

Lost in transition?

The European standards behind refugee integration

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This paper gives an overview of the current integration standards established within the Common European Asylum System and highlights the possible effects of the changing EU and national legal environment on the integration of beneficiaries of international protection. These integration standards are the starting point of the development of the integration indicators within the project “[National Integration Evaluation Mechanism](#)” (NIEM), which aims to support key integration and social actors in 14 EU Member States and Turkey to evaluate and improve the integration outcomes of beneficiaries of international protection.

The EU’s greatest impact on the integration of beneficiaries of international protection has been through the stable legal framework of the Common European Asylum System (CEAS). The recast Asylum Procedures, Reception Conditions, Qualification and Family Reunification Directives all build on the standards set by the 1951 Geneva Convention and aim for its full and effective implementation. They set a series of standards that shape the integration process, starting from the reception phase until the full legal, socio-economic and socio-cultural integration allowing refugees to realise their full potential to contribute to society. These binding legislative acts are complemented by the Common Basic Principles for Immigrant Integration Policy in the EU¹ and its re-affirmation, 10 Years On², which guide Member States on how to respond to the needs and opportunities that beneficiaries of international protection bring to their new homes.

However, in the past year, the emergence and strengthening of exclusionary, anti-migrant narratives has threatened to undermine national – and now the EU’s – stable legal framework and level of ambition to promote refugee integration. The negative political discourse induced a surprisingly coordinated race-to-the-bottom reply at national level, whose approach is reflected in the most recent European Commission Communication “Towards a Reform of the European Common Asylum System and Enhancing Legal Avenues to Europe”.³ This document shows a fundamental change in the approach towards beneficiaries of international protection. These proposals reframe the logic of asylum to a more temporary legal status in its nature and have more often recourse to the cessation

¹ Council of the European Union, Justice and Home Affairs, [Immigrant Integration Policy in the European Union – Council Conclusions](#), 19 November 2004, 14615/04 (Press 321)

² Council of the European Union, Justice and Home Affairs, [Council conclusions of the Council and the Representatives of the Governments of the Member States on the integration of third-country nationals legally residing in the EU](#), 5 and 6 June 2014

³ [COM \(2016\) 197 final](#).



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clause⁴, without assessing the long-term consequences: how will it affect the integration of beneficiaries of international protection?

Legal integration standards

A secure residence status is a precondition to integration outcomes in all areas of life, as permits guarantee beneficiaries of international protection a long-term perspective in their new country. A secure status ensures refugees and beneficiaries of subsidiary protection equal rights and treatment as national citizens. Acquiring national or EC long-term residence status further secures their status and additional rights, including the right to free movement within the EU. Long-term residence can ultimately lead to **naturalisation**. Indeed, long-term residence is a requirement for naturalisation in half of the EU Member States.⁵ Although the Geneva Convention does not explicitly mention refugees' right to residence, contracting States are obliged under Article 34 to facilitate the assimilation⁶ of refugees, in particular to expedite their naturalisation and to reduce the costs of naturalisation. Therefore, the obligation to protect refugees includes the obligation to facilitate all steps of the integration and naturalisation process.

The effects of a secure residence on integration are both practical and psychological. This long-term perspective encourages both refugees and local communities to invest in the integration process. Employers and national and local actors are encouraged to devote time and money to removing barriers that hinder the integration process. This incentive makes refugees more active and secure in many areas of public life, from employment and vocational training to decent housing and social protection. Beneficiaries of international protection can more quickly secure quality employment, as employers will be more likely to hire and train them as a long-term investment. They will be better protected from exploitation and poor housing on the housing market as more landlords will be willing to rent to them and offer long-term contracts. Whether or not refugees have a secure or long-term permit can be taken into account in a surprising number of daily services and transactions, such as opening a bank account, asking for a business loan or acquiring complementary health insurance. As a result, secure residence is also necessary for the effectiveness of the equal socio-economic rights guaranteed in the Geneva Convention and in the recast Qualification Directive.⁷

⁴ Ibid, p. 5.: *"The EU has one of the most protective and generous asylum systems in the world, and the granting of international protection status in EU Member States has in practice almost invariably led to permanent settlement in the EU, while its original and primary purpose was to grant protection only for so long as the risk of persecution or serious harm persists. Once the circumstances in the country of origin or the situation of an applicant change, protection is no longer needed. However, although the Qualification Directive contains provisions on cessation of status, currently they are not systematically used in practice."*

⁵ See MIPEX 2015 on Access to nationality/Eligibility/Permits considered on <http://www.mipex.eu/play/>

⁶ Assimilation is used as a synonym for integration in the context of the Geneva Convention.

⁷ [Directive 2011/95/EU of the European Parliament and of the Council 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 \(recast\)](#)



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Under EU law, beneficiaries of international protection have a long-term perspective that is relatively secure and improves quickly over time. Upon recognition, refugees obtain a renewable residence permit of at least 3 years according to Article 24 of the recast Qualification Directive. Less favourable conditions apply to their family members and to beneficiaries of subsidiary protection. Family members can be given a renewable residence for a shorter period, while beneficiaries of subsidiary protection can benefit from an initial 1-year residence permit that should be extended to 2 years upon renewal. The EU long-term residence comes as an entitlement after 5 years of legal residence if beneficiaries of international protection can meet realistic economic, insurance and eventual integration conditions under the Long-Term Residents Directive⁸. Following the Court of European Justice's (CJEU) P and S judgement⁹, these conditions cannot be set as disproportionate and cannot simply be an obstacle to become long-term residents. The requirements must promote migrants' integration in practice and cannot have any discouraging objectives or effects. Beneficiaries of international protection must be guaranteed effective access to free courses and learning materials. Their specific individual circumstances (age, illiteracy, education level) must be taken into account in the procedure. For example, they cannot be required to pay excessive fees, prove disproportionately high levels of language or civic knowledge, take obligatory and costly classes or pay high fines, as all of these requirements to restrict rather than open their opportunities to prove their willingness to participate in their new society.

Rapid family reunification is a fundamental precondition for the integration of beneficiaries of international protection living in forcibly separated families. As beneficiaries are most likely to live in separated families and in vulnerable transnational situations, a stable family life provides the fundamental support for beneficiaries and their families to start to rebuild their lives. Facilitating the requirements and procedures for family reunification is likely to lead to less irregular migration and smuggling, as refugees will no longer be forced to turn in desperation to irregular and unsafe channels to restore their family unity. Family reunification is Europe's only major channel for legal migration of families and children in need of international protection. This legal channel entails fewer risks for vulnerable groups, such as women, children and elderly. It is also in governments' best interest to have families, authorities and local receiving communities better informed and prepared for their arrival.

The right to family life is secured by the Universal Declaration of Human Rights (Article 16) and the European Convention on Human Rights (Article 8), putting a positive obligation on states to render this right effective. The UN Convention on the Rights of the Child protects family unity and prescribes that a child cannot be separated from his or her parents against their will (Article 9). The Convention requires States to deal with family reunification requests in a positive, humane and expeditious manner (Article 10). The Geneva Convention underlines that family unity is an essential right to refugees and makes recommendations for respecting the principle of family unity (Final Act of the

⁸ [Council Directive 2003/109/EC concerning the status of third-country nationals who are long term-residents \(consolidated version\)](#)

⁹ CJEU, Case C-579/13, *P, S v Commissie Sociale Zekerheid Breda, College van Burgemeester en Wethouders van de gemeente Amstelveen*, Judgement of 4 June 2015



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United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons). The European Court of Human Rights (ECtHR) affirmed this right in its *Mugenzi and Tanda-Muzinga* judgements¹⁰ and emphasised that family reunification is a fundamental element for resuming a normal life.

Under EU law, the Family Reunification Directive¹¹ transposed this positive obligation and recognised the key role of family unity in the integration process of vulnerable migrant groups. Since this Directive, family reunification is now a right for all third-country nationals who meet the conditions and is significantly easier for refugees. The Directive provides general exception from the waiting period and an exception for the housing, sickness insurance and economic requirement if the request is submitted within a specific period after obtaining a refugee status. This specific period cannot be shorter than 3 months (Article 12). The European Commission Guidelines on the Family Reunification Directive¹² acknowledges that this time limit can be a practical barrier to family reunification, as it might take longer for refugees to familiarise themselves with their rights and with the specific procedures for family reunification. Therefore, it suggests Member States not to use this time limitation. Member States should also provide promptly clear information for refugees on the family reunification procedure. When time limits are applied, their length should take into account the barriers refugees might face for introducing their demand for family reunification. As refugees might often lack the necessary documents to prove family ties, the application can be made on the basis of alternative documentary evidence and it cannot be rejected solely on the basis of lack of documentation (Article 11). When documents are missing, the Guidelines suggests that partial applications should also be admissible, to be completed at a later stage of the process.

Among the various requirements, integration measures can only be applied for refugees and their family members once the family reunification has been granted, meaning that for example family members cannot be required to take integration or language tests prior to their arrival. Similarly to the *P and S* judgement, the CJEU noted in *K and A*¹³ that this integration requirement cannot put a disproportionate burden on families and cannot risk their integration process. Specific attention should be given to refugees' individual circumstances, to assess if they can be exempted from taking language or civic integration tests. This assessment should take into account their age, education level, economic situation and health. The judgement is in line with the European Commission Guidelines on the Family Reunification Directive, which stipulates that the purpose of these measures is to verify the willingness of family members to integrate. Disproportionate level of integration measures is considered to be a barrier to this purpose. Language and integration courses should be offered in an accessible manner in several places, for free or for an affordable price and be tailored to individual needs, taking into account for example the vulnerability of beneficiaries of refugees.

¹⁰ ECtHR, no. 52701/09 *Mugenzi v. France* and no. 2260/10, *Tanda-Muzinga v. France*, Judgments of 10 July 2014

¹¹ [Council Directive 2003/86/EC of 22 September on the right to family reunification](#)

¹² [COM\(2014\) 210 final](#).

¹³ CJEU, Case C-153/14, *Minister van Buitenlandse Zaken v K and A*, Judgement of 9 July 2015



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Socio-economic integration standards

The period after recognition is critical and highly demanding for beneficiaries of international protection. Time is limited to rebuild their entire lives and livelihood in order to provide the conditions for a decent living for themselves and their families. Within this often short transitory period, they need to find adequate housing, employment, recover from health problems caused by their persecution or flight and secure a basic income that meets their basic needs. The pressure is even greater if countries do not invest in integration during the asylum procedure and instead delay it until after recognition.

Under EU law and, to some extent, the Geneva Convention, beneficiaries of international protection are guaranteed the same treatment as national citizens as well as access to targeted support to address their specific needs. For access to housing, employment and vocational training, the Geneva Convention requires States to grant refugees at least the most favourable treatment granted to foreign citizens. Equal treatment with national citizens is only guaranteed for public relief, including access to healthcare. The recast Qualification Directive goes beyond these standards; The Geneva Convention establishes a general obligation to facilitate integration (Article 34) and this duty turned into more concrete obligations under the recast Qualification Directive. Equal treatment with national citizens is further guaranteed for beneficiaries of international protection in healthcare, employment, vocational training and recognition of foreign qualifications. Targeted measures must also be introduced *“to take into account the specific needs of beneficiaries of refugee status or of subsidiary protection status”* (Article 34). Equal treatment is a necessary precondition for the integration of beneficiaries of international protection, but on its own it will not guarantee equal opportunities. The conclusions of the First European Migration Forum emphasised that *“(a)ll EU Member States should provide beneficiaries of international protection with the rights and targeted support that they need as soon as possible after arrival and for as long as necessary to access mainstream services and attain self-sufficiency”*.¹⁴

Quality housing is a basic condition for a decent living. Housing offers not merely a shelter, but also a space for personal development and family, a local community and enhanced interaction with locals, which is one of the EU’s Common Basic Principles. Too often, a limited income and local network/knowledge combined with disproportionate rents and deposits push beneficiaries of international protection to marginalised areas without employment opportunities, good quality schools, hospitals and medical centres or integration services. Targeted in-cash and in-kind housing support decrease the financial and information gap and support the self-sufficiency of beneficiaries of international protection, especially for vulnerable groups of beneficiaries of international protection, who tend to face more obstacles to become financially independent, such as women.

Under EU law, beneficiaries of international protection are only brought to the mainstream housing support system once they are recognised as beneficiaries of international protection. Before

¹⁴ European Migration Forum, [Safe Routes, Safe Futures: How to manage the mixed flow of migrants across the Mediterranean? Synthesis report, Conclusions and Policy Recommendations](#)



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recognition, the main rule of the recast Reception Conditions Directive is to guarantee freedom of movement for asylum seekers, but Member States are allowed to decide on asylum seekers' place of residence for reasons of public interest or public order or for the swift processing of the asylum application. Member States can also link the provision of material reception conditions to an assigned residence (Article 7). Beneficiaries of international protection receive equal access as national citizens to housing and can enjoy free movement within the country after recognition (Article 32, recast Qualification Directive). As the CJEU confirmed in its judgement *Alo and Osso*¹⁵, this right can only be limited in specific circumstances, for example by the use of dispersal policies, when compared to other third-country nationals, beneficiaries of international protection face greater integration difficulties.

Employment allows migrants to contribute to the economy and make their skills and contributions visible, according to the Common Basic Principles. Legal employment is a key though sometimes insufficient path to a secure income, self-sufficiency and, in some cases, eligibility for long-term residence and citizenship. Parents' employment increases family income and allow for refugee children to attain higher education levels and achieve better integration outcomes. Chances to rapidly secure employment at their skill-level are increased by targeted vocational training programmes and alternative assessment methods for the recognition of professional and academic qualifications.

Under EU law, access to the labour market and vocational training remains limited until recognition, after which the recast Qualification Directive guarantees equal treatment between beneficiaries of international protection and national citizens in terms to access to the labour market, vocational training, employment-related education recognition and assessment procedures of foreign qualifications (Article 26). When relevant documents are missing, beneficiaries of international protection can benefit from alternative assessment methods (Article 28). Before recognition, the recast Reception Conditions Directive shortened asylum-seekers' maximum waiting period for labour market access from 12 to 9 months (Article 15). The recast Directive calls for Member States to decide on conditions for labour market access that ensure effective access and avoid procedural obstacles. However, Member States are not obliged to open up vocational training possibilities for asylum seekers and the recast Directive remains silent on the recognition of qualifications (Article 16).

Health and integration are mutually reinforcing, as a good health is both a precondition and a side-effect of full participation in society. Beneficiaries of international protection can only live up to their full potential if they can start to heal the physical and psychological scars that persecution and flight can cause. Early detection and intervention by health workers are crucial in order to prevent the re-emergence of trauma and social isolation. After arrival, deteriorating health and stress can also be an indicator of poor reception and integration conditions, caused by inadequate living and working conditions.

Under EU law, asylum seekers must receive a necessary and adapted medical assistance from the moment of their arrival, but they will be able to enjoy access to health care without restriction only

¹⁵ CJEU, Joined cases C-443/14 and C-444/14, *Kreis Warendorf v Ibrahim Alo and Amira Osso v and Region Hannover*, Judgement of 1 March 2016



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after recognition. During the reception phase, asylum seekers must receive the necessary health care, which needs to include at least emergency care, essential treatment of illnesses and serious mental disorders, according to the recast Reception Conditions Directive (Article 19). Asylum seekers with special protection needs, such as minors, disabled people, elderly people, pregnant women, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms violence must receive adapted medical assistance. Beneficiaries of international protection have the same access to health care services as national citizens under the recast Qualification Directive (Article 30 (1)). Vulnerable groups of beneficiaries of international protection can benefit from adapted health care services beyond mainstream access to health care (Article 30(2)).

Social assistance is not a privilege but a necessity for beneficiaries of international protection to rebuild lives in a new country. National citizens are rarely in the same situation as beneficiaries of international protection who usually lose all of their income and savings as well as their essential social and family support. Beneficiaries of international protection must be able to start a new life with hardly any financial safety net or help from family and friends. Effective protection requires support for them to not only meet their basic financial and daily needs, but also to invest the necessary time, energy and resources into their integration. Together with targeted employment and training measures, individualised benefits help refugees, especially women, to gain a basic degree of financial independence for the duration of the process of socio-economic integration.

Under EU law, asylum seekers remain dependent on the provision of material reception conditions and are not guaranteed targeted measures to support their transition after recognition. The recast Reception Conditions Directive ensures asylum seekers an adequate standard of living guaranteeing their subsistence and protect their physical and mental health, but does not specify the level of this support (Article 17). After recognition, the recast Qualification Directive gives access for refugees to social assistance under the same conditions as national citizens, but beneficiaries of subsidiary protection are only guaranteed access to core benefits (Article 29). Member States who use this derogation have to show that derogations are not discretionary, serve a legitimate aim and are proportional to fulfil that aim and the level of the core benefits is defined in compliance with the Charter of Fundamental Rights of the EU. Both Directives are silent on the use of targeted measures that could address the specific financial difficulties of beneficiaries of international protection transiting from reception centres to their new life without any savings and social support.

Socio-cultural integration standards

Education provides children with the perspective of personal development, social mobility, better employment prospects and a new social network. The Common Basic Principles confirm that the education of migrants, particularly children, must be emphasised for social inclusion and better integration outcomes. Schools should be places for interaction between beneficiaries of international



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protection and the local community, where the integration process can thrive through mutual learning and mutual understanding. This dialogue enhances the effects of adult language learning programmes and social orientation and can reach out to more isolated members of beneficiaries of international protection, such as stay-at-home parents. Teachers are the first in line to see and react to integration issues, such as physical and mental health distress, risk of drop out due to legal and/or financial instability or bullying and discrimination. Including refugee children in the classroom is both a challenge and an opportunity to improve the general quality of education for all pupils. The educational programmes will be better adapted to current issues of the society, such as rising extremism and xenophobia, and better promote multilingualism and citizenship and social skills for all pupils.

Under EU law, asylum seekers must have access to education, but this can be organised separately from the mainstream curriculum and classes until recognition, when minor beneficiaries of international protection gain full access to mainstream school system. According to the recast Reception Conditions Directive (Article 14), minor asylum seekers within three months of lodging their application should enjoy access to education under similar conditions as national citizens. The same article stipulates that minor children should have access to preparatory and language classes to facilitate their participation in the education system, but does not provide any further guidance on the organisation or quality of these classes. Member States need to provide for alternative educational arrangements, if access to the national education system is not possible due to the specific situation of the minor. Children recognised as beneficiaries of international protection have secure and full access to education under the recast Qualification Directive (Article 27). In order to facilitate the integration process at school, these standards go beyond the Geneva Convention's limited guarantees that only ensure equal access to elementary education, while other forms of education are offered on terms as favourable as possible, guaranteeing at least equal treatment with foreign citizens.

Social orientation and language learning provide basic practical knowledge to help beneficiaries of international protection to get by daily life, as promoted by the EU's 4th Common Basic Principle. Sufficient knowledge of language, institutions, administration and social norms opens up greater possibilities in public life, from greater involvement in social activities to access to the housing and labour market, health and social systems, training and education and can facilitate access to long-term residence and citizenship. Involving volunteers in these programmes can help to bridge the cultural divide with newcomers and inform public opinion about refugees' realities.

Social cohesion is built through the active participation in public life of both newcomers and the receiving society. Frequent occasions for interaction, such as voluntary initiatives, mentorship programmes and participation in decision-making processes contribute to mutual understanding and a shared sense of belonging. Beneficiaries of international protection have a great potential for the country's democratic life as former political or civil society leaders themselves, as former victims of persecution and as current beneficiaries of the country's democratic norms.

Under EU law, while the recast Reception Conditions Directive does not mention any specific forms of integration support to asylum seekers, beneficiaries of international protection become entitled to integration support under the recast Qualification Directive (Article 34). The Directive specifies that



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this support needs to take into account their specific needs. The provision implements the general obligation that can be derived from the Geneva Convention's article on naturalisation which is interpreted to facilitate the integration process until its legal end point. Within the EU framework, the Common Basic Principles underline that integration is a dynamic, two-way process including both migrants and locals. Common Basic Principles 7 and 9 list more concrete forms of building social cohesion. Beneficiaries of international protection and members of the receiving society should be given the chance to regularly interact and be part of shared forums and inter-cultural dialogues. This interaction should also include dialogue with decision-making bodies, when beneficiaries of international protection can engage with national, regional and local authorities on the formulation of improved integration policies.

Reframing the logic of international protection: Temporary vs. long-term solutions?

At a time when all governments and social actors are working together with the EU to invest massively in the integration of beneficiaries of international protection, the EU's well-established standards on asylum have significantly helped public administration and NGOs to quicken the transition of beneficiaries of international protection into work, education, stable family lives and mainstream society. Organisations working in the front-line of integration have welcomed and supported the EU's hard work and achievements over the past 15 years to promote the integration of refugees and beneficiaries of subsidiary protection by securing their residence and equal rights with national citizens.

However, the public remains skeptical about the effectiveness of the European integration policies given the recently held assumption that multiculturalism is dead and integration policies have failed. They are also worried about the costs and consequences for society of the years it will take for many beneficiaries of international protection to become employed, fluent and oriented in the country. European decision-makers are currently faced with the challenge to address these issues. Given the importance of migrant integration for EU citizens and the EU institutions, the revision of the CEAS standards should be built on the past achievements and be discussed with a long-term perspective focusing on improving integration outcomes and social cohesion. It would put aside all immense policy and financial efforts of the past 15 years if a complete new approach prevails, which makes short-term, emergency thinking the main rule instead of the exception. The European Commission Communication, which suggests that the entire CEAS, including the Reception Conditions and Qualification Directives, could be renegotiated, put forward a complete reverse in some of the guiding principles behind the CEAS, with detrimental consequences for integration. The report from the 2nd European Migration Forum noted that *“(m)any participants saw the communication as a first step towards diminishing the rights of people in need of protection. It could open the way for more legal arrivals but on the condition that, once protection is no longer necessary, it would be withdrawn. The communication was considered a significant threat to the integration of beneficiaries of international*



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protection, leaving individuals in a situation of perennial uncertainty that would greatly hinder their integration process.”¹⁶

Based on their experience on-the-ground, many of the participating NGOs expressed the concern that the restrictions of these rights will substantially increase the risk that refugees and beneficiaries of subsidiary protection end up in long-term unemployment, exploitation, segregation and social exclusion. The report noted that *“(i)t would make no sense, in fact, for employers and service providers (local authorities, national governments, etc.) to invest in people that are not likely to stay and will eventually leave. This danger was considered to lead to problems in integration processes, both in the economic and social dimension, with difficulties in finding training and stable work, and would create housing problems and mental health issues that may arise from being in such a vulnerable situation.”*

Restrictions would also jeopardise the hundreds of millions of euros that the EU, national governments and social partners are currently spending on refugee integration. If refugees are now told that they may not be allowed to settle here or reunite with their family, why would they, employers and national and local actors spend all the time and costs to invest in their integration?

By reducing the residence permit duration and security of beneficiaries of international protection, employers will be less likely to hire them or invest in their training. Their difficulties will increase to access decent housing by landlords, access to higher education and many other aspects of mainstream society, even bank accounts, small business loans and complementary health insurance. They will be denied some of the social protections that keep them and other vulnerable groups in our societies from complete social exclusion. Keeping people separated from their families denies them the security they need to start their integration, creates potentially permanent psychosocial scars for all family members and delays their spouses and children’s integration, with proven negative impacts for example on children’s PISA scores.

The current political situation and the difficulties in public discussions on this sensitive topic across the European Union are well-known. But silently allowing this restrictive, and at times unlawful, interpretation of EU law is endangering the lives of thousands of families, derogating from the founding principles of the Union and undermining its credibility. The social consequences of these proposals are serious. Since beneficiaries of international protection today are fleeing many protracted conflicts, our societies will have to live with them for years, if not generations, to come.

¹⁶ 2nd meeting of the European Migration Forum, [*“A long-term approach to sustainable labour migration and successful integration – the voice of civil society. Final report.”*](#)