



## **OPEN SUMMARY: FOR DISTRIBUTION**

NO AD-HOC QUERY ON RECONSIDERING PROTECTION NEEDS

**Requested by NO EMN NCP 08.06.2015**  
**Compilation and summary produced 21.08.15**

[Responses from Austria, Belgium, Croatia, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Sweden, United Kingdom plus Norway \(18 in Total\)](#)

Disclaimer: The following summary has been based on the responses which were provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

### **1. Background Information**

The Convention relating to the Status of Refugees Article 1 C (5) states that the convention shall cease to apply for persons falling under the terms of section A who:

“... can no longer...continue to avail himself of the protection of the country of his nationality;” , “...because the circumstances in connection with which he has been recognized as a refugee have ceased to exist..”

Article 1 C (6) has a similar provision for stateless persons who, for the same reasons, are able to return to their country of former residence. For both articles there is an exception if there are compelling reasons to refuse a return to the country of nationality/country of former habitual residence.

The Norwegian Immigration Act section 37 has a similar provision as Convention Article 1 C. The Norwegian government has decided that the Norwegian immigration authorities shall reconsider the need for protection when foreigners recognized as refugees apply for (i) a renewal of a temporary residence permit or (ii) an application for a permanent residence permit. If the protection need no longer exists due to changes in the political situation in the refugee's country of origin, the application for renewal of a temporary permit or an application for a permanent residence permit will be refused.

Up until now, Norway has not systematically taken advantage of the possibility of reconsidering protection needs in accordance with the Convention (mentioned above) and the Norwegian Immigration Act.

## 2. Questions asked in the AHQ

1. Has your country implemented article 1 C ( 5) from the Refugee Convention (RC cessation clause), (article 11 (e) and article 16 (2) from the Directive 2011/95/EU of the European Parliament and of the Council of 13. Dec. 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (cessation clause QD)? Yes\_\_\_\_\_ No\_\_\_\_\_
2. If yes: Have you applied this provision in your asylum policy? Yes\_\_\_\_\_ No\_\_\_\_\_
3. If yes: Describe the type of cases you have applied it to; do you apply it on an ad hoc basis and/or in certain types of cases (for example certain nationalities, or cases where the social group criteria has been applied)?
4. Have you used this (these) provision(s) for the purpose of not renewing a temporary residence permit (which was initially granted on the basis of the need for protection), on grounds of the circumstances described in 1 C (5) RC (11(e) 16 (2) QD ?
5. Have you used this (these) provision(s) for the purpose of (rejecting an application) not granting a permanent residence permit (when the initial permit was granted on the basis of the need for protection), on grounds of the circumstances described in 1 C (5) RC (11(e) 16 (2) QD?
6. Is your country considering or planning to put into effect/apply and use Article 1 C (5) and (6) in your practice?

## 3. Highlights

Although the UK is the only MS responding (in open response) that has not implemented article 11 or 16(2) from the Directive 2011/95/EU), as the UK does not take part in this directive, they *have* implemented article 1c from the Refugee convention (RC cessation

Clause) and provide a link to a notably interesting report: *Operational Policy and Process Policy, Guidance and Casework Instruction: Cancellation, Cessation & Revocation of Refugee Status* (2008). Otherwise the general picture is that most other responding MS have implemented article 1 C ( 5) from the Refugee Convention (RC cessation clause), article 11 (e) and article 16 (2) from the Directive 2011/95/EU of the European Parliament and of the Council of 13. Dec. 2011, on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (cessation clause QD). Though NO, SE, SK and EE have not systematically applied this provision to their asylum policy to date, the majority of responding MS report that they have done so, and yet, no MS report on significant numbers of cases from recent practice. Greece recently implemented (recast) articles 11 and 16 in 2013 and so they need more time before reporting on systematic application.

The UK's policy perhaps reflects a general cautionary attitude when they state that their interpretation of the concepts of "significant" and "non-temporary" entail changes which are "fundamental" and "non-transitory". Germany uses "significant and sustainable" changes as well as "no longer a significant probability of persecution exists" as guidelines. BE goes even further stating that "durable change" would be equivalent to achieving a peace agreement. This seems to indicate a very high threshold for applying these provisions. In regards to specific cases where return to country of origin would be considered possible, most responding MS, including NO, specify a case-by-case/ad-hoc approach.

BE reports that during the past 18 months, there were 9 cases where article 1 C ( 5) from the Refugee Convention was applied, and all applicants returned voluntarily. FR reported that historically cases have been handled on a case-by-case basis, but there were also two types of situation profiles; (i) when a country is in the process of democratization, such as Hungarian, Polish and Czech and Slovak Republic nationals 1991; Beninese and Cape Verdean nationals 1992; Chilean nationals 1994; Romanian nationals 1995; and Bulgarian nationals 1998 and (ii) in cases of divorce from someone granted asylum. Cessation can also be part of a broader revocation process where for example an applicant provided false or misleading information, or if someone had re-availed themselves of the protection of their country of nationality, their refugee status would be considered to have ceased. DE specifically mentions revocations in relation to the nationals of the Balkans and Turkey. DE also applies this to cases where residence has been unknown for a longer period of time or there are reasons for exclusion. In addition there is a mandatory review in DE of refugee status no later than 3 years after the status was granted. Cyprus specifically mentions applying the provision of cessation clause to Palestinians of Iraq as well as Iraqi nationals, though on a case-by-case basis. FI notes that the provision has been applied to Bosnians/others from Balkans. NO is however considering implementing this provision on a systematic basis.

It is interesting to note that BE reports that though the permit for a refugee is temporary, it is renewed automatically and there have to date been no cases of cancellation. As previously noted, according to practice in BE, a peace agreement would provide a good indication of durable change. DE also issues temporary permits for refugees and reviews these prior to potentially issuing a permanent residence permit after 3 years. The purpose of the review is to establish if there is still a long-term need for international protection. Otherwise

there is no clear pattern of practice other than that, with the exception of BE, the reporting MS (AT, LT, UK) who issue temporary visas to persons granted international protection, systematically consider the situation in the country of origin and always consider whether to renew such permits or grant a permanent permit when the temporary permit expires. NO alone indicates plans of making systematic changes.

With the exception of AT and the UK, the majority of responding MS indicate that they either rarely or never use these provisions to reject an application for permanent residence (on grounds of the circumstances described in 1 C (5) RC (11(e) 16 (2) QD), given that the initial permit was granted on the basis of the need for protection. DE reports that they might issue another temporary residence permit if the circumstances call for it.

BE reports that for those granted refugee status who return to their country of origin, the extension of subsidiary protection will be evaluated in terms of whether there have been durable and important changes regarding the security situation in the country of origin. FI, HU, SK, UK report that they already apply and use Article 1 C (5) and (6) in their practice, while AT, EE, SE, Croatia, and NO are considering doing so.