Please cite as: EUAA, '2.4.8. Extension of protection status as a derived right' in *Asylum Report 2022*, Μάιος 2022.

2.4.8. Extension of protection status as a derived right

2.4.8. Extension of protection status as a derived right

icon on case law regarding the extension of protection status
The Federal Administrative Court of Germany asked the CJEU if national law (Asylum Act, Section 26 on asylum for families and international protection for family members) is compatible with the recast Qualification Directive when it provides recognition of refugee status as a derived right for the purpose of maintaining family unity. In the case, *LW* v *Bundesrepublik Deutschland* (C-91/20), the CJEU ruled that CEAS does not preclude an automatic extension of refugee status to a child born to a person who has been granted that status. The CJEU noted that the recast Qualification Directive does not provide for the extension of refugee status to a family member as a derived right, namely to a child born in the host Member State. However, the CJEU noted that the recast Qualification Directive, Article 3, allows Member States to introduce more favourable provisions compatible with the directive and that an automatic extension in this case is consistent with the rationale of international protection. The court also noted that there are limitations to Article 3, including cases that might fall under exclusion clauses and cases in which the extension would be incompatible with the personal legal status of the family member.

In another case referred by the Federal Administrative Court of Germany, *Bundesrepublik Deutschland* v *SE* (C-768/19), the CJEU clarified the scope of family members in the recast Qualification Directive, Article 2(j): ”father, mother or another adult responsible for the beneficiary of international protection […], when that beneficiary is a minor and unmarried” for the purpose of deriving protection from the status of an unmarried minor. The CJEU held that the relevant date for assessing if the beneficiary of protection is a ‘minor’ is the date on which the family member lodged the application for asylum, even if only informally. The court further noted that the concept of family member does not require an effective resumption of family life between the parent and the child. In addition, the CJEU clarified that the rights enjoyed by family members as rights derived from the subsidiary protection status obtained by their child, rights provided in the recast Qualification Directive, Articles 24 to 35, are valid after the beneficiary reaches the age of majority and for the duration of the period of validity of the residence permit granted to the family members in accordance with Article 24(2).

© European Union Agency for Asylum 2026 | Email: info@euaa.europa.eu