. Switzerland*, 2013; *Mugenzi v. France*, *Tanda- Muzinga v. France* and *Senigo Longue and Others v. France*, 2014.

[26] For example, ECtHR, *Auad v. Bulgaria*, Application No. 46390/10, 1 October 2011.

[27] With the exception of Ireland and the UK where the 2004 Qualification Directive applies.

[28] ECtHR judgments in cases *N. v United Kingdom, D v United Kingdom, Poposhvili v Belgium*; The *N* case test requires judges to use a high threshold, which would only allow very exceptional cases where the grounds against removal were compelling, effectively limiting protection against removal to 'deathbed' cases.

[29] Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-informs/emn-informs-00_inform_statelessness_final.pdf.

[30] States participating to this inform were the following: AT, BE, CZ, EE, FI, FR, DE, HR, HU, IE, IT, LV, LT, LU, MT, NL, PL, SK, SI, ES, SE, UK and NO.

The variety of residence permits issued to third-country nationals considered as non-removable are excluded from this study, i.e. situations where national authorities are faced with the impossibility of returning a person (s/he would not be readmitted to the country of origin, lack of identification documents or no transportation available, etc.).[31]

Lastly, this study will not map cases based on Article 8 of the ECHR and the interpretation of the ECtHR.

Temporal scope of the study

The study covers statuses that are available in Member States and Norway up to the end of 2018 (in terms of data) and planned or recent legislative changes in 2019. The study also includes statuses available at, or introduced since, the time of the 2010 EMN study 'The Different National Practices Concerning Granting of Non-EU Harmonised Protection Statuses', which were ceased or removed from national legislation during the study period. The temporal scope of the study is therefore 2010-2018.

4 DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken from the EMN Glossary Version 6.0 unless indicated otherwise.

'Protection': A concept that encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law. Protection involves creating an environment conducive to respect for human beings, preventing and/or alleviating the immediate effects of a specific pattern of abuse, and restoring dignified conditions of life through reparation, restitution and rehabilitation.[32]

'Status': In the context of this study, 'status' refers to a legal status which leads directly to the issuing of a residence permit granting a long-term (i.e. longer than three months[33]) right to reside in a Member State.

'International Protection': The EMN Glossary defines 'international protection' with reference to Article 2(a) of the Recast Qualification Directive 2011/95/EU in the following way: In the global context, the actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries. In the EU context, international protection encompasses refugee status and subsidiary protection status.

'National protection status': In the context of this study, *national protection* refers to any protection status granted by a State to a third-country national on the basis of national provisions that are not related to international protection, as defined in and harmonised by the Qualification Directive 2011/95/EU, nor to temporary protection as defined in the Temporary Protection Directive 2001/55/EC. *National protection status* is the recognition by a State of a third-country national as a person eligible for national protection.

National protection statuses granted in Member States may be conceived as consisting of rights leading to the issuance of residence permits that are granted to a wide range of third-country nationals for a variety of reasons. Such national (or non-harmonised) protection statuses usually lie outside of the asylum procedure and related residence permits are granted as part of (legal) migration policies, and on grounds relating to the situation of the person including at the time when (forced) removal from the EU Member State is imminent. Grounds may include:

- ★ Status for relocated or resettled persons (that are not granted an international protection status harmonised by EU law or equivalent),
- ★ Statuses for beneficiaries of private or community sponsorship programmes,
- ★ Statuses for beneficiaries of other programmes designed to assist for example family members (of persons legally residing in a state and) in need of protection to enter and reside in the EU),

[31] Please see EMN AHQ issued on this topic (e.g. Undesirable but Unreturnable, issued under EMN REG activities).
[32] UNHCR Master Glossary of Terms, June 2006, Rev.1, available at: https://www.refworld.org/docid/42ce7d444.html and EMN Glossary of terms.
[33] In this context, 'long-term' is to be understood in accordance with the provisions of Regulation (EU) No 265/2010 (Long Stay Visa Regulation).

- ★ Constitutional asylum (that does lead to granting an international protection status harmonised by EU law or equivalent),
- ★ Collective protection (that does lead to granting an international protection status harmonised by EU law or equivalent),
- ★ Other (including humanitarian) statuses for:
    - Medical reasons,
    - Statuses for climate change reasons and natural disasters,
    - Statuses for local personnel of armed forces (e.g. Interpreters),
    - Special statuses for unaccompanied minors,
    - Special statuses for children (if different from the protection-related status provided to adults for the above-listed reasons).

This is not an exhaustive list.

'**Humanitarian protection**': A decision granting authorisation to stay for humanitarian reasons by administrative or judicial bodies under national law.

Please note that the present study covers humanitarian protection granted to third-country nationals already present on the territory of Member States. This study does not include 'humanitarian visas' aimed to provide access to the territory of Member States of persons in need of protection.

'**Resettlement**': *In the global context*, it is the selection and transfer of refugees from a state in which they have sought protection to a third country which has agreed to admit them as refugees with permanent residence status. The status provided ensures protection against refoulement and provides a resettled refugee and his/her family or dependants with access to rights similar to those enjoyed by nationals. For this reason, resettlement is a durable solution as well as a tool for the protection of refugees. *In the EU context*, resettlement refers to the process whereby, on a request from UNHCR based a person's need for international protection, third-country nationals are transferred from a third country and established in a Member State, where they are permitted to reside with one of the following statuses: (i) refugee status within the meaning of Article 2(d) of Directive 2011/95/EU; (ii) 'subsidiary protection status' within the meaning of point (g) of Article 2 of Directive 2011/95/EU; or (iii) any other status which offers similar rights and benefits under national and Union law as those referred to the previous points.

'Relocation': *In the general EU-context*, the transfer of persons having a status defined by the Geneva Refugee Convention and Protocol or subsidiary protection within the meaning of Directive 2011/95/EU (Recast Qualification Directive) from the EU Member State which granted them international protection to another EU Member State where they will be granted similar protection, and of persons having applied for international protection from the EU Member State which is responsible for examining their application to another EU Member State where their applications for international protection will be examined. *In the context of the EU emergency relocation programme*, the transfer of persons in clear need of international protection, as defined in Council Decision 2015/1601 and 2016/1754, having applied for international protection from the EU Member State, CH or NO which is responsible for examining their application to another EU Member State, CH or NO where their application for international protection will be examined.

'Private sponsorship schemes':[34] There is no common and agreed definition of private sponsorship. Generally, they involve a transfer of responsibility from government agencies to private actors for some elements of the identification, pre-departure, reception, or integration process for beneficiaries. Thus, sponsorship is best described as *a way* of admitting persons for humanitarian or (international) protection reasons, rather than as a separate 'protection status' in itself.

[34] https://publications.europa.eu/en/publication-detail/-/publication/1dbb0873-d349-11e8-9424-01aa75ed71a1/language-en/format-PDF/source-77978210.

Core benefits: In the context of EU law, the concept of core benefits is understood to cover, at least as a minimum, income support, assistance in case of illness, pregnancy, and parental assistance, in so far as these benefits are granted to nationals under national law.[35]

Constitutional asylum: see section 3 on the scope of the study.

Collective protection: see section 3 on the scope of the study.

5 PRIMARY QUESTIONS TO BE ADDRESSED BY THE STUDY

The main questions the Study will aim to address are:

- In brief, what are the EU-harmonised protection statuses?
- Do Member States and Norway provide protection statuses not covered by EU legislation? (see scope of the study)
- What are the procedures in respect of each non-harmonised protection status available in Member States and Norway (e.g. map the procedures followed to grant protection)? How does this relate to the procedure applicable to international protection statuses (i.e. at what point can the national status be accessed)?
- Who may access the national (or non-harmonised) statuses?
- What are the key rights, standards and content of protection of the national statuses and how do these compare with the EU-harmonised statuses?
- What data are available in your State on persons granted national (or non-harmonised) statuses?

6 RELEVANT SOURCES AND LITERATURE

EMN Studies

- Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway, 2018;[36]
- The Changing Influx of Asylum Seekers in 2014-2016, 2018;[37]
- Family Reunification of Third-Country Nationals in the EU and Norway: National Practices, 2016;[38]
- Returning Rejected Asylum Seekers: Challenges and Good Practices, 2016;[39]
- Resettlement and Humanitarian Admission Programmes in Europe – What Works? 2016;[40]
- Integration of Beneficiaries of International/Humanitarian Protection into the Labour Market: Policies and Good Practices, 2015.[41]

EMN Ad-hoc Queries

- *Issuing a residence permit to rejected asylum seekers without a valid travel document*, requested by FI EMN NCP on 31 October 2018;

[35] See for example Recital 45 of the recast Qualification Directive.
[36] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_unaccompanied_minors_2017_en.pdf.
[37] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_changing_influx_study_synthesis_final_en.pdf.
[38] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_family_reunification_sr_final.pdf.
[39] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_synthesis_report_rejected_asylum_seekers_2016.pdf.
[40] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_resettlement_synthesis_report_final_en.pdf.
[41] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_integration_of_beneficiaries_of_international_protection__eu_2015_en_final.pdf.

- *Number of applications for humanitarian reasons (third country nationals applying for residence permits for medical reasons) limited to NO, SE, FI, BE, DE, AT, NL, LU, FR and UK*, requested by FR EMN NCP on 19September 2018;
- *Humanitarian Protection*, requested by ES EMN NCP on 2 June 2017;
- *TCNs who could not be expelled from the State due to lack of identification/return documents*, requested by LT EMN NCP on 3 May 2016;
- *Applications of Ukraine nationals for other types of protection than international/subsidiary*, requested by CZ NCP on 17 June 2014;
- *Uniform international protection status*, requested by AT EMN NCP on 14 October 2014;
- *Residence permits for medical reasons*, requested by BE EMN NCP on 3 March 2010.

European case law

The following case law from European courts was identified (see also section 3 of this introduction).

- Court of Justice of the EU:
  - C-57/09 and C-101/09, *B & D*, judgement 9 November 2010.
  - C-542/13, *Mohamed M'Bodj v Conseil des ministres* , Grand Chamber judgment of 18 December 2014
  - C-562/13, *Centre public d'action sociale d'Ottignies-Louvain-La-Neuve v Moussa Abdida*, Grand Chamber judgment of 18 December 2014
  - C-353/16, *MP v. Secretary of State for the Home Department*, Grand Chamber judgment of 24 April 2018
- European Court of Human Rights:
  - *D v United Kingdom*, Application No. 30240/96, *Judgment of* 2 May 1997
  - *N. v United Kingdom*, Application No. 26565/05, *Judgment of* 27 May 2008
  - *Sufi and Elmi v United Kingdom, Application Nos. 8319/07 and 11449/07,* Judgment of 28 November 2011
  - *Auad v Bulgaria, Application No. 46390/10,* Judgment of 11 January 2012
  - *Paposhvili v. Belgium*, Application no. 41738/10, Judgment of 13 December 2016

National case law

- French National Court of Asylum, case no. 15033491, Judgment of 9 February 2018.[42]

Other relevant sources

- European Commission, Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement, 2018.[43]
- European Commission Study of the Temporary Protection Directive, 2016.[44]

[42] In this case, the national court ruled that a third-country national benefitting from national protection in a Member State does not preclude another Member State to examine his or her application for international protection.
[43] https://publications.europa.eu/en/publication-detail/-/publication/1dbb0873-d349-11e8-9424-01aa75ed71a1/language-en/format-PDF/source-77978210.
[44] Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/asylum/temporary-protection/docs/final_report_evaluation_tpd_en.pdf.

- Handbook on European law relating to asylum, borders and immigration, European Union Agency for Fundamental Rights, 2014.[45]
- Vincent Chetail, Philippe De Bruycker, Francesco Maiani (Eds.), Reforming the Common European Asylum System: The New European Refugee Law, Brill Nijhoff, 2016.
- Francesco Cherubini, Asylum Law in the European Union, Routledge, 2015.
- Kay Hailbronner, Daniel Thym, EU Immigration and Asylum Law: A Commentary, C.H. Beck, 2016.
- Natascha Zaun, EU Asylum Policies: The Power of Strong Regulating States, Palgrave Macmillan, 2017.
- Steve Peers, Violeta Moreno-Lax, Madeline Garlick, Elspeth Guild, EU Immigration and Asylum Law (Text and Commentary): Second Revised Edition: Volume 3: EU Asylum Law, Hotei Publishing, 2015.
- Cathryn Costello, The Human Rights of Migrants in European Law, Oxford University Press, 2016.
- Céline Bauloz, Meltem Ineli-Ciger, Sarah Singer, Vladislava Stoyanova, Seeking Asylum in the European Union: Selected Protection Issues Raised by the Second Phase of the Common European Asylum System, Brill Nijhoff, 2015.
- Liv Feijen, *Filling the Gaps? Subsidiary Protection and Non-EU Harmonized Protection Status(es) in the Nordic Countries* in International Journal of Refugee Law, Volume 26, Issue 2, pp. 173–197, June 2014.
- Stephen Meili, *The Constitutional Right to Asylum: The Wave of the Future in International Refugee Law?* In Fordham International Law Journal, Volume 41, Issue 2, Article 3, pp. 383-424, April 2018.

7 AVAILABLE STATISTICS

Eurostat statistics on :

- First instance decisions on applications by citizenship, age and sex Annual aggregated data (rounded) [*migr_asydcfsta*], as of 2008;
- Decisions withdrawing status granted at first instance decision by type of status withdrawn and by citizenship Annual aggregated data (rounded) [*migr_asywitfsta*], as of 2008;
- Final decisions on applications by citizenship, age and sex (annual data) [*migr_asydcfina*], as of 2008.

8 ADVISORY GROUP

Advisory Group members are:

IE NCP – chair	Emma QUINN, Sarah GROARKE
BE NCP	Ina VANDENBERGHE
CZ NCP	Veronika VOTOČKOVÁ
DE NCP	Janne GROTE
EL NCP	Athena BALOPOULOU
HU NCP	Brigitta WEIDINGER, Katalin VERES
IT NCP	Stefania NASSO
LU NCP	Ralph PETRY; Adolfo SOMMARRIBAS

[45] Available at: http://fra.europa.eu/sites/default/files/handbook-law-asylum-migration-borders-2nded_en.pdf.

NO NCP	Stina HOLTH
SE NCP	Jonas HOLS; Madgalena LUND
UK NCP	Zoe PELLAT
COMMISSION	Anna KADAR
EASO	Karolina LUKASZCZYK
Odysseus experts	Philippe DE BRUYCKER, Lyra JAKULEVICIENE, Mykolas SAVESLSKIS
ICF	Sonia GSIR, Tatiana KISTRUGA, Sara BAGNATO

9 TIMETABLE

The following tentative timetable has been proposed for the Study going forward:

Date	**Action**
12 December 2018	1st Advisory Group meeting in Brussels
15 January 2019	2nd Advisory Group in Dublin
11 February 2019	Launch of the study
13 May 2019	Submission of national reports by EMN NCPs
29 May 2019	Circulation of the first draft to COM
5 June 2019	Deadline for comments from COM
10 June 2019	Circulation of the 1st draft of the synthesis report to all EMN NCPs, European Commission and EASO to provide comments
24 June 2019	Deadline for the NCPs to provide comments on 1st draft of the Synthesis report
10 July 2019	Circulation of the 2nd draft of the synthesis report to all EMN NCPs, European Commission and EASO to provide comments
24 July 2019	Deadline for EMN NCPs to provide comments on 2nd draft
7 August 2019	Circulation of the final draft the synthesis report to all EMN NCPs, European Commission for final comments
21 August 2019	Deadline for final comments
Beginning of September 2019	Finalization and lay-out of the study package (synthesis report, inform and flash), publication and dissemination

10 TEMPLATE FOR NATIONAL CONTRIBUTIONS

Common Template of EMN Study 2019

Comparative overview of national protection statuses in the EU

National Contribution from the *Czech Republic* *[46]

Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.

Top-line factsheet [max. 1 page]

*The top-line factsheet will serve as an overview of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.*

Please provide a concise summary of the main findings of Sections 1-3:

To be elaborated later.

The Study on *Comparative overview of national protection statuses in the EU and Norway* provides an overview of all possible types of non-harmonised protection statuses that is possible to obtain in the Czech Republic.

The legal system of the Czech Republic in the area of asylum and migration consists of two main legal instruments (Asylum Act[47] and Act on Foreign Nationals[48]) and both of those Acts provide statuses which may be classified as protection ones. Nevertheless the statuses concerned are different from each other in particular in terms of the validity of the status as well as the proceedings how to obtain them.

One of the main differences is in the guiding principles of both Acts mentioned above. If the person concerned asks for the protection according to Asylum Act, the authority responsible for the decision also decides which kind of protection (EU harmonised as well as non-harmonised) should be granted to the applicant. On the other hand Foreigner Act is based on the principle that the applicant is obliged to ask for one concrete residence permit including the one with the protection nature.

The system as it is designed provides for the Member States enough flexibility to be able to face the different challenges in this topic. Nevertheless the monitoring of the migration situation is being done continuously and there may be a need for further improvements in this topic in the future. Moreover it is also important to underline that the system of different non-harmonised statuses in the Member States is supported by the Czech Republic.

The Study itself is divided into 3 Sections and begins by a general overview of available national protection statuses, divided by grounds on which the status is issued (Section 1)[49]. The

[46] Replace highlighted text with your **Member State** name here.
[47] Act No. 325/1999 Coll., on Asylum.
[48] Act No. 326/1999 Coll., on the Residence of the Foreign Nationals in the Territory of the Czech Republic.
[49] Please note that the Czech Republic decided to exclude tolerated stay visa from this study as these visas are considered to be beyond the scope of this study.

exhaustive description of all statuses is available in the Section 2 where all statuses are described in a single table from many different angles (legislation, appeals, rights, content of protection etc.). Last chapters are devoted to the topic of general public debate in the Czech Republic and to a conclusion.

This study excludes the EU harmonised statuses according the Qualification and Temporary Protection Directives[50]. Therefore, only national protection statuses that are granted on humanitarian grounds, non-refoulement principle etc. are included in the study.

[50] Qualification Directive – i.e. according to Section 12 (b) of the Asylum Act No. 325/1999 Coll. and the subsidiary protection provided similarly according to this Directive – i.e. according to Section 14a(1) and (2)(a)-(c) of the Asylum Act No. 325/1999 Coll.
Temporary Protection Directive was implemented into national law of the Czech Republic by the Act No. 221/2003 Coll. on Temporary Protection of Foreigners, as amended. The Act on Temporary Protection provides for the temporary residence permit based on the temporary protection grounds. The activation of this legal instrument is determined by the decision of the Council of the EU as it is provided for in the Temporary Protection Directive.

Section 1: Overview and mapping of types national protection statuses

Q1. Aside from the EU-harmonised protection statuses, are there any other protection statuses currently available in your Member States? Yes/No

Please note that any evolution in the type of statuses that were available in the past years but not currently available is to be developed in question 8.

Yes

Q2. **If no to Q1**, please elaborate.

Please note question 12 (e.g. in case statuses reported in the 2010 study no longer exist, please note your answer there).

-

Q3. **If yes to Q1**, please complete **Table 1** with the type of non-harmonised protection statuses *currently* available.

*Please indicate in **Table 1** the type of non-harmonised protection status(es) currently available*

- *Do not include any non-protection statuses: please refer to the scope of the study as defined in the introduction of the template.*
- *The type of statuses listed in **Table 1** is not exhaustive and is meant to act as a guide.*
- *National protection statuses can include for example those issued on the basis of ECHR Articles 3 and the principle of non-refoulement, medical reasons, climate change reasons, and other measures used to facilitate the legal admission and issuing of residence permits to persons in need of protection.*

If a group of statuses (e.g. for medical, climate change and non-refoulement reasons) fall within a more general, overarching humanitarian status, please fill in the row below related to humanitarian status and include information on who is eligible for such status in Table 3. If there are differences in the content of protection, however, please indicate them in Table 4.

Table 1 Type of non-harmonised protection status(es) currently available

Type of non-harmonised protection status	Yes	No	Comments
Constitutional asylum			
Please note section 3 in the template for background; if the status provided falls under an 'EU protection status' please note that that in your answer in the 'comments' column.	☒	☐	Asylum according to Sect. 12 Lett. a) of the Asylum Act (No. 325/1999 Coll.) may be granted. The content of the rights for the persons concerned is the same as the content of the rights according to Qualification Directive for the recognised refugee.
Collective protection			

Please note section 3; if the status provided falls under an 'EU protection status' (e.g. the Temporary Protection Directive) please note that that in your answer in the 'comments' column.	☒	☐	The temporary residence permit based on the Temporary protection directive or based on the Act No. 221/2003 Coll., on the Temporary Protection of Foreigners, as amended.
Other national (including humanitarian) statuses [51]based on:			
Medical reasons *See section 3 of the introduction in the study's template*	☒	☐	There is no specialised protection status only for medical reasons. In case of the serious medical reasons "a protection status" may be granted. The respective type of the status will very much depend on the individual situation of the person concerned (medical reasons or legal status of the individual[52] etc. are taken into account).
Statuses available for climate change reasons and natural disasters	☐	☒	
Statuses available for local personnel of armed forces of respective Member States (e.g. interpreters in Afghanistan or Iraq)	☐	☒	
Special statuses available for unaccompanied/aged-out minors ** Please note the recent EMN study on UAM and summarise where relevant*	☒	☐	Permanent residence permit for UAMs.
Special statuses available for children ** Please include only if status is different from the protection-related status provided to adults/unaccompanied minors for the above-listed reasons*	☐	☒	
Other (national protection) grounds *Please specify and add as many rows as necessary.* *Please note that study covers only national statuses granted to persons based on protection grounds – which could be applicable to persons that cannot be returned on the principle of non-refoulement. However, <u>legal statuses granted due to practical challenges to remove a third-country national fall outside the scope of the study</u> (see Section 3 in the introduction).*	☒	☐	1. The subsidiary protection based on the international obligations of the Czech Republic. 2. Permanent residence permit according to the Sec. 67 par. of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic, can be issued to an unsuccessful applicant for the international

[51] There are several options: humanitarian asylum, tolerated stay long-term visa etc.

[52] The type of protection status granted for serious medical reasons depends on a legal status of the individual (there are different conditions for persons staying irregularly, for beneficiaries of international protection etc.).

			protection after the end of the international protection proceeding on his/her own request . 3. Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic can be issued on humanitarian grounds.
The humanitarian asylum	×		Non- harmonised status with the same content as the status for recognised refugees according to the Qualification Directive (Humanitarian asylum according to the Section 14 of the Asylum Act (Act no. 325/1999 Coll., as amended.)

Q4. **If yes to Q1**, please complete **Table 2** with the type of statuses currently available for relocated and resettled persons, persons who are admitted through private/community sponsorship or other type of special programmes

If statuses available also include non-harmonised protection status(es), please also complete Table 3 and Table 4 in section 2.

Table 2 Type of protection status(es) currently available for relocated and resettled persons, persons who are admitted through private/community sponsorship or other type of special programmes

Type of protection status	Yes		No	Comments
	EU-harmonised protection status	Non-harmonised protection status		
Status(es) available for resettled persons				
**Please note: EMN study on resettlement and humanitarian admission programmes*	☒	☐	☐	Asylum (i.e. recognised refugee status according to QD)
Status(es) available for relocated persons				
**Please note the EU relocation programmes (introduction of the template)*	☒	☐	☐	Statuses according to the QD.[53]
Status(es) available to beneficiaries of community / private sponsorship programmes				
**Please note: EMN study on resettlement and humanitarian admission programmes*	☐	☐	☒	

[53] It is necessary to mention that CZ currently does not participate on EU relocation programme.

Statuses available to beneficiaries of other special programmes				
E.g.: special programmes designed to assist persons in need of protection to enter and reside in the EU (e.g. in the frame of humanitarian admission programmes; family members of third-country nationals already legally residing in Member States)	☐	☐	☒	

Section 2: Rationale, procedure and content of protection of national protection statuses

Q5. **If yes to Q1** and indicated in Tables 1 and 2 types of non-harmonised protection status(es), please elaborate on rationale for the adoption of the status(es) and the determination procedure for each of the non-harmonised protection statuses.

Please refer to the relevant law or policy throughout.

Please add as many tables as necessary, filling one table per status, clearly indicating to which type of non-harmonised category it belongs to.

Table 3 : Rationale for national protection status and determination procedure

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status A [Humanitarian Asylum]	
Background	
Why was the status adopted? ** please briefly brief outline of the policy background that led to the adoption of this status*	The status was adopted in order to grant a status in the case where the person concerned is in very specific situation but there are no reasons for granting the recognised refugee status as defined in the Qualification Directive.
In what year was this status established?	In 1999
Is this status established on: a) A permanent basis? b) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation?	a) a permanent basis.
Legal basis	
Is the *status* set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	Legislation – Section 14 of the Asylum Act (Act no. 325/1999 Coll., as amended.
Eligibility	
Who is eligible to receive this status?	The person who has asked for international protection. No reasons for granting the international protection have been found during

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status A [Humanitarian Asylum]	
	the administrative procedure, but there are serious humanitarian reasons to grant the status.
Determination procedure	
Is an application procedure set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law)?	a) Legislation – the standard asylum procedure according to Asylum Act.
When is application for the national protection status possible: a) Immediately, as part of a single procedure examining the need for international protection? b) Immediately, as part of a separate procedure? c) After exhausting the asylum procedure in-country? d) Other (please explain).	a)
Where does the application take place: a) In the territory of your State? b) In a third country? c) Both are possible.	a)
Briefly outline the procedure in terms of: — Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the same authorities as those responsible of examining international protection applications; — Existing timelines and notification of the (first instance) decision, information to the beneficiary	It is a part of the single procedure examining the need for the international protection; therefore the same authorities (Ministry of the Interior of the Czech Republic) are involved as those responsible for examining the international protection cases. The permanent residence permit is issued to the beneficiary. The asylum procedure is applicable also in terms of timelines (6 months – the basic time line, the decision shall be notified in person and immediately after the notification of the decision the person in question is informed about her/his rights and obligations including the offer of the integration programme.
Appeal procedures	
Is there an appeal in the event of a negative decision? Yes/No	Yes
If yes, is it a two-level system of appeal or one level?	2 level system
If yes, is it: - An administrative appeal? - A judicial appeal? - Judicial review? - Other? (please explain)	Judicial review *Note: The difference between judicial review and judicial appeal is not clear for us.*
Does the appeal have an automatic suspensive effect? Yes/No If no, can it be requested and what is the procedure in this case?	Yes

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status A [Humanitarian Asylum]	
Are the authorities involved the same as those in appeal procedures against a negative decision in the *international protection* procedure?	Yes
If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No	Yes, generally.
If there is no possibility for appeal, please explain what happens.	---
Change of status	
In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for: a. International protection status? (please specify which) b. Other legal migration statuses? (please specify which)	Yes, both options are possible, but more in the theory due to the fact that humanitarian asylum has the permanent nature.
Relevant case law	
Is there any relevant case law (by the highest instance courts and final judgements) that led to *systemic* changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. *In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)*	Yes The judgment of the Supreme Administrative Court from 19 May 2004, ref. number 5 Azs 60/2004: "The decision of the administrative authority to grant or not to grant humanitarian asylum is the result of an administrative discretion." The judgment of the Supreme Administrative Court from 19 July 2004, ref. number 5 Azs 105/2004, 375/2004 Coll. of Supreme Administrative Court: "Section 14 of Act No. 325/1999 Coll., on Asylum, is a combination of an indeterminate legal concept and an administrative discretion, where an indeterminate legal term is a" special consideration "and the administrative body's own decision expressed in words "can be granted asylum" discretion.

Note: Constitutional asylum. The answers provided in the previous column for Status A are applicable equally for the constitutional asylum which is provided further in Section 12 letter a) of the Asylum Act. To explain more precisely the legal basis of the Constitutional Asylum: Section 12 letter a) of the Asylum Act mirrors the Article 43 of the Charter of Fundamental Rights and Freedoms of the Czech Republic. "The Czech Republic shall grant asylum to aliens who are being persecuted for the assertion of their political rights and freedoms. Asylum may be denied to a person who has acted contrary to fundamental human rights and freedoms."

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):
Status B [The subsidiary protection based on the international obligations of the Czech Republic]
Background

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status B [The subsidiary protection based on the international obligations of the Czech Republic]	
Why was the status adopted? ** please briefly brief outline of the policy background that led to the adoption of this status*	Following the obligation to transpose the EU law, the institute of the subsidiary protection has been inserted to the national law and the previous status of the "obstacles to leave" has been revoked. The concept of the previous national institute "obstacles to leave" was broader than the concept of the "subsidiary protection" as defined in the Qualification directive therefore the national concept of the "subsidiary protection" has been extended by another reason for granting the subsidiary protection status.
In what year was this status established?	2006
Is this status established on: a) A permanent basis? b) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation?	b) A temporary basis.
Legal basis	
Is the *status* set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	a) Legislation – Section 14a par. 2 lett. d) of the Asylum Act (Act No. 325/1999 Coll., as amended).
Eligibility	
Who is eligible to receive this status?	The person who has asked for international protection. No reasons for granting the asylum (i.e. recognised refugee status) have been found during the administrative procedure, but there are well – founded concerns that third country national return to the country of origin would be in breach of the international obligations of the Czech Republic.
Determination procedure	
Is an application procedure set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law)?	a) Legislation - – the standard asylum procedure according to Asylum Act.
When is application for the national protection status possible: a) Immediately, as part of a single procedure examining the need for international protection?	a) Immediately, as a part of the single procedure.

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status B [The subsidiary protection based on the international obligations of the Czech Republic]	
b) Immediately, as part of a separate procedure? c) After exhausting the asylum procedure in-country? d) Other (please explain).	
Where does the application take place: a) In the territory of your State? b) In a third country? c) Both are possible.	a) In the territory of the Czech Republic.
Briefly outline the procedure in terms of: – Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the same authorities as those responsible of examining international protection applications; – Existing timelines and notification of the (first instance) decision, information to the beneficiary	As mentioned in one of the previous column it is a part of the single procedure examining the need for the international protection, therefore the same authorities (Ministry of the Interior of the Czech Republic) are involved as those responsible for examining the international protection cases. The temporary residence permit is issued to the beneficiary. The asylum procedure is applicable also in terms of timelines (6 months – the basic time line, the decision shall be notified in person and immediately after the notification of the decision the person in question is informed about her/his rights and obligations including the offer of the integration programme.
Appeal procedures	
Is there an appeal in the event of a negative decision? Yes/No	Yes
If yes, is it a two-level system of appeal or one level?	2 level system
If yes, is it: - An administrative appeal? - A judicial appeal? - Judicial review? - Other? (please explain)	Judicial review.
Does the appeal have an automatic suspensive effect? Yes/No If no, can it be requested and what is the procedure in this case?	Yes
Are the authorities involved the same as those in appeal procedures against a negative decision in the *international protection* procedure?	Yes
If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No	Yes, generally.
If there is no possibility for appeal, please explain what happens.	N/A
Change of status	
In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for:	Application for international protection is possible.

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status B [The subsidiary protection based on the international obligations of the Czech Republic]	
a. International protection status? (please specify which) b. Other legal migration statuses? (please specify which)	There are the possibilities to apply for other legal migration statuses. It depends on the conditions which are required for each legal migration status. For example the application for permanent residence permit is possible after 5 years of the legal staying on the territory of the Czech Republic.
Relevant case law	
Is there any relevant case law (by the highest instance courts and final judgements) that led to *systemic* changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. *In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)*	No

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status C [Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]	
Background	
Why was the status adopted? ** please briefly brief outline of the policy background that led to the adoption of this status*	This category is included into the Act on Residence of Foreign Nationals in the Territory of the Czech Republic since its formation.
In what year was this status established?	In 1999
Is this status established on: a) A permanent basis? b) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation?	a) permanent basis
Legal basis	
Is the *status* set out in: a) Legislation? b) Administrative decision/regulation/circular?	a) Legislation – Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status C [Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]	
c) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	
Eligibility	
Who is eligible to receive this status?	Every person who has a reason which can be classified as a humanitarian reason or as a reason worthy of special regards and which can be proofed.
Determination procedure	
Is an application procedure set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law)?	a) Legislation – the standard procedure according to 326/1999 Act on the Residence of the Foreign Nationals in the Territory of the Czech Republic.
When is application for the national protection status possible: a) Immediately, as part of a single procedure examining the need for international protection? b) Immediately, as part of a separate procedure? c) After exhausting the asylum procedure in-country? d) Other (please explain).	d) It is not stated by the law. Nevertheless there is one main important obligation: to have a valid temporary stay permit, long-term stay permit or long-term stay visa when applying for this type of permanent protection residence permit on the territory of the Czech Republic
Where does the application take place: a) In the territory of your State? b) In a third country? c) Both are possible.	c) on the territory of the Czech Republic (the applicant has to stay there legally. See above) or on the Embassy of the Czech Republic abroad.
Briefly outline the procedure in terms of: – Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the same authorities as those responsible of examining international protection applications; – Existing timelines and notification of the (first instance) decision, information to the beneficiary	The time-limit to execute the application (first instance) is 60 days. The Ministry of the Interior of the Czech Republic, Department for Asylum and Migration Policies has dedicated personnel for examining the applications for residence permits. The mentioned personnel is different from those examining the asylum applications.
Appeal procedures	
Is there an appeal in the event of a negative decision? Yes/No	Yes
If yes, is it a two-level system of appeal or one level?	4 level system (1 administrative appeal, 2 stages of judicial appeal)
If yes, is it: - An administrative appeal?	Can be both the judicial appeal as well as the administrative appeal as distinguished above.

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status C [Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]	
- A judicial appeal? - Judicial review? - Other? (please explain)	
Does the appeal have an automatic suspensive effect? Yes/No If no, can it be requested and what is the procedure in this case?	Yes in case of an administrative action (in case of judicial appeal only on a request)
Are the authorities involved the same as those in appeal procedures against a negative decision in the *international protection* procedure?	No
If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No	Yes, generally.
If there is no possibility for appeal, please explain what happens.	---
Change of status	
In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for: a. International protection status? (please specify which) b. Other legal migration statuses? (please specify which)	The applicant can lodge a new application for legal migration status only if he/she will present new matters. The application for international protection is possible.
Relevant case law	
Is there any relevant case law (by the highest instance courts and final judgements) that led to *systemic* changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. *In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)*	No

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]	
Background	
Why was the status adopted? ** please briefly brief outline of the policy background that led to the adoption of this status*	Because of thousands of asylum applications and consequently the long proceedings of international protection applications in 2002 to 2004 happened that applicants were already well

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]	
	integrated into society and there was an interest to let them stay in the territory.
In what year was this status established?	In 2004
Is this status established on: a) A permanent basis? b) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation?	a) A permanent basis.
Legal basis	
Is the *status* set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	a) Legislation – Section 67 of the Act No. 326/1999 Coll., on the Residence of the Foreign Nationals in the Territory of the Czech Republic, as amended.
Eligibility	
Who is eligible to receive this status?	An unsuccessful applicant for international protection status if: - his/hers last proceeding for international protection (appeals included) ran for 2 years - and he/she lives continuously in the Czech Republic for 4 years at least (legal stay in the territory) - these conditions don´t have to be fulfilled in cases which are worthy of a special regards
Determination procedure	
Is an application procedure set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law)?	a) Legislation – the standard procedure according to 326/1999 Act.
When is application for the national protection status possible: a) Immediately, as part of a single procedure examining the need for international protection? b) Immediately, as part of a separate procedure? c) After exhausting the asylum procedure in-country? d) Other (please explain).	Within 2 months from the final decision within the international protection proceeding.
Where does the application take place:	a) it the territory of the Czech Republic

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]	
a) In the territory of your State? b) In a third country? c) Both are possible.	
Briefly outline the procedure in terms of: – Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the same authorities as those responsible of examining international protection applications; – Existing timelines and notification of the (first instance) decision, information to the beneficiary	The time-limit to execute the application (first instance) is 60 days. Authorities responsible for examining the applications for legal migration status (dedicated personnel of the MoI, Dpt. for Asylum and Migration Policies) different from those responsible for examining the asylum claims.
Appeal procedures	
Is there an appeal in the event of a negative decision? Yes/No	Yes
If yes, is it a two-level system of appeal or one level?	4 level system (one administrative and 2 judicial levels)
If yes, is it: - An administrative appeal? - A judicial appeal? - Judicial review? - Other? (please explain)	Both (an administrative appeal and a judicial appeal)
Does the appeal have an automatic suspensive effect? Yes/No If no, can it be requested and what is the procedure in this case?	Yes in case of an administrative appeal (in case of a judicial appeal only after a request of the person concerned and the court shall decide whether grant the suspensive effect or not).
Are the authorities involved the same as those in appeal procedures against a negative decision in the *international protection* procedure?	No
If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No	Yes, generally.
If there is no possibility for appeal, please explain what happens.	---
Change of status	
In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for: a. International protection status? (please specify which) b. Other legal migration statuses? (please specify which)	In case the applicant fails on appeal there is an exit order issued and the applicant can apply only for a tolerated stay visa if he/she fulfils legal conditions. Lodging a new application for the same status is possible only in case there are new matters.
Relevant case law	

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]	
Is there any relevant case law (by the highest instance courts and final judgements) that led to *systemic* changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. *In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)*	No

Q6. **If yes to Q1** and indicated in Tables 1 and 2 types of non-harmonised protection status(es), please also fill in **Table 4 for each status**. Please add as many tables as necessary, completing one table per status, clearly referring to the name/title of the status used in Table 3.

Table 4: Content of protection of national statuses

Status A [Humanitarian Asylum] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Residence permit				
Issuance of a residence permit required?	☒	☐	☐	
Validity of the first residence permit (or initial length) (in years)	☒	☐	☐	10 years (adults), 5 years (minors)
Possibilities of renewal/extension?	☒	☐	☐	
Validity of the residence permit after renewal? (in years)	–	–	–	Same as validity of the first residence permit.
Time period required to be entitled to permanent residence permit (in years)[54]	–	–	–	5 years.
Does this time period differ from the general rule for applying for permanent residence permit?	☐	☒	☐	
Travel document				
Is a travel document issued ?	☒	☐	☐	On request of the beneficiary.
If so, what type of document is it ?	-	-	-	National travel document for foreigners.
Validity (in years)	-	-	-	10 years (adults), 5 years (minors)
Accommodation				

[54] See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

Status A [Humanitarian Asylum] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Access to accommodation (on the same basis as other legally residing third-country nationals) ?	☒	☐	☐	
Access to specific schemes/programmes to support access to accommodation?	☒	☐	☐	National integration programme for beneficiaries of international protection is also available for persons with humanitarian asylum status.
Dispersal mechanism?[55]	☐	☒	☒	Dispersal mechanism is not used in the Czech Republic.
Family reunification				
Right to family reunification ?	☒	☐	☐	This column is applicable in the cases where family members are present on the territory of the Czech Republic (as it is provided by Asylum Act). In case of family members are present outside the territory of CZ other rules are applicable (according to Aliens Act) please see the separate table below this table A. ×
Eligible family members, for example:				
- partner in a legal marriage or in a comparable relationship	☒	☐	☐	
- unmarried partner (*e.g. registered partnership, cohabitation, attested long term relationship)*	☐	☒	☐	
- underage partner	☐	☒	☐	
- minor child (beneficiary's and/or partner's; foster or adopted child)	☒	☐	☐	
- adult dependent children (beneficiary's and/or partner's or adopted child)	☐	☒	☐	
- brother or sisters	☒	☐	☐	Unmarried siblings of the beneficiary who is under 18.
- dependent parents	☐	☒	☐	
- parents of UAMs	☒	☐	☐	
Material requirements sponsor must guarantee, for example:				
- accommodation	☐	☒	☐	
- health insurance	☐	☒	☐	

[55] In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

Status A [Humanitarian Asylum] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
- sufficient income/financial means	☐	☒	☐	
- other (e.g. criminal record, medical certificate)	☐	☒	☐	
Is there an equivalent of a 'grace period'[56] during which no material conditions are required? If so, please indicate the duration of the grace period in the comments column.	☐	☒	☐	
What is the validity of the residence permit of the family member?	-	-	-	The same as for the sponsor.
Labour market and qualifications				
Specific conditions to be granted access (e.g. hold work permit)?	☐	☒	☐	
Access to procedures for recognition of qualifications?	☒	☐	☐	
Social assistance				
Social assistance limited to core benefits ? **please note definition of 'core benefits' in the introduction*	☐	☒	☐	
Health care				
Access to emergency health care?	☒	☐	☐	
Access to mainstream services ?	☒	☐	☐	
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	☒	☐	☐	If necessary.
Education				
Access to general system of education (same as nationals)?	☒	☐	☐	
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	×	☐	☐	Additional classes of the national language and the possibility to use several assistance programs for adaptation in the national education system.
Integration				

[56] See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

Status A [Humanitarian Asylum] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Access to 'mainstream' support (available for legally residing third-country nationals)?	☒	☐	☐	For example access to the Integration Centres for foreigners which are open in larger towns of CZ is available.
Access to targeted support (i.e. specifically for beneficiaries of the status)?	☐	☐	☒	Access to the integration program which is available for beneficiaries of international protection.
If so, how long is the support granted for?	-	-	-	It depends on the needs of the individual. Generally between 6 months and 18 months.
End of protection				
Are there any *formal* ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	☒	☐	☐	All reasons and ways are stated in the Act No. 325/1999 Coll., on Asylum
How can national protection end?				
- The person no longer qualifies for protection	☒	☐	☐	
- Protection was fraudulently acquired	☒	☐	☐	
- Status ceased	☐	☒	☐	
- Status can no longer be renewed	☐	☒	☐	
- Other (please explain)	☒	☐	☐	Security concerns
Naturalisation / citizenship acquisition				
Minimum legal residence required to apply for citizenship/naturalisation **please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States*				10 years but there is a possibility to reduce the length of the previous residence.
Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)				
Please describe the extent to which the status offers a) *more*	☐	☒	☐	
b) *same* or	☒	☐	☐	As conditions available for recognised refugees.
c) less favourable conditions compared to either refugee or subsidiary protection?	☐	☒	☐	
Relevant case law				

Status A [Humanitarian Asylum] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Is there any relevant case law (by the highest instance courts and final judgements) that led to *systemic* changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. *In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)*	☐	☒	☐	No

Family reunification in the cases that family members are present outside the territory of CZ.				
Right to family reunification ?	☒	☐	☐	
Eligible family members, for example:				
- partner in a legal marriage or in a comparable relationship	☒	☐	☐	
- unmarried partner (*e.g. registered partnership, cohabitation, attested long term relationship)*	☒	☐	☐	
- underage partner	☐	☒	☐	
- minor child (beneficiary's and/or partner's; foster or adopted child)	☒	☐	☐	
- adult dependent children (beneficiary's and/or partner's or adopted child)	☒	☐	☐	
- brother or sisters	☐	☒	☐	
- dependent parents	☒	☐	☐	
- parents of UAMs	☒	☐	☐	
Material requirements sponsor must guarantee, for example:				
- accommodation	☒	☐	☐	
- health insurance	☒	☐	☐	
- sufficient income/financial means	☒	☐	☐	
- other (e.g. criminal record, medical certificate)	☐	☒	☐	

Is there an equivalent of a 'grace period'[57] during which no material conditions are required? If so, please indicate the duration of the grace period in the comments column.	☒	☐	☐	3 months after the granting the status of the humanitarian asylum.
What is the validity of the residence permit of the family member?	-	-	-	Usually 1 year and may be renewed.

Please note: For the Constitutional Asylum *are answers the same as for the Humanitarian Asylum*

Status B [The subsidiary protection based on the international obligations of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Residence permit				
Issuance of a residence permit required?	☒	☐	☐	
Validity of the first residence permit (or initial length) (in years)	☒	☐	☐	1 year at least.
Possibilities of renewal/extension?	☒	☐	☐	
Validity of the residence permit after renewal? (in years)	–	–	–	2 years at least.
Time period required to be entitled to permanent residence permit (in years)[58]	–	–	–	5 years
Does this time period differ from the general rule for applying for permanent residence permit?	☐	☒	☐	
Travel document				
Is a travel document issued ?	☒	☐	☐	On request.
If so, what type of document is it ?	-	-	-	National passport for foreigners.
Validity (in years)	-	-	-	According to the length of the residence permit.
Accommodation				
Access to accommodation (on the same basis as other legally residing third-country nationals) ?	☒	☐	☐	

[57] See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).
[58] See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

Status B [The subsidiary protection based on the international obligations of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Access to specific schemes/programmes to support access to accommodation?	☒	☐	☐	
Dispersal mechanism?[59]	☐	☒	☐	Generally no dispersal mechanism in CZ.
Family reunification				
Right to family reunification ?	☒	☐	☐	This column is applicable in the cases where family members are present on the territory of the Czech Republic (as it is provided by Asylum Act). In case of family members are present outside the territory of CZ other rules are applicable (according to Aliens Act) please see the separate table below this table B.
Eligible family members, for example:				
- partner in a legal marriage or in a comparable relationship	☒	☐	☐	
- unmarried partner (*e.g. registered partnership, cohabitation, attested long term relationship)*	☒	☐	☐	Registered partnership
- underage partner	☐	☒	☐	
- minor child (beneficiary's and/or partner's; foster or adopted child)	☒	☐	☐	
- adult dependent children (beneficiary's and/or partner's or adopted child)	☐	☒	☐	
- brother or sisters	☒	☐	☐	Unmarried siblings of the beneficiary who is under 18.
- dependent parents	☐	☒	☐	
- parents of UAMs	☒	☐	☐	
Material requirements sponsor must guarantee, for example:				
- accommodation	☐	☒	☐	
- health insurance	☐	☒	☐	
- sufficient income/financial means	☐	☒	☐	
- other (e.g. criminal record, medical certificate)	☐	☒	☐	

[59] In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

Status B [The subsidiary protection based on the international obligations of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Is there an equivalent of a 'grace period'[60] during which no material conditions are required? If so, please indicate the duration of the grace period in the comments column.	☐	☒	☐	
What is the validity of the residence permit of the family member?	-	-	-	The same as for the beneficiary
Labour market and qualifications				
Specific conditions to be granted access (e.g. hold work permit)?	☐	☒	☐	
Access to procedures for recognition of qualifications?	☒	☐	☐	
Social assistance				
Social assistance limited to core benefits ? **please note definition of 'core benefits' in the introduction*	☐	☒	☐	
Health care				
Access to emergency health care?	☒	☐	☐	
Access to mainstream services ?	☒	☐	☐	
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	☒	☐	☐	Where necessary
Education				
Access to general system of education (same as nationals)?	☒	☐	☐	
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	×☐	☐	☐	
Integration				
Access to 'mainstream' support (available for legally residing third-country nationals)?	☒	☐	☐	For example access to the Integration Centres for foreigners which are open in larger towns of CZ is available.

[60] See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

Status B [The subsidiary protection based on the international obligations of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Access to targeted support (i.e. specifically for beneficiaries of the status)?	☐	☐	☒	Access to the integration program which is available for beneficiaries of international protection.
If so, how long is the support granted for?	-	-	-	It depends on the needs of the individual. Generally between 6 months and 18 months.
End of protection				
Are there any *formal* ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	☒	☐	☐	All reasons and ways are stated in the Act No. 325/1999 Coll., on Asylum
How can national protection end?				
- The person no longer qualifies for protection	☒	☐	☐	
- Protection was fraudulently acquired	☒	☐	☐	
- Status ceased	☒	☐	☐	
- Status can no longer be renewed	☐	☒	☐	
- Other (please explain)	☒	☐	☐	Security concerns.
Naturalisation / citizenship acquisition				
Minimum legal residence required to apply for citizenship/naturalisation **please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States*				5 years
Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)				
Please describe the extent to which the status offers d) *more*	☐	☒	☐	
e) *same* or	☒	☐	☐	Conditions for beneficiaries of subsidiary protection
f) *less* favourable conditions compared to either refugee or subsidiary protection?	☐	☒	☐	
Relevant case law				

Status B [The subsidiary protection based on the international obligations of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Is there any relevant case law (by the highest instance courts and final judgements) that led to *systemic* changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. *In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)*	☒	☐	☐	

✖

Family reunification in the cases that family members are present outside the territory of CZ.				
Right to family reunification ?	☒	☐	☐	
Eligible family members, for example:				
- partner in a legal marriage or in a comparable relationship	☒	☐	☐	
- unmarried partner (*e.g. registered partnership, cohabitation, attested long term relationship)*	☒	☐	☐	
- underage partner	☐	☒	☐	
- minor child (beneficiary's and/or partner's; foster or adopted child)	☒	☐	☐	
- adult dependent children (beneficiary's and/or partner's or adopted child)	☒	☐	☐	
- brother or sisters	☐	☒	☐	
- dependent parents	☒	☐	☐	
- parents of UAMs	☒	☐	☐	
Material requirements sponsor must guarantee, for example:				
- accommodation	☒	☐	☐	
- health insurance	☒	☐	☐	
- sufficient income/financial means	☒	☐	☐	
- other (e.g. criminal record, medical certificate)	☒	☐	☐	

Is there an equivalent of a 'grace period'[61] during which no material conditions are required? If so, please indicate the duration of the grace period in the comments column.	☐	☒	☐	
What is the validity of the residence permit of the family member?	-	-	-	Usually 1 year

Status C [Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Residence permit				
Issuance of a residence permit required?	☒	☐	☐	The permanent residence permit is issued for unlimited period of time (only the permanent residence permit card has to be renewed. The residence permit card is issued for 10 years. Its validity can be extended for 10 years, repeatedly if needs to be.).
Validity of the first residence permit (or initial length) (in years)	☒	☐	☐	10 years (adults), 5 years (minors)
Possibilities of renewal/extension?	☒	☐	☐	
Validity of the residence permit after renewal? (in years)	–	–	–	Same as validity of the first residence permit.
Time period required to be entitled to permanent residence permit (in years)[62]	–	–	–	
Does this time period differ from the general rule for applying for permanent residence permit?	☐	☒	☐	
Travel document				
Is a travel document issued ?	☐	☐	☒	If the person does not have a travel document of his/her country of origin a travel document for foreigners (passport for foreigners) may be issued on request.
If so, what type of document is it ?	-	-	-	National travel document for foreigners.
Validity (in years)	-	-	-	10 years (adults), 5 years (minors)

[61] See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).
[62] See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

Status C [Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Accommodation				
Access to accommodation (on the same basis as other legally residing third-country nationals) ?	☒	☐	☐	
Access to specific schemes/programmes to support access to accommodation?	☐	☒	☐	
Dispersal mechanism?[63]	☐	☒	☒	Dispersal mechanism is not used in the Czech Republic.
Family reunification				
Right to family reunification ?	☒	☐	☐	Rules according to the Aliens Act are applicable.
Eligible family members, for example:				
- partner in a legal marriage or in a comparable relationship	☒	☐	☐	The person can be granted by a long term residence permit for a purpose of family reunification. The permanent residence permit can be granted after 5 years of continuous stay in the Czech Republic.
- unmarried partner (*e.g. registered partnership, cohabitation, attested long term relationship)*	☐	☒	☐	
- underage partner	☐	☒	☐	
- minor child (beneficiary's and/or partner's; foster or adopted child)	☒	☐	☐	
- adult dependent children (beneficiary's and/or partner's or adopted child)	☐	☒	☐	Up to 26 years
- brother or sisters	☐	☒	☐	
- dependent parents	☒	☐	☐	Persons older than 65 years or persons who are not able to take care of themselves because of serious medical reasons.
- parents of UAMs	☒	☐	☐	
Material requirements sponsor must guarantee, for example:				
- accommodation	☒	☐	☐	

[63] In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

Status C [Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
- health insurance	☒	☐	☐	
- sufficient income/financial means	☒	☒	☐	No in case of an application for a permanent residence lodged on grounds of the Section 66 lett. a) or b) or the Section 67 of Act No. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic
- other (e.g. criminal record, medical certificate)	☒	☐	☐	
Is there an equivalent of a 'grace period'[64] during which no material conditions are required? If so, please indicate the duration of the grace period in the comments column.	☐	☒	☐	
What is the validity of the residence permit of the family member?	-	-	-	The same as for the sponsor.
Labour market and qualifications				
Specific conditions to be granted access (e.g. hold work permit)?	☐	☒	☐	
Access to procedures for recognition of qualifications?	☒	☐	☐	
Social assistance				
Social assistance limited to core benefits ? **please note definition of 'core benefits' in the introduction*	☐	☒	☐	
Health care				
Access to emergency health care?	☒	☐	☐	
Access to mainstream services ?	☒	☐	☐	
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	☒	☐	☐	
Education				

[64] See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

Status C [Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Access to general system of education (same as nationals)?	☒	☐	☐	
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?		☐	X	There are many activities provided mainly by NGOs and also some support provided by the State e. g.: access to Centres for Support of Integration of Foreigners for third country nationals where they can attend many different courses (language, IT etc.), ask for help with integration into the labour market, legal counselling etc.
Integration				
Access to 'mainstream' support (available for legally residing third-country nationals)?	☒	☐	☐	For example access to the Centres for Support of Integration of Foreigners for third country nationals which are open in each region of the CZ is available.
Access to targeted support (i.e. specifically for beneficiaries of the status)?	☐	☒	☐	
If so, how long is the support granted for?	-	-	-	The support of Centres for Support of Integration of Foreigners for third country nationals is not limited.
End of protection				
Are there any *formal* ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	☒	☐	☐	The Czech Republic can withdraw the status in case the beneficiary breach the national law (committing a crime; evasion of legislation to be granted by the protection status etc.). All reasons are stated in the Act No. 326/1999 Coll.
How can national protection end?				
- The person no longer qualifies for protection	☐	☒	☐	
- Protection was fraudulently acquired	☒	☐	☐	
- Status ceased	☒	☐	☐	
- Status can no longer be renewed	☒	☐	☐	
- Other (please explain)	☒	☐	☐	Security concerns.
Naturalisation / citizenship acquisition				

Status C [Permanent residence permit according to the Sec. 66 par. 1 lett. a) and b) of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic] *Please insert name as used in* ***Table 3***	**Yes**	**No**	**Other**	**Details**
Minimum legal residence required to apply for citizenship/naturalisation **please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States*				10 years but there is a possibility to reduce the length of the previous residence.
Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)				
Please describe the extent to which the status offers a) *more*	☐	☒	☐	
b) *same* or	☒	☐	☐	
c) less favourable conditions compared to either refugee or subsidiary protection?	☒	☐	☐	
Relevant case law				
Is there any relevant case law (by the highest instance courts and final judgements) that led to *systemic* changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. *In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)*	☐	☒	☐	

Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]] *Please insert name as used in* ***Table 3***	**Yes**	**No**	**Other**	**Details**
Residence permit				

Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Issuance of a residence permit required?	☒	☐	☐	The permanent residence permit is issued for unlimited period of time (only the permanent residence permit card has to be renewed. The residence permit card is issued for 10 years. Its validity can be extended for 10 years, repeatedly if needs to be.).
Validity of the first residence permit (or initial length) (in years)	☒	☐	☐	10 years (adults), 5 years (minors)
Possibilities of renewal/extension?	☒	☐	☐	
Validity of the residence permit after renewal? (in years)	–	–	–	Same as validity of the first residence permit.
Time period required to be entitled to permanent residence permit (in years)[65]	–	–	–	
Does this time period differ from the general rule for applying for permanent residence permit?	☐	☒	☐	
Travel document				
Is a travel document issued ?	☐	☐	☒	If the person does not have a travel document of his/her country of origin a travel document for foreigners (passport for foreigners) may be issued on request.
If so, what type of document is it?	-	-	-	National travel document for foreigners.
Validity (in years)	-	-	-	10 years (adults), 5 years (minors)
Accommodation				
Access to accommodation (on the same basis as other legally residing third-country nationals)?	☒	☐	☐	
Access to specific schemes/programmes to support access to accommodation?	☐	☒	☐	
Dispersal mechanism?[66]	☐	☒	☐	Dispersal mechanism is not used in the Czech Republic.
Family reunification				

[65] See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.
[66] In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Right to family reunification?	☒	☐	☐	Rules according to the Aliens Act are applicable.
Eligible family members, for example:				
- partner in a legal marriage or in a comparable relationship	☒	☐	☐	The person can be granted by a long term residence permit for a purpose of family reunification. The permanent residence permit can be granted after 5 years of continuous stay in the Czech Republic.
- unmarried partner (*e.g. registered partnership, cohabitation, attested long term relationship)*	☐	☒	☐	
- underage partner	☐	☒	☐	
- minor child (beneficiary's and/or partner's; foster or adopted child)	☒	☐	☐	
- adult dependent children (beneficiary's and/or partner's or adopted child)	☐	☒	☐	Up to 26 years
- brother or sisters	☐	☒	☐	
- dependent parents	☒	☐	☐	Persons older than 65 years or persons who are not able to take care of themselves because of a medical reason (handicapped).
- parents of UAMs	☒	☐	☐	
Material requirements sponsor must guarantee, for example:				
- accommodation	☒	☐	☐	
- health insurance	☒	☐	☐	
- sufficient income/financial means	☒	☒	☐	No in case of an application for a permanent residence lodged on grounds of the Section 66 lett. a) or b) or the Section 67 of Act No. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic
- other (e.g. criminal record, medical certificate)	☒	☐	☐	

Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Is there an equivalent of a 'grace period'[67] during which no material conditions are required? If so, please indicate the duration of the grace period in the comments column.	☐	☒	☐	
What is the validity of the residence permit of the family member?	-	-	-	The same as for the sponsor.
Labour market and qualifications				
Specific conditions to be granted access (e.g. hold work permit)?	☐	☒	☐	
Access to procedures for recognition of qualifications?	☒	☐	☐	
Social assistance				
Social assistance limited to core benefits ? **please note definition of 'core benefits' in the introduction*	☐	☒	☐	
Health care				
Access to emergency health care?	☒	☐	☐	
Access to mainstream services ?	☒	☐	☐	
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	☒	☐	☐	
Education				
Access to general system of education (same as nationals)?	☒	☐	☐	
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?		☐	X	There are many activities provided mainly by NGOs and also some support provided by the State e. g.: access to Centres for Support of Integration of Foreigners for third country nationals where they can attend many different courses (language, IT etc.), ask for help with integration into the labour market, legal counselling etc.

[67] See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Integration				
Access to 'mainstream' support (available for legally residing third-country nationals)?	☒	☐	☐	For example access to the Centres for Support of Integration of Foreigners for third country nationals which are open in larger towns of CZ is available.
Access to targeted support (i.e. specifically for beneficiaries of the status)?	☐	☐	☒	
If so, how long is the support granted for?	-	-	-	
End of protection				
Are there any *formal* ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	☒	☐	☐	The Czech Republic can withdraw the protection in case the beneficiary beak the national law (committing a crime; evasion of legislation to be granted by the protection status etc.). All reasons are stated in the Act No. 326/1999 Coll.
How can national protection end?				
- The person no longer qualifies for protection	☐	☐	☐	
- Protection was fraudulently acquired	☒	☐	☐	
- Status ceased	☒	☐	☐	
- Status can no longer be renewed	☒	☐	☐	
- Other (please explain)	☒	☐	☐	Security concerns.
Naturalisation / citizenship acquisition				
Minimum legal residence required to apply for citizenship/naturalisation **please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States*				10 years but there is a possibility to reduce the length of the previous residence.
Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)				
Please describe the extent to which the status offers d) *more*	☐	☒	☐	
e) *same* or	☒	☐	☐	
f) *less* favourable conditions compared to either refugee or subsidiary protection?	☒	☐	☐	

Status D [Permanent residence permit according to the Sec. 67 of the Act no. 326/1999 Coll., on the Residence of Foreign nationals in the Territory of the Czech Republic]] *Please insert name as used in **Table 3***	**Yes**	**No**	**Other**	**Details**
Relevant case law				
Is there any relevant case law (by the highest instance courts and final judgements) that led to *systemic* changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. *In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)*	☐	☒	☐	

Section 3: National debates and challenges as regards national protection statuses

Q7. Are the national protection statuses the **subject of debate** in your Member State (e.g. political, academic and civil society debate)? Yes/No

Please outline the key debates referencing parliamentary questions or policy documents media, academic literature and commentary or literature from civil society organisations.

Please note that future plans – if any – should be mentioned under question 10.

No

Q8. What are the **key practical or operational challenges** in your Member State regarding national protection statuses?

Please consider in particular any challenges related to the implementation and uptake of these statuses in practice, challenges observed to ensure consistency with other EU-harmonised protection statuses, etc.

Currently no challenges identified.

Q9. Did your (Member) State adopt any **measures to tackle the above-mentioned challenges**? Yes/No

If so, please elaborate.

No

Q10. Is your Member State planning to introduce any **new protection statuses** that have been announced publicly (i.e. in the form of official strategy documents, existing draft legislation or proposal)? Yes/No

If so, when and why?

No

Q11. Is your Member State planning to **terminate or significantly change** any of the protection statuses currently available? Yes/No

If so, when and why?

Yes With reference to the ruling of the CJEU *B & D*, Joined Cases C-57/09 and C-101/09, judgment (Grand Chamber) of 9 November 2010 the assessment of the possibilities how to distinguish more the EU harmonised and non-harmonised protection statuses is in place nowadays. The aim of this assessment is clear – to be in line with the CJEU ruling on one hand, i.e. better and clearer distinction between EU harmonised and national statuses, on the other hand the content of the relevant national status should remain the same. There is also an ongoing policy debate in place whether the status according to Section 67 of the Foreigners Act has the same added value as it had been in the time of adoption. At the time of the writing of the national contribution, no conclusion is on the table.

Q12. If applicable, have any of the statuses identified within **the 2010 EMN study**,[68] and within the scope of the present study, ceased to exist or been significantly amended since 2010? No

Alternatively, if your Member State did not participate in the 2010 EMN study, have any statuses within the scope of the present study and available at the time of the study in 2010 ceased to exist or been significantly amended (regarding grounds and content of protection) since 2010? Yes/No

If so, how, when and why?

No Please note that not all statuses mentioned in the Study 2010 are mentioned also in this study. The Czech Republic decided to not mention tolerated stay visas (mentioned in the Study 2010) because they are very specific as statuses and do not belong into the scope of this study.

Section 4 Conclusions [max 2 pages]

Q13. With regard to the aims of this study, what conclusions would you draw from your findings reached in elaborating your national contribution? In particular, what is the relevance of your findings to (national and/or EU level) policy-makers?

[68] *'The Different National Practices Concerning Granting of Non-EU-Harmonised Protection Statuses'*. Member States that participated in the 2010 EMN study, were Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.
Study is available at : https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/0_emn_synthesis_report_noneuharmonised_finalversion_january2011_en.pdf.

This Study on *Comparative overview of national protection statuses in the EU and Norway* provides an overview of possible types of non-harmonised protection statuses within the scope defined for this Study that is possible to obtain in the Czech Republic and in this way takes up on the EMN Study *Different National Practices concerning Granting of Non-EU Harmonised Protection Statuses* from the year 2010. Nevertheless, this time the study does not focus on EU harmonised protection statuses on the grounds of the Qualification and Temporary Protection Directives[69], but provides updated general overview of national non-harmonised protection statuses. These statuses are defined in national Asylum and Foreigners Act. The legal instruments are quite flexible in terms of the definitions and the obligations which shall be met by the individual to obtain the protection status. These statuses may be granted for humanitarian reasons, medical reasons or on the basis of non-refoulement principle etc.

The individual assessment of the each application is the guiding principle. Therefore, there is quite a small number of the different types of the protection statuses in the national legislation. So far, the Czech Republic has 5 national protection statuses (which fall under the scope of the Study) that can be granted for several reasons. As it was mentioned before there is a humanitarian asylum, constitutional asylum, subsidiary protection status based on the obligation of the Czech Republic to comply with its international obligations, permanent residence permit according to the Foreigners Act issued due to humanitarian reasons and reasons worthy of the special regard and permanent residence permit according to the Sec. 67 of Foreigner Act. (we expect the beginning of the debates regarding the further needs of this dedicated type of the residence permit based on the humanitarian grounds in the very close future).

Even if there are only 5 national protection statuses, the national law of the Czech Republic provides quite high level of flexibility to interpret the relevant provisions as was already mentioned. This leads to the national legislation which is able to solve almost all kind of situations which the real life may bring in terms of protection needs.

The flexibility of the decisions made by the responsible national authorities is limited also through the relevant legal provisions but also by the basic principles of the rule of law including the principle of the "administrative discretion". The principle of the "administrative discretion" is defined clearly in the rulings of the national administrative courts including the Supreme Administrative Court.

However, the non-harmonised protection statuses are not granted very often comparing to the statuses harmonised by EU law. There are several grounds for it. For example, the Asylum Act presumes that the national protection status (i.e. humanitarian asylum) may be granted in the case that person in question does not comply with the grounds for granting the refugee status and the serious humanitarian grounds justify the granting of the humanitarian asylum. Also, the obligations which shall be fulfilled to obtain the protection statuses according to Foreigners Act are relatively strict.

Taking in consideration the Study from 2010 focused on protection statuses it may seem that the situation in the area of non-harmonised protection statuses is completely different. Whereas the Study from the year 2010 and this Study have the different scopes and they focus on slightly different areas and therefore the conclusions are different.

[69] Qualification Directive – i.e. according to Section 12(a) and (b) of Asylum Act subsidiary protection provided similarly according to this Directive – i.e. according to Section 14a(1) and (2)(a)-(c) of Asylum Act .
Temporary Protection Directive – i. e. status defined and the content of the status described in Act on Temporary Protection of Foreigners, No. 221/2003 Coll., as amended.

The Czech Republic has very stable legal base for national protection statuses that did not go through any fundamental change since the previous Study was published. However, taking in consideration in particular the ruling of the CJEU *B & D, Joined Cases C-57/09 and C-101/09, judgment (Grand Chamber) of 9 November 2010* the Czech Republic prepares some changes to stay in line with the above mentioned ruling and on the other hand keeps the content of national protection statuses the same.

Nevertheless the possibility of the changes beyond the ruling of CJEU mentioned above should not be eliminated. The Czech Republic continuously monitors the national as well EU and other international migration trends and the debates regarding the possible future needs of the legislative changes may start almost immediately as needed.

To conclude the Czech Republic finds this system of non-harmonised protection statuses useful for the Member States to be able to face the different challenges in this topic and react on the particular needs relevant only for the concrete Member State.

Annex 1 National statistics

Please note the scope of national statistics:

- Temporal scope 2010–2018 to capture changes from previous study.
- Ask Member States and Norway for total number of national protection statuses granted where available.
- Ask Member States and Norway for the above data to be disaggregated by individual status where available.
- The data will be disaggregated by year and country of origin, sex and age if available, but these will not be cross tabulated.

These data will not be comparable.

Please complete the following tables with available information:

Table A1.1: Number of persons granted national protection status by nationality (2010-2018).

A1.1_nationality and total.xlsx

Table A1.2: Number of persons granted national protection status by age (2010-2018).

A1.2_age.xlsx

Table A1.3: Number of persons granted national protection status by gender (2010-2018).

A1.3_gender.xlsx

Annex 2 Overview of EU-harmonised statuses and implementation by Member States

All Member States implemented the provisions of the recast Qualification Directive, with the exception of Ireland and the UK,[70] and of the Temporary Protection Directive. Norway, a State not participating to these Directives, has adopted in its national legislation equivalent protection statuses.

Table A2.1 will present an overview of the content of protection under each of the three harmonised statuses. A more detailed overview of the implementation of these standards by Member States will be included in Annex 2 in the synthesis report. This will support a comparative analysis in the synthesis report between the minimum standards of protection as set out in EU legislation and the content of protection offered by national protection statuses.

This Annex will be prepared by the EMN Service Provider with the support of EASO.

Table A2.1 Content of protection of EU-harmonised statuses

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
Residence permit	**Article 24 recast QD**	**Article 24 recast QD**	**Articles 4 and 8 TPD**
Issuance of a residence permit required?	Yes As soon as possible after refugee protection status has been granted	Yes As soon as possible after subsidiary protection status has been granted	Yes
Validity of the first residence permit (or initial length) (in years)	Minimum 3 years	Minimum 1 year	Minimum 1 year
Possibilities of renewal/extension?	Yes	Yes (at least 2 years)	Yes (up to maximum 2 additional years)
Time period required to be entitled to permanent residence permit (in years)	No harmonisation	No harmonisation	No harmonisation
Does this time period differ from the general rule for applying for permanent residence permit?	No harmonisation	No harmonisation	No harmonisation
Travel document	**Article 25(1) QD**	**Article 25(2) QD**	**No harmonisation**
Is a travel document issued ?	Yes	Yes	-
If so, what type of document is it ? (e.g. Geneva travel document or a national travel document)	Travel documents in the form set out in the Schedule to the Geneva Convention	If unable to obtain a national passport should be issued with documents which enable to travel	-

[70] Ireland participated in Directive 2004/83/EC but is not bound by the recast Directive 2011/95/EU. The UK participated in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU.

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
Validity (in years)	No harmonisation	No harmonisation	-
Accommodation	**Article 32 recast QD**	**Article 32 recast QD**	**Article 13 TPD**
Access to accommodation (as other legally residing third-country nationals) ?	Yes	Yes	Yes (but only access to 'suitable accommodation' or provide 'means to obtain housing')
Access to specific schemes/programmes to support access to accommodation?	No harmonisation	No harmonisation	-
Dispersal mechanism?[71]	Allowed on condition of non-discrimination of beneficiaries of international protection (Article 32(2) QD)	Allowed on condition of non-discrimination of beneficiaries of international protection (Article 32(2) QD)	No harmonisation
Family unity & reunification	**Articles 2 and 23 recast QD**	**Articles 2 and 23 recast QD**	**Article 15 TPD**
Right to family reunification?	Yes Obligation of MS to maintain family unity[72]	Yes Same as for refugees	Yes
Eligible family members	Family ties should have already existed in the country of origin Spouse; unmarried partner in a stable relationship; minor unmarried children; father, mother or another adult responsible for the refugee Possibility to restrict family reunification with close relatives on the condition that family ties have already existed in the country of origin and who were dependant on the sponsor	Same as for refugees	Family ties should have already existed in the country of origin Spouse, unmarried partner in a stable relationship, minor unmarried children of the sponsor or of the spouse, other close relatives who lived together as part of the family unit and who were dependent on the sponsor
Material requirements sponsor must guarantee	Articles 6-9 Family Reunification Directive: Accommodation, health insurance and/or sufficient financial resources	Excluded from the scope of the FRD	No harmonisation

[71] In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

[72] According to the recast QD (Article 13(2)), family unity involves ensuring that family members who do not qualify for international protection status nevertheless have access to the same rights as the family member with refugee or subsidiary protection status.

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
'Grace period'? *If so, please indicate the duration of the grace period*	Article 12 Family Reunification Directive: Exemption to from the obligation to meet the material requirements for a minimum period of three months after the granting of refugee status	Excluded from the scope of the FRD	No
What is the validity of the residence permit of the family member?	It may be valid for less than 3 years and renewable (Article 24(1) recast QD)	It may be valid for less than 3 years and renewable (Article 24(1) recast QD)	For the duration of the temporary protection of the sponsor (Article 15(6) TPD)
Labour market and qualifications	**Articles 26 and 28 recast QD**	**Articles 26 and 28 recast QD**	**Article 12 TPD**
Specific conditions to be granted access (e.g. hold work permit)?	Yes, possible (Article 26(1): access can be subject to rules generally applicable to the profession and to the public service)	Yes, possible (as for refugees)	Yes Member States may give priority to EU and EEA citizens, and to legally resident third-country nationals receiving unemployment benefit
Access to procedures for recognition of qualifications?	Yes (equal treatment with nationals)	Yes (as for refugees)	No harmonisation
Social assistance	**Article 29(1) recast QD**	**Article 29(2) recast QD**	**Article 13 TPD**
Social assistance limited to core benefits ?	No	Yes	Yes ('necessary assistance in terms of social welfare and means of subsistence, if they do not have sufficient resources')
Health care	**Article 30 recast QD**	**Article 30 recast QD**	**Article 13 TPD**
Access to emergency health care?	No harmonisation	No harmonisation	Yes ('emergency care and essential treatment of illness')
Access to mainstream services ?	Yes	Yes	No
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	Yes	Yes	Yes
Education	**Article 27 recast QD**	**Article 27 recast QD**	**Article 14 TPD**

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
Access to general system of education (same as nationals)?	Yes	Yes	Yes
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	No harmonisation	No harmonisation	No harmonisation
Integration	**Article 34 recast QD**	**Article 34 recast QD**	**No harmonisation**
Access to 'mainstream' support (available for legally residing third-country nationals)?	Yes Access to integration programmes which are considered to be appropriate so as to take into account the specific needs of beneficiaries of international protection or create pre-conditions which guarantee access to such programmes	Yes Same as refugees	-
Access to targeted support (i.e. specifically for beneficiaries of the status)?	Yes	Yes	-
If so, how long is the support granted for?	No harmonisation		-
Ending or refusal to renew protection	**Articles 11, 12 and 14 recast QD**	**Articles 16, 17 and 19 recast QD**	**Article 6 TPD**
Are grounds to end or refusal to renew protection formally foreseen?	Yes	Yes	Yes
Change of status			**Articles 3 and 17 TPD**
Possibility to lodge an application for another protection status?	Yes, to subsidiary protection[73]	Yes	Beneficiaries of TP can lodge an application for asylum at any point in time.

[73] See CJEU, joined cases C-175/08, C-176/08, C-178/08 and C-179/08, *Aydin Salahadin Abdulla, Kamil Hasan, Ahmed Adem, Hamrin Mosa Rashi & Dier Jamal v Bundesrepublik Deutschland*, 2 March 2010, ECLI:EU:C:2010:105, para 76.