

ECRE

EUROPEAN COUNCIL
ON REFUGEES AND EXILES

CONSEIL EUROPEEN
SUR LES REFUGIES
ET LES EXILES

COMPLEMENTARY/SUBSIDIARY FORMS OF PROTECTION IN THE EU MEMBER STATES

AN OVERVIEW

The information given in this paper is updated as of July 2004.

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Introduction

For the purposes of this paper only, the term “complementary/subsidiary forms of protection” is used to describe any status, other than Convention refugee status, which is afforded to persons who may/can not be returned to their country of origin. It is different from “temporary protection” intended as an emergency measure to deal with large-scale influxes.¹

Complementary forms of protection have been debated by the EU and have led to the adoption of a harmonised definition of beneficiaries and their status. The *Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection* (COM (2001) 510 final) was adopted on 29 April 2004 and sets forth legally-binding minimum standards on subsidiary protection in the European Union.

This constitutes a new step in a long process. At the beginning of the 1990s, the European Commission expressed in several instruments the need to harmonise national provisions and practice on the protection granted to *de facto refugees*. Discussions at EU level on subsidiary forms of protection became particularly relevant following the adoption of the Council Joint Position of 4 March 1996 on a harmonised notion of the term “refugee” contained in the Geneva Convention.

Under the Directive, third country nationals and stateless persons are eligible for subsidiary protection if they face the risk of suffering serious harm as a result of their forced removal from the EU territory. Serious harm is defined as the death penalty or execution, torture or inhuman or degrading treatment or punishment, or a serious threat to their life or person due to indiscriminate violence in situations of war or civil war. Subsidiary protection based on compassionate or humanitarian reasons and on human rights violations other than the right to life and to physical integrity (such as the right to a fair trial or the right to respect for family and private life) is not included within the scope of the Directive. Therefore, it is left to the discretion of Member States to grant subsidiary protection in these cases and to do so with the same level of protection than the Directive recognises for the selected categories. However, the Directive includes a so-called “rendez-vous” clause in Article 35, requiring the European Commission to report on the application of the Directive and propose any necessary amendments, with specific attention to the grounds for subsidiary protection, within 18 months of the Directive coming into force.

Persons entitled to subsidiary protection under the Directive receive a residence permit valid for at least one year and renewable. If they are unable to obtain a national passport, they also receive documents enabling them to travel, at least when serious

¹ The Council of the European Union adopted a Directive establishing minimum standards for giving temporary protection in instances of mass influx on June 26, 2001: 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*, published in the Official Journal of the European Communities on 7 August 2001, L 21 2/12. See ECRE's Information Note on the Directive (1 September 2001), ECRE's Observations on the Draft Directive (January 2001), and ECRE's Position on Temporary Protection in the context of a Need for a Supplementary Refugee Definition (March 1997), all of which can be found at ECRE's website: www.ecre.org.

humanitarian reasons arise that require their presence in another State, unless compelling reasons of national security or public order otherwise require. The right to family reunification is not recognised in the Directive, which however establishes an obligation for Member States to ensure that family unity can be maintained. Persons with subsidiary protection status have the right to employment and self-employment (although Member States are allowed to give priority to EU and EEA citizens for reasons of labour market policies and only for up to one year after the subsidiary protection status is granted), as well as access to education and training. With regards to education, all minors have full access to the education system and adults have the same access to education as third country nationals legally resident. Beneficiaries of subsidiary protection receive the same access to social welfare and means of subsistence and health care as nationals. They must also be given access to accommodation in the same conditions as other third country nationals legally resident in the state.

In light of the transposition of this Directive into the national legislation of 24 Member States (as Denmark is not bound by it), ECRE has undertaken to update its information on subsidiary/complementary forms of protection. The information (provided by the ELENA National Co-ordinators for the initial study in 1999) and updated in December 2003, has now been updated on the basis of research on national legislation for the 25 EU Member States and has been confirmed/amended by the ECRAN Focal Points and by other sources, when necessary, such as UNHCR and government officials.

Summary

This overview on subsidiary and complementary forms of protection highlights the differences in the way the EU Member States regulate such forms of protection.

Some countries have introduced precise regulation, mainly at legislative level, describing in detail the beneficiaries and the rights attached to each status (Denmark, Latvia and Sweden), while in other countries great importance is given to governmental discretion not only as to the beneficiaries but also the rights to be attached (Belgium, Germany, Ireland, Luxembourg and Malta).

While some States have set up several forms of protection, each dealing with a certain category of beneficiaries (Austria, Cyprus, Denmark, Italy, The Netherlands and Spain), others have a single form of protection which is broadened to cover those who cannot be returned because they would risk human rights violations but also those for whom there is no means of transportation available (Finland).

In a number of countries, a form of toleration is granted, which has a legal basis but it is not necessarily matched with a right of residence (Germany, Spain and Belgium).

Strong discrepancies among EU States also exist with regard to the beneficiaries of forms of complementary protection. Generally speaking, almost all Member States provide some sort of protection for persons who, if returned, might be at risk of human rights violations or for persons fleeing civil war/ war-like situations.

A few States grant protection to persons fleeing from natural or environmental disasters (Sweden, Czech Republic, to some extent Denmark and Finland); persons having escaped from war service or who might face disproportionately severe punishment for avoidance of war service (Denmark, to some extent Finland and Spain) and persons who cannot be repatriated for practical reasons (Austria, Belgium, Cyprus, Denmark, Germany, Greece, Luxembourg and Spain).

As to the rights afforded to beneficiaries of complementary/subsidiary forms of protection, the situation is even more fragmentary. In a few countries the beneficiaries of subsidiary/complementary protection are given nearly the same rights as Convention refugees (Denmark, Finland, the Netherlands and Sweden), while in most of the EU countries their rights are similar to those of aliens in general.

AUSTRIA

Statutes of complementary/subsidiary protection

- Limited right of residence
- *Abschiebungsaufschub* (deportation deferment)
- Humanitarian residence permits

LIMITED RIGHT OF RESIDENCE

Legal basis: Articles 8 and 15 of the 1997 Asylum Act and Article 57 of the 1997 Aliens Act

Beneficiaries: Asylum seekers whose asylum applications are denied but cannot be deported or forcibly returned to the country of origin for one of the following reasons:

- Return would be in violation of Article 2 of the European Convention on Human Rights (ECHR), which relates to the right to life, or Article 3 of the ECHR, which relates to prohibition of torture and inhuman or degrading treatment or punishment.
- Return would be in violation of Protocol 6 to the ECHR concerning abolition of the death penalty.
- There are valid grounds for assuming the individual's life or freedom would be endangered in the country of return on account of his race, religion, nationality, membership of a particular social group or political opinion, contrary to Article 33(1) of the Geneva Convention. Also included are persons fearing persecution for gender-related reasons. Exception: if the individual represents a threat to public security or has been convicted of a particularly serious crime and constitutes a danger to the community.

According to a 2001 decision by the Austrian Higher Constitutional Court, the decision on limited right to residence must be issued at the same time as the decision denying asylum.

Duration: maximum 1 year, and after a second extension, a maximum of 5 years. Permits are extended as long as the reasons for which they had originally been granted exist.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Only with a work permit. The issuing of a work permit is based on administrative discretion. According to Article 4b of the Act on the Employment of Foreign Nationals, prospective employers have to prove that no Austrian, EU national, Convention refugee or any other category is available for that job, which in practice is highly unlikely. Furthermore, access to employment is limited by a quota system.
Access to self-employment	✓		
Access to liberal professions		✓	
Access to housing	✓		Insufficient housing facilities. Funding for the rent of a flat is provided by the social aid of the Federal States. Assistance is also provided by NGOs.
Access to public education	✓		Compulsory education from the ages of 6 to 15. Higher education is also possible.
Social security	✓		Access to social care of the Federal States for needy persons.
Health	✓		More than simply emergency care. Health insurance is obligatory if the person is employed.
Freedom of movement within the national territory	✓		Like Convention refugees.
Travel document		✓	Persons do not get a travel document. They may apply for an aliens passport under Article 76 of the Aliens Act, but such a grant depends on a number of criteria and is subject to a discretionary decision.
Voting rights in municipal election		✓	In Vienna on district level after 5 years of residence
Right to stand for elections		✓	In Vienna on district level with exceptions
Family reunification		✓	<p>Family members who applied for extension of asylum in Austria may apply for a humanitarian residence permit. Family reunification for family members outside the territory has to be assessed under the foreigners law and is hardly possible due to the Austrian quota system.</p> <p>For those granted protection under Article 8 - non-refoulement, a provision applied 1 May 2004, provides that family members (spouse, minor children) can apply after three years</p>

			from the time the status was first accorded to the principal applicant. Family members now receive the same status as the principal applicant.
Vocational training	✓		The labour market service decides on a case-by-case basis if training would be useful to an unemployed individual.
Access to citizenship	✓		Same conditions as aliens in general (after 10 years)

DEPORTATION DEFERMENT (ABSCHIEBUNGS-AUFSCHUB)

Legal basis: Aliens Act 1997, Articles 56 and 57²

Beneficiaries: Individuals who cannot be deported for legal reasons (because return to the country of origin would violate Articles 2 or 3 or Protocol 6 to the ECHR or Article 33(1) of the Geneva Convention) or is practically impossible (for example, if there are no flights to the country of origin or the country refuses to issue a repatriation certificate).

Duration: maximum 1 year.

Rights:

Rights	Y	N	Details
Access to wage-earning employment		✓	
Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing		✓	Insufficient housing facilities provided by the State, and the social aid differs in each Federal State. The responsibility mainly lies with NGOs.
Access to public education	✓		Compulsory education from the ages of 6 to 15. Higher education is also possible.
Social security	✓		Some social benefits are now accorded on a

² Under Article 40 of the Aliens Act, an alien for whom an expulsion order has been issued may petition for the postponement of the enforcement of the order for up to three months. In such cases, the public interest in the alien's immediate departure is weighed against his need to settle his personal affairs. However, this postponement is not exactly a form of temporary protection.

			very low level. (Provision applied since 1 May 2004).
Health	✓		More than simply emergency care for persons receiving social aid, otherwise only emergency care. According to a provision applied since 1 May 2004, some health insurance is now provided.
Freedom of movement within the national territory	✓		
Travel document		✓	Persons do not get a travel document. They may apply for an aliens passport under Article 76 of the Aliens Act, but such a grant depends on a number of criteria and is subject to a discretionary decision.
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	
Vocational training		✓	
Access to citizenship		✓	

HUMANITARIAN RESIDENCE PERMIT

Legal basis: Aliens Act 1997, Art.10 (4).

Beneficiaries:

- Cases where there are humanitarian grounds for granting a residence permit, particularly cases where individuals would be exposed to dangers in violation of Article 2 of the ECHR (which relates to the right to life), Article 3 of the ECHR (which relates to prohibition of torture and inhuman or degrading treatment or punishment), Protocol 6 of the ECHR (relating to the death penalty), or Article 33(1) of the Geneva Convention.
- In human trafficking cases, a residence permit may be granted to witnesses and victims of the trafficking in order to carry out a criminal prosecution of the traffickers or to enforce a civil rights claim against the traffickers. NOTE: it is impossible to apply for such a permit; it must be granted *ex officio* with the consent of the Federal Minister of the Interior.

Duration: In cases where aliens left their country as victims of an armed conflict, the permit is granted solely for the duration of the conflict, up to a maximum of three

months. In cases involving victims or witnesses of human trafficking, the permit lasts for the length of the court trial.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Only with a work permit, which is very hard to obtain.
Access to self-employment	✓		
Access to liberal professions		✓	
Access to housing		✓	Insufficient housing facilities provided by the State and the social aid differs in each Federal State.
Access to public education	✓		Compulsory education from the ages of 6 to 15. Higher education is also possible.
Social security	✓		Provided through the social care of the Federal States. There are different conditions and benefits in every Federal State (duration of legal residence, benefit in cash or credit, etc.).
Health	✓		More than simply emergency care. Health insurance is obligatory for those who are employed.
Freedom of movement within the national territory	✓		Like Convention refugees.
Travel document		✓	Persons do not get a travel document. They may apply for an aliens passport under Article 76 of the Aliens Act, but such a grant depends on a number of criteria and is subject to a discretionary decision.
Voting rights in municipal election		✓	In Vienna, on district level after five years of residence.
Right to stand for elections		✓	In Vienna, on district level with exceptions.
Family reunification		✓	Extension of status to family members, but no family reunification for family members abroad.
Vocational training		✓	
Access to citizenship	✓		Like other foreigners (after 10 years of legal residence)

BELGIUM

Statutes of complementary/subsidiary protection

- Residence permits issued under exceptional circumstances
- Suspension of deportation

RESIDENCE PERMITS ISSUED UNDER EXCEPTIONAL CIRCUMSTANCES

Legal basis: Under Article 9(3) of the Aliens Act, a foreigner may claim a residence permit in Belgium when he is able to prove exceptional circumstances preventing him from submitting a demand to stay longer in Belgium longer than three months from the competent Belgian embassy (which is the normal procedure).

This procedural rule has been generally developed by “circulaires” issued by the Minister of Home Affairs without intervention from the Parliament. The latest circulaire was issued by the Minister of Home Affairs on 19 February 2003 and contains only technical modalities on the introduction of such a demand, but no determination of the substantive reasons for granting a permit. The circulaire of 1998 enumerated these reasons, but was abolished by the regularisation-law of 22 December 1999, a one-shot operation allowing people to apply for permanent residence by 31 January 2000. Therefore, at this moment it is hard to say what substantive conditions must be fulfilled in order to obtain a residence permit under Article 9(3). Decisions on applications are subject to the discretion of the Minister of Home Affairs. Nevertheless, a number of categories of beneficiaries can be derived from the administrative practice (see below), all of which support a general right of residence for “humanitarian reasons.”

Beneficiaries:

- Persons whose asylum applications were rejected after taking several years for a decision, and who now have strong ties to Belgium.
- Persons for whom return is impossible, e.g. because the country of origin refuses to readmit the person or there is no flight or means of transportation available.
- Persons who fled situations of civil war or generalised violence. Examples: displaced persons from the civil war in the former Yugoslavia and the Kosovo crisis.
- Persons with grave illnesses.
- Persons who, if returned, would be at risk of human rights violations, such as torture or cruel, inhuman and degrading treatment (Article 3 of the ECHR)
- Persons with a special relationship with Belgians or foreigners who permanently stay in Belgium.

Duration: The law does not provide a specific duration. Regularisation is in most cases permanent. In some cases regularisation is granted for one year and is renewable under certain conditions (e.g., the applicant presents a passport and has a job within that timeframe).

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		A circulaire of 15 February 2000 permits persons with a legal status to start immediately a wage-earning employment.
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		No special provision
Access to public education	✓		Access to primary education and further education
Social security		✓	Persons in illegal situation have a limited access.
Health	✓		No special provision except in the case of being in an illegal situation when they can just have access to urgent medical help.
Freedom of movement within the national territory	✓		
Travel document		✓	
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification	✓		Under some conditions: only asked by the family member who has a legal situation in Belgium, in the first year of his arrival and for his/her spouse and children under 18 years old.
Vocational training	✓		
Access to citizenship	✓		After 3 years

SUSPENSION OF DEPORTATION

Legal basis: There is no specific legal basis for a decision to suspend an expulsion order. It is based on the discretionary competence of the Minister of Home Affairs.

Beneficiaries:

- If the government foresees that the person will be able to be repatriated after a short period (e.g. temporary medical problems, documents will arrive shortly), a suspension of the order to leave the country may be given. Lately, the Office des Etrangers (Administration of the Minister of Home Affairs) requires in such cases that the applicant signs a declaration of voluntary return with the IOM.
- Rejected asylum seekers with a negative decision of the Commissioner-General for Refugees containing a “non-removal clause.” These persons automatically receive a renewable three-month suspension of the expulsion order. The suspension must be renewed as long as the Commissions-General does not revoke the non-removal clause. At present, a non-removal clause is only used for Roms from Kosovo and Liberians who did not transit through a safe third country for more than three months, in accordance with an internal guideline of the Minister of Home Affairs to the Office des Etrangers of 1 August 2002 that has not been published. According to the “accord gouvernemental” (which has not yet been implemented), persons under this measure should be given the right to work.

Duration: Dependent upon the circumstances.

Rights:

Rights	Y	N	Details
Access to wage-earning employment		✓	
Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing	✓		Only financial help
Access to public education	✓		Only compulsory education
Social security	✓		Only financial help by local welfare authorities (OCMW – CPAS)
Health		✓	Only emergency health care.
Freedom of movement within the national territory	✓		
Travel document		✓	
Voting rights in municipal election		✓	
Right to stand for elections		✓	

Family reunification		✓	
Vocational training		✓	
Access to citizenship		✓	

CYPRUS

Statutes of complementary/subsidiary protection

- Subsidiary Protection Status
- Humanitarian Status

SUBSIDIARY PROTECTION STATUS

Legal basis: Subsidiary Protection Status is granted pursuant to Section 19 of the Cyprus Refugee Law 2000-2004.

Beneficiaries: The Head of the Asylum Service grants subsidiary protection status to a person forced to leave or remain outside his country of origin due to well-founded fear of being subjected to serious and unjustified harm, and who is unable or, due to that fear, unwilling to avail himself of the protection of that country. Paragraph 2 of Section 19 defines “serious and unjustified harm” as: (a) Torture or inhuman or degrading treatment or punishment; (b) flagrant violation of a human right to the extent that it invokes international treaty obligations of the Republic; and (c) threat to life, security or freedom, due to indiscriminate violence as a result of armed conflicts or as a result of systematic or generalised human rights violations.

Duration: Paragraph 4 of Section 19 provides that a subsidiary protection beneficiary is granted a residence permit for one year, which is renewed for as long as this status is maintained. The same paragraph notes that the residence permit may be renewed for periods longer than one year.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Section 19(5)(d) provides that beneficiaries are granted the right to work under the same criteria as asylum-seekers. Asylum-seekers are granted the right to apply for employment permits as any other alien. In practice, on the basis of a policy decision of the Ministry of Interior, asylum-seekers are granted immediately, upon the submission of the asylum application, an employment permit. The same policy decision provides that the District Labour Offices shall give priority to

		<p>asylum-seekers against any other alien and shall approve the contracts, even before the employer has acquired a permission to employ an alien, provided that s/he fulfils the relevant criteria to employ an alien. Section 19(6) provides that after the completion of one year of residence under subsidiary protection status, beneficiaries are granted the same rights as refugees under Sections 21, 21A, 21B and 21C. This means that after the said period, persons granted subsidiary protection have equal access to wage-earning employment as nationals, under the provisions of Section 21B.</p>
Access to self-employment	✓	<p>As mentioned above, by virtue of applicable Section 19(6), after one year of residence on subsidiary protection status, the provisions of Sections 21 and 21A are applicable. Section 21(1)(d)(iii) provides that beneficiaries are granted the same treatment as aliens under the same circumstances as regards the right to engage in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies. Section 21A provides that after the completion of three years of lawful residence in the Republic, beneficiaries are accorded the same treatment as nationals as regards the rights envisaged in Section 21(1)(c) and (d). In practice, they are given same access as aliens after one year on such status and the same treatment as nationals after three years of lawful residence.</p>
Access to liberal professions	✓	<p>As mentioned above, by virtue of applicable Section 19(6), after one year of residence on subsidiary protection status, the provisions of Sections 21 and 21A are applicable. The right of holders of diplomas recognised by the competent authorities of the Republic to exercise their profession is provided for in Section 21(1)(d)(iv) at the same level as any other alien. After three years of lawful residence, they have equal treatment as nationals, by virtue of Section 21A.</p>
Access to housing	✓	<p>Section 19(5)(d) provides that beneficiaries are granted the right to apply for public allowance under the Public Allowance and Services Law (Social Welfare Law). The latter law, as well as the Constitution of Cyprus, makes no differentiation between nationals and aliens and both have equal access to social welfare.</p>

			The Public Allowance and Services Law does not foresee a specific right to housing but provides for a rental allowance, which is incorporated in the welfare allowance received by a beneficiary. In special cases, the Social Welfare Services may decide to subsidise the whole amount of the rent.
Access to public education	✓		Section 19(5)(c) provides that beneficiaries have access to public educational institutions. This encompasses primary and secondary education. Section 21(1)(c)(i) provides that refugees receive the most favourable treatment possible, which in any case may not be less than that accorded to aliens, with regard to the right to education, other than elementary, in particular with regard to access to studies, the recognition of foreign school certificates, diplomas and degrees, the exemption from payment of fees and the granting of scholarships. As explained above, the provisions of this Section apply to beneficiaries of subsidiary protection after one year of residence under such status, and after three years of lawful residence this right is granted at the same level granted to nationals.
Social security	✓		Section 21(1)(b)(v) provides that refugees receive the same treatment as nationals with regard to Social Security. This Section is applicable to beneficiaries of subsidiary protection status after completing one year of residence under subsidiary protection status.
Health	✓		Section 19(5)(b) provides for the access of beneficiaries to free medical care, when the beneficiary has insufficient financial resources.
Freedom of movement within the national territory	✓		Unconditional freedom of movement is granted under Section 19(5)(a).
Travel document		✓	
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification	✓		Section 19(7) provides that the provisions of Section 25 of the Law apply <i>mutatis mutandis</i> to persons granted subsidiary protection status. This means that persons granted subsidiary protection are granted the same rights to family reunification as those recognised as refugees. Section 25 provides that the members of the family of the

			beneficiary are granted the same status as the beneficiary himself. The members of the family retain such status regardless of the family link having ceased due to death, divorce, marriage or any other reason. For the purposes of this Section, “family member” is defined to be the spouse, the minor children, dependent parents and the parents of an underage beneficiary. The exclusion and cessation clauses apply <i>mutatis mutandis</i> .
Vocational training		✓	
Access to citizenship	✓		Access to citizenship is not specifically provided for under the Refugee Law. Beneficiaries of subsidiary protection (as well as refugees and persons granted humanitarian status) may apply for naturalisation under the provisions of the Civil Registry Law. The latter provides that aliens residing in Cyprus on permits other than student, employment and visitor may apply for citizenship after completing five years of residence, of which the last 12 months uninterrupted.

HUMANITARIAN STATUS

Legal basis: Humanitarian Status is granted pursuant to Section 19A of the Cyprus Refugee Law 2000-2004.

Beneficiaries: The Head of the Asylum Service grants humanitarian status to any applicant not recognised as a refugee or not granted subsidiary protection. Paragraph 2 of Section 19A provides that humanitarian status may be granted: (a) for humanitarian reasons, provided that these do not constitute grounds on the basis of which subsidiary protection status may be granted; (b) when the applicant’s deportation is impossible in law or in fact; or (c) when the applicant stands a fair chance of obtaining a visa from another safe country, which may be willing to consider his asylum request. The exclusion and cessation clauses apply *mutatis mutandis*.

Duration: According to Section 19A (3), the relevant residence permit is renewed for as long as the reasons on the basis of which humanitarian status was granted continue to exist. In practice, the authorities grant three-month renewable permits. The humanitarian status may be withdrawn with a decision of the Head of the Asylum Service, when the reasons which lead to the granting of such status cease, as per the provisions of Section 19A (4).

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Section 19A(5) provides that beneficiaries are granted the right to work under the same criteria as asylum-seekers. Asylum-seekers are granted the right to apply for employment permits as any other alien. In practice, on the basis of a policy decision of the Ministry of Interior, asylum-seekers are granted immediately, upon the submission of the asylum application, an employment permit. The same policy decision provides that the District Labour Offices shall give priority to asylum-seekers against any other alien and shall approve the contracts, even before the employer has acquired a permission to employ an alien, provided that s/he fulfils the relevant criteria to employ an alien.
Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing	✓		Section 19A(5) provides that beneficiaries are granted the right to apply for public allowance under the Public Allowance and Services Law (Social Welfare Law). The latter law, as well as the Constitution of Cyprus, makes no differentiation between nationals and aliens and both have equal access to social welfare. The Public Allowance and Services Law does not foresee a specific right to housing but provides for a rental allowance, which is incorporated in the welfare allowance received by a beneficiary. In special cases, the Social Welfare Services may decide to subsidise the whole amount of the rent.
Access to public education	✓		Section 19A(5) provides that beneficiaries have access to public educational institutions. This encompasses primary and secondary education.
Social security		✓	
Health	✓		Section 19A(5) provides for the access of beneficiaries to free medical care, when the beneficiary has insufficient financial resources.
Freedom of movement within the national territory	✓		Unconditional freedom of movement is granted under Section 19A(5).
Travel document		✓	

Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	The Refugee Law does not afford family reunification rights to persons granted humanitarian status. However, in practice, the authorities have respected the principle of family unity with regards to persons granted humanitarian status and their accompanying dependants and have extended such status to accompanying family members.
Vocational training		✓	
Access to citizenship	✓		Access to citizenship is not specifically provided for under the Refugee Law. Beneficiaries of humanitarian status (as well as refugees and persons granted subsidiary protection) may apply for naturalisation under the provisions of the Civil Registry Law. The latter provides that aliens residing in Cyprus on permits other than student, employment and visitor may apply for citizenship after completing five years of residence, of which the last 12 months was uninterrupted.

CZECH REPUBLIC

Statutes of complementary/subsidiary protection

- Temporary Protection Visa
- Toleration Visa

TEMPORARY PROTECTION (TP) VISA

Legal basis: Temporary Protection Visas are granted pursuant to the Act on Temporary Protection (Act no. 221/2003 on Temporary Protection of Aliens).

Beneficiaries: Temporary Protection is granted to aliens where an alien flees from the country of his/her nationality or from a country which granted him/her asylum status or, in case of stateless persons, the country of his/her former habitual residence if fleeing:

- from an armed conflict, a civil war or permanent violence,
- from a natural calamity,
- for reasons of permanent or mass violation of human rights and, or
- for reasons of permanent or mass persecution for the reason of nationality or religion.

Temporary protection is granted to:

- Aliens who collectively left the country of origin, or state, which granted them asylum,
- Aliens who collectively left the country of their last permanent residence, if they are stateless
- Aliens who cannot return to the states enumerated above.

Duration: This provision has yet to be applied in the Czech Republic (effective as of 2003). Either a governmental decree by the Czech Republic or a EU Council Decision in line with the Council Directive on Temporary Protection (2001/55/EC) is needed to activate the temporary protection regime. While this provision applies primarily in mass influx situations (as distinct from subsidiary protection), it could also be applied to individuals fleeing countries in the absence of a mass influx. The validity period of a visa for the purpose of temporary protection may be repeatedly extended by a period as set out by the government order.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Persons with temporary protection have the same access to employment as persons with permanent residence permits.
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		Persons granted Temporary Protection are able to live in a humanitarian centre. They can also live in private accommodations; however, the person must pay all costs.
Access to public education	✓		Persons with Temporary Protection have the same access to public education as Czech citizens.
Social security	✓		Persons granted Temporary Protection may request a financial allowance of a value not exceeding subsistence minimum.
Health care	✓		Access to medical attendance is available. Persons granted Temporary Protection have the same access to health care as persons with permanent residence permits. They also have the right to payment of their health insurance from the state budget.
Freedom of movement within the national territory	✓		
Travel document	✓		If persons granted Temporary Protection do not have a passport or other travel document, they can request a passport from the police.
Voting rights in municipal election		✓	
Right to stand for elections		✓	Since they are not Czech citizens, persons granted Temporary Protection have no right to stand for elections.
Family reunification	✓		A dependent member of a person granted Temporary Protection is granted permission for temporary protection on their own application.
Vocational training	✓		Persons granted Temporary Protection have access to vocational training via the labour office where they can register as a job candidate.
Access to citizenship		✓	Persons granted Temporary Protection do not have access to citizenship because

		they have not had a permanent residence permit for five years.
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TOLERATION VISA

Legal basis: Toleration Visas are granted pursuant to The Aliens Act (Act No. 326/1999 Coll., on Residence of Foreigners in the Czech Republic and Amendment to Some Acts) and The Asylum Act (Act. No 325/1999 Coll., on Asylum as amended by Act No. 2/2002 Coll., Act No. 217/2002 Coll., Act No. 320 2002 Coll. and Act No. 519/2002).

Beneficiaries: Under Section 41 of the Aliens Act a visa shall be issued by the Police at the request of an alien who flees from the country of his nationality or from a country which granted him asylum status or, in the case of stateless person, the country of his former habitual residence:

- from an armed conflict, a civil war or permanent violence, in particular if:
 - s/he was a war prisoner or was held in a detention camp and cannot be protected in any other way against a danger to his/her life or deprivation of his/her personal liberty for reasons beyond his control,
 - s/he is injured or seriously ill and cannot receive medical treatment at the place where s/he is currently staying,
 - there is or was an immediate danger to his/her life or danger of imprisonment and it is not possible to provide him/her with protection in any way at the place of his/her permanent residence,
 - s/he was a victim of sexual violence and it is not possible to provide him/her with suitable care in safe areas which are located as close as possible to the place of his/her permanent residence, and/or
 - s/he arrives directly from combat areas where fighting continues and human rights are being violated,
- from a natural disaster,
- for reason of constant or mass violation of human rights, or
- for reason of constant or mass persecution for the reason of nationality or religion,

Under Section 91 of the Asylum Act the obligation to terminate stay shall not apply if:

- the alien was forced to leave from
 - a country where his/her life or freedom is in danger for reasons of his/her race, religion, nationality, membership or a particular social group or political opinion, or
 - a country where s/he is in danger of torture, inhuman, or degrading treatment or punishment and/or danger as a result of war, or
 - a country which is requesting the alien's surrender due to a crime punished by the death penalty according to the laws of that country, and/or
- it contradicts the international obligations of the Czech Republic

Tolerated stay is also granted where an alien has been definitely rejected for asylum by the Minister of Interior, and has decided to use their right to have the negative decision of the Minister judicially reviewed by the High Court.

Duration: Toleration visas are issued for one year with the possibility of extension. Persons granted toleration visas in anticipation of a final judgment by the High Court are entitled to receive a toleration visa for the time period of the review.

Rights:

Rights	Y	N	Details
Access to wage-earning employment		✓	An act will be prepared in the future to allow persons granted Toleration visas to have access to wage-earning employment.
Access to self-employment		✓	An act will be prepared In the future to allow persons granted Toleration visas to have access to self-employment.
Access to liberal professions		✓	An act will be prepared In the future to allow persons granted Toleration visas to have access to liberal professions.
Access to housing		✓	Persons granted Toleration visas have to live privately and pay for all costs.
Access to public education	✓		Persons granted Toleration visas have the same access to public education as Czech citizens.
Social security		✓	
Health	✓		Persons granted Toleration visas receive the same access as aliens with temporary protection. The person pays for health care if s/he is able to afford it.
Freedom of movement within the national territory	✓		
Travel document	✓		If persons granted Toleration visas do not have a passport or other travel document, they can request a passport from the police.
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	
Vocational training		✓	
Access to citizenship		✓	

DENMARK

Statutes of complementary/subsidiary protection

- Protection Status
- Humanitarian Status
- Exceptional Reasons

PROTECTION STATUS

Legal basis: Aliens (Consolidation) Act 2002, Section 7(2).³

Beneficiaries: Aliens who do not qualify for refugee status under the Geneva Convention but risk the death penalty or being subjected to torture or inhuman or degrading treatment or punishment if returned to their country of origin.

Duration: May be permanent or for a limited period of time. If the residence permit is for a limited period of time but is issued for the purpose of (with a view to) permanent residence, it may be extended upon application unless basis for revoking it has come up, cf. Aliens act section 19. (Section 19: Reasons for revoking a residence permit, which has not yet been made permanent, could be that the person in question has sought and obtained refuge in another country, or that the circumstances in the country of origin have changed to the effect that the refugee would no longer be in risk of the above treatment in the event of a return of his or her country of origin). A permanent residence permit is issued upon application to aliens who have lived lawfully in Denmark for seven years, and who has – throughout this period - held a residence permit under section 7, subsection 2.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Exempt from the work permit requirement
Access to self-employment	✓		Like Convention refugees
Access to liberal professions	✓		Like Convention refugees
Access to housing	✓		Like Convention refugees

³ This new law, which came into effect on 1 July 2002, replaced and somewhat, narrowed the former *de facto* status.

Access to public education	✓		Like Convention refugees
Social security	✓		Like Convention refugees. Under Law No. 367 of 6 June 2002, until they have resided in Denmark for seven years, aliens will only receive a percentage of the full amount of social benefits.
Health	✓		Like Convention refugees.
Freedom of movement within the national territory	✓		Like with Convention refugees the freedom of movement may be indirectly limited in that a refugee who within the first three years of residence (the so-called "introduction period") moves to another municipality without the consent of that municipality may be deprived of social security benefits.
Travel document	✓		Danish Aliens Passport upon application. However, aliens are not allowed to visit their home country without prior approval.
Voting rights in municipal election	✓		Like Convention refugees - after three years of uninterrupted residence.
Right to stand for elections	✓		Like Convention refugees - after three years of uninterrupted residence.
Family reunification	✓		Like Convention refugees. Refugees married prior to flight from the country of origin do not have to meet any requirements. Refugees married after flight from the country of origin must meet requirements under Law No. 367 of 6 June 2002. The spouse must provide a financial support guarantee, both parties must be over 24 years old, and the couple must have closer ties to Denmark than to any other country – a requirement which can not be met if the refugee marries a person, who originates – or whose parents originate – from the same country as the refugee. Reunification to a parent over 60 years of age is no longer authorised.
Vocational training	✓		Like Convention refugees Acquired as soon as they are given the status
Access to citizenship	✓		Like Convention refugees: qualify for citizenship only after eight years of uninterrupted residence in Denmark (unless the alien is married to a Danish national, whereby he may apply after four years).

HUMANITARIAN STATUS

Legal basis: Aliens (Consolidation) Act 2002, Section 9(b)

Beneficiaries: A person who does not qualify for Convention refugee status under section 7(1) of the Act or protected status under section 7(2) of the Act but is in such a position that essential considerations of a humanitarian nature conclusively make it appropriate to grant a residence permit.⁴

Duration: May be permanent or for a limited amount of time. If the residence permit is for a limited amount of time but is issued for the purpose of permanent residence, it may be extended upon application unless there is a basis for revoking it. A permanent residence permit is issued upon application to aliens who have lived lawfully in Denmark for seven years and who have held the same residence permit pursuant to section 9.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Exempt from the work permit requirement
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		Like Convention refugees
Access to public education	✓		Like Convention refugees
Social security	✓		Like Convention refugees. Under Law No. 367 of 6 June 2002, until they have resided in Denmark for seven years, aliens will only receive a percentage (50-65%) of the regular (full) social benefits.
Health	✓		Like Convention refugees
Freedom of movement within the national territory	✓		Like with Convention refugees the freedom of movement may be indirectly limited in that a refugee who within the first three years of residence (the so-called "introduction period") moves to another municipality without the

⁴ Under Law No. 291, which came into effect on 1 May 2003, applications for humanitarian residence permits do not have suspensive effect unless they are lodged within fifteen days of a negative decision at first instance on an asylum application.

			consent of that municipality may be deprived of social security benefits.
Travel document		✓	National passport
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification	✓		Like Convention refugees. Refugees married prior to flight from the country of origin do not have to meet any requirements. Refugees married after flight from the country of origin must meet requirements under Law No. 367 of 6 June 2002. The spouse must provide a financial support guarantee, both parties must be over 24 years old, and the couple must not have a closer tie to another country. (For practical effects of this provision, be referred to answer regarding refugees under section 7(2).) Reunification to a parent over 60 years old is no longer authorised.
Vocational training	✓		
Access to citizenship	✓		Like Convention refugees: qualify for citizenship only after eight years of uninterrupted residence in Denmark (unless the alien is married to a Danish national, whereby he may apply after four years).

EXCEPTIONAL REASONS

Legal basis: Aliens (Consolidation) Act 2002, Section 9(c)

Beneficiaries:

- A residence permit may be issued to an alien if exceptional reasons make it appropriate (e.g. various forms of hardship in place of residence in combination with close family ties with a person living in Denmark).
- A residence permit may be issued to a person who does not qualify for Convention refugee status or protection status under section 7(2) of the Act, but whom it has not been possible to return to his/her country of origin for at least 18 months, and provided that the alien has assisted (co-operated with the Danish authorities) in the return efforts for 18 months, and return is considered futile according to information available at the time.

Duration: May be permanent or for a limited period of time. If the residence permit is for a limited period of time but is issued for the purpose of (with a view to) permanent residence, it may be extended upon application unless a basis for revoking it has come up.

Rights:

Rights	Y	N	Details
Access to wage-earning employment		✓	Exempt from the work permit requirement only when (1) permit has been issued in immediate continuation of a residence permit under section 9(b), (2) when the person submitted an application for a section 7 permit, or (3) the person received a permit as a result of close family ties to Denmark.
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		
Access to public education	✓		
Social security	✓		Like Convention refugees. Under Law No. 367 of 6 June 2002, until they have resided in Denmark for seven years, aliens will only receive a percentage of the full amount of regular social benefits.
Health	✓		Like Convention refugees
Freedom of movement within the national territory	✓		
Travel document		✓	National passport or Danish Aliens Passport.
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	According to Law No. 367 of 6 June 2002, there are restrictions to being reunited with one's spouse in Denmark (the spouse must provide a financial support guarantee, both parties must be over 24 years old, and the couple must not have a closer tie to another country). Reunification to a parent over 60 years old is no longer authorised. Furthermore the spouse in Denmark (i.e. the holder of the residence permit pursuant to section 9 (c)) must have had a permanent

		residence permit in Denmark for three years (-obtained after holding a temporary residence permit for 7 years = 10 years altogether)
Vocational training	✓	
Access to citizenship	✓	Like Convention refugees: qualify for citizenship only after eight years of uninterrupted residence in Denmark (unless the alien is married to a Danish national, whereby he may apply after four years).

ESTONIA

Statutes of complementary/subsidiary protection

- Temporary residence permit on humanitarian grounds

TEMPORARY RESIDENCE PERMIT ON HUMANITARIAN GROUNDS

Legal basis: Temporary residence permits on humanitarian grounds are granted according to the provisions of the Refugees Act, Chap. 1, Section 3(4), passed 18 Feb. 1997, entered into force 9 July 1997 (last amended 2003).

Beneficiaries: The Citizenship and Migration Board shall issue a temporary residence permit to an alien who is not deemed to be a refugee pursuant to the Convention but with respect to whom there are serious reasons for considering that his or her return or deportation may cause the consequences specified in Article 3 of the Convention for the Protection of Human and Fundamental Freedoms or Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the application of the death penalty in his or her country of nationality or country of permanent residence. (Chap. 1, Section 5(2)).

Duration: Chapter 4, Section 15 states that “a residence permit specified in subsection 5(2). . .shall be issued with a period of validity of up to two years.” In practice, the Estonian Permanent Representation states that temporary residence permits are issued for one year (in contrast, to those granted refugee status which are issued for two years). The Citizenship and Migration Board may extend a residence permit if the circumstances due to which the residence permit was issued have not ceased to exist and no circumstance exists which constitutes the basis for revocation thereof. (Section 17).

An alien who has been issued a temporary residence permit shall be issued a permanent residence permit on the basis and pursuant to the procedure provided in the Aliens Act. (Section 19). The Aliens Act, Section 12 provides that “a permanent residence permit may be issued to an alien who has resided in Estonia on the basis of a temporary residence permit for at least three years within the last five years and who has a valid residence permit, a residence in Estonia and permanent legal income for subsistence in Estonia, unless otherwise provided by this Act.”

Rights: With regard to social assistance and the labour market, those granted temporary residence permits on humanitarian grounds are on equal par with regular

legal immigrants. They receive the same rights and receive the same benefits as others who receive residence permits. Convention refugees are in an equal position with permanent residents.

Rights	Y	N	Details
Access to wage-earning employment	✓		The Citizenship and Migration Board may issue a work permit to an alien who has a residence permit. The validity of a work permit shall not exceed the validity of the residence permit. (Section 13(2)). An alien who has been issued a residence permit may contract employment in Estonia on the conditions set forth in the Aliens Act. (Section 20).
Access to self-employment	✓		Please see above.
Access to liberal professions	✓		Please see above.
Access to housing	✓		Access to housing is a constitutional right. The Ministry of Social Affairs operates on a local level and is responsible for ensuring some form of housing. Persons are also free to find housing independently.
Access to public education	✓		Persons granted temporary residence permits on humanitarian grounds have access to compulsory school (kindergarten through 9th level). By law, it is the parents' responsibility to ensure that their children attend school through the 9 th grade or up until 18 years of age. After this time, the children can choose to further their education or to find work.
Social security	✓		If persons with temporary residence permits on humanitarian grounds are in financial need and unable to find a job, they are given assistance for 6 months. After six months, this assistance ceases and they lose their right to be socially secured.
Health	✓		A right to medical assistance (at a minimum, urgent care) is guaranteed.
Freedom of movement within the national territory	✓		
Travel document	✓		An alien's passport shall, on the basis of a personal application, be issued to an alien who holds a valid residence permit in Estonia if it is proved that the alien does not hold a travel document issued by a foreign state and that it is not possible for him or her to obtain a travel document issued by a foreign state. (Identity Documents Act, Section 27(1)). A person granted temporary residence permit on humanitarian protection (as with those granted

			refugee status) will also be issued a compulsory ID card which will contain the residence permit.
Voting rights in municipal election		✓	Voting rights are only accorded to those holding permanent residence cards. If persons granted temporary residence permits on humanitarian grounds are subsequently granted permanent residence status, they attain voting rights.
Right to stand for elections		✓	
Family reunification	✓		<p>A minor child of an alien issued a temporary residence permit may be issued, at the request of the legal representative of the child, a residence permit on the same basis and with the same period of validity as the residence permit of his or her parent. (Section 16(1)). The residence permit of a minor child shall not be revoked and extension thereof shall not be refused if this does not correspond to the rights and interests of the child. (Section 16(7)).</p> <p>The spouse of an alien issued a temporary residence permit may be issued a residence permit on the same basis and with the same period of validity as the residence permit of the alien, provided that the spouse holds the same citizenship as the alien and that marriage was contracted before the application for the residence permit. (Section 16(2)).</p>
Vocational training	✓		Persons issued a temporary residence permit on humanitarian grounds are able to access vocational training. Different courses are provided to help qualify persons in different employment fields, ranging from language courses to computer courses
Access to citizenship	✓		Access to citizenship is available in accordance with the Citizenship Act, Section 6. Among other naturalisation requirements, an alien must have stayed in Estonia permanently on the basis of a permanent residence permit for at least five years and have a knowledge of the Estonian language.

FINLAND

Status of complementary/subsidiary protection

- Residence permits based on the need for protection

RESIDENCE PERMITS BASED ON THE NEED FOR PROTECTION

Legal basis: Aliens Act, Section 31 (passed in 1991 and amended through 2001), along with Section 9 of the Finnish Constitution, which states "a foreigner shall not be deported, extradited or returned to another country if in consequence he or she is in danger of a death sentence, torture or other treatment violating human dignity."

Beneficiaries: Aliens who in their country of origin or habitual residence, are threatened by capital punishment, torture or other inhuman or degrading treatment or who cannot return because of an armed conflict or environmental disaster.

Examples:

- Persons who are facing a risk of torture or inhumane or degrading treatment or punishment in their country of origin.
- Persons who face capital punishment in their country of origin.
- Persons who are forced to flee from their country of origin for reasons of indiscriminate violence arising from situations such as war or armed conflict.
- Persons who have a well-founded fear of persecution for the same reasons as listed in the 1951 Refugee Convention by non-State actors in their country of origin.
- Possibly, persons who fear persecution for gender-related reasons (including sexual orientation).
- Persons who are forced to flee environmental disasters.
- Persons who fear persecution for refusal to perform military service if the punishment is discriminatory or unreasonable and the person meets the other criteria set forth in Section 31.

Duration: A person is first given a residence permit for up to three years. After a continuous two-year stay in Finland, a permanent residence permit may be issued.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Like Convention refugees

Access to self-employment	✓		Like Convention refugees
Access to liberal professions	✓		Like Convention refugees
Access to housing	✓		Like Convention refugees: municipalities are obliged to provide accommodation.
Access to public education	✓		Like Convention refugees: children and adults have access to education.
Social security	✓		Like Convention refugees
Health	✓		Like Convention refugees: insured like Finnish citizens under Act on Health Insurance.
Freedom of movement within the national territory	✓		Like Convention refugees
Travel document	✓		Finnish Alien's Passport
Voting rights in municipal election	✓		Like Convention refugees
Family reunification	✓		Like Convention refugees: applies to person's spouse/cohabitee and unmarried children, as long as no public order or safety reasons weighing against reunification.
Vocational training	✓		Like Convention refugees
Access to citizenship	✓		Like Convention refugees

FRANCE

Statutes of complementary/subsidiary protection

- Subsidiary protection
- Constitutional Asylum

SUBSIDIARY PROTECTION

Legal basis: Law n° 2003-1176 of 10 December 2003, amending the law n° 52-893, of 25 July 1952, concerning the right to asylum. Since January 2004, territorial asylum, which was granted to rejected asylum seekers who if returned, would face a threat to his life or freedom or would be at risk of treatment contrary to Article 2 of the European Convention on Human Rights (ECHR), has been replaced by a status called “subsidiary protection”. An applicant’s eligibility for this new status will be determined by OFPRA (the French Office for Protection of Refugees and Exiles), which is already in charge of recognising the refugee status.

This kind of protection, based on article 3 of the ECHR, is directly inspired from the European effort aiming at unifying legislations of Member States of the European Union over asylum issues. This protection, as its name shows, is subsidiary to the one offered by the Geneva Convention. The level of protection granted to beneficiaries of subsidiary protection is lower than the level of protection conventional refugees can claim. However, its application scope is quite larger than that of conventional protection. It is not the reasons of persecutions that determine the grounds for the demand, but the nature of persecutions and the level they reach.

Beneficiaries: Beneficiaries include people facing a threat of torture, inhuman or degrading treatment or punishment, the death penalty or a serious threat to life or person resulting from an internal or international armed conflict. Any request for asylum will mainly be examined in light of the Geneva Convention. It is only in a secondary stage, if the person is not recognised as a Convention refugee, that the asylum request is treated as a request for subsidiary protection. Benefiting from subsidiary protection is not subject to any motive of persecutions. The term “persecutions” disappears too. Only will be taken into account “serious offenses” to the persons.

Duration: A recipient of subsidiary protection will receive a one-year residence permit, renewable if conditions in the country of return persist.

Appeal: On the one hand, if the OFPRA rejects the request for protection, the applicant can make an appeal to the appeal board. On the other hand, if the OFPRA decides to grant a subsidiary protection status (instead of recognizing the status of refugee), a

plaintiff can also lodge an appeal at the appeal board (CRR - *Commission des Recours des Réfugiés*) in order to contest this decision and to get the refugee status.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		They are not entitled to RMI (<i>Revenu Minimum d'Insertion</i>) system.
Access to self-employment	✓		Same as other immigrants
Access to liberal professions	✓		Same as other immigrants
Access to housing	✓		As other asylum seekers or refugees, they are entitled to assistance provided through CPHs (<i>Centres Provisoires d'Hébergement</i>) or CADAS, although there are emergency reception centres.
Access to public education	✓		Same as other immigrants
Social security	✓		Same as other immigrants
Health	✓		Same as other immigrants: benefit from C.M.U. Emergency health care is provided by hospitals with health care service (PASS), certain associations, les Maisons du Département and the Centres for family planning and education for women.
Freedom of movement within the national territory	✓		Same as other immigrants
Travel document		✓	Same as other immigrants
Voting rights in municipal election		✓	Same as other immigrants
Right to stand for elections		✓	Same as other immigrants
Family unification	✓		Unlike Convention refugees, the general rules of family reunification for immigrants are applicable (legal residence for at least 2 years, sufficient and stable income and adequate housing).
Access to citizenship	✓		Same as other immigrants
Financial aid			Like any other asylum seeker, specific financial aid is allocated to the applicant. In case of rejection of the application and return to the country of origin, in France there are no specific return programs for rejected asylum seekers and refugees. The general law on foreigners is applied: the

			French Office for International Migrations (OMI) offers reintegration aids to any foreigner under certain conditions.
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CONSTITUTIONAL ASYLUM

Legal basis: 1946 Constitution, incorporated into 1958 Constitution, which states: “every persons persecuted on grounds of his action for freedom has a right of asylum within the territories of the Republic.”

Beneficiaries: The OFPRA and Appeal Board for Refugees have discretion to grant Constitutional asylum to persons “fighting for freedom” who do not qualify as Convention refugees, under the same procedure as Convention refugee status is determined. In practice, this provision has had a very limited application.

Duration: Ten-year residence permit.

Rights: There is no difference between Convention refugee status and Constitutional asylum; in fact, the decision to grant refugee status does not even specify under which provision it was granted. Therefore, persons granted Constitutional asylum receive the same rights as Convention refugees.

GERMANY

Statuses of complementary/subsidiary protection⁵
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| <ul style="list-style-type: none"> • Humanitarian reasons - <i>Aufenthaltsbefugnis</i> • Deportation suspension • Tolerated residence - <i>Duldung</i> |
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HUMANITARIAN REASONS (AUFENTHALTSBEFUGNIS)

Legal basis: Aliens Act of 1990, Section 30

Beneficiaries: Residence permits are issued to persons for international public law reasons, for urgent humanitarian reasons, or to protect the political interests of Germany. Additionally, under section 30(3), an alien who has been ordered deported can receive a permit if, for reasons beyond his control, he cannot be deported.

Duration: 2 years maximum. No possibility of extending the permit if the barrier to deportation or other grounds for withholding termination of residence no longer exists. However, if the person has held a residence permit for eight years he may be issued a residence permit without a time limit if he can make himself understood orally in simple German, has sufficient living accommodation and does not qualify for deportation.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		May be restricted on the basis of general regulation or of an individual decision.
Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing	✓		Dependent upon the welfare policies of the different districts.
Access to public education	✓		Compulsory education
Social security	✓		Full social assistance, but not all social

⁵ A new Immigration Law was adopted by the European Parliament (*Bundestag*) on 1 of July. In application of this piece of legislation, Complementary Protection in Germany will undergo changes in the coming months. The law is expected to enter into force on 1 January 2005 and implementing regulations (providing guidelines for interpretation and application of the law) are expected to be adopted later this year.

			rights
Health	✓		Entitled to the same access to the national obligatory health system as German nationals.
Freedom of movement within the national territory		✓	They may not settle where they choose; their freedom of movement is restricted to a local district or a Länder.
Travel document		✓	They have to claim for a national document.
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	No legal entitlement. In practice, however, is generally granted to spouse and unmarried minor children.
Vocational training		✓	
Access to citizenship	✓		Can apply for a general residence permit under the Aliens Act – normally, after eight years of legal status, aliens have access to citizenship.

TEMPORARY SUSPENSION OF DEPORTATION

Legal basis: Aliens Act of 1990, Section 54.

Beneficiaries: The Ministry of Interior of each Land may order a temporary suspension of deportation based on public international law or humanitarian grounds. This provision only applies to groups, not individual refugees.

Note: before 1994, civil war refugees primarily benefited from this provision (e.g. refugees from Bosnia, Lebanon, Somalia). Section 54 has not been applied since 1994.

Duration: If the Ministry intends to maintain the order for more than 6 months, the Federal Ministry of Interior has to give its consent.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		May apply for a work permit for a specific job. However, the job must first have been offered to Germans and other EU nationals.

Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing	✓		Dependent upon the welfare policies of the different districts.
Access to public education	✓		Compulsory education
Social security	✓		Limited social assistance
Health		✓	During the first three years in Germany, they have limited access to the national obligatory health system.
Freedom of movement within the national territory		✓	They may not settle where they choose; their freedom of movement is restricted to a local district or a Länder.
Travel document		✓	They have to claim for a national document.
Voting rights in municipal election		✓	
Family reunification		✓	
Vocational training		✓	
Access to citizenship		✓	

TOLERATED RESIDENCE (DULDUNG)

Legal basis: Aliens Act of 1990, Sections 53 and 55.

Note: *Duldung* is an individual decision relating to the enforceability of a deportation order, and is not conceived as a residence status.

Beneficiaries:

- Section 53, paragraph 1-4 concerns persons who, if returned, would be at risk of torture, capital punishment, inhuman or degrading treatment (Article 3 ECHR) or violations of the European Convention for Human Rights. In these circumstances, *Duldung* is mandatory.
- Section 53, paragraph 6 concerns persons who, if returned, would face immediate threat to life or freedom or persons who are forced to flee starvation or deprivation of natural resources resulting from a deliberate policy of a liberation army IF the liberation army does not qualify as a state-like authority protection. In these circumstances, *Duldung* is discretionary.

- Under Section 55, expulsion is temporarily stayed if expulsion is impossible on factual or legal grounds or (if there is no final obligation to leave) if there are pressing humanitarian or personal reasons or important public interests at stake.

Note: Toleration does NOT apply to aliens who face a general risk of criminal prosecution in another State, so long as none of the above provisions applies.

Duration: *Duldung* is originally granted for a maximum of one year and can be renewed. There is no right to indefinite leave. Toleration according to Section 53, paragraphs 1-4 is extended as long as the Federal Office for Refugees considers that the reasons for which it had originally been granted still exist. Toleration according to Section 53, paragraph 6 may after two years turn into a legal status of a humanitarian residence permit if certain requirements are met.

Rights: The rights are the same as under the Aliens Act, Section 54.

GREECE

<p>Statuses of complementary/subsidiary protection</p> <ul style="list-style-type: none"> • Humanitarian refugee status • Temporary residence permits • Suspension of administrative deportation • Suspension of judicial deportation
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HUMANITARIAN REFUGEE STATUS

Legal basis: Immigration (Aliens) Law (Law No. 1975/1991, amended by 2452/1996), Section 25.4 in conjunction with Section 8 of Presidential Decree 61/1999.

Beneficiaries: Aliens whose refugee status application has been finally rejected and:

- cannot return to their countries of origin for reasons of a *force majeure* (e.g., serious health reasons, existence of an international embargo against the country of origin, civil war followed by mass violations of human rights, national disaster); or
- return would violate the non-refoulement requirement contained in article 3 of the ECHR or Article 3 of the Convention Against Torture.
- Similar humanitarian reasons may also be taken into account if neither of the above two scenarios applies.

Duration: 1 year, renewable annually for as long as factual situation exists.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Temporary employment to meet their immediate life needs, so long as no other Greek or EU national or Convention refugee expressed interest for the job (Presidential Decree No. 189/1998).
Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing		✓	While there are some reception centres run by IGOs and NGOs and one state-funded

			reception centre for all asylum seekers, people who have been awarded humanitarian status cannot be hosted in the reception centres because they are no longer asylum seekers.
Access to public education	✓		Access to primary and secondary education
Health	✓		Like Convention refugees. Access to the national health service on the same footing as low-income families residing in Greece.
Social security	✓		Medical, pharmaceutical and hospital services on condition that refugee does not have insurance and is in need of financial assistance (Presidential Decree 266/99, arts. 15-16).
Freedom of movement within the national territory	✓		Exceptions are possible for reasons of public security (like Convention refugees)
Travel document		✓	
Voting rights in municipal election		✓	
Family reunification		✓	
Vocational training		✓	
Access to citizenship	✓		May apply for citizenship after living in Greece for 10 years (as opposed to 5 years for Convention refugees). Must pay a fee.

OTHER TEMPORARY STATUSES

OTHER CATEGORIES	LEGAL BASIS	BENEFICIARIES	DURATION
TEMPORARY RESIDENCE PERMITS	Immigration Law 2910/2001, article 37.4 (a) and (b); Immigration Law 3146/2003, article 8 paragraph 1.	The Minister of Interior provides exceptional residence permits to: (1) Illegal immigrants in Greece unable to return to their country of origin, especially on humanitarian grounds (unless the applicant entered Greece illegally or for tourism purposes); (2) Aliens who are forced to migrate from their country of origin based on grounds of <i>force majeure</i> .	One year, renewable. Permits based on <i>force majeure</i> last as long as the relevant grounds exist in the country of return.

<p>SUSPENSION OF ADMINISTRATIVE DEPORTATION</p>	<p>Immigration Law 2910/2001, article 44.6</p>	<p>The General Secretary of the region where an alien resides may temporarily suspend an alien's administrative deportation because of (1) humanitarian reasons, (2) a <i>force majeure</i>, or (3) public interest, e.g. health reasons.</p>	<p>Law does not specify a duration, thus leaving it to administrative discretion.</p>
<p>SUSPENSION OF JUDICIAL DEPORTATION</p>	<p>Inter-ministerial decision 137954 of 12.10.2000, article 3.</p>	<p>Suspends execution of judicial deportation when deportation is not possible, especially when alien's life is in danger. Danger must be "certified" by the police and leave to remain is granted by a court. Because this is not a residence permit, the alien does not have any of the above-mentioned rights.</p>	<p>Until departure is possible.</p>

HUNGARY

Statutes of complementary/subsidiary protection

- Authorisation to stay

AUTHORISATION TO STAY

Legal basis: Authorisation to stay is granted pursuant to Section 43(1) of Act XXXIX of 2001 on the Entry and Stay of Foreigners; Section 81-96 of Government Decree No. 170/2001 (IX. 26) on the Implementation of Act XXXIX of 2001 on the Entry and Stay of Foreigners.

Beneficiaries: Authorisation to stay is granted to “any person who, for a transitory period, cannot be returned to his home country – in case of a stateless person, to the country according to his usual place of stay – because there he or she would be exposed to the death penalty, torture, inhuman or degrading treatment and there is no safe third country that would admit him or her.” (Section 2 (1) (g) of Act XXXIX of 2001 on the Entry and Stay of Foreigners in Hungary)

Duration: Persons granted Authorisation to Stay are issued a one-year humanitarian residence permit, which is renewable subsequent to annual review by alien policing authorities.

Rights: The legal basis for rights is found in Government Decree No. 170/2001 (IX. 26.) on the Implementation of Act XXXIX of 2001 on the Entry and Stay of Foreigners.

With regard to care and support, Section 83 (1) of Government Decree No. 170/2001 (IX. 26.) on the Implementation of Act XXXIX of 2001 on the Entry and Stay of Foreigners states that “the condition of ensuring the payment of care and support [...] is that the person authorized to stay not have assets, or his/her income – calculated on a per month per capita basis to also include the total income of his/her spouse, partner, sibling and ascendants and descendants – not exceed the actual minimum amount of pensions.”

Rights	Y	N	Details
Access to wage-earning employment	✓		Persons granted Authorisation to Stay are issued work permits in accordance with the general rules applicable to foreigners seeking a work permit in Hungary. However, the permit is issued in a simplified manner.
Access to self-employment	✓		Please see above.

Access to liberal professions	✓		Please see above.
Access to housing	✓		<p>Community Shelter: If the person granted Authorisation to Stay is indigent, s/he has access to housing, free of charge for 18 months.</p> <p>Private accommodation: If the person granted Authorisation to Stay wishes to move out of the community shelter, the authorities must grant permission for the new place of stay.</p> <p>When moving out of the shelter, s/he may be granted a one-time financial aid for housing purposes if his/her financial conditions so require. Financial aid for contributing to rent costs is available upon request.</p>
Access to public education	✓		Persons granted Authorisation to Stay have access to primary and secondary schooling up until the compulsory schooling age (completion of primary school or up to 16 years of age). Financial assistance is available for children attending primary school at the start of every school year.
Social security	✓		If employed, persons granted Authorisation to Stay are entitled to social security.
Health	✓		<p>Government Decree 170/2001, Section 86:</p> <p>(1) If the person authorized to stay is not covered by social security insurance, he/she is entitled to benefit free of charge of health care services specified in Article 78.</p> <p>(2) Persons authorized to stay who are accommodated in a community shelter shall be provided health care by a general practitioner in the community shelter.</p> <p>(3) Persons authorized to stay living outside of the community shelter shall be entitled to receive care by the general practitioner in the place of accommodation, who is obliged to provide health care services for the area.</p> <p>(4) Specialized health care services shall be provided by the health care provider obliged to provide care in the area.</p>
Freedom of movement within the national territory	✓		<p>Where a person granted Authorisation to Stay is residing in private accommodations there are no restrictions.</p> <p>Where an alien granted Authorisation to Stay is residing in a community shelter, there is a requirement to notify the authorities if s/he</p>

			wishes to leave the shelter for more than 48 hours. (Monthly pocket money can be withdrawn if aliens granted Authorisation to Stay fail to comply with this requirement).
Travel document		✓	
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification	✓		Persons granted Authorisation to Stay are entitled to family reunification in accordance with the <u>general rules on family reunification</u> .
Vocational training		✓	There is no access to state-funded vocational training schemes.
Access to citizenship	✓		Persons granted Authorisation to Stay have access to citizenship according to the general rules on acquisition of Hungarian citizenship.

IRELAND

Statutes of complementary/subsidiary protection

- Leave to remain
- Discretionary right to remain
- Prohibition against refoulement

LEAVE TO REMAIN

Legal basis: Section 3(6) of the Immigrant Act of 1999.

Beneficiaries: An individual who no longer has a legal right to remain in the country and receives a deportation letter (the final letter before a deportation letter, which allows the individual to state reasons why he or she should not be deported), for whom the Minister for Justice, Equality and Law Reform, in his discretion, decides there are humanitarian or other reasons not to make a deportation order and to allow the individual to remain in the country.

- Examples: while the term “humanitarian” is not defined in the statute or administrative regulations, it has been judicially interpreted to include circumstances such as illness, family connections and personal considerations.
- Before making a deportation order, the Minister must take into account the age of the person, the duration of residence in Ireland, the family and domestic circumstances of the person, the nature of the person’s connections with Ireland, the person’s employment record and employment prospects, the person’s character and conduct within and outside of Ireland, humanitarian considerations, representations made by and on behalf of the person, the common good, and considerations of national security and public policy.
- This provision applies not only to rejected asylum applicants but also to other aliens living in Ireland illegally, such as persons who overstay visas.
- Note: In a 2001 decision, the Supreme Court held a decision under this provision is discretionary and the Minister is not obliged to provide reasons for a positive or negative decision.
- Note: an individual may not affirmatively apply for this leave to remain, but must wait until receiving a deportation letter, after which he has fifteen days to make representations as to why he should not be deported.

Duration: Not specified in the statute.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		They must obtain a work permit granted for one year with the possibility of renewal.
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		Assistance from local authorities by including them in housing lists. Emergency accommodation may be provided if necessary.
Access to public education	✓		Access to primary and secondary education. Eligible to receive grants, scholarships and remission of fees in relation to higher education.
Social security	✓		Access to Supplementary Welfare Support, Social assistance payments and other payments such as Child Benefit. Employees who make Pay-Related Social Insurance Contributions receive related benefits and pensions like nationals.
Health	✓		Access to health care, including free medical and dental care.
Freedom of movement within the national territory	✓		
Travel document		✓	
Voting rights in municipal election	✓		
Right to stand for elections		✓	
Family reunification		✓	No right to family reunification, but person may apply to have a family member join him in Ireland.
Vocational training	✓		
Access to citizenship	✓		

DISCRETIONARY RIGHT TO REMAIN

Legal basis: Sections 17(6) of the Refugee Act of 1996.

Beneficiaries: Person whose asylum application was withdrawn or to whom the Minister has denied refugee status, and persons whose refugee status has been revoked. The Minister may, at his discretion, grant permission to such persons to remain in the country subject to certain specified conditions.

Note: this protection status has never been used. Section 3 of the Immigration Act of 1999, on the contrary, is frequently applied to rejected asylum applicants.

Duration: Specified in the Minister's decision.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		They must obtain a work permit granted for one year with the possibility of renewal.
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		Assistance from local authorities by including them in housing lists. Emergency accommodation may be provided if necessary.
Access to public education	✓		Access to primary and secondary education. Eligible to receive grants, scholarships and remission of fees in relation to higher education.
Social security	✓		Access to Supplementary Welfare Support, Social assistance payments and other payments such as Child Benefit. Employees who make Pay-Related Social Insurance Contributions receive related benefits and pensions like nationals.
Health	✓		Access to health care, including free medical and dental care.
Freedom of movement within the national territory	✓		
Travel document		✓	Must apply for a travel document, which may be refused.
Voting rights in municipal election	✓		
Right to stand for elections		✓	
Family reunification		✓	No right to family reunification, but person may apply to have a family member join him in Ireland.
Vocational training	✓		

Access to citizenship	✓		
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PROHIBITION AGAINST REFOULEMENT

Legal basis: Section 5(2) of the Refugee Act of 1996 and Section 4 of the Criminal Justice (United Nations Convention Against Torture) Act 2000, as well as Article 3 of the ECHR (which, as of January 2004, will be included in the national law).

Beneficiaries:

- A person may not be returned to countries where, in the opinion of the Minister, the person's life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion. A person's freedom shall be regarded as being threatened if, in the opinion of the Minister, the person is likely to be subject to a serious assault (including a serious assault of a sexual nature).
- A person may not be returned to a country where, in the Minister's opinion, there are substantial grounds for believing he would be in danger of being subject to torture. The Minister should consider whether there is a consistent pattern of gross, flagrant or mass violations of human rights in the country of return.

Duration: specified in the Minister's decision.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		They must obtain a work permit granted for one year with the possibility of renewal.
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		Assistance from local authorities by including them in housing lists. Emergency accommodation may be provided if necessary.
Access to public education	✓		Access to primary and secondary education. Eligible to receive grants, scholarships and remission of fees in relation to higher education.
Social security	✓		Access to Supplementary Welfare Support, Social assistance payments and other payments such as Child Benefit. Employees who make Pay-Related Social Insurance Contributions receive related benefits and

			pensions like nationals.
Health	✓		Access to health care, including free medical and dental care.
Freedom of movement within the national territory	✓		
Travel document		✓	
Voting rights in municipal election	✓		
Right to stand for elections		✓	
Family reunification		✓	No right to family reunification, but person may apply to have a family member join him in Ireland.
Vocational training	✓		
Access to citizenship	✓		

ITALY

Statutes of complementary/subsidiary protection

- Political asylum
- Residence permits on humanitarian grounds

POLITICAL ASYLUM

Legal basis: Article 10, paragraph 3 of the Constitution.

Beneficiaries: Any foreigner who is not allowed to exercise in his own home country the democratic liberties guaranteed by the Italian Constitution, according to the conditions established by law. Wider scope than Article 1A of the Geneva Convention because it includes not only those persons who have a personal fear of persecution but also those who for other humanitarian reasons are unable to return to their countries of origin.

Note: This provision was considered a programmatic rule with no binding effects until 1997, when a new interpretation made by the Civil Supreme Court (“Corte di cassazione”, decision no. 4674, 26 May 1997) stated that this right is a subjective right and, in absence of any specific legislation, it can be directly applied. This interpretation was reconfirmed by the decision of the Tribunal of Rome, 1 October 1999, where Abdullah Ocalan was granted political asylum.

Duration: No specific duration is provided in Article 10(3), but a recipient receives the same status as Convention refugees.

Rights: According to court decisions applying the provision, it seems recipients are granted full refugee status and therefore receive the same rights and benefits as Convention refugees.

RESIDENCE PERMITS ON HUMANITARIAN GROUNDS

Legal basis: Article 5(6), Legislative decree no. 286/98 (also called Testo Unico).

Beneficiaries: Individuals who do not qualify as Convention refugees but cannot be returned due to serious humanitarian reasons or constitutional or international obligations of the Italian State.

Under the new law no. 189/02, not yet in force with regard to the section on asylum, among other obligations of the Italian State there is an explicit mention of Article 3 of the European Human Rights Convention.

Duration: No provision is included in the law, but the practice confirms the residence permits are generally issued for one year. Renewal is difficult, as the Central Commission must re-examine the case to determine if humanitarian grounds continue to apply, and only upon such new examination can the Police renew, for another year, the residence permit.

Rights:

Rights	Y	N	details
Access to wage-earning employment	✓		Equal employment rights in line with Italian citizens.
Access to self-employment	✓		
Access to liberal professions			No special provision. Access to liberal professions is very difficult for non EU-nationals (regulation on mutual recognition of studies, enrolment in professional organisations)
Access to housing		✓	
Access to public education	✓		Right to full-time education in line with Italian citizens. Compulsory education for children.
Social security	✓		Complete access to the Italian Social Security System (National Insurance card, panel doctor, out-patient and specialized treatments, hospitals).
Health	✓		Complete access to Italian health care system.
Freedom of movement within the national territory	✓		
Travel document		✓	A special regulation applies to Somalis. In special circumstances, they can be given a travel document which is not valid for the Schengen area.
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification	✓		The family members covered by this right are those of the immediate family (spouse and minor children).
Access to citizenship	✓		No special provision

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LATVIA

Statutes of complementary/subsidiary protection

- Subsidiary Protection Status

SUBSIDIARY PROTECTION STATUS

Legal basis: Subsidiary Protection shall be granted according to the provisions of the Asylum Law, Section 35 (adopted by the Saeima on 7 March 2002, entered into force on 1 Sept. 2002).

Beneficiaries: Subsidiary protection shall be granted to a person to whom refugee status may not be granted, but only if there is reason to believe that:

- The person is under threat of the death penalty, corporal punishment, torture, inhuman or degrading treatment, or degrading punishment in the country of his or her citizenship or, if the person is a stateless person, in the country of his or her former residence; or
- Due to external or internal armed conflict this person needs protection and he or she cannot return to the country of his or her citizenship or, if the person is a stateless person, to the country of his or her former residence.

Duration: A person who has been granted subsidiary protection on the basis of (1) above shall be issued a permanent residence permit. (Section 37(1)(1)).

Subsidiary protection based on (2) above is granted for a term of up to one year. The Department shall extend it for a term of up to one year if the person submits for extension of the status a month before the expiration of the term and the conditions referred to in (2) still exist. (Sections 35(3) and 37(1)(2)). If a temporary residence permit is renewed several times, a person can apply for a permanent residence permit. The decision to grant a permanent residence permit is assessed on a case-by-case basis.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		A person who has received a residence permit (issued when subsidiary protection is granted) has the right to work. (Section 37(3)).
Access to self-employment	✓		
Access to liberal	✓		

professions			
Access to housing		✓	
Access to public education	✓		There is compulsory education for the primary and secondary levels.
Social security	✓		If a person granted subsidiary protection has no other source of income, he or she shall receive an allowance in the amount 1. for not more than 12 months after the granting of status if the person has received a permanent residence permit; and 2. for not more than 9 months after the granting of status if the person has received a temporary residence permit. (Section 39).
Health		✓	Persons granted subsidiary protection receive only emergency health care (provided by the state). The person must pay all other health care costs.
Freedom of movement within the national territory	✓		
Travel document	✓		If a person who has been granted subsidiary protection does not have a valid personal identity or travel document and it is impossible to obtain such document, a personal identity document will be issued. (Section 38).
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification	✓		A person granted subsidiary protection in accordance with (1) above has the right to family reunification with the procedures provided by law. A person granted subsidiary protection in accordance with (2) above and who has resided in Latvia for at least three years after the granting of the status, has the right to submit a request for reunification of the family. (Section 40).
Vocational training		✓	Although not granted vocational training as such, persons granted subsidiary protection are allowed to register as job seekers and thus may be involved in training for unemployed persons.
Access to citizenship	✓		A person with subsidiary protection who has had a permanent residence permit for five years can partake in the naturalization process.

LITHUANIA

Statutes of complementary/subsidiary protection

- Subsidiary Protection Status

SUBSIDIARY PROTECTION STATUS

Legal basis: Subsidiary Protection is granted pursuant to the Law on Legal Status of Aliens, Art. 87 (issued on 29 April 2004).

Beneficiaries: Subsidiary Protection is granted to persons who are threatened in their country of origin by torture, inhuman or degrading treatment or punishment, by attack on their basic human rights and freedoms, by armed conflict or widespread violence.

Duration: Subsidiary Protection is granted for one year. It is renewable on a yearly basis and after five years it is possible to apply for a permanent residence permit.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing		✓	Persons granted subsidiary protection are provided housing only for the period of social integration, i.e. one year.
Access to public education	✓		Public education is accessible only to children.
Social security		✓	Persons granted subsidiary protection are provided social guarantees only for the period of social integration, i.e. one year.
Health		✓	Persons granted subsidiary protection are provided with health insurance only for the period of social integration, i.e. one year. After that, only emergency care is provided.

Freedom of movement within the national territory	✓		
Travel document	✓		This is not implemented yet.
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family Reunification		✓	
Vocational Training		✓	Persons granted subsidiary protection are provided with vocational training only for the period of social integration, i.e. one year.
Access to citizenship	✓		Persons granted subsidiary protection qualify for citizenship after ten years of uninterrupted residence in Lithuania. If they marry a Lithuanian national, they qualify after five years.

LUXEMBOURG

Statutes of complementary/subsidiary protection

- Tolerance

TOLERANCE

Legal basis: Article 13, Act of 18 March 2000.

Beneficiaries: People who have been denied refugee status but cannot be returned for practical reasons (including because the country of origin refuses to re-admit them). In practice, few people have benefited by this disposition as it depends on the discretion of the Minister of Justice. Those who have benefited have done so mainly due to their health problems.

Duration: Until the circumstances rendering return impossible cease. Normally, for some months, renewable.

Rights:

Rights	Y	N	Details
Access to wage-earning employment		✓	
Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing		✓	
Access to public education	✓		
Social security		✓	May be determined by a "Reglement grand-ducal", but has not been adopted yet.
Health	✓		
Freedom of movement within the national territory	✓		
Travel document		✓	
Voting rights in municipal election		✓	

Right to stand for elections		✓	
Family reunification		✓	
Vocational training		✓	
Access to citizenship		✓	

MALTA

Statutes of complementary/subsidiary protection

- Humanitarian Protection (HP)

HUMANITARIAN PROTECTION

Legal basis: An Act to make provisions relating to and establishing procedures with regard to refugees and asylum seekers, Act No XX of 2000, Chapter 420 of the Laws of Malta.

Beneficiaries: Section 8(7) of the Refugees Act, 2000, states that the Refugee Commissioner may recommend that a person who does not satisfy the conditions defining recognition as a refugee, be granted humanitarian protection. Section 8(8) of the Act goes on to state that if the Refugee Commissioner makes such a recommendation, then the Minister 'shall' grant humanitarian protection⁶. Section 2 of the Act defines 'humanitarian protection' as "special leave to remain in Malta until the person concerned can safely return to his country of origin or otherwise resettle safely in a third country".

This definition implies that an asylum seeker will be granted humanitarian protection if s/he cannot return home safely, for whatever reason. In practice, however, this status is granted almost exclusively to people fleeing a country where there is war or violent conflict⁷. As a rule it is not granted to people who would face a violation of their rights under one or more of the various human rights conventions that Malta has ratified, such as the ECHR or the CAT. The only exception to this general, albeit unwritten, rule are asylum seekers from Eritrea, who are currently being granted humanitarian protection in view of a UNHCR recommendation to this effect, issued in January 2004.

Duration: In practice, the person will be issued with a renewable temporary visa until s/he can return home or settle in another country. Temporary protection ceases when the Minister considers, after consultation with the Refugee Commissioner, that it is no longer necessary.

Rights:

⁶ In terms of Section 8(6) where the Refugee Commissioner recommends that the applicant be granted refugee status, the Minister may declare the said person a refugee or appeal against the recommendation. In practice, to date, the Minister has never appealed against a recommendation of the Commissioner to grant refugee status.

⁷ Humanitarian protection has been granted to asylum seekers from countries, among others, such as Liberia, DRC, Somalia, Iraq, and Ivory Coast.

Rights	Y	N	Details
Access to wage-earning employment		✓	Although persons granted HP have no legal right to engage in wage earning employment, in practice, permission to work is granted on a temporary basis. The 'work permit' or 'employment license' is issued not to the individual, but to the prospective employer, authorising him to employ the person granted HP in a particular capacity. Where an employer is applying for a license to employ a person granted HP, s/he is not required to show that a Maltese national could not fill the vacancy, as would normally be the case when one is applying for permission to employ a foreign national. An employment license may be renewed. In case of a change of job, a new permit must be obtained.
Access to self-employment		✓	
Access to liberal professions		✓	There is no legal right to access to liberal professions. In most cases one would need to be issued a warrant by the government in order to practice in Malta, which would be very difficult to obtain.
Access to housing		✓	There is no legal right to housing. In practice persons granted HP are housed either in hostels called 'open centres' administered by the police or armed forces, or in hostels run by NGOs, until they can move into independent accommodation.
Access to public education		✓	Persons granted HP have no legal right to public education, but in practice they are usually granted access to free state education.
Social security		✓	Persons granted HP are only granted very limited financial assistance in the initial weeks after their release from detention.
Health		✓	In practice, persons granted HP have access to free state medical services, and obtain most, if not all, forms of treatment free of charge.
Freedom of movement within the national territory		✓	The Refugees Act does not specifically grant people with HP the right to freedom of movement within national territory. However their continued detention would arguably be contrary to Malta's obligations under Article 5 of the ECHR, which is part of Malta's national law, and similar provisions in other human rights conventions to which Malta is a party. In practice people granted humanitarian protection are always granted freedom of

			movement within national territory.
Travel document		✓	In practice, persons granted HP may be granted a travel document should they need to travel outside of Malta. However, as with all of the above, this is purely a matter of government discretion and not a legal right.
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	In practice, it is often very difficult for persons granted HP to bring members of their family to Malta for the purposes of family re-unification. In some cases the authorities have allowed such re-unification, but the majority of requests are not acceded to, and again it is purely a matter of governmental discretion and not a legal right.
Vocational training		✓	Vocational training is offered by the Employment and Training Corporation (ETC), which caters only to those who can register to work in Malta, i.e. Maltese citizens and recognised refugees. Those who need a work permit in order to work in Malta are only allowed access to the training schemes offered by the Corporation on an exceptional basis.
Access to citizenship	✓		Any non-national who has been in Malta for five years can apply for Maltese citizenship, but in practice such requests are hardly ever acceded to. If an applicant has resided in Malta for more than 15 years, the request would be considered favourably. To date, applications from refugees or people granted HP have not been given special consideration.

THE NETHERLANDS

Statutes of complementary/subsidiary protection

- Residence status for humanitarian reasons
- Decision moratory
- Expulsion moratory
- Regular residence permit

RESIDENCE STATUS FOR HUMANITARIAN REASONS

Legal basis: Sections 26, 27 and 29 of the Aliens Act 2000.

Beneficiaries:

- Persons who have good grounds for believing they will run a risk of being subject to torture or inhuman or degrading treatment or punishment if expelled to their country of origin
- Persons who cannot, for pressing humanitarian reasons, reasonably be expected to return to their country of origin
- Persons for whom return to their country of origin would constitute an exceptional hardship because of the overall hardship there. The Minister considers (1) the nature of the violence in the country of origin, in terms of human rights violations, the extent of violence and the arbitrariness of violence; (2) the activities of international organisations with respect to the country of origin; and (3) the policies of other EU member states. The Minister has considerable discretion in this area and is subject to little judicial review.
- Persons whose spouse or parent has the same nationality and was granted a residence permit within three months of the applicant's application for admission
- Persons who are dependents on partners or family members who received a residence permit, provided they have the same nationality and applied for admission within three months of the family member's receipt of the permit

Duration: Three years maximum, but may be withdrawn during this time if the reasons for granting the permit cease. After residing in the Netherlands with such a permit for three years, the person is granted an indefinite resident permit.

Rights: Rights are the same for recipients of all residence permits.

Rights	Y	N	Details
Access to wage-earning employment	✓		Like Convention refugees
Access to self-employment	✓		Like Convention refugees
Access to liberal professions	✓		Like Convention refugees
Access to housing	✓		Like Convention refugees
Access to public education	✓		
Social security	✓		Like Convention refugees
Health	✓		Like Dutch nationals
Freedom of movement within the national territory	✓		
Travel document	✓		Upon request, a travel document as meant in Geneva Convention.
Voting rights in municipal election	✓		After five years of residence.
Right to stand for elections	✓		After five years of residence.
Family reunification	✓		Unlike Convention refugees, they are required to have sufficient income to support their relatives, as well as suitable accommodation.
Vocational training	✓		
Access to citizenship	✓		After five years of residence.

DECISION MORATORY

Legal basis: Section 43, Aliens Act 2000.

Beneficiaries: Persons who have applied for asylum and the decision on the asylum application is extended beyond the typical six-month period because:

- There is insecurity in the country of origin that is expected to be short-lived, and therefore it is impossible to determine whether a residence permit (on refugee or humanitarian grounds) is appropriate.

- The situation justifying the grant of a residence permit is expected to be of a short duration.
- The number of applications lodged by persons from a particular country or region is so large the Minister cannot reasonably decide them within the six-month time limit.

Duration: Until the decision on asylum is taken (at most, one year).

EXPULSION MORATORY

Legal basis: Section 45(4), Aliens Act 2000.

Beneficiaries: Persons whose asylum applications were rejected in a final decision and, due to the situation in the country of origin, return is temporarily impossible.

Expulsion moratory (which applies only to applications that have been finally rejected) is often applied in combination with a decision moratory (which applies only to pending applications). While the grounds for expulsion moratory are not mentioned in the Aliens Act, parliamentary documents and government policies indicate situations of insecurity can be a reason to apply the expulsion moratory. This status, while vague and undefined, has been applied to many cases – most recently, to Iraqis and Afghans.

Duration: No longer than one year (by statute), although it is unclear what would happen to the recipient after one year if return were still impossible.

REGULAR RESIDENCE PERMIT

Legal basis: Article 3.6 of the Aliens Decree and Article 14 of the Aliens Act

Beneficiaries:

- Persons who are unable to leave the Netherlands through no fault of his or her own. Example: stateless persons who can establish their stateless status through documents or has been registered as stateless.
- Unaccompanied minors whose application has been substantively examined and dismissed and the Minister is of the opinion that s/he is unable to maintain him/herself in another country or will not have adequate shelter in the country of origin or in another country where s/he can reasonably go.

Duration: Three years, after which the person with an “asylum related regular residence permit” is entitled to a more permanent status “for continued residence.” After a period of

five years since the first regular residence permit was granted, the person can qualify for an indefinite residence permit.

POLAND

Statutes of complementary/subsidiary protection

- Tolerated Stay

TOLERATED STAY

Legal basis: Tolerated Stay is granted pursuant to The Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland (Journal of Laws of 2003, No. 128, item 1176).

Beneficiaries: The Act states that an alien is granted a permit for tolerated stay if his/her expulsion:

- may be effected only to a country where his/her right to life, to freedom and personal safety could be under threat, where s/he could be subjected to torture or inhuman or degrading treatment or punishment, or could be forced to work or deprived the right to a fair trial, or could be punished without any legal grounds in terms of the Convention on Human Rights and Fundamental Freedoms signed in Rome (4 Nov. 1950) (European Convention on Human Rights and Fundamental Freedoms);
- is unenforceable for reasons beyond the authority executing the decision on expulsion or beyond this alien;
- may be effected only to a country to which the extradition is inadmissible on the basis of the court judgment or on the basis of the decision of the Minister of Justice on refusing to extradite that alien;
- would be effected for reasons other than a threat to state security or defense, as well as to public security and order, while the alien has been married to a Polish citizen or to an alien who has been granted the permit to settle.

Duration: A person who has been granted the permit for tolerated stay is issued a residence card for the period of one year, which is subject to prolonging for the following period, until the permit for tolerated stay is withdrawn or until it expires by virtue of law.

A decision on withdrawing the permit for tolerated stay will be taken if one of the following circumstances arises:

- the reason for granting the permit for tolerated stay has ceased to exist;
- an alien has voluntarily applied for protection to the authorities of the country of origin;
- an alien has permanently left Poland;
- an alien may constitute a threat to the state security and defence as well as to the public security and order.

A permit for tolerated stay expires by virtue of law on the day of:

- granting to the alien refugee status.
- acquisition of Polish citizenship by the alien.
- informing the President of the Office by the alien of abandoning the right to enjoy the permit for tolerated stay;
- granting to the alien the permit to settle.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Persons granted Tolerated Stay are entitled to work in Poland without a work permit.
Access to self-employment	✓		Persons granted Tolerated Stay are entitled to perform business activity in line with the same principles as Polish citizens.
Access to liberal professions	✓		Persons granted Tolerated Stay are entitled to perform business activity in line with the same principles as Polish citizens.
Access to housing		✓	Persons granted Tolerated Stay have housing access under the same conditions as Polish citizens.
Access to public education	✓		Persons granted Tolerated Stay are entitled to access in the primary, grammar and secondary schools (high schools, technical schools).
Social security	✓		Persons granted Tolerated Stay are entitled to receive social care services including a family allowance, nursing and child benefit.
Health	✓		Persons granted Tolerated Stay insure themselves voluntarily with the National Health Fund (Narodowy Fundusz Zdrowia) or they are subjected to compulsory insurance (as a result of an employment contract)
Freedom of movement within the national territory	✓		
Travel document		✓	Persons granted Tolerated Stay are not entitled to a travel document.
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	
Vocational training		✓	Persons granted Tolerated Stay do not generally have rights to vocational training. S/he does not have rights to register as an unemployed person and receive benefits connected with this status i.e. the right to take part in vocational training given to unemployed people.

Access to citizenship	✓		
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PORTUGAL

Statutes of complementary/subsidiary protection

- Residence permit for humanitarian reasons
- Residence permit in case of irregular stay
- Exceptional residence permit

RESIDENCE PERMIT FOR HUMANITARIAN REASONS

Legal basis: 1998 Asylum Act, Article 8

Beneficiaries: Aliens or stateless persons are granted a residence permit for humanitarian reasons when they do not qualify for Convention refugee status but are prevented or feel unable to return to their country of nationality or habitual residence because of a serious lack of security resulting from armed conflicts or systematic violation of human rights.

- **Example:** Nationals of Angola, Sierra Leone and Afghanistan were issued such permits, but the Portuguese government decided in 2002 not to renew such permits because of changes in the country of origin. This decision is on appeal, and these nationals are currently applying for residence permits in cases of irregular stay (see below). More recently, in November 2003, the Portuguese authorities decided to renew the permits of nationals of Sierra Leone because they considered that the situation in this country has worsened.

Duration: The residence permit is valid for a maximum of 5 years, renewable after an analysis of the evolution in the country of origin. In practice, these permits are valid for a renewable period of one or two years.

Rights: Generally, the Constitution states that aliens and stateless persons temporarily or habitually resident in Portugal shall have the same rights and duties as the Portuguese nationals (Article 15(1), Constitution of the Portuguese Republic 1976).

Rights	Y	N	Details
Access to wage-earning employment	✓		Same conditions as nationals
Access to self-employment	✓		

Access to liberal professions	✓		Same conditions as nationals
Access to housing	✓		Same conditions as nationals
Access to public education	✓		Both compulsory and further education
Social security	✓		After the admission of the asylum request, they are entitled to monthly social support for four months or more, depending on their level of integration into the labour market. Afterwards, the holders of a residence permit can benefit from the solidarity system (which includes the insertion minimum income) under the same conditions as nationals. They are also entitled to the family protection system (which includes family support) if they have been living in Portugal for more than six months.
Health	✓		Same conditions as nationals
Freedom of movement within the national territory	✓		
Travel document	✓		They may obtain an alien's Portuguese passport if they are stateless, if they have no consular representation in Portugal. They can also get this alien's passport if they can prove they are unable to get another kind of passport.
Voting rights in municipal election		✓	The right to vote in municipal elections is foreseen for the holders of a residence permit, in reciprocity conditions, if they are nationals of the following countries: Brazil, Cape Verde, Argentina, Israel, Peru, Uruguay, Chile, Venezuela and Estonia.
Right to stand for elections		✓	The right to stand for municipal elections is foreseen for nationals of Brazil, Cape Verde, Peru and Uruguay.
Family reunification	✓		Relatives include spouses, minors, disabled persons dependent on one spouse, children adopted under Portuguese judicial decision, ascendants of the alien or spouse and minor brothers or sisters under his or her charge.

Vocational training	✓	Same conditions as nationals
Access to citizenship	✓	General provisions applying to aliens: 6 years if coming from a Portuguese-speaking country; otherwise 10 years.

RESIDENCE PERMIT IN CASE OF IRREGULAR STAY

Legal basis: Aliens Act of 2003 (Decree Law No. 34/2003),⁸ Article 87.

Beneficiaries:

- Aliens who live in Portugal and suffer a grave illness, have a relative who has a humanitarian residence permit, are married to or live with Portuguese nationals or aliens with residence permits, or have minor children living in Portugal.
- Aliens with an artistic, scientific, economic or social activity of high interest for the country.
- Diplomats who have worked in Portugal for more than three years.

Duration: The Temporary Residence Permit is valid for a period of two years, renewable for periods of three years. After five years (for Portuguese-speaking countries of origin) or eight years (non-Portuguese-speaking countries of origin), aliens can apply for a permanent residence permit.

Rights: Same as holders of residence permits on humanitarian grounds.

EXCEPTIONAL RESIDENCE PERMIT

Legal basis: Aliens Act of 2003 (Decree Law No. 34/2003), Article 88.

Beneficiaries: When neither Article 56 (family reunion), Article 87 (residence permit) nor Article 8 (residence permit for humanitarian reasons) applies, in exceptional cases, Portuguese authorities can issue an exceptional residence permit for reasons of national interest.

⁸ The Aliens Act of 2003 (Decree Law No. 34/2003) revoked Article 55 of the Aliens Act of 2001 (Decree Law No. 4/2001) that established the Permanence Permit (Autorizações de Permanência).

Duration: The Exceptional Residence Permit is valid for two years and successively renewable for a period of three years.

Rights: Same as holders of provisory residence permits (Article 83 of the Aliens Act of 2003, Decree Law No. 34/2003).

SLOVAK REPUBLIC

Statutes of complementary/subsidiary protection

- Tolerated Residence

TOLERATED RESIDENCE

Legal basis: Tolerated Residence is granted pursuant to § 43 of The Law on the Residence of Aliens and on the Change and Updates of some Laws (Edict 48/2002).

Beneficiaries:

The police department shall grant tolerated residence to an alien:

- If an obstacle for his/her administrative expulsion exists as detailed below:
 - An alien cannot be administratively expelled into a state in which his/her life would be endangered for reasons of his/her race, nationality, religion, and membership in a certain social group or for his/her political opinion. Likewise, an alien cannot be administratively expelled into a state, in which s/he was sentenced to capital punishment, or if an assumption exists that such a sentence can be imposed on him/her as a result of the ongoing criminal proceeding.
 - An alien cannot be administratively expelled into a state in which his/her freedom would be endangered for reasons of his/her race, nationality, religion, membership in a certain social group or for his/her political opinion, or where s/he would face torture, cruel, inhuman or degrading treatment or punishment; this does not apply if the alien poses a danger to the security of the state by his/her act or if s/he was sentenced for particularly serious criminal offence (§ 41, sec. 2 of the Criminal Code) and poses a danger to the Slovak Republic.
 - Likewise, it is not possible to administratively expel a stateless alien who holds permanent residence permit; this does not apply if s/he, by his/her act, poses a danger to the security of the state or to the public order.
- Who was granted temporary protection, or
- Whose departure is not possible and there is no reason for his/her detention.

Duration: On the basis of the alien's request, the police department shall grant the tolerated residence permit for 180 days at most based on the ascertained facts which are the reason for its granting. (§ 43, para. (2)).

The police department can repeatedly extend the tolerated residence; at the same time it is obliged to examine whether the reasons for which the alien was granted the permit are still valid. The police department can request that the alien proves the validity of the obstacle preventing his/her departure. (§ 43, para (3)).

If the reason for which the tolerated residence permit was granted no longer exists, the alien is obliged to notify the police department within 15 days of the time s/he became aware of the fact. (§ 44, para. (1)).

The police department shall cancel the tolerated residence permit if it ascertains that the reason for which the tolerated residence permit was granted has expired. At this time, the police department will set an adequate time limit for departure of the alien, which must be within 30 days from the time in which the decision to cancel tolerated residence becomes valid. (§ 44, para. (2)).

Rights:

Rights	Y	N	Details
Access to wage-earning employment		✓	During the validity of the tolerated residence permit the alien cannot, according to the separate regulation, engage in an enterprise and cannot, according to the separate regulation, enter a legal labour agreement or similar labour agreement; the restriction to enter the legal labour agreement or similar labour agreement does not apply to aliens granted the tolerated residence permit specified under Beneficiaries, subsection 2 above (those granted temporary protection). (§ 43, para. (4)).
Access to self-employment		✓	The same provision as above applies.
Access to liberal professions		✓	The same provision as above applies.
Access to housing	✓		<p>Access to housing is available and two possibilities exist. Persons granted the tolerated residence permit can apply for service from a Migration Office (MI SR) in one of the asylum shelters or the person can use the service of an accommodation provider.</p> <p>In the case of the latter, the accommodation provider is obliged to verify the identity of the alien, to keep the house book register and to record in it the beginning and the conclusion of the accommodation, the name and surname, the date of birth, the citizenship, the purpose of the residence, the evidence number of the travel document and visa, the date of entry, the anticipated length of residence and the address of the accommodation facility, to ensure that the alien fills out the printed form regarding the notice of the residence and</p>

		<p>facilitate its delivery to the police department within five days from the first day of the accommodation, to report the death of the accommodated alien to the police department without delay, to ensure that the records in the house book register are readable and kept in timely order, to archive the house book register for five years from the entry of the last record, to hand over the house book register to the police department within five days from the conclusion of running the accommodation facility, to forward the house book register to the police department for the inspection, to allow the police department access to all premises of the accommodation facility for the purpose of monitoring the obligations established by this law, to manipulate with the personal data recorded in the house book only in manner defined in the separate regulation.</p>
Access to public education	✓	<p>Persons granted tolerated residence are obliged to attend compulsory school education (children ages 6 to 15 years old). Secondary and university education is available. In the case of enrollment in secondary and university education, the alien can be granted temporary residence or even permanent residence upon his/her request.</p>
Social security	✓	<p>Persons without any income are considered to be persons in need. The alien granted tolerated residence without a working permit is entitled to apply for social security allowance according to the Law No. 195/1998 (§ 2). Thus the department of social affairs are obliged to provide or to grant social security allowance or to provide other social service (food, cloths) and substance allowances as compensation.</p>
Health	✓	<p>Access to health care is available; it is part of social security service. Emergency service is available in all cases</p>
Freedom of movement within the national territory	✓	<p>The police department shall issue a document on residence permit in the form of an adhesive label to the alien who was granted residence permit or refugee status on the territory of the Slovak Republic; to the citizen of the union on his request, or such case where it is not possible to use the document on residence permit in the form of the adhesive label, the police department shall issue a document on the residence permit in the form of an identification card.</p>

		<p>The alien is obliged to request issuing of a new document on residence permit 30 days before the expiration of the document on residence permit at the latest.</p> <p>The alien who was granted residence permit is obliged to report to the police department the change of the temporary or permanent residence place within three working days from the day the change took place.</p> <p>In regard to freedom of movement within the national territory the alien is obliged to produce the document on the financial guarantee for the duration of the residence during the check of the residence permit, to notify the police department on the change of the name and surname, the personal status, the citizenship, the data in the travel document within three working days of the change taking place and on the replacement of the travel document, to protect the documents issued according to this law against loss, theft, damage or misuse, to report to the police department the loss, theft or damage of the travel document or the documents issued according to this law within three working days from becoming aware of this fact, to be present upon notice of the police department regarding the proceeding according to this law, to depart the territory of the Slovak Republic upon interruption of the study, quitting the study, being expelled from the study or upon conclusion of the study, to fill in the official printed form on notice of the residence, to provide data necessary for statistical reference on the residence, and to notify the police department that the purpose for which the residence permit was granted expired.</p> <p>The police department is entitled to inspect the legitimacy of the residence, the fulfilment of the conditions of the residence and the respecting of the obligations by the alien according to this law, the respecting of the obligations by other natural persons and legal persons regarding the residence according to this law.</p> <p>The police department performing the state administration according to the Law No. 48/1998 keeps in its information systems records containing the data on each alien being within the Slovak territory.</p> <p>The central evidence is kept and operated by the ministry of interior.</p>
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Travel document	✓	<p>The alien's passport is a document authorising the alien to travel abroad.</p> <p>The police department shall issue the alien's passport to an alien who does not have a travel document and it is not possible to facilitate it even through the representation abroad of the state of citizenship of the alien and who was issued the tolerated residence permit (§ 48, the Law No. 48/2002).</p> <p>The alien is obliged to request the written consent of the police department to continuously remain outside the territory of the Slovak Republic due to serious reason for more than 180 days if s/he has the residence permit.</p>
Voting rights in municipal election	✓	
Right to stand for elections	✓	
Family reunification	✓	<p>Any person with any residence permit within the Slovak territory is entitled to apply for family reunification. The person with the residence permit can be granted temporary residence or even permanent residence for the purpose of family reunification in the Slovak Republic. There are more common forms of residence used for this purpose.</p>
Vocational training	✓	<p>Access to vocational training is available. The person granted tolerated residence can apply for a grant or pay for it individually.</p>
Access to citizenship	✓	<p>If a person has been extended tolerated residence for three years, upon request of the alien, the police department can grant the a temporary residence permit for the purpose of employment if there is an obstacle for the person's administrative expulsion.</p> <p>After ten years, the alien with temporary residence is entitled to permanent residence.</p> <p>After five years the alien with temporary residence can be granted the Slovak Republic's citizenship.</p>

SLOVENIA

Statuses of complementary/subsidiary protection
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| <ul style="list-style-type: none"> • Special Form of Protection • Permission to Remain |
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SPECIAL FORM OF PROTECTION

Legal basis: Special Form of Protection is granted pursuant to Article 61 of the Law on Asylum, 2001.

Beneficiaries: Special Form of Protection is granted where an asylum seekers' application has been rejected by a final decision but

- Whose removal to their country of origin would contradict paragraph 1 of Article 6 of Law on Asylum 2001 which states that "forced removal or deportation of persons to a country where their life or freedom would be threatened or to a country where they could be exposed to torture or inhuman and degrading treatment or punishment is not allowed."
- Where conditions to protect the applicant in the Republic of Slovenia "exist pursuant to another regulation or an international agreement."

Duration: Special Form of Protection is initially granted for a maximum of six months, but can be extended beyond this for further periods of six months if the grounds for granting the protection continue to apply.

Rights:

Rights	Y	N	Details
Access to wage-earning employment		✓	
Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing	✓		Those granted Special Form of Protection have access to housing and there is a provision for food and clothing. The authorities determine the address. Facilities used to house those awaiting deportation will usually be used for accommodation. NGOs may also

			organise accommodation.
Access to public education	✓		Elementary schooling is available for those granted Special Form of Protection
Social security		✓	
Health	✓		Those granted Special Form of Protection have the same access to medical care as asylum seekers.
Freedom of movement within the national territory	✓		Those granted Special Form of Protection are not detained and can move within the national territory.
Travel document		✓	
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	
Vocational training		✓	
Access to citizenship	✓		Citizenship can be applied for regardless of status after residing more than ten years in Slovenia, the last five of which must be continuous, and if means of support and ability to speak Slovenian, etc. can be demonstrated.

PERMISSION TO REMAIN

Legal basis: Permission to Remain is granted pursuant to Article 52 of the Aliens Act, 1999.

Beneficiaries: Permission to Remain is granted where an asylum seekers' application has been rejected and a deadline to leave the country has been given but:

- Whose deportation would contravene Article 51 of the Aliens Act, 1999 which states that "forced removal or return of a foreigner to a country where his life or freedom would be in a danger because of his race, faith, nationality, belonging to a specific social group or political conviction, or to a country in which he could be exposed to torture or inhuman and degrading treatment or punishment is not permitted."
- Whose deportation is not possible due to other reasons, for example existing regulation or international agreement.

Duration: Permission to Remain is granted initially for a maximum of six months but can be extended for further periods of six months if conditions remain the same.

Rights:

Rights	Y	N	Details
Access to wage-earning employment		✓	
Access to self-employment		✓	
Access to liberal professions		✓	
Access to housing		✓	Authorities determine the place of residence. The housing must be funded by the person granted Permission to Remain or through a sponsor.
Access to public education	✓		Those granted Permission to Remain have the right to primary education for children.
Social security		✓	
Health	✓		Those granted Permission to Remain have the right to basic healthcare.
Freedom of movement within the national territory	✓		Those granted Permission to Remain are not detained and can move within the national territory.
Travel document		✓	
Voting rights in municipal election		✓	
Right to stand for elections		✓	
Family reunification		✓	
Vocational training		✓	
Access to citizenship	✓		Citizenship can be applied for regardless of status after residing more than ten years in Slovenia, the last five of which must be continuous, and if means of support and ability to speak Slovenian, etc. can be demonstrated.

SPAIN

Statutes of complementary/subsidiary protection

- Leave to remain on humanitarian grounds or for reasons of public interest or for displaced persons
- Prohibition of *refoulement*

LEAVE TO REMAIN IN SPAIN ON HUMANITARIAN GROUNDS OR FOR REASONS OF PUBLIC INTEREST

Legal basis: Article 17(2) of Law 5/1984, Regulating Refugee Status and the Right of Asylum, along with:

- Article 31.3 of its implementing regulations (*Reglamento de Aplicación de la Ley de Asilo*), approved by Royal Decree 203/1995 of 10 February 1995 and modified by Royal Decree 864/2001 of 20 July 2001 and Royal Decree 1325/2003 of 24 October 2003 and
- Article 2 of Regulation on Temporary Protection in the event of a mass influx of displaced persons approved by Royal Decree 1325/2003 of 24 October 2003.

Beneficiaries: Persons whose asylum applications have been declared inadmissible or rejected may be authorised to stay in Spain by the Ministry of the Interior on the proposal of the Inter-ministerial Commission on Asylum and Refugees for humanitarian reasons or reasons of public interest provided that:

- There are founded reasons to determine that there is a real risk for their lives or physical integrity if returned to their country of origin (article 31.3 of the Regulation implementing the Asylum Law) or
- At the end of the asylum determination procedure, if it is established that they fall under the criteria of “displaced person” according to Article 2 of the Temporary Protection Regulation (persons fleeing armed conflicts or permanent violence, or persons who have been or are under a serious risk of exposure to systematic or generalised human rights violations). Subsidiary protection shall, in this case, be granted regardless whether the displaced person has been beneficiary of temporary protection before or during the asylum determination procedure.

Duration: The decision by the asylum determination authority in its decision refusing Geneva Convention recognition and granting subsidiary protection status needs to establish the duration of the residence and work permit (normally one year), which is renewable.

Rights: While recipients are granted a residence and work permit, their status is generally governed by the general immigration rules, which recognise them as having similar rights as nationals.

Rights	Y	N	details
Access to wage-earning employment	✓		
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		Access to council housing under the same conditions as Spanish nationals.
Access to public education	✓		Compulsory and non-compulsory education: access under the same conditions as Spanish nationals.
Social security	✓		Beneficiaries of this regime and Convention refugees have access to social security benefits like Spanish nationals (1) if they are working and registered with the Social Security; (2) if they fulfil the requirements established by regional governments for other complementary social benefits.
Health	✓		Beneficiaries of this regime do not have automatic full access to the National Health System (like Spanish nationals and Convention refugees). They can gain it when they obtain a work permit and register with the Social Security. Otherwise they receive medical treatment through a different system, funded by local councils.
Freedom of movement within the national territory	✓		No restrictions, although under Section 18(2) of the Asylum Act, the Minister of Interior may limit this right for certain persons as a temporary measure for exceptional state security reasons.
Travel document		✓	As a rule and unlike Convention refugees, these persons have to use their national passport. If there is evidence that they cannot obtain one, a substitutive travel document could be issued under the Aliens Regulation by the Spanish authorities.
Voting rights in municipal election		✓	Not established in Spanish law but for nationals of EU Member States.
Right to stand for elections		✓	Not established in Spanish law but for nationals of EU Member States.

Family reunification	✓	Unlike Convention refugees there is no automatic right to family reunification (for spouse or partner and minor children). Persons under this regime must fulfil the general time and economic conditions established for family reunification by the 1996 Aliens Regulation.
Vocational training	✓	Equal treatment to Convention refugees.
Access to citizenship	✓	Persons under this regime are subject to the general conditions for access to Spanish citizenship. The general term of residence requested is 10 years. In the case of Convention refugees, however, this term is reduced to 5 years. Foreign residents of certain origin (Latin American countries, Equatorial Guinea, the Philippines, Portugal, Andorra and Sephardi Jews) need only 2 years.

PROHIBITION OF REFOULEMENT

Legal basis: Article 17(3) of Law 5/1984, Regulating Refugee Status and the Right of Asylum, along with Article 31.4 of its implementing regulations (*Reglamento de Aplicación de la Ley de Asilo*, approved by Royal Decree 203/1995 of 10 February 1995) and modified by Royal Decree 864/2001 of 20 July 2001 and Royal Decree 1325/2003 of 24 October 2003).

Beneficiaries: Individuals for whom there are humanitarian reasons (different from those under Article 17(2) of the Asylum Act along with Article 31.3 of the implementing regulations) to allow their stay in Spain, even though their application for asylum has been rejected.

There are two possible scenarios:

- When the asylum determining authority refuses Geneva Convention status and the subsidiary protection status above, it may state the applicant will not be removed under this law. The individual may then apply to the general immigration authorities for a residence and work permit on humanitarian grounds, but the immigration authorities have the discretion to grant or refuse it.
- When the asylum authority rejects the asylum application, it does not grant a subsidiary status or even prohibit removal, but the individual feels that he should be allowed to remain on humanitarian grounds under Article 31.4 and therefore applies to the general immigration authorities for a residence and work permit.

Duration: The law does not establish the duration of the residence or work permits, so it is up to the authorities to determine.

Rights: If a person's application for a residence and work permit under this section is granted, he will have the same status and rights as the two groups above (in other words, the same as nationals). However, until the application is granted, the applicant has no status or rights following the rejection of his or her asylum application. The second category of applicants is in a particularly precarious position between the rejection of the asylum application and the grant of a residence permit under this section (which could take months or even years and is not guaranteed), as applicants could be expelled, unless a court establishes they cannot be removed.

SWEDEN

Statutes of complementary/subsidiary protection

- Persons who otherwise need international protection
- Safeguards against refoulement
- Reconsideration of a decision of expulsion
- Humanitarian reasons

PERSONS WHO OTHERWISE NEED INTERNATIONAL PROTECTION

Legal basis: Aliens Act, Chapter 3, Section 3.

Beneficiaries: Persons who do not qualify as Convention refugees but left their country of origin due to:

- A well-founded fear of being sentenced to death or corporal punishment or being subjected to torture or other inhuman or degrading treatment or punishment. (Including stateless persons).
- An external or internal armed conflict.
- An environmental disaster preventing return.
- A well-founded fear of persecution because of his/her sex or sexual orientation.

Duration: As a general rule, protection granted to the above-mentioned categories implies a right to a permanent residence permit. However, if the need of protection is considered to be temporary, the Government may order, by ordinance and subject to parliamentary control, that a certain group is given temporary residence permits not to be valid for more than two years. (For example, cases involving war, civil war or environmental catastrophe). The temporary permit may be renewed for two more years if there is an ongoing programme for preparing to return the recipient to the country of origin. Additionally, if there is a reason to question a person's expected mode of life, a temporary residence permit can be granted for six months or one year. This period can be seen as a period of probation for a permanent residence permit.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Same conditions as nationals and Convention refugees
Access to self-employment	✓		Same conditions as nationals and Convention refugees

Access to liberal professions	✓		Same conditions as nationals and Convention refugees
Access to housing	✓		Same conditions as nationals and Convention refugees
Access to public education	✓		Same conditions as nationals and Convention refugees
Social security	✓		Concession of social security benefits depends on the national registration address.
Health	✓		Same conditions as nationals and Convention refugees
Freedom of movement within the national territory	✓		
Travel document	✓		
Voting rights in municipal election	✓		Under Swedish election law, can vote in municipal elections if over 18 and living in Sweden for 3 years with a residence permit (or if EU national, can vote as soon as receive residence permit).
Right to stand for elections	✓		Same requirements as voting rights.
Family reunification	✓		Same conditions as nationals and Convention refugees. Includes same-sex relationships.
Vocational training	✓		
Access to citizenship	✓		After residence in Sweden for at least five years.

SAFEGUARDS AGAINST REFOULEMENT

Legal basis: Aliens Act, Chapter 8, Sections 1-4.

Beneficiaries: Persons not granted refugee status or subsidiary protection may not be expelled to their country of origin if:

- There are reasonable grounds for believing the person would be in danger of suffering capital or corporal punishment or being subjected to torture or other inhuman or degrading punishment or treatment, or would be in danger of being sent on to such a country
- The person would risk persecution or would not be safeguarded against being sent to a country where he faces persecution.

Duration: same as above

Rights: same as above

RECONSIDERATION OF A DECISION OF EXPULSION

Legal basis: Aliens Act, Chapter 2, Section 5b.

Beneficiaries: Persons who are to be expelled or refused entry by a decision that has been entered into force who present circumstances not previously examined and are entitled to a residence permit because they are otherwise in need of international protection (above) or it would be contrary to humanity to execute the decision.

Duration: same as above

Rights: same as above

HUMANITARIAN REASONS

Legal basis: Aliens Act, Chapter 2, Sections 4(5) and 5.

Beneficiaries: Persons are granted a residence permit because, for humanitarian reasons, they should be allowed to settle in Sweden. Examples: persons suffering from certain physical or mental handicaps or diseases and persons whose home country is in a state of war.

Duration: same as above

Rights: same as above

UNITED KINGDOM

Statutes of complementary/subsidiary protection

- Humanitarian Protection (HP) status
- Discretionary Leave (DL)⁹

HUMANITARIAN PROTECTION (HP)

Legal basis: The 1971 Immigration Act gives the Secretary of State for the Home Office discretion to grant leave to a person for a reason not covered by the Immigration Rules.

Beneficiaries: People whose asylum applications have been substantively considered and refused and who would face in the country of return a serious risk to life or person arising from:

- Imposition of the death penalty
- Unlawful killing, including in a war/conflict situation, by the State or agents of the State or non-State agents where there is no sufficiency of protection.

Note: Unlawful killing does NOT include a threat to life (a) in defence of any person from unlawful violence; (b) in order to effect the lawful arrest or prevent the escape of a person lawfully detained; or (c) in action lawfully taken to prevent the escape of a person lawfully detained.

- Torture, inhuman or degrading treatment or punishment (based on Article 3 of the ECHR).

Duration: Humanitarian protection is normally granted for three years. At the end of three years, recipients are eligible to apply for Indefinite Leave to Remain (ILR), also known as settlement. Applications for ILR are reviewed to determine whether the applicant still qualifies for humanitarian protection; if so, ILR is granted unless one of the grounds for exclusion applies.

⁹ As of 1 April 2003, DL and HP have replaced Exceptional Leave to Remain (ELR), which was formally the system of subsidiary protection in the UK. However, some residents in the UK may still have ELR status that was granted before the change. ELR recipients who seek to extend their stay after four years of ELR should be considered for settlement under the rules in place prior to the change. Recipients who have spent less than four years on ELR and seek an extension of their stay will be evaluated to see if they qualify for HP or DL status; if not, their stay will not be extended.

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Same as Convention refugees
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		This right is acquired immediately. Like Convention refugees.
Access to public education	✓		With regard to access to the higher education sector, ELR status holders have to meet the criterion of three years residence in the UK, before being able to claim a university grant or student loan.
Social security	✓		Same as Convention refugees
Health care	✓		Same as Convention refugees. They are entitled to access the NHS as for the primary and secondary health care and services are free of charge.
Freedom of movement within the national territory	✓		
Travel document	✓		May apply for Certificate of Identity, but must specify which country they want to visit (including transit countries), and the document will not be valid for any other country. Additionally, applicants must show they need to travel for one of four reasons: (1) essential employment/business-related reasons, (2) exceptional compassionate grounds; (3) study reasons; or (4) religious reasons and other important reasons of conscience. Some countries will not accept these as valid travel documents.
Voting rights in municipal election		✓	Like Convention refugees
Right to stand for elections		✓	Like Convention refugees
Family reunification		✓	Only qualify for family reunion when have been granted ILR, after three years of HP status, unless compelling and compassionate circumstances. If family members are already in port or country, they will normally be granted leave to remain along with the sponsor.
Access to citizenship	✓		General provision on aliens apply.

DISCRETIONARY LEAVE (DL)

Legal basis: The 1971 Immigration Act gives the Secretary of State for the Home Office discretion to grant leave to a person for a reason not covered by the Immigration Rules.

Beneficiaries: People whose asylum application is refused and who do not qualify for Humanitarian Protection but, based on the individual facts of the case:

- Removal would result in a direct breach of Article 8 of the ECHR by breaching the right to a private and family life in the UK. Does not include cases that fall under the exception to the right in Article 8(2) or people who allege they would face a breach of Article 8 in the country of return.
- Removal would be contrary to Article 3 of the ECHR but the person was not granted Humanitarian Protection. Examples:
 - Where a person has a serious medical condition and removal would have very serious consequences for the person concerned (a very high threshold). Discretionary Leave is granted only if: the UK has assumed responsibility for the person's care; there is credible evidence that return would significantly reduce the applicant's life expectancy, due to a complete absence of medical care in the country of return; and return would subject the applicant to acute physical and mental suffering.
 - Rare cases where the applicant would face such poor conditions if returned, such as absence of water, food or basic shelter, that removal would result in a breach of Article 3.
- Unaccompanied asylum seeking children who do not qualify for asylum or Humanitarian Protection, but there are inadequate reception arrangements available in their own country.
- Other cases where individual circumstances are so compelling that it is appropriate to grant some form of leave.
- Where the person would have qualified for Humanitarian Protection but for an exclusion.

Duration: The duration of Discretionary Leave depends upon the basis for granting the leave:

- Article 8 cases: three years generally; two years if marriage is the basis for the leave
- Article 3 cases: three years
- Unaccompanied asylum seeking children: three years or until child reaches 18 years of age, whichever is shorter
- Other cases: three years
- Persons excluded from Humanitarian Protection: six months
- Shorter periods of leave may be granted if it is *clear* that the factors leading to the granting of Discretionary Leave will be short-lived.

Individuals may apply for an extension of leave, and an extension will be granted if the individual still qualifies for Discretionary Leave. A person is not eligible for consideration for ILR/settlement until they have completed six years of Discretionary Leave (10 years in exclusion cases). ILR is granted if the individual still qualifies for Discretionary Leave (unless, in exclusion cases, the Ministers decide it would be conducive to the public good to deny settlement, in which case Discretionary Leave will be extended).

Rights:

Rights	Y	N	Details
Access to wage-earning employment	✓		Same as Convention refugees
Access to self-employment	✓		
Access to liberal professions	✓		
Access to housing	✓		This right is acquired immediately. Like Convention refugees.
Access to public education	✓		With regard to access to the higher education sector, ELR status holders have to meet the criterion of three years residence in the UK, before being able to claim a university grant or student loan.
Social security	✓		Same as Convention refugees.
Health	✓		Like Convention refugees. They are entitled to access the NHS as for the primary and secondary health care and services are free of charge.
Freedom of movement within the national territory	✓		
Travel document	✓		May apply for Certificate of Identity, but must specify which country they want to visit (including transit countries), and the document will not be valid for any other country. Additionally, applicants must show they need to travel for one of four reasons: (1) essential employment/business-related reasons, (2) exceptional compassionate grounds; (3) study reasons; or (4) religious reasons and other important reasons of conscience. Some countries will not accept these as valid travel documents.
Voting rights in municipal election		✓	Like Convention refugees
Right to stand for elections		✓	Like Convention refugees

Family reunification		✓	Only qualify for family reunion when have been granted ILR, after six (or ten) years of DL status, unless compelling and compassionate circumstances. If family members are already in port or country, they will normally be granted leave to remain along with the sponsor.
Access to citizenship	✓		General provision on aliens applies