

## Summary:

### CZ EMN query on the transposition of the Article 6, par. 5 of the recast Reception Conditions Directive

April 2015

Below you can find a comparative overview/summary of an ad-hoc query launched by the Czech EMN Contact Point on the transposition of the Article 6, par. 5 of the recast Reception Conditions Directive, including the answers of 21 Member States.

Two member states did not want their answers to be disseminated further.

#### Member states were requested to answer the following questions:

The Czech Republic is currently considering the transposition of the Article 6, par. 5 of the recast Reception Conditions Directive 2013/33/EU. According to this provision „*Member States may provide applicants with a travel document when serious humanitarian reasons arise that require their presence in another State.*” As this paragraph is ambiguous we would like to know:

1. Have you already implemented this provision into the national legislation or do you plan to do it?
2. If yes, how do you define following terms:
  - a) *Humanitarian reasons* – any examples?
  - b) *Provide with a travel document* – does it mean that we should return the travel document of the applicant to him/her if he/she has any or issue a national travel document to the applicant?
  - c) *State* – does it mean a third country or any country including MS?
3. The above mentioned article does not define or mention the issuance of visas in case the applicant would like to return back to MS. How do you deal with this situation?

#### Member states provided these answers:

1. Regarding the question 1, no Member State has implemented this provision into the national legislation yet. The majority of the Member States has decided not to transpose the above-mentioned article at all with the explanation that it is not mandatory or that it is already regulated by another transposition (for example Germany mentioned that the corresponding regulation is already in the article 6, section 5 of the EC Directive 2003/9/EG which Germany has already transposed into the national legislation).

Some countries are planning to transpose the Directive though. For example, Italy will transpose the Directive 2013/33/EU by Legislative Decrees which is to be issued by the Government by July 20, 2015. Latvia mentioned that its new Asylum law is drafted to implement the requirements of the Directive 2013/33/EU. However, regarding travel

documents there will not be any regulations. Luxembourg has not transposed the recast directive yet, but stated that the deadline for the transposition is 20 July, 2015. The government is currently working on a draft bill. However, the current Asylum law does not foresee the issuance of a travel document for an international protection applicant. Sweden mentioned that it can be implemented with some uncertainty by mid July 2015.

The United Kingdom and Norway are not bound to the Directive.

2. To summarize the provided answers for the second question defining the mentioned terms, only a small number of Member States provided their answers for at least one sub-question – altogether 5 MS. For the majority of the MS this question is not applicable to them.

- a) *Humanitarian reasons* – Czech Republic, Estonia, Greece and Sweden mentioned serious medical reasons. Moreover, Estonia also mentioned poverty as a humanitarian reason. Stating Germany “A German travel document for foreigners can be issued to an applicant if an urgent public interest prevails...”

- b) *Provide with a travel document* – Sweden and Czech Republic answered that it can mean both options – i.e. returning the travel document of the applicant to him/her if he/she has any or issuing a national travel document to the applicant.

In Germany, a travel document for a foreigner shall only be issued if the applicant is not in possession of a travel document of his/her country of origin. In case the applicant is in the possession of a travel document from his/her country of origin and if the applicant is in the possession of a residence title, then the travel document will be handed out to him/her immediately after the application for international protection has been made.

- c) *State* – Czech Republic, Estonia and Germany answered that “state” can mean any country.

3. Also, there is not much practice regarding the definition or the reference to the issuance of visas in case the applicant would like to return back to MS.

The majority of MS answered that this question is not applicable to them.