



Ad-Hoc Query on appropriate action in case of sudden increase in the inflow of migrants to the EU Member States

Requested by PL EMN NCP on 12 December 2011

Compilation produced on 23 January 2012

Responses from Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden (18 in Total)

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2. Background Information

Polish authorities have been working on new Act on Foreigners. The main idea of this activities is to create an act regulating wide range of aspects related to foreigners in a very complex and comprehensive manner. One of possible subject which probably should be included is a procedure aiming at providing an appropriate way of action in case of sudden increase in the inflow of migrants to Poland, not covered by already existing EU means, e.g. temporary protection.

However, there is no common position among the experts if this issue should be regulated by a bill – perhaps establishing a kind of action plan should be enough legal base for management of such phenomenon. Knowledge on practice used by other Member States would be useful.

1. Does your Member State have an established procedure/ emergency plans for management of presumptive sudden increase in the inflow of migrants?
2. If yes, what are the main elements and presumption of those solutions/ plans?
3. If yes, is that procedure regulated by national law?

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4. Can you point out main challenges in the managements of sudden increase in the inflow of migrants to your country?

We would very much appreciate your responses by **5 January 2012**.

2. Responses¹

		Wider Dissemination? ²	1. Does your Member State have an established procedure/ emergency plans for management of presumptive sudden increase in the inflow of migrants? 2. If yes, what are the main elements and presumption of those solutions/ plans? 3. If yes, is that procedure regulated by national law? 4. Can you point out main challenges in the managements of sudden increase in the inflow of migrants to your country?
	Austria	NO	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<p>1. Belgium <u>does not have official procedures or plans</u> for management of presumptive sudden increases in the inflow of migrants However Belgium has already been confronted to situations of massive inflows of migrants and asylum seekers and, in such circumstances, has taken various (<u>mostly temporay – ad hoc</u>) <u>measures</u> to address them. For example, the outbreak of the war in Kosovo in 1998 has led to a massive influx of Kosovars in Belgium. Also the visa liberalization of December 2009 has led in 2010 to an historic and sharp increase in the influx of asylum seekers from FYRM and Serbia.</p> <p>2. To cope with the sudden inflows of migrants, Belgium has reacted in different ways, including <u>prevention, accelerated procedure and return</u>. To cope with the influx of Kosovars in 1998, the government approved the <u>granting of a temporary protection status for Kosovars</u>, giving them the following rights: residence, access to the labor market and education as well as social assistance and health care. To cope with the sharp increase of asylum seekers from FYRM and of Serbia, the asylum authorities developed an <u>internal action plan to accelerate the processing of claims</u> from both countries. The action plan provided for:</p> <ul style="list-style-type: none"> • Reducing the time between the date of the application and the first asylum interview • Increasing the number of protection officers dealing with such claims • Reducing the duration of interviews to increase their number • Profiling the caseload and elaborating specific questionnaires

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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			<ul style="list-style-type: none"> Developing specific COI – subject related briefings <p>At the appeal stage, the processing of appeals was accelerated as well. The immigration authorities also took measures such as:</p> <ul style="list-style-type: none"> <u>Sensitizing</u> rejected asylum seekers from these countries to encourage them to return to their country Implementing <u>voluntary return actions</u> (returning by bus) <p>IOM also <u>suspended financial support</u> to applicants for voluntary return from Serbia and Macedonia. Finally <u>contacts and visits at policy level</u> were achieved by the Prime Minister, amassadors, the State Secretary for Migration and Asylum Policy, officials from the immigration authorities and the federal public service for foreign affairs to facilitate the identification of rejected asylum seekers as well as to raise awareness and prevent new departures.</p> <p>3. The granting of a temporary protection status to Kosovars was made possible through the <u>adoption on 19 April 1999 of a circular</u> from the Ministry of the Interior following agreement by the Council of Ministers. As mentioned above, the measure had a temporary duration and a new circular was passed on 2 September 1999 which abrogated the special status for Kosovars. The accelerated and priority processing of claims from asylum seekers from Serbia and Macedonia was regulated through <u>an action plan</u>, which was made possible on the basis of <u>Article 52/2 of the Aliens Law</u> (providing that the Minister or his delegate can request that asylum authorities process specific claims with priority)</p> <p>4. Main challenges include:</p> <ul style="list-style-type: none"> Pressure on the asylum system Saturation of reception facilities Illegal stay Public perceptions and media coverage
	Cyprus	Yes	<p>1. (Ad. 1-4) Cyprus Authorities do not have an established procedure with regards to the possible increase in the flow of migrants and/or asylum seekers. However, the general political situation in neighbouring countries and also in countries from where asylum seekers usually arriving in Cyprus originate, is closely monitored in order to prepare for any eventuality.</p>
	Estonia	Yes	<p>1. Yes, a central procedure has been established by an order of the Government of the Republic. 2. The plan concentrates on different activities, the aim of which is to organise the reception of migrants, processing of applications for international protection, housing of the migrants and satisfying their primary needs. 3. The responsible body for development and overseeing the plan is Ministry of Social Affairs. 4. Main challenges would occur when there are very large numbers of migrants who arrive to Estonia at the same time.</p>
	Finland	Yes	<p>1. Yes. 2. If the number of displaced persons entering the country is exceptionally high, which makes it impossible to establish that the requirements for entry are met and to register the aliens in the normal procedure, the Government may decide in a plenary session that persons whose requirements for entry or identity are unclear may be sent to the transit centre for displaced persons (please see also below the answer to question 3). The first step of actions are the round-up and, if need be, apprehension of aliens, possible reception of applications for international protection and the possible determination of the aliens' entry, travel route and identity. These are carried out by the</p>

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			<p>Border Guard.</p> <p>The second step of actions are the investigation, refusal of entry and the reception of applications for international protections, registration of aliens, the determination of the aliens' entry, travel route and identity, the securing of public order and security. These are carried out by the police (and if need be, by the Border Guard).</p> <p>The third step of actions are the asylum interview and the processing of the asylum application which are carried out by the Finnish Immigration Service, and the securing of public order and security and, in case of a negative decision to the asylum application, the removal from the country to a safe country, if the alien does not leave the country voluntarily (these are carried out by the police).</p> <p>Since the majority of the above mentioned actions are part of the Border Guard's, the police's and the Finnish Immigration Service's duties also in standard times, the provisions regulating these duties are not mentioned in the answer to question 3.</p> <p>3. Yes. The procedure is regulated mainly by the Aliens Act (301/2004) and the Act on the Reception of Persons applying for International Protection (746/2011). The actions regulated by the provisions below are applied in addition to the actions mentioned in the answer to question 2. According to the Aliens Act, Section 133 (Registering a large number of displaced persons entering the country simultaneously), if the number of displaced persons entering the country is exceptionally high, which makes it impossible to establish that the requirements for entry are met and to register the aliens in the normal procedure, the Government may decide in a plenary session that persons whose requirements for entry or identity are unclear may be sent to the transit centre for displaced persons referred to in section 3 of the Act on the Reception of Persons applying for International Protection (746/2011) for the purposes of registration.</p> <p>The Government decision is issued for a fixed term, not exceeding three months, however.</p> <p>Police or border control authorities or, under the supervision of these, an official assigned to the duty by the Ministry of the Interior may, in conjunction with registration, record the personal descriptions referred to in section 131(1) of the persons entering the country. A person entering the country is obliged to stay at the transit centre for displaced persons for the duration of the registration, unless otherwise required by the state of his or her health or for other important personal reasons.</p> <p>Registration shall be carried out without delay.</p> <p>According to the Act on the Reception of Persons applying for International Protection, Section 3 (Definitions), for the purposes of this Act, a transit centre means a reception centre, or part thereof, where persons applying for international protection and beneficiaries of temporary protection are accommodated for the purposes of carrying out asylum investigations and asylum interviews, or otherwise for short periods of time.</p> <p>According to Section 12 (Reception during large-scale entry into the country), if the number of aliens referred to section 109 or 133 of the Aliens Act entering Finland is so large that they cannot be placed at reception centres or it is impossible to verify the meeting of the requirements for entry into the country or to register the aliens in question using the normal procedure, the reception services are provided by organising centres. The stay at organising centres is intended to be of short duration. The persons accommodated at organising centres are provided with supplies for the necessary means of support.</p> <p>The Ministry of the Interior may order centres for economic development, transport and the environment to agree on the preparation of contingency plans with municipalities in connection with large-scale entry into the country so that reception arrangements can be made. The contingency plans are in the form of letter of intent.</p> <p>A required number of organising and reception centres shall be established in the municipalities that have prepared contingency plans or in the municipalities where the placing of aliens entering the country is, considering the circumstances, otherwise</p>
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			<p>justified. If necessary, provisions on the municipalities to which the obligation laid down in this subsection applies are given by government decree. An agreement on the establishment and maintenance of the centres referred to in section 10 shall be concluded with the Finnish Immigration Service.</p> <p>4. For the present, there have not been significant sudden increases in the inflow of migrants to Finland. It is also to be noted, that the provisions on temporary protection, registering a large number of displaced persons entering the country simultaneously and reception during large-scale entry into the country have, for the present, never been applied because there has not been the need to do so.</p> <p>However, according to the Emergency Powers Act (1080/1991), Section 40 (Provisions), the Government, the state's administrative authorities, the state's independent public corporations and the state's other authorities and the municipalities have to secure, by emergency powers plans, advance planning preparations of measures occurring in emergency and other measures, the as undisturbed as possible functioning of their duties also in emergency. The Government heads, supervises and coordinates the preparing for emergency and each ministry on its administrative sector alike.</p> <p>The authorities keep up their provisions by practising with regularity the above mentioned plans and measures. In order to support the functioning of their duties and to secure their provisions, for example in the administrative sector of migration the authorities have concluded agreements with the Finnish Red Cross</p>
	<p>France</p>	<p align="center">Yes</p>	<p>1. Yes.</p> <p>2. After a Kurdish migrants' mass-landing in Corsica in January 2010, a ministerial circular (circular NOR IMIMI000104C of March 31, 2010) had informed local authorities (Prefects and all competent administrative authorities) on how they should manage a sudden increase in the inflow of migrants arrived by sea.</p> <p>The ministerial circular of March 31, 2010 insists on: the necessity to prepare all the competent governmental departments to such a situation; the essential role of the open sharing of the information; the observance of each body authority and the necessary effectiveness of interdepartmental coordination. At the practical level, it provides the extension of a waiting area in the situation of a sudden increase in the inflow of migrants arrived by sea.</p> <p>In addition, since the entry into force of the law n°2011-672 of June 16, 2011 on Immigration, Integration and Nationality, an established procedure has generalized the extension of a waiting area for the management of presumptive sudden increase in the inflow of migrants.</p> <p>According to the law, when a group of at least 10 third country nationals just arrived in a place not further than 10 kilometres from a border crossing point, the waiting area extends, for a period not exceeding twenty-six days, from the place the foreigners have been found to the nearest border crossing point.</p> <p>The practice has allowed the access of OFPRA (French Office for the Protection of Refugees and Stateless Persons) border asylum section's staff to the extended area.</p> <p>Local initiatives can also be developed. For example, the Paris city council voted an emergency plan allowing migrants from Tunisia to receive housing, food and medical, administrative and juridical assistance from April 27 to August 31 in 2011 in the context of the Arab Spring.</p> <p>3. Yes. Since the coming into force of the law n°2011-672 of June 16, 2011 on Immigration, Integration and Nationality, the article L221-2 of the CESEDA (Code on entry and residence of foreigners and right of asylum) specifies the measure described above concerning the extension of a waiting area. Local initiatives are not regulated by the law.</p>

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			<p>4. The main challenges in the management of sudden increase in the flow of migrants to France are:</p> <ul style="list-style-type: none"> - At the operational level: the surveillance, the warning, and the management of the crisis; the open sharing of information and the capacity to mobilize the governmental departments (circular NOR IMIMI000104C of March 31, 2010). - At the European level: <ul style="list-style-type: none"> • Border control management outside and within the Schengen Area ; French President, Nicolas Sarkozy, with former Italian Prime Minister, Silvio Berlusconi, pushed for reform of the Schengen treaty to introduce the possibility to temporarily re-establish controls within Schengen borders in the case of exceptional difficulties. • Solidarity between EU Member States and the necessity of establishing a Common European Asylum System.
	Germany	Yes	<p>1. (Ad. 1-4) In Germany, the Residence Act serves to generally control and restrict the influx of foreigners to Germany. In addition to the admission options on the European level regulated by Directive 2001/55/EC of 20 July 2001, the Residence Act also includes regulations pertaining to the collective acceptance of foreigners from Third Countries. Thus, in accordance with the Residence Act, the supreme authorities in each German Federal State may order the issuance of residence permits to foreigners from certain states or otherwise specified foreigner groups in accordance with international law, on humanitarian grounds or in order to preserve the political interests of the Federal Republic of Germany. In order to ensure a nationwide uniform approach, the decision to accept entire groups requires the approval of the Federal Ministry of the Interior.</p> <p>In consultation with the supreme State authorities, the Federal Ministry of the Interior can also order the Federal Office for Migration and Refugees to grant approval for admission of foreigners from certain states or otherwise specified foreigner groups (§ 23[2] German Residence Act) in order to safeguard special political interests of the Federal Republic of Germany. For example, it was on this basis that 2,501 Iraqi refugees from Syria and Jordan were accepted in 2009 and 2010.</p>
	Hungary	Yes	<p>1. (Ad. 1-4) According to Act LXXX of 2007 on Asylum Hungary shall grant temporary protection to a foreigner who belongs to a group of displaced persons arriving in the territory of Hungary <i>en masse</i> which</p> <p>a) was recognised by the Council of the European Union as eligible for temporary protection under the procedure determined in 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 (hereinafter: Directive 2001/55/EC), or</p> <p>b) was recognised by the Parliament as eligible for temporary protection as the persons belonging to the group had been forced to leave their country due to an armed conflict, civil war or ethnic clashes or the general, systematic or gross violation of human rights, in particular, torture, cruel, inhuman or degrading treatment.</p> <p>Hungary shall grant temporary protection to a foreigner who belongs to a group of displaced persons arriving in the territory of Hungary <i>en masse</i>. This protection is different from the individualized status of refuge, as well the protection granted for subsidiary protection, which is reviewed every five years. In the concept of temporary protection its temporary nature is expressed.</p> <p>Most of the time , the reason why they ask for a temporary shelter is war, ethnic clashes, as well as gross violation of their human rights</p>
	Italy	Yes	<p>1. Yes.</p> <p>2. The Italian legal system foresees that a Prime Minister's Decree may provide a temporary protection measure in case of "relevant</p>

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			<p>humanitarian demands, in case of conflicts, natural disasters or other events of great seriousness in non-EU countries”.</p> <p>3. This is established by article 20 of the Legislative Decree no. 286 of 25/07/98 as well as by the Legislative Decree no. 85 of 07/04/2003 enforcing the Council Directive 2001/55/EC 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.</p> <p>4. The Italian government, before these norms had been enforced, had already faced the arrival of a considerable number of refugees following the events that occurred in the former Yugoslavia, for example, or in Albania, or even in Somalia and Rwanda. In general, the cases covered by these law provisions lead to a form of protection sometimes defined, in practice, as “extraordinary” or “temporary”, but always as “humanitarian”.</p>
	Latvia	Yes	<p>1. No.</p>
	Lithuania	Yes	<p>1. Yes. There is a plan on the management of emergency situations approved by the Government. Sudden influx of aliens is mentioned as one of the emergencies.</p> <p>2. The plan only envisages responsible institutions and their tasks during the emergency.</p> <p>3. Governmental decree.</p> <p>4. Institutional capacities (1 reception centre), human resources, financial burden.</p>
	Luxembourg	Yes	<p>1. In Luxembourg the Law of Asylum of 5 May 2006, foresees the temporary protection in the case of massif inflow of displaced migrants from third countries that cannot return to their own country (article 54 -72). However, for triggering this procedure there has to be a prior declaration by the European Council according to articles 4 to 6 of the Directive 2001/55/CE (article 58 (1)) or declaring this procedure by grand-ducal regulation (until now there is not such legal instrument). This is the only procedure foreseen by the law in case of massif inflow of migrants. There are not emergency plans to cope with these kinds of situations.</p> <p>2. As we mentioned in the case of temporary protection there has to be a prior declaration by the European Council according to articles 4 to 6 of the Directive 2001/55/CE declaring they people as displaced migrants. However, the Ministry of Family and Integration had proposed on 13 December 2011 the possibility of establishing a quota system to the municipalities to settle migrants in case of massif inflow and there are talks to modified the actual system of social aid to international protection applicants (grand-ducal regulation of 1 September 2006) but to date there are not concrete actions or plans.</p> <p>3. In the case of massif inflow of displaced migrants from third countries the procedure for granting temporary protection is foreseen by articles 56 to 72 of the Law of 5 May 2006.</p> <p>4. The major challenges in Luxembourg are: 1) because of its small size, Luxembourg does not have the infrastructure for coping with massif inflows of immigrants; 2) the personnel of the institutions that have to handle these situation (Directorate of Immigration, Luxemburgish Reception and Integration Agency) is insufficient; 3) the municipalities have a great discretion in authorising provisional structures for lodging the migrants and in some cases the municipalities do not want them to settle migrants in their territory; 4) there are no dispositions in the law that allows the government to requisition land, buildings or houses to cope with this kind of situations.</p>
	Netherlands	Yes	<p>1. (Ad. 1-4) In the Netherlands, in times of (inter alia) a great influx there is the possibility to extend the period to decide upon an application for asylum (see section 43 of the Aliens Act 2000). This period is normally six months. The Minister for Immigration</p>

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			<p>and Asylum can publish a decision to extend that period. This means that the IND no longer is obliged to give a decision within the period of six months, but the investigation of the individual case can be continued. It only takes more time to do so. The main challenge in mass influx is to find enough space for reception of the asylum seekers.</p> <p><i>Section 43</i></p> <p><i>Without prejudice to section 42, subsection 4, and to section 4:5 of the General Administrative Law Act, the time limit referred to in section 42 may be extended by order of Our Minister for a maximum of one year for certain categories of alien who have submitted an application for a residence permit for a fixed period as referred to in section 28 if:</i></p> <p><i>(a) uncertainty about the situation in the country of origin is expected to exist for a short period and it would therefore not be reasonable to take a decision on whether the application can be granted on one of the grounds referred to in section 29;</i></p> <p><i>(b) the situation in the country of origin on the grounds of which the application could be granted under section 29 is expected to be of short duration;</i></p> <p><i>(c) the number of applications from a given country or a given region is so great that Our Minister cannot reasonably be expected to give a decision on them in good time.</i></p>
	Poland	Yes	1. No.
	Portugal	NO	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Slovak Republic	Yes	<p>1. (Ad. 1-2). In the Slovak Republic there are several documents dealing with crisis management <u>generally</u>:</p> <p>§ Basic document in this area is constitutional Act No. 227/2002 Coll. on State Security in Time of War, State of War, State of Emergency and State of Crisis as amended (it was amended several times because of implementation of the EU acquis)</p> <p>§ Act No. 387/2002 Coll. on the Management of State in Crisis Situations Other Than Time of War and State of War as amended</p> <p>These two Acts provide the basis for the elaboration of other documents and plans specifying tasks and measures for various ministries and self-governing bodies in this field.</p> <p>§ List of measures of the National System for Crisis Management</p> <p>§ Catalogue lists of the National System for Crisis Management</p> <p>3. Yes, all the procedures are regulated by the national law and incorporate EU and NATO regulations.</p> <p>4. The Slovak Republic has one (and therefore limited) experience in this area from the period after 1999 regarding the extreme influx of asylum-seekers.</p>
	Spain	Yes	<p>1. There is no national-level emergency plan. Procedures have been developed at regional/local level following previous experiences.</p> <p>2. –</p> <p>3. –</p> <p>4. The main challenges are: rescue, reception at the port, providing first-aid and basic needs, additional staff for identification and administrative procedures (return, asylum, etc), temporary increase of detention capacity, distribution of migrants to centres in other regions, dealing with UM.</p>
	Sweden	Yes	1. To manage a sudden increased inflow of asylum seekers (or possible other migrants) is part of the overall task for the Swedish Migration Board. Thus there is an established procedure to receive an inflow of asylum seekers to Sweden, yet the Migration Board

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			<p>has no specific emergency plan for this aim. It may rather be noted that the Migration Board has developed a model for prognosis/forecast for the full asylum process, with aim to predict and plan for possible and likely variation(s). This prognosis/forecast is part of the overall planning process (thus including financial resources etc.) for the Migration Board and other bodies/parties engaged in the asylum process – from the asylum application to “the end of the procedure”. This planning process is includes the relevant Ministries.</p> <ol style="list-style-type: none">2. One key element would be to organise immediate accommodation, including ensuring procurement of sufficient accommodation, and various related matters (see further the Act (1994:137) on the reception of asylum seekers and others). See also question No. 4 below.3. Act (1994:137) on the reception of asylum seekers and others. (Ctrl-click to enter the link)4. Main challenges would include accommodation and resources (financial and staff) to manage the situation. Aspects of relevance would for instance be logistics and infrastructure; to inform the municipalities (which have certain responsibilities concerning, amongst others, schools and health matters); to comply with procurement contracts; to ensure available IT-equipment in order to register cases – and all other aspects regulated in the above Act.
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