

# REGULATION 2024/1347

## ***THE “QUALIFICATION REGULATION”***

***“The Qualification Regulation seeks to harmonize recognition rates and ensure equal treatment for beneficiaries of international protection, but it also reinforces migration control mechanisms, raising concerns about the balance between security and human rights”.***

N. Boldizar, “The Qualification Regulation : a mixed bag, inherited from 2016”, EU Immigration and Asylum Law and Policy, October 17th, 2024.



**Topic:** The “Qualification Regulation” provides 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.

### **PUBLIC CONCERNED:**

- ASYLUM SEEKERS
- BENEFICIARIES OF INTERNATIONAL PROTECTION
- MEMBER STATES
- NGOS OR ASSOCIATIONS
- Asylum authorities
- Legal advisers

### **MAIN ISSUES**

- Improve the Common European Asylum System (CEAS)
- Address the shortcomings of the qualification directive
- Promote greater harmonization and consistency in asylum decisions across Member States
- Discourage secondary movements
- Ensure equal treatment for beneficiaries across all Member States while fostering solidarity and responsibility-sharing among them
- Instaurate a more human-based migration control

**Entry into  
force: 11th  
June 2024**

**Full effect:  
1st July 2026**

# LEGAL ENVIRONMENT

## PRIMARY LAW:

- Treaty on the Functioning of the European Union (TFEU – articles 78, 79, 80, 289)
- Treaty on European Union (TEU – article 10(3))
- Charter of Fundamental Rights of the European Union (article 18)



## OTHER LEGAL INSTRUMENTS :

- Amended Council Directive 2003/109/EC
- Repealed Directive 2011/95/EU of the European Parliament and the Council
- Geneva Convention related to the Status of Refugees of 28 July 1951
- Charter of the United Nations of 1945
- The United Nations Convention on the Rights of the Child of 1989



# TERMINOLOGICAL APPROACH

## INTERNATIONAL PROTECTION

"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, protection that encompasses refugee status and subsidiary protection status". (UNHCR glossary – directive 2011/95.)

## REFUGEE STATUS

"Means the recognition by a Member State of a third-country national or a stateless person as a refugee".

"This applies to individuals who, due to a "well-founded fear of persecution for reasons such as race, religion, nationality, political opinion, or membership in a particular social group, are outside their country of nationality and unable or unwilling to seek protection from that country". (article 3 (1) and (5) of the Qualification Regulation)

## SUBSIDIARY PROTECTION

Applies to a third-country national or stateless person who does not qualify as a refugee but faces substantial grounds for believing that, if returned to their country of origin (or, in the case of a stateless person, their former country of habitual residence), they would be at real risk of suffering serious harm. (article 3 (2) and (6) of the Qualification Regulation).

## THIRD COUNTRY NATIONAL

"In the context of regional organizations [such as the European Union], third country nationals are nationals of States who are not member States of such organization" (UNHCR glossary – Legal Framework).

## STATELESS PERSON

"A person who is not considered as a national by any State under the operation of its law" (Article 1 (1) of the 1954 Convention relating to the Status of Stateless Persons).

## UNIFORM STATUS

Refers to harmonize protection standards, reducing disparities between Member States in how refugees and persons under international protection are treated (on the basis of Recitals 13, 48, 76 and article 1 of the Qualification Regulation).



# PRECISION ON ELIGIBILITY AND CONDITIONAL BENEFICIARY RIGHTS

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Clarification of the concept of belonging to a particular social group, and recognition that the ability to avoid persecution in the country of origin is no longer a criterion for denying refugee status.  
(Article 10)

More precise protocol to verify if internal protection is possible allowing less refusal of international protection on this basis .  
(Article 8 )

Detailed definition of the conditions under which international protection can be granted when the need of protection arises *sur place*.  
(Article 5 )



# PRECISION ON ELIGIBILITY AND CONDITIONAL BENEFICIARY RIGHTS

Simplified and more systemic withdrawal of international protection.  
(Articles 14 and 19)

More precision on the procedures to cease or withdraw refugee status or subsidiary protection.  
(Articles 11, 16 and 19)

Cessation and withdrawal of status cover more cases than before.  
(Article 11)



# PRECISION ON ELIGIBILITY AND CONDITIONAL BENEFICIARY RIGHTS

Clarifications that favor rights of beneficiaries and thus their protection (Chapter 7)

Modifications regarding:

- Family unity (Articles 3, 23 and 33)
- Residence permit (Articles 20, 23 and 24)
- Freedom of movement (Articles 22 and 26)
- Right to education (Article 29)
- Labour rights (Articles 28 and 30)
- Best interest of the child (Article 33)
- Social protection and assistance (Article 31)



# EXTENSION OF THE EU COMPETENCE OVER MIGRATION CONTROL

Harmonization of recognition rates between member states ensures equal burden-sharing and equal chances of receiving international protection for beneficiaries. (Recital 1, 5-7)

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Eliminating administrative barriers reduces inefficiencies and differing rates of recognition. (Recital 4)

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Reducing secondary movements within the EU through obligatory integration measures of beneficiaries. (Recital 3; Article 26-27)

Shift of authority from Member States to determining authority. Added definition of a determining authority. (Article 3)

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# EXTENSION OF THE EU COMPETENCE OVER MIGRATION CONTROL

Reduced room for interpretation or variation in implementation that directives inherently allow.  
(Recital 1)

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Differences of wording between the directive and the regulation. "Shall be" instead of "must be".  
(Article 14(3); 41-42)

The European Union Agency for Asylum to "provide adequate support in the application of this Regulation" (Recital 14 note 7)

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Compulsory respect of EU law and international law. Added "respected in accordance with Union and international law". (Article 21)



# HUMAN RIGHTS ISSUES

Increased administrative burdens slowing the asylum procedure or access to rights.  
(Recital 30, Article 4)

Access to fundamental rights protection dependent on integration of beneficiaries.  
(Recital 71 ; Articles 31 (1) and 35 (2))

Increased possibility to cease or withdraw the status = Increased state control over the status  
(Recitals 64, Articles 11, 14, 16, 19).



Possibility of issuing a decision excluding a person from international protection without a proportionality check based on fear of persecution.  
(Article 12)

# HUMAN RIGHTS ISSUES

Limited access to territory by mandatory assessment of Internal protection alternative.  
(Article 8)

Expansion of Security-Based exclusion.  
(Recitals 44, 45 and 67, Articles 12 and 7)

Ambiguous protection of family unity and life.  
(Recitals 19 and 20, Article 23)

Limitation of freedom of circulation/movement of asylum seekers between Member States.  
(Recital 8 and 65, Articles 26 and 27)



# HUMAN RIGHTS ISSUES

*While the new Pact attempts to reach a compromise between immigration control and human rights, [...] such a compromise could prove to be uneasy and unstable.”*  
(S. Peers, 2024)

Failure to strike the balance between migration control and human rights protection – “an exceptionalisation of fundamental rights” .  
(B. Moreno-Lax, 2020)

Reducing migration flows at the expense of migrants' rights.



# NEXT STEPS

At the national level, EU Member States **must adapt their legislation with the provisions** of Regulation (EU) 2024/1347 to ensure its **coherent** and **effective** implementation.



The regulation **entered into force on June 11, 2024**, marking its official adoption, though its provisions are not yet be mandatory.

It will take **full effect on July 1, 2026**, when all its requirements become legally binding



# TO GO FURTHER

## REFERENCES IN FRENCH

**C. Balleix**, *La politique migratoire de l'Union européenne*, collection Réflexe Europe – Institutions & Politiques, Paris, La Documentation française, 2013, 296 p.

**S. Barbou des Places**, "Pacte sur la migration et l'asile : l'ambition d'un nouvel ordre européen des migrations", *RTD eur*, Dalloz, 2024, p.193.

**B. Gaillard**, "Qu'est-ce que le Pacte européen sur la migration et l'asile ?", *Toute l'Europe*, May 30th ,2024, available at: <https://www.touteurope.eu>.

**L. Khennouf**, "Brèves remarques sur le pacte migration et asile et le droit international public", *Rev. UE*, Dalloz, 2024, p.473.

**A. Maad**, "Comprendre les enjeux du « pacte migratoire » adopté au Parlement européen", *Le Monde*, April 12th, 2024, available at: <https://www.lemonde.fr>.

**P. R. Suanzes**, "L'Europe réforme son « pacte migratoire » mais n'a pas de solution", *Courrier international*, April 13th, 2024, available at: <https://www.courrierinternational.com>.

**La Cimade**, "Décryptage du pacte européen sur la migration et l'asile", June 27th, 2024, available at: <https://www.lacimade.org>.

**Forum réfugiés**: Agir en France et à l'internationale, "Pacte sur l'asile et la migration : la Commission publie un plan de mise en oeuvre", July 11th, 2024, available at: <https://www.forumrefugies.org>.

# TO GO FURTHER

## REFERENCES IN ENGLISH



**N. Boldizar**, "The Qualification Regulation : a mixed bag, inherited from 2016", EU Immigration and Asylum Law and Policy, October 17th 2024, available at: <https://eumigrationlawblog.eu>.

**J.Häkli, G. Kudžmaitė and K.P Kallio**, "Devaluing personhood: The framing of migrants in the EU's new pact on migration and asylum", *Royal Geographical Transactions of the Institute of British Geographers*, Volume 49, Issue 4, February 13th, 2024, available at: <https://doi.org/10.1111/tran.12676>.

**S. Peers**, "The new EU asylum laws: taking rights half-seriously," *Yearbook of European Law*, 2024, available at: <https://doi.org/10.1093/yel/yeae003>.

**E. Thielemann**, "Why Refugee Burden-Sharing Initiatives Fail: Public Goods, Free-Riding and Symbolic Solidarity in the EU", *Journal of Common Market Studies*, December 28th, 2017, p. 63-82, available at: <https://onlinelibrary-wiley-com.proxy.unice.fr>.

**C. Warin, V. Ilareva**, "Vulnerability in the New Pact: an empty promise to protect, or an operational concept?", *Human Rights, New Pact on Migration and Asylum*, October 11th, 2024, available at: <https://eumigrationlawblog.eu>.

**N. Zaun**, "States as Gatekeepers in EU Asylum Politics: Explaining the Non-adoption of a Refugee Quota System", *Journal of Common Market Studies*, November 28th, 2017, p. 44-62, available at: <https://onlinelibrary-wiley-com.proxy.unice.fr>.

**European Commission**, "Questions and answers on the Pact on Migration and Asylum", October 11th, 2024, available at: <https://home-affairs.ec.europa.eu/>.

**Directorate- General for Communication**, "Setting out a plan to put the Migration and Asylum Pact into practice", June 12th, 2024, available at: <https://commission.europa.eu>.