



Ad-Hoc Query on the transposition of the Article 6, par. 5 of the recast Reception Conditions Directive

Requested by CZ EMN NCP on 16 January 2015

Compilation produced on 13 April 2015

Responses from Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (23 in Total)

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1. Background Information

The Czech Republic is currently considering the transposition of the Article 6, par. 5 of the recast Reception Conditions Directive 2013/33/EU. According to this provision „Member States may provide applicants with a travel document when serious humanitarian reasons arise that require their presence in another State.” As this paragraph is ambiguous we would like to know:

1. Have you already implemented this provision into the national legislation or do you plan to do it?
2. If yes, how do you define following terms:
 - a) *Humanitarian reasons* – any examples?

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- b) *Provide with a travel document* – does it mean that we should return the travel document of the applicant to him/her if he/she has any or issue a national travel document to the applicant?
- c) *State* – does it mean a third country or any country including MS?
3. The above mentioned article does not define or mention the issuance of visas in case the applicant would like to return back to MS. How do you deal with this situation?

We would very much appreciate receiving your responses by 16 February 2015.

2. Responses¹

		Wider dissemination? ²	
	Austria	Yes	
	Belgium	Yes	<p>1. No</p> <p>2. –</p> <p>3. In principle an asylum seeker is not allowed to leave the Belgian territory during his asylum procedure. The Immigration Office does not deliver return visas to asylum seekers.</p> <p>Remark: There is one exception: the Immigration Office will allow asylum seekers' children who attend school to participate in school trips in EU-Member States and Switzerland. The document provided for this purpose states that the child has a legal stay in Belgium and will be readmitted without formalities.</p>
	Bulgaria	Yes	The respective article has not been transposed.
	Cyprus	Yes	

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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	Czech Republic	Yes	<ol style="list-style-type: none"> 1. Not yet. 2. <ol style="list-style-type: none"> a) E.g. serious medical reasons b) According to our opinion both possibilities mentioned are in line with this provision. c) In our opinion “state” does mean any country. 3. N/A (we are interested in your practice)
	Denmark	Yes	
	Estonia	Yes	<ol style="list-style-type: none"> 1. No 2. <ol style="list-style-type: none"> a) reasons could be serious medical reasons, poverty; b) N/A c) In our opinion “state” does mean any country 3. Estonia will not take over the Article 6, par. 5 of the recast Reception Conditions Directive 2013/33/EU.
	Finland	Yes	<ol style="list-style-type: none"> 1. No (it is not binding, and the provision was already in the directive 2003/9/EY). 2. – 3. –
	France	Yes	<ol style="list-style-type: none"> 1. France is not considering transposing this provision into the national legislation as it remains optional. However, the prefect has still the possibility to deliver a laissez-passer to an asylum seeker in order to allow him to go to another State for humanitarian reasons such as serious disease or death of a relative. To allow the return of the asylum seeker, there must be a visa affixed on this document. 2. N/A, see above Q1. 3. N/A, see above Q1.
	Germany	Yes	<ol style="list-style-type: none"> 1. The corresponding regulation is already to be found in article 6, section 5 of the EC Directive 2003/9/EG which has been transposed into national legislation; the newly compiled EC Directive 2013/33 has not yet been transposed.

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			<p>2. a) A German travel document for foreigners can be issued to an applicant if an urgent public interest prevails, if urgent reasons require such an action or if the refusal of the travel document would entail for the foreigner to suffer undue hardship and if the procedure to investigate international protection is not jeopardized (§ 6, sentence 1, number 4, German Ordinance on Residence (Aufenthaltsverordnung).</p> <p>b) A German travel document for a foreigner shall only be issued if the applicant is not in possession of a travel document of his/her own country of origin. Should the applicant be in possession of a travel document from his/her country of origin and should the applicant be in possession of a residence title, the travel document will be handed out to him/her immediately after the application for international protection has been made and should the document not be required for the continuation of the procedure; in all other cases the travel document will be retained, but it can be handed out to the applicant for a journey (§ 65 German Asylum Procedure Act (Asylverfahrensgesetz).</p> <p>c) In the consideration of Germany, the applicant may be issued with a travel document for foreigners for any country (with the exception of his/her country of origin).</p> <p>3. During the course of a current procedure to investigate the requirement for international protection, a residence title giving the entitlement to re-enter the country after an interim stay abroad can only be issued if important interests of the Federal Republic of Germany require such action. (§ 10, section 1, German Residence Act (Aufenthaltsgesetz).</p>
	Greece	Yes	<p>1. Greece has not yet transposed the recast Reception Conditions Directive 2013/33/EU. The issues raised are regulated by the transposition (Presidential Decree 141 of 2013) of Directive 2011/95/EE.</p> <p>2. a) According to Art. 25, par. 4 of Presidential Decree 141/2013, an applicant for international protection can be provided with a travel document if he/she is not in a position to secure a national passport, and if there are proven serious health reasons which demand his/her travel abroad.</p> <p>b) See (a) immediately above.</p> <p>c) See (b) immediately above.</p> <p>3. The issue is under consideration by the competent Greek authorities.</p>
	Hungary	Yes	Hungary has not implemented this provision into the national legislation.
	Ireland	No	This EMN NCP has provided a response. However, they have requested that it is not disseminated further.
	Italy	Yes	<p>1. Not yet. Law No 154 of 7 October 2014 provides that Directive 2013/33/EU will be transposed in Italy by Legislative Decrees to be issued by the Government by 20 July 2015.</p>

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			<p>2. –</p> <p>3. N/A</p>
	Latvia	Yes	<p>1. The new Asylum Law is drafted to implement the requirements of the Directive 2013/33/EU, however there won't be provided regulation regarding <u>travel documents</u> for applicants. Theoretically we would consider possibility to hand out his/her travel document to an asylum seeker (during the asylum procedure the document is in possession of the State Border Guard), but there weren't such cases in practice so far.</p> <p>2. N/A</p> <p>3. N/A</p>
	Lithuania	No	This EMN NCP has provided a response. However, they have requested that it is not disseminated further.
	Luxembourg	Yes	<p>1. Luxembourg has not yet transposed the recast directive 2013/33/EU. The deadline for the transposition is the 20 July 2015. The government is working on a draft bill³ at the moment. The current Asylum law (amended law of 5 May 2006) does not foresee the issuance of a travel document for an international protection applicant.</p> <p>2. N/A.</p> <p>3. N/A.</p>
	Malta	Yes	
	Netherlands	Yes	The recast directive must be incorporated into national legislation by 20 June 2015 at the latest. At present The Netherlands is in the process of examining how implementation of the recast directive will be dealt with in practice. However, Article 6, Par. 5, will not be regulated in Dutch aliens legislation.
	Poland	Yes	<p>1. Implementation of art. 6 par. 5 of the Directive 2013/33/EU into Polish law is not foreseen, as it is not mandatory.</p> <p>2. N/A</p> <p>3. N/A</p>
	Portugal	Yes	PT decided not to transpose this provision.
	Romania	Yes	

³ Ministère des Affaires étrangères et européennes, RAPPORT SUR LA TRANSPOSITION DES DIRECTIVES EUROPEENNES ET L'APPLICATION DU DROIT DE L'UNION, 16 mai 2014

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	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. No. 2. N/A 3. N/A
	Slovenia	Yes	<ol style="list-style-type: none"> 1. So far national legislations do not envisage such provision. 2. N/A 3. Diplomatic representation issued so called emergency passport.
	Spain	Yes	<ol style="list-style-type: none"> 1. Spain hasn't implemented the provision yet.
	Sweden	Yes	<ol style="list-style-type: none"> 1. No, can with some uncertainty be implemented by mid July 2015. 2. A. Serious illness and when treatment is not available in the country of origin. Children have a more broad definition where the convention of the rights of the child is considered (best for the child perspective). B. Could be both alternatives C. It's for the time being an issue to discuss. 3. N/A
	United Kingdom	Yes	The UK do not take part in the Reception Conditions Directive 2013/33/EU. Therefore the questions on implementation of the directive do not apply.
	Croatia	Yes	
	Norway	Yes	<ol style="list-style-type: none"> 1. Norway is not bound the Directive, and we are not familiar with any plans to implement it. 2. N/A 3. N/A

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