

FR EMN NCP Ad-hoc query on access to detention center

Article 16 paragraph 4 of directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals provides that "relevant and competent national, international and non-governmental organisations and bodies shall have the possibility to visit detention facilities, as referred to in paragraph 1, to the extent that they are being used for detaining third-country nationals in accordance with this Chapter. Such visits may be subject to authorisation". Within this framework, France has created a specific system of access to detention centres for humanitarian associations. In order to improve this system, the Directorate of Immigration of the French Ministry of Interior (Removal department) would like to gather information on the rights of access of associations, as provided for by other Member States.

Member States concerned are Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway. Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom provided answers. **AT and LT EMN NCPs have requested that their reply should not be further disseminated;** please do not quote them if you further disseminate this summary. Please see summary of responses to questions below.

1) Regarding the possibility to subject these visits to authorisation:

- **Which authority is in charge of authorising the associations?**
- **Which conditions must be fulfilled by the association to get the authorisation? In particular, what must be its corporate purpose?**
- **How long is the authorisation valid for?**
- **Under which conditions can the authorisation be refused or withdrawn?**

2) Regarding access to detention centres:

- **Is there a limited number of representatives per association?**
- **Under which conditions can a representative of an association lose his/her right of access to detention centres?**

3) Regarding the practical arrangements of access to detention centres:

- **With whom are the representatives of the associations allowed to speak during a visit?**
- **Is there a limited number of persons who can simultaneously visit a centre?**
- **What area of the premises are accessible thanks to the right of access?**
- **Do the associations have to inform the responsible of the detention centre prior to their visit?**
- **Are there any other practical arrangements regarding the exercise of the right of visit?**

4) Under which circumstances can the associations make remarks and recommendation to the authorities in charge of the detention centres?

	Authority in charge	Type of association	Validity	Refusal / withdrawal	Limited nb of persons	Loss of right	Authorisation to speak with	Max. nb of visitors	Authorised areas	Information prior to visit	Remarks / recommendations
AT	Police departments of the Länder	Legal representatives, national authorities, diplomatic or consular bodies, international organisations	No time limit for some IOs; depends on the contract for the others	/	/	After the termination date of the contract, or for security reasons	Anyone	/	Anywhere	No need for the bodies and commission; other must register in advance	Under no restriction
BE	General direction of the immigration office	Link with immigration issues	No time limit	For national security, public safety or public order	/	In case of non-compliance with the rules of the center	Anyone	/	Residential wings or reception rooms	Notification at least 24 hours in advance	Under no restriction
BG	Special homes for temporary accommodation of foreigners, under the migration directorate of the Ministry of Interior	Governmental and non-governmental organisations	Depends on the contract	In case of a crisis, if no authorisation was granted, if the visit was not planned	/	In case of threat or if the organisation is not authorized any more	Anyone	/	Specific meeting areas		During dedicated meetings
CY	Chief of police or person in charge in the detention center	Any type, depending on the purpose of the visit	Depends on the contract	Depends on the purpose of the visit	/	/	Either anyone, or just the staff, depending on the authorisation	/	Anywhere	Mandatory	Under no restriction
CZ	Refugee facilities administratio	Depends on their purpose	Mostly a single entry, but	In case of disrespect of the visitors	/	In case of disrespect of the visitors	Anyone	/	There are special visitors'	Mandatory	Through the ombudsman or the

	n of the Ministry of Interior		some NGOs have a long term authorisation	rules		rules			premises, and a restricted area for some bodies (like the police or the ombudsman)		Department for asylum and migration policy of the Ministry of Interior
EE	Police and border guard board	Consular officers, legal counsels, ministers of religion, representatives of organisations	/ (no more than 3 hours per visit)	/	/	/	Under authorisation	/	Limited	Mandatory	/
FI	Immigration service	/	/	/	/	/	Depends on the authorisation	/	Depends on the authorisation	Mandatory	Anytime; it is mandatory for the ombudsman
FR	Minister in charge of Immigration	Any association older than 5 years which defends human rights, third-country nationals or provides for medical and social care	Authorisation of 3 years	Possible under good motivations	Maximum five representatives per association	Possible if the Minister or the Association decides so	Anyone (but talks with detainees are confidential)	Maximum five persons	Detention areas	At least 24 hours prior to the visit	Under no restriction
HU	No need for an authorisation	Social organisations, committee of Council of Europe in charge of torture, human	/	/	/	/	Anyone	/	Anywhere	No need	Under no restriction

		rights organisations, diplomatic representatives									
IT	Prefects, under control of the Ministry of Interior	UNHCR, IOM, Red Cross	Limited time according to the project carried	To protect public order or safety	/	In case of abuse or when the agreement expires	Anyone who beneficiates from the services granted by the association	Depends on the agreement	Usually limited to common areas	Mandatory	Under no restriction
LV	Head of the accommodation center	National, international and non-governmental organisations	One-time authorizations	/	2	In case of abuse	Anyone, but no more than 2 hours per detainee	/	Special premises	Mandatory	Under no restriction
LT	Commander of the detention center	/	One-time or long term if needed	/	/	/	Anyone	/	Depends on the purpose of the visit	Mandatory	Under no restriction
LU	Minister of Immigration, and Director of the center	Associations and NGOs (plus the ombudsman whenever he wants)	No time limit	Need for motivations	/	When the Ministry, the Director of the center or the association decides so	Detainees	/	Only main living areas	Mandatory during the specified hours (except for the ombudsman)	Under no restriction
NL	Director of the Directorate of special facilities	Social organisations	2 years	In case of irrelevance between the purpose of the association and the activities of the center	/	If the person is no longer part of the authorized organisation	Anyone	/	In specific areas	Mandatory and under acceptance from the detainee	Under no restriction
PL	Border guard	NGOs and relevant international	One-time authorisation	In case of threat	/	/	Anyone	/	In specific rooms, except for	Mandatory	Under no restriction

		organisations							monitoring visit		
PT¹	/	/	/	/	/	/	/	/	/	/	/
SK	Bureau of border and Aliens police, together with the director of the center	Any organisation whose activities are subsidiary to the tasks of the center, to the benefit of the detainees	Same duration as the project	In case of irrelevant activities, or abuse	Depends on the activities; usually between 2 and 6 persons	In case of non-respect of the authorisation	Anyone	/	Mostly in the common areas, depending on the activities of the association	Mandatory	Under no restriction
SI	Head of the center	Organisation for external audit and assistance	One-time authorisation	In case of abuse	/	/	Anyone	/	Anywhere	Mandatory	Under no restriction
SP	General Commissariat for Aliens and Borders	Depends on its purpose	One-time authorisation	/	/	/	Depends on the purpose of the visit	/	Depends on the purpose of the visit	Mandatory	Under no restriction
SE	Swedish Migration Board	Depends on its purpose	One-time authorisation	For security reasons	/	In case of abuse	Anyone	/	Anywhere (access to rooms is granted by the detainees)	Mandatory	Under no restriction
UK	Secretary of State or manager of the center	Depends on its purpose	There are statutory and non statutory organisations	For security reasons	/	For security reasons	Anyone	/	Anywhere (except for statutory organisations which are limited to specific areas)	Mandatory (only for statutory organisations)	Under no restriction

¹ Portugal does not have any detention center, but St. Anthony's Housing Unit, which purpose is to welcome foreigners in irregular situation.