

# Legal implications in Spain: Asylum and Migration Laws – Possibilities in Catalonia

*Challenges to Academic Freedom and the  
protection of Academic Refugees,  
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I. Scholars at risk as a group that can have a need of protection

Scholars at risk as **refugees** according to the Geneva Convention' 1951

--well founded fear of **persecution for reasons of** race, nationality, religion, **political opinions** and belonging to a particular social **group**

# WHO IS A REF

A REFUGEE IS SOMEONE WHO "OWING TO A WELL-FOUNDED FEAR OF BEING PERSECUTED FOR REASONS OF RACE, RELIGION, NATIONALITY, MEMBERSHIP OF A PARTICULAR SOCIAL GROUP, OR POLITICAL OPINION, IS OUTSIDE THE COUNTRY OF HIS NATIONALITY, AND IS UNABLE TO OR, OWING TO SUCH FEAR, IS UNWILLING TO AVAIL HIMSELF OF THE PROTECTION OF THAT COUNTRY..."

1951 UN Convention  
relating to the Status  
of Refugees  
Art. 1



# I. Scholars at risk as a group that can have a need of protection

## Scholars at risk as **refugees** according to the Geneva Convention' 1951

--well founded fear of **persecution for reasons of** race, nationality, religion, **political opinions** and belonging to a particular social **group**

--Daniel Munier (SAR): “The common threat through these attacks is the desire of states and also non-state groups to quell dissent, to quell the truth-seeking role that scholars and students have in the academic community and also in society in general”

-- **scholars can be considered by the authorities as particularly dangerous people because of their capacity in forming public opinion:**

Example: “He is very influent, because, in addition to his political career, (...) Their opinions could be taken into account ... even by their students at the University”



## I. Scholars at risk as people in need of protection

[Scholars at risk as **refugees** according to the Geneva Convention' 1951]

Scholars at risk as people entitled to obtain **subsidiary protection**' EU Directive 2011/95

CHAPTER V

QUALIFICATION FOR SUBSIDIARY PROTECTION

*Article 15*

**Serious harm**

Serious harm consists of:

(a) the death penalty or execution; or

(b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or

(c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.



## II. Possibilities and Difficulties for the reception of scholars at risk in Catalonia

Acceding to the protection = acceding to a *safe country*, acceding to Spain

--**1<sup>st</sup> possibility**: To receive scholars in need of protection who already are in the EU

**A. *Resettlement of refugees*** or protected people

**B. *Relocation of asylum seekers*** from EU Member States (Italy, Greece) to another country which has *quota of relocation*

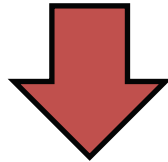
=> In both cases, role of *liaison officers*



## II. Possibilities and Difficulties for the reception of scholars at risk in Catalonia

Acceding to the protection = acceding to a *safe country*, acceding to Spain

--**2<sup>nd</sup> possibility**: To receive scholars in need of protection who are in a third country



Schengen Borders Code establishes **5 requirements** to be met by foreigners in order to enter into the EU:

**+**

**Very limited legal entry channels** to the EU for persons in need of protection





## Legal entry channels... *Refugee-related schemes*

1. *Resettlement* from third countries (with the UNHCR, IOM)
2. **Humanitarian admission programmes**
  - Private Sponsorship of Refugees Programmes
    - Students / Academics**
    - Integration support for sponsored family members
3. **Visas on humanitarian grounds /PEPs**
  - **Humanitarian Visas?**
  - Visa Code (Regulation (EC)N°810/2009): C (Schengen short-term visa) / D (National long-term stay visa) / **Schengen LTV Visa** (art. 25)
4. Temporary protection

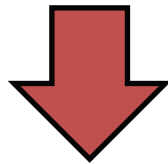




## II. Possibilities and Difficulties for the reception of scholars at risk in Catalonia

Acceding to the protection = acceding to a *safe country*, acceding to Spain

--**3<sup>rd</sup> possibility**: To receive scholars in need of protection who still are in their country of origin



People in need of protection cannot be considered Refugees until they reach to flee from their country of origin

- A. “**Every one has the right** to leave any country, including his own”
- B. “**States have the right**, as a matter of well-established Int. Law (...) to control the entry, residence and expulsion of aliens”

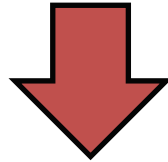
Schengen Borders Code: **5 requirements**



## II. Possibilities and Difficulties for the reception of scholars at risk in Catalonia

Acceding to the protection = acceding to a *safe country*, acceding to Spain

--**3<sup>rd</sup> possibility**: Still in their country of origin



Possibilities for scholars at risk to apply for a visa in the framework of the EU Policy on Immigration = **Legal Entry Channels** = ***Regular mobility schemes***



## EU Immigration Policy

EU secondary rules on residence of foreigners =  
Possibilities to apply for a visa in the country of origin for:

-Family reunification

-*Blue card* permit: **High skilled workers**

-**Researchers**

-**Students** and volunteers

-Erasmus Mundus programme

-Phoenix project

-Victims of trafficking or smuggling

-Seasonal Workers



### III. Reception in the country of destination

Reception :

--Govern de Catalunya / Universitats

\* General Reception system based on the idea that refugees are *autonomous* = Excepting in cases of vulnerability

--Some experiences of Scholarships

Programmes for **Students** in a refugee like situation

--Possibility of Programs (*Financed Visiting Programmes*) for receiving **Scholars** at risk for a limited period of time



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