



## **Ad-Hoc Query on access to the labour market for asylum seekers**

**Requested by AT EMN NCP on 23<sup>rd</sup> January 2015**

**Compilation produced on 3<sup>rd</sup> June 2015**

**Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom plus Norway (26 in Total)**

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### **1. Background Information**

The last Ad-Hoc Query on the subject of access of asylum seekers to the labour market was forwarded in January 2013. In addition, a further ad-hoc-query by EE EMN NCP was launched in April 2014.

Due to the envisaged transposition of Art. 15 of the Asylum Reception Conditions Directive (recast) 2013/33/EU by July 2015, Austria would be interested to up-date all this information with a view on possible changes in the future and possible consequences on the number of asylum applications.

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According to information from the compilations of answers of our ad-hoc query in January 2013 and the EE ad-hoc-query in April 2014 MS provide asylum seekers access to labour market according to following time limits:

No access to labour market: Ireland, Lithuania

Access after 12 month period: Bulgaria, Estonia, Croatia, Czech Republic, Malta, France, Romania, Slovak Republic, United Kingdom

Access provided after 9 month period: Germany, Latvia, Luxemburg, Slovenia, and Hungary

Within 6 month period: Belgium, Finland, Spain, Netherlands, Italy, Cyprus, Poland, and Denmark

Access is provided within 0-1 month period: Greece, Portugal, Sweden and Norway

We would very much appreciate your responses **by February 19<sup>th</sup> 2015.**



## 2. Responses<sup>1</sup>

		<p>Wider Dissemination?<sup>2</sup></p>	<ol style="list-style-type: none"> <li>1. Do asylum seekers in general have access to the labour market? Please specify relevant legal regulations.</li> <li>2. After how many months is an access to the labour market granted (Art. 15/1 RCD recast: no later than 9 months) – please up-date information of Ad-Hoc queries in January 2013 and July 2014 or provide information if not included</li> <li>3. How do you apply Art 15/2 clause 1 of the RCD recast?             <ol style="list-style-type: none"> <li>a. Is a work authorization/permit needed?</li> <li>b. Do the general rules on labour market access also apply to asylum seekers who want to open his/her own self-employed business?</li> <li>c. Do the general rules on labour market access also apply to asylum seekers whose skills are needed (skilled workers)?</li> </ol> </li> <li>4. Do you apply Art. 15/2 clause 2 of the RCD recast (priority to EU and EEA nationals and to legally resident third-country nationals)? If yes, please specify how.</li> <li>5. Are there any further conditions and/or restrictions for access to the labour market (e.g. identity document, only to certain sectors)?</li> <li>6. Have you recently made any legislative or practical changes or do you currently plan any such changes on the issue of labour market access for asylum seekers, in particular in the view of the transposition of the RCD 2013/33/EU by July 2015?</li> </ol>
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<sup>1</sup> 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.

<sup>2</sup> 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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	<b>Austria</b>	<b>Yes</b>	<p>1. Yes. According to Art. 4 (1) of the Act Governing the Employment of Foreign Nationals asylum seeker may be issued a work permit. However, see the requirements in 3., 4. and 5.</p> <p>2. No change since ad-hoc queries: Access to the labor market is granted <b>three months</b> after the admission of the asylum application.</p> <p>3.a. Yes. In order to take up employment, the local public employment authority (AMS) has to issue a <b>work permit</b>. Applications for a work permit must be submitted by the employer to the AMS.</p> <p>3.b. No. Three month after the asylum application, every asylum seeker is free to start his/her self-employed business without the need for a work permit.</p> <p>3.c. Yes, the same rules apply.</p> <p>4. Yes. A procedure (Labour Market Test/<i>Ersatzkraftverfahren</i>) is applied, which requires proof that the respective post cannot be filled by an Austrian citizen, citizens of the EU or a legally residing third country national with access to the labour market (longtime resident, family member etc.) The work permit is only issued for those sectors with a significant lack of available workers. Thus, this is the case if not enough nationals, EU or other legally resident third country nationals are available.</p> <p>5. In addition, access to the labour market is restricted to seasonal work either in tourism or agricultural sectors. These permits are limited by a yearly quota for each province and can be issued for a maximum period of six months. Asylum seekers up to the age of 25 years may start an apprenticeship in professions with a shortage of workers.</p> <p>6. No, Austria has not recently made any legislative or practical changes and does not plan currently any such changes.</p> <p>Source: Federal Ministry of the Interior</p>
	<b>Belgium</b>	<b>Yes</b>	<p><b>1. Do asylum seekers in general have access to the labour market? Please specify relevant legal regulations.</b></p> <p>YES. Since 12 January 2010 asylum seekers have access to the labour market in Belgium. However, the asylum seeker can only apply for a work authorization when there hasn't been a first instance decision in the asylum application by the Commissioner general for Refugees and Stateless Persons within six months following the registration of his application for asylum. After these six months the asylum seeker can request a labour card C. <u>Remark:</u> A person who is granted the refugee status no longer needs a labour card to be able to work.</p> <p>The <u>legislation</u> can be found in the <b>Law of 30 April 1999</b> on the employment of foreign employees and the Royal Decree of 9 June 1999 in execution of the Law of 30 April 1999 on the employment of foreign employees, Article 17, 1°, a) and b) and article 2, 3°, b) and 5° of the Royal Decree of 9 June 1999 and the <b>Royal Decree of 22 December 2009</b> amending Article 17 of the Royal Decree of 9 June 1999 in execution of the Law of 30 April 1999 on the employment of foreign employees.</p> <p><b>2. After how many months is an access to the labour market granted (Art. 15/1 RCD recast: no later than 9 months) – please up-date information of Ad-Hoc queries in January 2013 and July 2014 or provide information if not included</b></p> <p><u>No changes</u> since last time: access to the labour market is granted <b>6 months</b> after introduction of the asylum application when no first instance decision in this asylum application is taken by the Commissioner general for Refugees and Stateless Persons.</p>


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			<p><b>3. How do you apply Art 15/2 clause 1 of the RCD recast?</b></p> <p><b>a. Is a work authorization/permit needed?</b> Yes, a work permit, named labour card C.</p> <p><b>b. Do the general rules on labour market access also apply to asylum seekers who want to open his/her own self-employed business?</b> An asylum seeker must apply for a “professional card” to open a self-employed business. Given the uncertain residence for the asylum applicant, it is not allowed that the self-employed activity requires large investments. The application will be assessed on several criteria (financial analyses etc.). If the professional card is granted to the asylum seeker, he will be allowed to work as an independent worker. <u>Remark:</u> In case the refugee status is granted it is no longer necessary to apply for a professional card.</p> <p><b>c. Do the general rules on labour market access also apply to asylum seekers whose skills are needed (skilled workers)?</b> Asylum seekers need to apply for a labour card C. The labour card C that is issued to asylum seekers in the asylum procedure allows the asylum seeker to do whatever job in salaried employment for whatever employer. However, the labour card C is only valid for 12 months and can be renewed as long as the person is still in the asylum procedure at that time (see also question 4).</p> <p><b>4. Do you apply Art. 15/2 clause 2 of the RCD recast (priority to EU and EEA nationals and to legally resident third-country nationals)? If yes, please specify how.</b></p> <p>There is no labour market test for asylum seekers.</p> <p><u>Remark:</u> For Croatians there is a transitional period at least until 30 June 2015. Until the end of this transitional period they need a labour card B to work in Belgium. Normally a labour card B can only be obtained after a labour market test. This test shows whether it is possible to find, within a reasonable period of time, an employee who is suitable, where necessary after the completion of an additional period of training, to perform the job. For the labour market test we do not only look at the Belgian, but also at the European labour market. There is no labour market test for citizens from Croatia when it concerns a bottle-neck occupation.</p> <p>Other EU-citizens do not need a labour card.</p> <p><u>Remark:</u> For citizens from Romania and Bulgaria this transitional period ended on 31 December 2013. Since the 1st of January 2014 they are, as for the other Union citizens, exempted of a labour card to work in Belgium.</p> <p>Third -country nationals (non-asylum seeker) who want to work in Belgium, need to apply for a labour card B, which allows them to work for a specific employer. Before granting this labour card B a labour market test is done.</p> <p><b>5. Are there any further conditions and/or restrictions for access to the labour market (e.g. identity document, only to certain sectors)?</b></p>
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			<p>No.</p> <p><b>6. Have you recently made any legislative or practical changes or do you currently plan any such changes on the issue of labour market access for asylum seekers, in particular in the view of the transposition of the RCD 2013/33/EU by July 2015?</b></p> <p>No</p>
	<b>Bulgaria</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes. Art. 29 (3) of the Law on Asylum and Refugees – the third-country national is entitled to access to the labour market if the asylum procedure does not come to an end within 1 year after the submission of the asylum application for reasons beyond the applicant's control.</li> <li>2. 1 year</li> <li>3. A) No. The State Agency for Refugees issues a certificate that the third-country national has been in the asylum procedure for more than 1 year and is entitled to access to the labour market.</li> <li>3. B) Yes</li> <li>3. C) Yes</li> <li>3. No priority is given to EU and EEA nationals as well as to legally resident third-country nationals.</li> <li>4. No identity document is required. The third-country national has access to the labour market, except for assuming positions with respect to which Bulgarian citizenship is required.</li> <li>5. A draft law on amending and complementing the Law on Asylum and Refugees has been brought before the National Assembly. It envisages that the time period under Art. 29 (1), item 3 of the Law on Asylum and Refugees be reduced to 9 months. This is in view of the transposition of Directive 2013/33/EU.</li> </ol>
	<b>Cyprus</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. All asylum seekers have access to certain areas of the labour market, which are defined by a Ministerial Order, 6 months after the submission of the asylum application. There are only certain sectors of the economy that an asylum seeker can access, which are defined by a Ministerial Order: <ol style="list-style-type: none"> <li>(a) Farming – Agriculture – Fishery: Workers at the sectors of agriculture, farming (animal husbandry) and fishery</li> <li>(b) Manufacturing: Animal food production</li> <li>(c) Waste management: Workers at the sectors of sewage system and waste processing, of collection and processing of waste (garbage), at the sectors of recycling and processing of animal waste and abattoir by-products.</li> </ol> </li> </ol>



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			<p>(d) Trade and Repairs: Workers at gas stations and car-wash, porters of wholesale trade (e) Other activities: Cleaning of buildings and outside areas, distributors of advertising or informative material, food delivery.</p> <p>2. 6 months after the submission of the asylum application.</p> <p>3. The amendment bill that transposes the RCD recast Directive foresees that the Minister of Labor, Welfare and Social Insurance can decide by a decree the conditions and terms for granting access to the labor market for the applicant.</p> <p>4. The amendment bill that transposes the RCD recast Directive transposes the article 15.2 into the Refugee Law. Therefore, there is no yet practical experience on this.</p> <p>5.</p> <p>6. Yes, an amendment bill has been prepared for the transposition of the RCD recast Directive into national law (Refugee Law).</p>
	<p><b>Czech Republic</b></p>	<p><b>Yes</b></p>	<p>1. Yes, access to the labour market of asylum seekers is regulated by Employment Act, No. 435/2004 Coll.</p> <p>2. Asylum seekers are only allowed to take up employment after a period of 12 months after submission of application for international protection. Proposal of amendments of relevant national legal regulations related to transposition of RCD, APD and Dublin III Regulation decreases a period of 12 months to the period of 6 months.</p> <p>3. a) Yes and no legislative changes are planned on this issue.</p> <p>b) The law stipulates that long term visa or residence permit is necessary if a third country national wishes to run business, therefore asylum seekers are not allowed to do so.</p> <p>c) Yes, general rules are applied in this area.</p> <p>4. No. While asylum seekers still do need work permit, the labour market test is not applied.</p> <p>5. No.</p> <p>6. Apart from change in period when asylum seeker is not allowed to take up employment as was mentioned above any legislative or practical changes haven't been made or are not planned.</p>

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	Denmark	Yes	
	Estonia	Yes	<ol style="list-style-type: none"> <li>1. Yes. According to <a href="#">Act on Granting International Protection to Aliens</a> § 10<sup>1</sup> an asylum seeker may work in Estonia.</li> <li>2. No change since last query: an asylum seeker may take employment in Estonia if the Police and Border Guard Board have not made a decision on his/her application for asylum within <b>one year</b> as of the submission of the application for asylum.</li> <li>3. <ol style="list-style-type: none"> <li>a. Yes, permission to work is needed;</li> <li>b. In general yes;</li> <li>c. Yes.</li> </ol> </li> <li>4. No.</li> <li>5. No.</li> <li>6. There is new amendments to law according to which period of asylum seekers access to labour market will be shorten to <b>six month</b>, after launching an asylum application, the access will be guaranteed also at the time of appealing the asylum decision (there is no such provisions now). Amendments to the law will take effect on 2th April 2015.</li> </ol>
	Finland	Yes	<p>1.-2. Yes. Pursuant to the Aliens Act, an asylum seeker has a right to work without a residence permit once three months have passed from the entry into the country, provided that the asylum seeker holds a valid travel document that entitles him/her to cross the border (in which case the identity of the asylum seeker is clear), and otherwise once six months have passed from the entry into the country.</p> <p>Aliens Act, Section 79, Subsection 2:  <i>Aliens who have applied for international protection have a right to gainful employment without a residence permit if they:</i>  1) have a document referred to in section 11(1) and have stayed in the country for three months; or  2) have stayed in the country for six months.</p> <p>3. a) No. Work authorization/permit is not required. An asylum seeker may obtain (subject to a charge) a certificate of his/her right to work from the Finnish Immigration Service.  Asylum seekers are entitled to look for a job themselves. Registration as a jobseeker at the Employment and Economic Development Office is, however, not possible.</p> <p>3. b) If the asylum seeker would like to start his/her self-employed business in Finland, he/she should lodge a residence permit application for self-employed persons. Otherwise this ground for residence permit would not be taken into account in the asylum process/decision. If the asylum seeker's main purpose for stay in Finland is self-employment, he or she should apply for self-employed person's residence permit.</p> <p>3. c) Labour market test is not applied to the asylum seekers (skilled workers included). An asylum seeker is entitled to work in case the conditions set forth in Section 79, Subsection 2 of the Finnish Aliens Act are met (please see Q. 1 and 2 above).</p> <p>4. Labour market test is not applied to the asylum seekers.</p>

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			<p>5. Same rules/conditions apply as to the nationals of Finland. For example, healthcare professionals in Finland are required to have the right to practice their profession, granted by Valvira, the National Supervisory Authority for Welfare and Health. The website of the Finnish National Board of Education has information on professions that are regulated in Finland and require professional practice rights: <a href="http://www.oph.fi/english/mobility/recognition/regulated_professions_in_finland">http://www.oph.fi/english/mobility/recognition/regulated_professions_in_finland</a></p> <p>6. No.</p>
	<b>France</b>	<b>Yes</b>	<p>1-In principle, asylum seekers are not allowed to work during the examination of their application in France. However, they can apply for a work authorisation in some limited cases.</p> <p>2. Asylum seekers can apply for a work authorization when the French Office for the Protection of Refugees and Stateless Persons (Office français de protection des réfugiés et apatrides = OFPRA) has failed to give a ruling within one year following the registration of their application, for reasons they are not responsible for. The asylum seeker who has lodged an appeal before the National Court for Right of Asylum (Cour nationale du droit d'asile = CNDA) against the OFPRA's decision rejecting his/her application, and whose receipt of application for asylum is renewed, can also apply for a work authorization. The work permit will be limited to the validity of the receipt of residence permit renewable every 3 months.</p> <p>3-a) A work authorization is required.</p> <p>b) A work authorization only authorizes a salaried activity; therefore an asylum seeker cannot perform a self-employed activity during the examination of his/her application.</p> <p>c) all general rules on access to labour market apply to all salaried activities, including for skilled workers : if the asylum seeker fulfils the conditions for applying for the EC Blue Card (dedicated to highly-qualified workers), his/her application will be processed through the relevant regulation with no labour market test as prevailed in French regulation.</p> <p>4- Yes. Asylum seekers' application for a work authorization is considered according to the rules of law applied to all foreign workers. According to the principle of enforceability of the employment situation, a work authorization is only issued to an asylum seeker if there is no French or European citizen or no foreign national holding already a work authorization who can be employed.</p> <p>5- The asylum seeker needs to prove that his/her application is under process through a valid receipt of residence permit. If he/she intends to perform a regulated job, he/she needs to provide the relevant diploma or authorizations.</p> <p>6- A draft law on asylum legal framework has been discussed for several weeks in the French Parliament and there could be some changes in the French regulation on this topic. However we cannot give more precise information for the moment.</p>
	<b>Germany</b>	<b>Yes</b>	<p>1. Yes. After a certain waiting period, foreigners, who applied for international protection and who were granted a permission to remain for these proceedings, can be granted access to the labour market in individual cases by a decision to be taken by the German Immigration Authority; § 61 AsylVfG (German Asylum Procedure Law) and §§ 39 to 42, Aufenthaltsgesetz (German Residence Act) confer the legal bases. § 32, section 2 to 4, Beschäftigungsverordnung (= German Employment Regulation) regulate those cases in which such a permission does not require approval by the Bundesagentur für Arbeit (=German Federal Labour Office) because of the nature of the employment or residence period.</p> <p>2. Since 6th November 2014 the waiting period has only been three months (Law dated 31<sup>st</sup> October 2014, published in the Federal Law Gazette Part I of 5th November 2014, page 1, 649).</p>




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			<p>3.</p> <ul style="list-style-type: none"> <li>a. Yes. The work permit is issued by the German Immigration Authority in the form of an ancillary provision to the residence permit.</li> <li>b. Only the permission to work as an employee can be granted, but not as a self-employed person.</li> <li>c. The same rules for access to the labour market apply for all foreigners who filed for an application for international protection, regardless of their professional qualification.</li> </ul> <p>4. Yes. If the approval of the German Federal Labour Office is required, due to the nature of employment sought after or the (short) duration of the stay, the Office investigates the effects of the employment of the applicant on the labour market and whether Germans, EU-citizens or privileged Third-Country-Nationals are available for the such an employment and whether working conditions are complied with.</p> <p>5. If the nature of employment sought after requires this, specific proof of qualification for the employment must be handed in.</p> <p>6. Please see answer to question 2. Furthermore, since 1st January 2015, an amendment on limiting the restrictions on mandatory residence to three months after entry has been in force by which the legal position of the applicants should be improved in general. This should also make the search for suitable employment easier.</p>
	<b>Greece</b>	<b>Yes</b>	<p>1. Yes. According to Art. 4 of P.D. 189/1998 asylum seekers have access to the labour market of our country</p> <p>2. No change since Ad Hoc queries of January 2013 and July 2014: According to P.D. 189/1998, there is no specific deadline for the competent authorities to issue a work permit. This process is been regulated by the Administrative Procedure Code which, in general, regulates the transactions between citizens and public administration and sets the period of two months within which to complete the process of issuing the work permit.</p> <p>3. a) Yes, an asylum seeker has access to the labour market as far as a temporary work permit has been issued to him by the competent authorities that is Regional Services  b) An asylum seeker hasn't the right to open his/her own self-employed business.  c) Yes they do</p> <p>4. A temporary work permit is been issued to a asylum seeker provided that a labor market survey has been conducted and there are no unemployed nationals, EU citizens, refugees or legally resident third country nationals who are interested to work in a relevant specialty for which the work permit has been submitted</p> <p>5. No</p> <p>6. No, Greece has not recently made any legislative or practical changes regarding asylum seekers' access to labour market. But we are in the process to examine the possibility to reshape the legislative framework regulating asylum seekers' access to labour market</p>
	<b>Hungary</b>	<b>Yes</b>	<p>1. Yes, in the transposition process of Directive 2013/33/EU, Hungary chose to provide access to the labour market to asylum seekers 9 months following the submission of their asylum application.</p> <p>2. During the first 9 months of asylum procedure asylum seekers are not allowed to work officially in Hungary. According to Hungarian rules, during this period they can only work in the territory of the reception centre, but they do not need working permit for this. If 9 months after the admission of the application has passed and a decision has not been taken, they are granted access to the labour market</p>



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			<p>under the general rules applied for foreigners.</p> <p>3. Yes. The employer has to request a working permit (valid for one year, but renewable) from the local employment office. Asylum seekers can only apply for jobs which are not available for Hungarians or nationals of States parties to the Agreement on the European Economic Area.</p> <p>4. No.</p> <p>5. No.</p>
	<b>Ireland</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Italy</b>	<b>Yes</b>	<p>1. Yes. Measures on labour market access for asylum seekers and refugees are regulated by Legislative Decree No 140/2005 (transposing Council Directive 2003/9/EC, <i>Laying down minimum standards for the reception of asylum seekers</i>). However, Directive 2013/33/EU is to be transposed by 20 July 2015 by a Government Decree, as established by Parliament in enabling Law No 154 of October 2014.</p> <p>2. Decree No 140/2005 provides that an asylum seeker is granted a residence permit allowing them to work if the asylum application has been outstanding for six months and the delay of the Territorial Commission cannot be attributed to the applicant (Article 11). The delay is considered not to be attributed to the asylum seeker if (a) they have not exhibited false certifications or documents; (b) they have not refused to provide necessary information for identification and the assessment of their origin; or (c) they have failed to appear before the Commission for the interview owing to circumstances beyond their control (for instance, health problems). Essentially, it is the same permit that is given at the time when the application is lodged, but it also has the following wording: “<i>Asylum application – work authorization under Article 11, Legislative Decree No 140/05</i>” (as specified by the Circular of the Ministry of the Interior of 22.10.05). This specific permit cannot be converted into a regular residence permit for work reasons.</p> <p>3. As specified above, Italy will transpose Directive 2013/33/EU by 20 July 2015. However, Decree 140 provides for a more advantageous standard (6 months) of access to the labour market, compared to the Directive (9 months).</p> <p>a) Yes, a residence permit “for asylum application” is required, authorizing the applicant to work only until the application procedure is settled. This specific permit cannot be converted into a regular residence permit for work reasons.</p> <p>b) Yes.</p> <p>c) Yes, they generally apply to asylum seekers.</p> <p>4. N/A</p> <p>5. Italian legislation does not provide for further restrictions regarding labour market access for asylum seekers.</p> <p>6. No, no significant changes have been made pending the transposition of the Directive.</p>
	<b>Latvia</b>	<b>Yes</b>	<p>1. According to the Immigration Law an asylum seeker has an access to the labour market 9 months after the date of applying for asylum if the decision of the first instance on international protection has not been taken and the delay cannot be attributed to the applicant. The right to employment shall remain until the moment when the final decision on international protection has entered into force and is not longer disputable;</p>


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			<p>2. Please see the answer above;</p> <p>3. a) There is no need for work permit as such because any asylum seeker has a right to work for any employer as well as to work as a self-employee. In case an asylum seeker wishes to start to work, the State Border Guard includes the information on right to work in the personal document of asylum seeker.</p> <p>b) Yes;</p> <p>c) Yes.</p> <p>4. Yes, in practice it means: when the EU or EEA national or legally resident third-country national or asylum seeker apply for a vacancy at the same time and they all are equal in their skills the employer has a right to give a priority to EU or EEA national or other legally resident third-country national.</p> <p>5. No, an asylum seeker has a right to work for any employer as well as work as a self-employee and there are no any additional restrictions.</p> <p>According to the directive 2003/9/EC previously defined 1 year time limit to access to labour market was changed for time limit of 9 months in accordance with the amendments of Immigration Law which came into force 01.09.2014.</p>
	Lithuania	Yes	<p>1. <b>Do asylum seekers in general have access to the labour market? Please specify relevant legal regulations.</b> According to the current legislation, application for asylum in Lithuania are examined within 3 months. The time limit may be extended where objective reasons preclude examination of the asylum application by the set time limit, however the time limit of examination of the application may not exceed 6 months. During this period asylum seekers have no access to the labour market.</p> <p>2. <b>After how many months is an access to the labour market granted (Art. 15/1 RCD recast: no later than 9 months) – please up-date information of Ad-Hoc queries in January 2013 and July 2014 or provide information if not included</b> Asylum applicants have no access to the labour market since their asylum application is examined within 3 months (in exceptional cases after 6 months). After the application is examined a foreigner either receives asylum in Lithuania and access to labour market or is refused asylum.</p> <p>3. <b>How do you apply Art 15/2 clause 1 of the RCD recast?</b></p> <p>a. <b>Is a work authorization/permit needed? N/A</b></p> <p>b. <b>Do the general rules on labour market access also apply to asylum seekers who want to open his/her own self-employed business? N/A</b></p> <p>c. <b>Do the general rules on labour market access also apply to asylum seekers whose skills are needed (skilled workers)? N/A</b></p> <p>4. <b>Do you apply Art. 15/2 clause 2 of the RCD recast (priority to EU and EEA nationals and to legally resident third-country nationals)? If yes, please specify how. N/A</b></p> <p>5. <b>Are there any further conditions and/or restrictions for access to the labour market (e.g. identity document, only to certain sectors)? N/A</b></p> <p>6. <b>Have you recently made any legislative or practical changes or do you currently plan any such changes on the issue of labour market access for asylum seekers, in particular in the view of the transposition of the RCD 2013/33/EU by July 2015? No</b></p>



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	Luxembourg	Yes	<ol style="list-style-type: none"> <li>1. According to article 14 (2) of the amended Law of 5 May 2006 (Asylum Law), international protection applicants do not have access to the labour market for the first nine months after submitting their application for international protection. After nine months, in the absence of a refusal decision of the international protection application, and if the applicant is not responsible for this delay, access to the labour market becomes possible if he/she fulfils the conditions (see 3, 4, 5).</li> <li>2. See 1.</li> <li>3. At the moment Luxembourg has not yet transposed the Asylum Reception Conditions Directive (recast) 2013/33/EU. <ol style="list-style-type: none"> <li>a. The applicant can obtain a temporary authorisation of occupation (AOT – “Autorisation d’occupation temporaire”). For obtaining this authorisation the applicant must present a working proposal and a work contract of an employer and has to pass the labour market test (article 14 (3)).</li> <li>b. In Luxembourg asylum seekers cannot have access to the labour market as self-employed workers.</li> <li>c. Yes, the same rules apply.</li> </ol> </li> <li>4. Yes. The priority to EU and EEA nationals and to legally resident third-country nationals apply. According to article 14 (3) the international protection applicant has to pass the labour market test as mentioned in answer 3.a.</li> <li>5. Yes. The AOT is subject to specific restrictions. It is restricted to one single profession with one single employer, and is valid for six months but can be renewed (article 14 (2)). The granting or the renewal of an AOT can be refused for different reasons linked to the evolution or organization of the labour market: e.g. the employment priority (“priorité d’embauche”) for EU citizens, EEA nationals or third-country nationals with a residence permit registered at the ADEM (Administration de l’Emploi – Luxembourg employment administration) and who receive unemployment benefits (art 14 (3)).</li> <li>6. No, Luxembourg has not made any legislative or practical changes concerning labour market access for asylum seekers.</li> </ol>
	Malta	Yes	<ol style="list-style-type: none"> <li>1. <b>Do asylum seekers in general have access to the labour market? Please specify relevant legal regulations.</b>  In accordance with Regulation 10 of the Reception of Asylum Seekers (Minimum Standards) Regulations- SL 420.06- asylum seekers shall be granted access to the labour market, on conditions determined by the authority responsible for issuing employment licence, i.e. the Employment and Training Corporation, after not more than 12 months.</li> <li>2. <b>After how many months is an access to the labour market granted (Art. 15/1 RCD recast: no later than 9 months) – please up-date information of Ad-Hoc queries in January 2013 and July 2014 or provide information if not included</b>  As per reply to question 1. It should be noted that the timeframe for access to the labour market will be changed in compliance with the re-cast Directive.</li> <li>3. <b>How do you apply Art 15/2 clause 1 of the RCD recast?</b> <ol style="list-style-type: none"> <li>a. <b>Is a work authorization/permit needed?</b></li> </ol> </li> </ol>






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			<p>Yes, however in such cases no labour market tests are applied</p> <p><b>b. Do the general rules on labour market access also apply to asylum seekers who want to open his/her own self-employed business?</b></p> <p>No, asylum seekers are allowed to engage in self-employed activities without having to meet the requirements applicable to other Third Country Nationals.</p> <p><b>c. Do the general rules on labour market access also apply to asylum seekers whose skills are needed (skilled workers)?</b></p> <p>No, applications for employment licences for asylum seekers are not subject to labour market tests.</p> <p><b>4. Do you apply Art. 15/2 clause 2 of the RCD recast (priority to EU and EEA nationals and to legally resident third-country nationals)? If yes, please specify how.</b></p> <p>Applications for employment licences for asylum seekers and holders of national and international protection are not subjected to labour market tests.</p> <p><b>5. Are there any further conditions and/or restrictions for access to the labour market (e.g. identity document, only to certain sectors)?</b></p> <p>Applications for an employment licence submitted by asylum seekers must be endorsed by the employer.</p> <p><b>6. Have you recently made any legislative or practical changes or do you currently plan any such changes on the issue of labour market access for asylum seekers, in particular in the view of the transposition of the RCD 2013/33/EU by July 2015?</b></p> <p>Legislative amendments are to be issued by way of transposition of the re-cast Reception Conditions Directive.</p>
	Netherlands	Yes	<p>1. 2. &amp; 5.</p> <p>No change since the last ad hoc query: If an asylum seeker has submitted an asylum application, he is not allowed to work during the first 6 months of the asylum procedure. After 6 months the asylum seeker is allowed to work for 24 of every 52 weeks, as long as the asylum application is still being processed and the asylum seeker stays in an asylum reception facility. This period of 24 weeks may include at most 14 weeks in which the asylum seeker works as an artist, a musician, works in film or as technical assistant during performances of an artist or a musician (art. 2a Implementation Decree on the Aliens Employment Act).</p>


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			<p>3. Asylum seekers need a work permit. The general rules on labour market access on self-employed businesses and on skilled workers don't apply to asylum seekers.</p> <p>4. EU-citizens are given priority on the Dutch labour market. Third country nationals (except certain highly skilled migrants) and asylum seekers both need a work permit. A third-country national is only granted a work permit if there is no Dutch or EU-citizen available to complete the vacancy. This labour market check does not apply to asylum seekers.</p> <p>6. No changes have been made recently. There are no plans for change of the access of asylum seekers to the Dutch labour market.</p>
	<b>Poland</b>	<b>Yes</b>	<p>1. Yes. According to act on promotion and labour market institutions (Art 87/ 1 item 7) an asylum seeker is entitled to perform work provided he or she possess special document issued by Chief of Office for Foreigners.</p> <p>2. The document referred to under point 1 may be issued after 6 months of asylum procedure which is not finished due to the factors that do not hinge upon an applicant.</p> <p>3. <ul style="list-style-type: none"> <li>a. No. Asylum seekers possessing the document referred to under 1 do not need any work permit.</li> <li>b. No</li> <li>c. Same rules apply to all asylum seekers regardless the level of qualifications</li> </ul> </p> <p>4. No.</p> <p>5. No.</p> <p>6. No.</p>
	<b>Portugal</b>	<b>Yes</b>	<p>1. <b>Yes. According to Article 54 – Asylum Act – Act 26/2014 5<sup>th</sup> May</b></p> <p>2. <b>In Portugal there is no minimum time limit to access the labour market (Article 54, paragraph 1, of the Asylum Act states that “Asylum and subsidiary protection applicants who have already been granted a provisional residence permit are ensured access to the labour market, under the general law. Once they engage on a paid professional activity, the social support scheme provided in Article 56 ceases to apply. Paragraph 4 of that same Article provides that “in cases of legal challenge of a decision refusing international protection, the right to access the labour market is maintained up to the delivery of the sentence rejecting the application”).</b></p> <p>3. <ul style="list-style-type: none"> <li>A) There is no need for a work permit.</li> <li>B) Yes. It is applicable the same rules as for other foreigners or even national citizens.</li> <li>C) Yes.</li> </ul> </p> <p>4. <b>Yes. According to the immigration act and other EU relevant legislation, the principle of European preference is observed.</b></p> <p>5. <b>Access to labour, as already mentioned in the previous answers, is only allowed once the applicant has a document (provisional or not), that is sufficient for identification.</b></p>

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			<b>6. No. PT has already transposed the RCD Recast to the national Law, without relevant additional changes on the access to the labour market.</b>
	<b>Romania</b>	<b>Yes</b>	
	<b>Slovak Republic</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. According to the current regulation of the Act n.480/2002 on Asylum and Amendments of Some Acts, an asylum seeker may take up employment if the decision on his/her asylum application has not been made within <b>one year</b> as of the submission of the asylum application unless the application has been rejected as inadmissible or manifestly unfounded.</li> <li>2. Currently, it has been one year. For the envisaged changes see 6.</li> <li>3. N/A</li> <li>4. N/A</li> <li>5. N/A</li> <li>6. On 11 February 2015 the Government of the Slovak Republic approved the amendment of the Act n.480/2002 on Asylum and Amendments of Some Acts. According to this amendment, an asylum seeker may take up employment if the decision on his/her asylum application has not been made within <b>nine months</b> as of the submission of the asylum application apart from cases when an appeal against a decision rejecting the asylum application does not have a suspensive effect and unless the court suspends the execution of the decision. This means that the period after which an asylum seeker may take up employment has been shortened from one year to nine months and it concerns also those asylum seekers whose application for asylum has been rejected as inadmissible or manifestly unfounded however the court suspended the execution of the decision.</li> </ol>
	<b>Slovenia</b>	<b>Yes</b>	<p>Asylum seeker may be issued a personal work permit nine months after the submission of an application for international protection, namely for the period of three months with the possibility of extension for a period of three months. A permit is issued to an applicant whose identity is undoubtedly established, and when the decision of an authority responsible for acknowledgement of international protection has not yet been served to an applicant, provided that the delay cannot be attributed to the applicant for international protection. Fulfillment of the conditions for the issuance of a permit must be proved by an applicant for international protection with a certificate issued by the ministry responsible for internal affairs.</p> <p>Valid personal work permit enables asylum seeker the same access to the labour market as Slovenian national and is issued irrespective of the situation and conditions of the labour market.</p>
	<b>Spain</b>	<b>Yes</b>	
	<b>Sweden</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes. According to Chapter 5, section 4 of the Aliens Ordinance (2006:97), a person who has applied for a residence permit in Sweden citing grounds under Chapter 4, Section 1 or 2 of the Aliens Act (2005:716) is exempt from the obligation to have a work permit if certain conditions are fulfilled. The exemption does not apply to an alien who lacks identity documents, unless the alien cooperates in clarifying his or her identity. The exemption applies until the alien leaves the country or a decision to grant him or her a residence permit has become final and non-appealable. However, the exemption ceases to apply if an alien does not cooperate in the enforcement of a decision on refusal-of-entry or expulsion that has become final and non-appealable. Applicants subject to a probable transfer to another member state according to the Dublin Regulation and applicants probable to receive a decision of refusal of entry with immediate enforcement do not have the possibility to be exempt from the obligation to have a work permit. In principle, all other applicants would be permitted to work</li> </ol>

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			<p>pending the decision if the requirements mentioned are fulfilled.          The Swedish Migration Board issues a special certificate on exemption from the obligation to have a work permit.          Asylum seekers who find work must present the above mentioned certificate to their employer. Employers must notify the Migration Board of the employment, employers must also notify the Migration Board when the employment expires. Applicants who have a daily allowance must always report their income to the Migration Board. Asylum seekers are not eligible for e.g. unemployment benefits or other benefits which follow from a registration in the population register.</p> <p>2. No change since ad-hoc queries: The applicant would have immediate access to the labour market in connection with lodging his or her application for asylum given that the above mentioned requirements are fulfilled and a special certificate on exemption from the obligation to have a work permit has been issued.</p> <p>3.a. See procedure mentioned above under 1.</p> <p>3.b. Yes, an asylum seeker can open his or her self-employed business, provided it is in accordance with relevant regulations, it is registered with the Swedish Tax Agency et cetera.</p> <p>3.c. Yes, but there is no distinction between skilled and unskilled labour. The national labour immigration regulation in this respect is demand driven, i.e. the need for recruitment of foreign labour is decided by employers. Labour shortages are identified and analysed by e.g. government agencies in this field, but there is no direct link between e.g. shortage lists for certain skilled occupations and specific labour immigration measures on the national level. See Sweden EMN NCP's reply on "EMN Ad-Hoc Query on variations in asylum applications figures following changes in asylum seekers' access to the labour market" for further details on national labour immigration regulations.</p> <p>4. No.</p> <p>5. No. However, please note the requirements which the applicant needs to fulfil regarding identity documents and/or to cooperate in clarifying his/her identity.</p> <p>6. No, Sweden has not recently made any legislative or practical changes and does not plan currently any such changes.</p>
	<p><b>United Kingdom</b></p>	<p><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. No. Asylum seekers in general are not permitted to work while their claim is pending. Please see the relevant policy: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299415/Permission_to_Work_Asy_v6_0.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299415/Permission_to_Work_Asy_v6_0.pdf</a></li> <li>2. Asylum seekers are only given access to the labour market if their asylum application has been outstanding for 12 months or more, and where the delay cannot be attributed to the applicant. Access to the labour market is not provided automatically after 12 months, applicants must apply for it.</li> <li>3. The UK is not part of the RCD recast.             <ol style="list-style-type: none"> <li>a. Yes, asylum seekers must apply for permission to work</li> <li>b. Yes, an asylum seeker is not allowed to become self-employed or set up their own business.</li> <li>c. Access to the labour market is restricted to jobs included in the list of shortage occupations (a list formulated and recommended to the UK Government by an independent body: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308513/shortageoccupationlistapril14.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308513/shortageoccupationlistapril14.pdf</a>).</li> </ol> </li> <li>4. N/A</li> <li>5. Yes as specified in 3c above, asylum seekers may only work in the shortage occupations, if they meet the necessary</li> </ol>




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			criteria. 6. No
	<b>Croatia</b>	<b>Yes</b>	<p>1. An asylum seeker's right to work is regulated by the Asylum Act (Official gazette, No 79/07, 88/10 and 143/13). Article 36 of the Asylum Act prescribes that an asylum seeker has access to the labour market after expiration of one year from the day of his/her lodging of the application for asylum, if the asylum procedure has not been completed. In such a case, asylum seeker shall be entitled to work in the Republic of Croatia without a residence and work permit, or a work registration certificate until enforceability of the decision by which the asylum application is being resolved.</p> <p>2. Asylum seeker has access to the labour market after 12 months (one year) from the day of his/her lodging of the application for asylum, if the asylum procedure has not been completed.</p> <p>3.</p> <ol style="list-style-type: none"> <li>a. NO. See answer to question 1 above.</li> <li>b. No. General rules on labour market access regarding opening self-employed business are prescribed by the Foreigners Act (Official Gazette, No. 130/2011 and 74/13). The Foreigners Act prescribes that a third country national needs residence and work permit to open his/her own self-employed business. As an exemption to that general rule, according to the Asylum Act asylum seekers do not need residence and work permit to open his/her own self-employed business in Croatia if he is entitled to work under prescribed conditions (see answer to question 1 above).</li> <li>c. No. General rules on labour market access regarding skilled workers are prescribed by the Foreigners Act (Official Gazette, No. 130/2011 and 74/13). The Foreigners Act prescribes that a third country national needs residence and work permit even for skilled workers. As an exemption to that general rule, according to the Asylum Act asylum seekers do not need residence and work permit to work regardless his/her skills if he is entitled to work under prescribed conditions (see answer to question 1 above).</li> </ol> <p>4. No, we do not apply article 15/2 clause 2 of the RCD recast.</p> <p>5. No (see answer to question 1 above).</p> <p>6. Currently, the applicable Asylum Act (Official Gazette, No 79/07, 88/10 and 143/13) is still in force. However, the proposed draft of the International and Temporary Protection Act (that will replace the current Asylum Act) is published on the Ministry of the Interior's official website for public discussion. Possible adoption of the new act is in second quarter of 2015. Proposed draft of the International and Temporary Protection Act regulates that an asylum seeker is entitled to work if a decision by the Ministry of the Interior has not been taken in nine months and the delay cannot be attributed to the applicant. In such a case, the asylum seeker shall be entitled to work in the Republic of Croatia without a residence and work permit, or a work registration certificate until enforceability of the decision by which the asylum application is being resolved or in the case of an administrative dispute until delivery of the judgment of the administrative court rejecting the lodged complaint.</p>

EMN Ad-Hoc Query: Asylum seekers access to the labour market

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			Source: Ministry of the Interior
	Norway	Yes	<p>An asylum seeker may be granted a temporary work permit, valid for 6 months and renewable on certain conditions, which gives him/her access to the Norwegian labour market, provided that s/he has documented his/her identity, i.e. presented a valid passport (cf. the list provided by EU) or a valid national identity card.</p> <p>The permit will expire at the date set for return if the former asylum seeker has an obligation to return to the country of origin.</p> <p>Those who are included in our fast track procedures or in the Dublin procedure do not qualify: they will not get a work permit which allows them to work. The same restrictions apply concerning the types of jobs that an asylum seeker may hold as for others, e.g. with respect to the need for a security clearance.</p> <p>The latest material modifications to the regulations concerning the granting of work permits to (former) asylum seekers were made in May 2012.</p>

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