



Ad-Hoc Query on variations in asylum applications figures following changes in asylum seekers' access to the labour market

Requested by AT EMN NCP on 23 January 2015

Compilation produced on 19 February 2015

Responses from Austria, Belgium, Germany, Netherlands, Sweden and United Kingdom (6 in Total)

Disclaimer: The following responses have been 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

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Austria has a special interest in the issue of labour market access for asylum seekers in the framework of the transposition of the Reception Conditions Directive (recast) and Austrian authorities have specific interest in certain Member States in this context. This is why, following the general ad-hoc query on labour market access for asylum seekers, Austria has a special information request for selected Member States.

In formulating possible amendment, the best practices of fellow Member States in similar positions are very interesting.

- 1. Have there been legislative changes regarding the access to the labour market of asylum seekers since 2005?**
 - a. Please specify date (month and year) and if facilitation/ restriction.**
 - b. Please share the experiences which have been made? Any challenges?**
 - c. Was there subsequently to these changes an increase or decrease in the number of asylum applications and can a facilitated access to the labour market be assessed as direct trigger for an increase?**



- 2. For those who are planning legislative changes to further facilitate access to the labour market within the framework of the transposition of the RCD recast; are there expectations regarding a possible “pull-effect” and an increase of asylum applications? What is the rational? And if so, how do you address this?**

- 3. Do you have any good practices and/or new approaches on the access of asylum seekers to the labour market? Please share.**

We would very much appreciate your responses by **Thursday 19 February 2015**.

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2. Responses¹

	<p>Austria</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Yes <ol style="list-style-type: none"> a. In June 2012 and March 2013, there was a facilitation regarding apprenticeship. However work permits are still needed. b. An increase of numbers of granted work permits for asylum seekers in apprenticeships under 25 years could be observed although numbers overall remain very limited: 2011: 1, 2012: 12, 2013: 83, 2014: 95 Source: public employment authority (AMS) Of those asylum seekers admitted in 2012 and 2013 71 had fulfilled the length of employment needed for entitlement to unemployment benefits. Six asylum seekers have filed an application for unemployment benefits. 26 apprenticeships were terminated prematurely. Source: Federal Ministry of Labour, Social Affairs and Consumer Protection (July 2014) c. In Austria there was a sharp increase in asylum application since 2011. However it is very difficult to verify the direct reasons for the increase. 2. In general an existing diaspora as well as the social and economic situation, including labor opportunities are important pull factors. Therefore there are concerns, that the opening of the labor market might be an additional pull factor. Austrian authorities are very interested in related experiences and expectations of the other MS. 3. No, therefore the good practices of fellow Member States in similar positions are very interesting. Source: Federal Ministry of the Interior
	<p>Belgium</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Have there been legislative changes regarding the access to the labour market of asylum seekers since 2005? <ol style="list-style-type: none"> a. Please specify date (month and year) and if facilitation/ restriction. <p>Facilitation: 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 Law of 30 April 1999 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</p>

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.

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		<p>the Royal Decree of 9 June 1999 and the Royal Decree of 22 December 2009 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 style="text-align: center;">b. Please share the experiences which have been made? Any challenges?</p> <p>1. The right to work had to be made compatible with the right to reception. For this reason a contribution arrangement came into force on 12 February 2011 (Royal Decree of 12 January 2011 concerning the allocation of material aid to asylum seekers who have professional incomes from an activity as employee). A suspension of the reception place is also a possibility if certain criteria are met. The obligation to reimburse part of the material aid (of course only for asylum seekers who still reside in a reception facility) in proportion to the received professional income (system of flat rate and progressive reimbursement of the material aid) applies to asylum seekers who have professionals incomes, but do not have job security (fixed-term contracts less than 6 months) or do not have a certain level of income.</p> <p>Contribution scheme:</p> <ul style="list-style-type: none"> ■ between 0 and 79,99 euro: no contribution ■ from 80 to 149,99 euro: 35% ■ from 150 to 299,99 euro: 50% ■ from 300 to 499,99 euro: 65% ■ from 500 euro: 75 % <p>For example: an asylum seeker who has a net monthly salary of 250 euro will have to contribute 74,5 euro.</p> <p>For those who have a sufficient level of self-reliance (job security and a certain level of income) the reception place is cancelled and the asylum seeker has to find his own housing. If he loses his job afterwards or encounters a decrease of income, he will not be able to go back to a reception facility, but will receive financial aid by the Public Centres for Social Welfare.</p> <p>2. The asylum seeker has an information obligation. He has to inform his reception facility of his professional situation and any changes in this situation (information on his labour card, his employment contract and any changes to the contract, the evolution of the total period of work and of the salary and the working time).</p> <p>In case of failure to provide this information - intentionally or negligently, the Federal Agency for the reception of Asylum Seekers (Fedasil) can exercise its recovery right. The Agency can recover the contributions the asylum seekers has to pay for the material help they received (including interest).</p> <p><u>Challenge:</u> The reception facility has to rely on the asylum seeker for information. Until now, Fedasil has no other source to check if an asylum seeker has a professional income. In his policy note (November 2014) the Secretary of State for Asylum and Migration announced</p>
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		<p>that Fedasil will get access to the Crossroads Bank for Social Security making checks possible. It is not clear when this access will be operational, issues concerning privacy, etc. must be tackled.</p> <p>For the period 30 April 2014 to 28 January 2015, there were some 700 asylum seekers who had paid a contribution towards the material aid they received in reception.</p> <p>In all of 2014, only 8 asylum seekers were considered to have met all conditions for their right to reception to be suspended, as they had stable employment contracts and sufficient income.</p> <p>c. Was there subsequently to these changes an increase or decrease in the number of asylum applications and can a facilitated access to the labour market be assessed as direct trigger for an increase?</p> <p>For Belgium, there seems to be no link between labour market access provisions and the number of asylum applications. Furthermore, the number of asylum seekers who have a job is rather limited (because of language barriers, because access to the labour market is not granted within the first 6 months after registration of the asylum application, and the time an asylum application process requires has since drastically been reduced etc...). It is difficult to assess whether a shorter waiting period would influence the number of asylum applications.</p> <p>2. For those who are planning legislative changes to further facilitate access to the labour market within the framework of the transposition of the RCD recast; are there expectations regarding a possible “pull-effect” and an increase of asylum applications? What is the rationale? And if so, how do you address this?</p> <p>Not applicable</p> <p>3. Do you have any good practices and/or new approaches on the access of asylum seekers to the labour market? Please share.</p> <p>Please see question 1.b. concerning the contribution arrangement.</p> <p>Access to the labour market includes access to vocational training which enables asylum seekers to be better prepared for the labour market, or to obtain additional professional skills, whatever the outcome of their asylum procedure.</p>
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EMN Ad-Hoc Query on labour market access and asylum seekers applications in selected Member States

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			<p>There are indications that the wellbeing and self-esteem of asylum seekers who have a useful occupation such as employment during the long period of waiting for the outcome of their asylum application, is higher than of those who have no meaningful occupation.</p> <p><u>For your information:</u> Recently a study was published concerning (ex) asylum seekers and the labour market “<i>The Long and Winding Road to Employment. An Analysis of the Labour Market Careers of Asylum Seekers and Refugees in Belgium</i>”</p>
	Germany	Yes	<ol style="list-style-type: none"> 1. Yes. <ol style="list-style-type: none"> a. In December 2013, the waiting period for a decision to be granted in individual cases for gainful employment to be taken up was reduced from previously twelve to nine months and in November 2014 to three months. b. Due to the short period of time during which the above regulation has been applied, statements on the effects of the significant reduction of the waiting period from twelve or nine months to only three months cannot be issued. Language and vocational qualifications, the regulations on access to the respective support measures and the placing in suitable offers of employment are challenging tasks. c. Some take the view that the significant reduction of the waiting period until access to the labour market is granted may result in an increase in applications for international protection because such a regulation would be an incentive for applicants arriving in Germany for economic reasons and not because of a well-founded fear of being persecuted or being subjected to serious harm. Due to the short period of time during which the above regulation has been applied and because of further factors that are to be taken into consideration (of course especially the development in the countries of origin but also the increase in the financial benefits for applicants as of the 2nd part of the year 2012), a link between the constantly rising numbers of applications confirmed for some years now cannot be clearly detected. 2. Please see answer to question 1. 3. With regard to the suitability of the applicants for the employment market, the legal conditions for the admission to appropriate support measures are currently being investigated. Furthermore, the vocational qualification of applicants will be assessed and promoted in a pilot project.
	Netherlands	Yes	<ol style="list-style-type: none"> 1. Yes <ol style="list-style-type: none"> a. In January 2008 a legislative change was made. The period that an asylum seeker is allowed to work, was extended from 12 weeks within a period of 52 weeks to 24 weeks within a period of 52 weeks. Added was also that this period of 24 weeks may include at most 14 weeks instead of 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. The other conditions didn't change, a work permit is still needed. b. This change didn't lead to any specific challenges. Although the period that the asylum seeker is allowed to work was extended, the number of granted work permits decreased over the last 5 years: 2008: 460, 2009: 548, 2010: 522, 2011: 363, 2012: 198, 2013: 171, 2014: 91.


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			<p>c. There are no indications that there is a link between the access to the labour market and the number of asylum seekers.</p> <p>2. Not applicable.</p> <p>3. There are no specific good practices or new challenges to share.</p>
	Sweden	Yes	<p>1. Yes.</p> <p>a. Amendments made in 2008 to the Aliens Ordinance (2006:97) introduced restrictions that established a direct link between the applicant's submission of identity documents and the need for cooperation in clarifying his or her identity in order to receive a certificate on exemption from the obligation to have a work permit. Meanwhile, access to the labour market was widened to include also asylum seekers whose applications in the first instance were deemed to be finalised within four months. Previously these applicants were not eligible for exemption from the obligation to have a work permit. It should be added that current processing times for asylum applications well exceed four months (applications subject to accelerated procedures aside). Amendments to the Aliens Act (2005:716) in the same year were done to facilitate access to the labour market for asylum seekers. These changes were made in connection with substantive changes to national labour immigration regulations introduced that year. Essentially the changes were the following. An asylum seeker whose application for asylum has been refused and whose deportation or refusal-of-entry order has entered into force, may apply for a work permit under certain circumstances without leaving Sweden. The provision is only applicable to asylum applicants who are employees. Applicants who are self-employed are not covered. The application for a work permit must be submitted within 14 days after the deportation order entered into force. The remaining requirements are the following:</p> <ul style="list-style-type: none"> -valid passport -the applicant must have held a certificate of being exempt from the obligation to have a work permit during the asylum process -the applicant must have been working for four months for the same employer prior to the date that the Migration Board received his or her application for a work permit (the time frame was six months initially in 2008, but was reduced to four months in 2014). -the employer must offer the applicant the opportunity to continue working for another 12 months -the terms of employment must be at least on the same level as Swedish collective agreements or those customary in the occupation or industry. The terms of employment include insurance coverage as well as salary. The requirements also apply to the previous four months. -the applicant must be offered a monthly pretax salary of at least SEK 13 000. The requirements also apply to the previous four months. -to obtain a work permit, the applicant must fulfil the requirements for a work permit for one job. He or she cannot fulfil the requirements via a combination of several jobs. <p>Changes came into effect 15 December 2008, and 1 July 2014 respectively.</p> <p>b. The changes mentioned were introduced to facilitate a transition/change of status for asylum applicants who already have been working during the asylum process. The numbers of former asylum applicants eligible for the transition process mentioned above are fairly small, compared to overall numbers. The numbers of granted applications of work permits under such conditions have been the following since the possibility was introduced: 454 (2009), 505 (2010), 326 (2011), 207 (2012), 151 (2013), 172 (2014). The reverse procedure has appeared to be increasing, however, i.e. the phenomenon of persons in the possession of a work permit who apply for asylum. There is no doubt increased pressure on the asylum seeker to produce identity documents to obtain a certificate from being exempt from the obligation</p>

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			<p>to have a work permit. Meanwhile, large numbers of applicants in recent years originate from e.g. Afghanistan and Somalia from which many applicants often produce no identity documents or identity documents which are of poor quality and where it is difficult to assess their reliability.</p> <p>c. There has been a sharp increase in the number of asylum seekers in the past few years. There is little evidence, however, that the possibility for asylum seekers to receive access to the labour market, while their application is pending, is a factor in this respect. It could be added that no in-depth analysis has been made of the existence of such a connection, but it is widely believed that other factors are far more dominant in determining Sweden as a destination country. However, during certain periods in the past few years there has been an increasing tendency for holders of work permits to apply for asylum shortly after receiving their work permit and having entered the country on that condition. This phenomenon was particularly prevalent in 2012-2013 among Syrians, where many work permit holders (temporary permits) already resident in the country chose to apply for asylum. On 1 August 2014, new measures to counteract abuse of labour immigration regulations were introduced. These give the Migration Board the possibility to perform follow-ups in work permit cases to check that the prospective employee commenced work and that the offered employment conditions are adhered to. Certain sectors are specially checked, spot checks can be carried out as well. Indications of abuse in a particular sector may affect which cases the Migration Board chooses to perform follow-ups on. For employers, the new regulations mean that employers are liable on their honour to provide written information on the conditions that apply for the position, at the Migration Board's request. The regulations are at first hand intended to be used in connection with follow-ups. As employers provide information on their honour, inaccurate information may lead to a fine or imprisonment. If employment has not commenced within four months or if the conditions are not met, the residence and work permit shall be revoked. If there are no other reasons to extend the residence permit, the employee will normally be deported. If employment is terminated after the Migration Board has started looking into a revocation of the permit, the employee has four months to find a new position. This means that the residence permit may be revoked four months from the termination of the employment at the earliest. In other cases, the residence permit may still be revoked three months after termination of the employment.</p> <p>2. See above, 1 c.</p> <p>3. See above.</p>
	United Kingdom	Yes	<p>1. Yes</p> <p>a.</p> <p>2005</p> <ul style="list-style-type: none"> • Rules were amended (facilitation) to allow asylum seekers who had been waiting for a decision for over a year, and where that decision was delayed through no fault of their own, to work. <p>2010</p>

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			<ul style="list-style-type: none"> • the rules were amended (facilitation) to provide for failed asylum seekers whose further submissions have been outstanding for more than 12 months to obtain permission to work in certain circumstances, following the Supreme Court judgment in ZO (Somalia) [2010] UKSC 36 ; and • to restrict the type of employment asylum seekers and failed asylum seekers can take up (see Shortage Occupation List) . <p>Please see policy guidance https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299415/Permission_to_Work_Asy_v6_0.pdf</p> <p>b. None</p> <p>C. The number of asylum seekers applying to the UK has been relatively stable from 2005 when it was around 26,000, to 2013 when it was 24,000. 2010 saw the lowest numbers of applicants since 2005 with around 18,000 applicants, but there has been a gradual increase in numbers each year since. It is not possible to attribute any changes in the number of asylum applicants to any one cause (Source: Home Office Migration statistics 2014) https://www.gov.uk/government/publications/immigration-statistics-july-to-september-2014/immigration-statistics-july-to-september-2014#asylum-1</p> <p>2. N/A</p> <p>3. N/A</p>
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