



Ad-Hoc Query on obtaining a new travel document for irregular third-country national for return procedure

Requested by LV EMN NCP on 16 January 2015

Compilation produced on 24th March 2015

Responses from Austria, Belgium, Czech Republic, Finland, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (21 in Total)

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1. Background Information

The State Border Guard of the Republic of Latvia while carrying out the activities related with control of observance of residence rules by the foreigners in the country face with cases that are not regulated neither with national legislation, nor with Return Directive.

Currently Latvia is considering the necessity to develop a specific regulation within the national legislation and would like to receive information on the practice existing in other Member States and the regulation defined in the national legislation of the Member States on the following case:

A foreigner (third country national), who does not have a travel document (it is lost or stolen) or his/her travel document is not valid (has expired), is staying on the territory of the Member State A, where there is no Embassy of the state of his/her home country, where the foreigner could obtain a new travel document. Taking into account that in the mentioned case foreigner is staying illegally, with regard to him/her can be applied the following procedures:

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1. Forced removal procedure – in this case the authority responsible for removal obtains a travel document for foreigner. But if the Embassy of the third country issues biometric passports, the authority carrying out the removal procedure need to provide presence of the foreigner in the Embassy in order to receive the passport. (Latvia had such practice in case of removal of citizen of Mexico).
2. Voluntary return procedure – a foreigner obtains the travel document by himself/herself or with assistance of international organizations or NGOs. The Member State, where the foreigner is staying, cannot issue a document that replaces his/her travel document and gives him/her the right to travel to the other Member State, where the Embassy of his/her home country is located. Voluntary return procedure is applied more often in the mentioned cases and also because the voluntary return is preferred over the forced return.

The absence of the travel document is an impediment for the foreigner to obtain status for legal stay in the Member State A.

Taking into account that the practice existing and regulation defined in the Member States on this issue is different, Latvia would like to identify the best practices and kindly asks the Member States to describe national procedures and submit replies on the following questions:

We would like to ask the following questions:




In case if a foreigner who is staying in one Member State without a valid travel document and he/she is willing to depart to his home country, but the Embassy of his/her home country is located in another Member State:

1. Whether the national legislation of Your Member State includes provisions that allow solving the situation mentioned.
2. In case if a specific document is issued to the foreigner, what kind of document is this and what are the grounds for issuance?
3. Whether the destination Member State and the transit Member State is informed on the person and the case?
4. In case if the competent authorities of Your Member State escort a foreigner to the Embassy in the respective Member State, what is the procedure of organizing the travel?

We would very much appreciate your responses by **16th February 2015**.





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2. Responses

		Wider Dissemination?	
	Austria	Yes	<p>In case of a voluntary return the person concerned is basically responsible for obtaining the document himself/herself (mostly in cooperation with an NGO).</p> <p>In case of forced return the following applies:</p> <ol style="list-style-type: none"> 1. No, there is no specific legal provision in this regard; In practice an inquiry is made at the embassy responsible for Austria (in another Member State) and simultaneously the Austrian embassy in the respective country is contacted. 2. A return travel certificate is issued for the person concerned; the specific handling/procedure depends on the respective country – this often varies considerably. 3. In principle, yes; however, it depends on the third country concerned. 4. No such case is known. <p>Source: Federal Ministry of the Interior</p>
	Belgium	Yes	<ol style="list-style-type: none"> 1. No 2. N/A. EU travel document is used if the country of origin agrees 3. N/A (as for now) 4. N/A. We would invite a delegation or a representative of the country of origin for identification. Another solution would be the implementation of a videoconference system.
	Czech Republic	Yes	<ol style="list-style-type: none"> 1. Yes. 2. A travel identity card which serves only for leaving the territory of the Czech Republic is issued to the foreigner. For issuing of this document the foreigner has to submit photo, request and declaration of the fact, that it is (regardless of his/her will) not possible to obtain a travel document in another way. 3. The destination Member State and the transit Member State are not informed on the person and the case. The foreigner is not escorted.




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	Finland	Yes	<p>1. The national legislation of Finland does not contain any provisions on this matter.</p> <p>2. There is no official travel document which would be issued in this kind of situations. The EU Standard Travel Document is meant for travelling to third countries.</p> <p>3. An authorization to enter a Member State is usually requested from the police of the Member State in question.</p> <p>5. The travel is organized by requesting first an authorization to enter another state. The authorities of the country of destination will decide whether they are involved in escorting a foreigner from the airport to the embassy and back. Practice in Finland: instead of escorting returnees to other countries in order to get travel documents issued for them the Finnish police has invited the representatives of certain countries/officials of certain embassies to Finland. Travel documents have been issued after necessary interviewing/identifying of the returnees in Finland.</p>
	France	Yes	<p>1. French authorities are not directly competent for solving this kind of situation in regards to third-country nationals. To enter and stay in France, a third country national must possess a travel document (passport) and a visa (when compulsory), a travel stipend and supporting documents for his/her stay (hotel reservation or proof of accommodation of the person(s) the third country national is staying at). In case of loss of passport for example, the third country national must exclusively contact his/her embassy or consulate that can provide him/her with a temporary travel document and help him/her in his/her return procedure (advance for paying a plane ticket). For a foreign national possessing a residence permit in France, French embassies and consulates deliver, in case of loss of travel documents, a laissez-passer (type A or B, decree of the 1st August 2005) to allow her/him to return to France. Hypothetically, foreign countries having a diplomatic representation in France have a similar regulation: this is the consular protection according to the Vienna Convention.</p> <p>2. See above Q1. In the particular case of foreign nationals possessing a residence permit in France, it is a laissez-passer (type A or B).</p> <p>3. The embassy or consulate of the country of the foreign national should inform other Member States. The third country national should reach the embassy of his/her Member State by its own means.</p>
	Germany	Yes	<p>Since almost all countries of the world have embassies or consular posts in Germany, this problem has no practical relevance in Germany.</p>
	Greece	Yes	<p>Our National policy on issuing travel document to a foreigner, whose country's Embassy is located to another Member State is the following: Prosecution Illegal Migration Division, which is responsible for handling illegal migrants, arrange to cover the transportation costs of the Consul's authorities to another relative Embassy in Greece or to a hotel. Then, we arrange an identification interview in which we proceed migrants to the Consul authorities. In case, that someone is identified as a national citizen of this country, we immediately obtain travel document.</p>




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	Hungary	Yes	<p>Hungary does not experience major problems in obtaining a new travel document for third-country national during the return procedure because of well covered diplomatic missions; most countries whose nationals typically stay in Hungary irregularly and are subject to return procedures mostly have embassies in Hungary, nevertheless, their willingness to co-operate in the identification of their nationals is rather limited.</p>
	Latvia	Yes	<ol style="list-style-type: none"> 1. There are no specific provisions in the national legislation of the Republic of Latvia regulating such case. 2. In accordance with Latvian normative acts: <ul style="list-style-type: none"> - laissez-passer cannot be issued to these groups of foreigners; as it can be issued to a foreigner with aim to execute the return decision and depart the foreigner from Latvia to his home country; - it is not allowed to escort a foreigner, who is not detained and with regard to whom the voluntary return procedure is applied, to the Embassy located in another Member State. 3. There were some cases when foreigners were detected in Latvia while travelling in transit through Latvia from Member State A to Member State B with aim to obtain a travel document. These foreigners did not have any document issued by the Member State A. 4. There was a case when the State Border Guard of Latvia escorted detained third country national to the Embassy of Mexico in Sweden, where he received the biometric passport. The authorisation of competent authorities of Sweden was received before the travel started.
	Lithuania	Yes	<p><u>Forced removal procedure:</u> Lithuania has no specific provisions regulating such cases. Implementing legal acts foresee that Migration department can issue a temporary travel document to a third country national who has no valid travel document and who has been issued a decision to expel him/her from the Republic of Lithuania if there is no diplomatic mission of that country in the Republic of Lithuania. This document provides the holder with an identity document in lieu of travel to a foreign country. Such a document can only be issued if a foreign country agreed to admit a person with such a document. In practice this provision does not work since many third countries do not recognize such a document. Therefore every case is examined individually. For example, there was a recent case when a detained citizen of Egypt has been returned and needed a travel document. Lithuanian authorities provided information to the Egypt embassy in Copenhagen that the person cannot travel to the embassy and the embassy agreed forward the travel document via the Lithuanian embassy in Copenhagen.</p> <ol style="list-style-type: none"> 3. Not applicable 4. Not applicable. <p><u>Assisted voluntary return:</u> The issue is not regulated by law and every case is approached individually. In most AVR cases a return document is being issued and not the passport. Some embassies request to interview a returnee themselves or just to see him / her before issuing a return document, therefore we arrange interview via phone or skype conference, which in many cases is considered to be sufficient. We also had a case when an</p>




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			embassy requested to meet returnee personally and the embassy was in Minsk, Belarus. In this particular case, a consul agreed to come to Lithuania. While implementing AVR, we haven't got any cases when fingerprints had to be taken in the embassy located in another member state so far.
	Luxembourg	Yes	<p>1. There are no specific provisions in the national legislation of the Grand Duchy of Luxembourg regulating such cases. However, Luxembourg is confronted with this problem because almost all the Embassies and Consulates are located in Brussels; so procedures have been established.</p> <p>2. In case of voluntary return, the IOM sets up a date with the Embassy or Consulate of the country of origin. The Directorate of Immigration will issue a certificate of readmission to the third-country national valid for one day. This readmission certificate certifies that Luxembourg will take back the foreigner if he claims for asylum while travelling through the destination Member State. Normally the third-country national will obtain the travel document on the same day. In case the person has to go to the Embassy or Consulate again, a new certificate of readmission will be issued. The travel expenses (train) are covered by the AVRR Luxembourg programme. N.B.: Some Embassies or Consulates (i.e. Belarus) do not require the foreigner to come personally. In these cases the procedure to obtain travel documents is done by the IOM.</p> <p>3. In case of forced return (i.e. escorted by the Grand-ducal police) the destination Member State is informed on the person. In case of forced return in which the identification of a detained person is required and has to be made at the Embassy or Consulate or a passport has to be issued by the Embassy or Consulate of the country of origin, the individual is escorted to Brussels by the Grand-ducal police. The Luxemburgish authorities request the Belgian authorities to grant an authorisation to travel through their territory.</p>
	Malta	Yes	<p>In case if a foreigner who is staying in one Member State without a valid travel document and he/she is willing to depart to his home country, but the Embassy of his/her home country is located in another Member State:</p> <ol style="list-style-type: none"> 1. There is no specific provision in this regard. 2. Any document that may be issued to such a third country national needs to be issued by the authorities of his country. 3. We do not have such experiences but if the transit is for removal purposes we proceed as per Directive on assistance in transit. 4. We have no experience of such cases.
	Netherlands	Yes	<p>1. The national legislation of The Netherlands does not include provisions that allow foreign nationals to depart from The Netherlands to visit an Embassy in another Member State, without a valid travel document. Not all countries are represented by a diplomatic mission in The Netherlands and therefore, some persons without a valid travel document need to visit their Embassy in Belgium. The Dutch government made practical working arrangements with the Belgian government in order to allow persons to transit to Belgium.</p>

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			<p>2. The Dutch authorities will not issue a specific document to the foreigner. The Belgian authorities will provide the Dutch authorities a written approval upon request. If the person is not escorted by Dutch officials, the person will receive a copy of the permission of the Belgian authorities to travel to the Embassy in Brussels.</p> <p>3. The Dutch authorities inform the Belgian authorities on all visits from a foreign national to the Belgian territory beforehand.</p> <p>4. The Dutch Repatriation and Departure Service will request the authorities in Belgium for permission to transport a person over their territory. The authorities in Belgium agree with every request.</p>
	Poland	Yes	<p>1. In case of voluntary returns procedure if the foreigner is staying within the territory of Member State where there is no his/her Embassy that Member State cannot issue a document that replaces his/her travel document and gives him/her the right to travel to the other Member State, where the Embassy of his/her home country is located, there is no such national legislation. If a foreigner is willing to return to his/her home country with IGO (i.e. IOM) assistance and does not possess a travel document since the Embassy is situated in other Member State, the IOM workers in such cases submit applications for issuing travel documents. In case of forced returns travel documents are obtained only by exchange of the correspondence between the Border Guards and the third country Embassy situated abroad or using direct contacts with the responsible institution in the foreigner's country of origin. If direct contact and/or consular interview is necessary there is a possibility to organize the interview in Poland (for example with Vietnamese officials).</p> <p>2. Polish Border Guard does not issue special documents for foreigners illegally staying on the territory of Poland in order to facilitate their travel to the Embassy situated in other Member State / Third Country [see point 1].</p> <p>3. It is not possible to organize that kind of transit.</p> <p>4. Polish Border Guard does not organize such transfers.</p>
	Portugal	Yes	<p>1. Yes, the Portuguese legal framework considers a provision that allows solving this situation.</p> <p>2. According with paragraph 1 of the article 26° of the Immigration Act a foreign citizen that do not reside in the national territory and prove the impossibility or difficulty in leaving it may be entitled with a safe-conduct.</p> <p>3. Portugal do not have practice in this type of procedures.</p> <p>4. Portugal do not have practice in this type of procedures.</p>
	Slovak Republic	Yes	<p>Voluntary return: <i>Note: The only subject in the Slovak Republic implementing program of voluntary returns is International Organization for Migration (IOM).</i></p>

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			<p>1. No.</p> <p>2. The embassies of foreigner’s country of origin usually issue a laissez-passes or return certificate which entitles the returnee to a single journey to return to his home country. The duration of such documents is limited to a period of several weeks or months. In some cases, in addition to filling in respective form, embassies of countries of origin request either written declaration (personal letter) signed by the foreigner justifying the reasons for requesting laissez-passer. In most cases embassies of countries of origin request personal visit of applicant. In case the embassy of foreigner is located outside of the member state, IOM strives to organise an interview via telephone. If the embassy insists on personal visit, IOM strives to organise a visit of consul in member state where foreigner is residing. If this is not possible, the obtaining of laissez-passer is suspended and the assisted voluntary return cannot be organised.</p> <p>3. N/A.</p> <p>4. IOM Slovakia has not organised travel for foreigners with the purpose to visit other member state where foreigner’s embassy is present.</p> <p>Forced removal:</p> <p>1. No.</p> <p>2. A foreigner who is going to be returned to the country of origin and has no valid passport shall be issued a passport substitute. This document shall be issued only if the diplomatic mission of foreigner’s country of origin is located in the territory of the Slovak Republic and the foreigner cooperates.</p> <p>3. N/A.</p> <p>Slovak Republic does not carry out an escort of a foreigner to the diplomatic mission located in another country. In case a foreigner does not have a valid passport and has to be returned to his/her country of origin, consuls of the respective diplomatic mission are required to come to the detention facility in the territory of the Slovak Republic where the foreigner is being held or they may contact the foreigner via phone.</p>
	<p>Slovenia</p>	<p>Yes</p>	<p>1. Yes, in some specific cases – especially when there is no doubt about the identity of the Person concerned. Legal provisions in our national legislation are the following: Aliens Act, Article 98, Issuing of travel and other documents: An alien who is in possession of a residence permit in the Republic of Slovenia may be issued with an alien’s passport if:</p> <ul style="list-style-type: none"> - The person concerned is stateless; - The person does not have and cannot acquire a valid travel document from his/her Country of origin. <p>2. An alien’s passport may also be issued to other aliens who do not have a valid Travel Document, if well-founded reasons exist for this. In such cases alien’s passport is issued. Please refer to previous reply.</p>

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			<p>3. When the alien's passport is issued then Slovenian authorities do not inform the destination or transit country about the case. In almost all cases Slovenian Police invites the foreign Embassy representatives to come to Slovenia and to make the interview with the person concerned.</p> <p>4. In Slovenia there are no legal grounds to escort an alien to the respective Embassy located in any other EU country. There were some cases when the Slovenian police were trying to escort an Alien to the respective Embassy placed in Austria and Hungary under the provisions of Bilateral Agreements but the approval was not issued by the competent authorities of respective countries.</p>
	Spain	Yes	<p>1. We don't have specific provisions for such cases.</p> <p>2. No such procedure is followed.</p> <p>3. N/A.</p> <p>4. N/A.</p>
	Sweden	Yes	<p>1. There are no specific provisions in the national legislation Sweden regulating such cases.</p> <p>2. In cases when this procedure has been used, no specific document has been issued to the foreigner.</p> <p>3. If this procedure is applied, it is recommended that the MS conducting the trip informs the MS to where the trip goes. Swedish police has experience of escorting persons to the Afghan embassy in Norway in order to have travel documents issued. Norwegian authorities were informed about the arrival in advance.</p>
	United Kingdom	Yes	<p>1. Most countries have diplomatic missions in London so the issue raised in the query rarely affects the UK.</p> <p>2. If accepted by the country of origin, we will prepare and use an EU Letter (EUL) to effect the return of an individual who is staying in the UK illegally.</p> <p>3. Very occasionally, we have approached an individual returnee's Embassy/mission, located in another member state, through our UK representatives based there.</p> <p>4. We do not seek to transfer individuals to other member states to obtain documentation for return to their country</p>
	Norway	Yes	<p>1. Yes</p>

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			<p>2. In some cases an immigrant's passport is used. This is a one-travel-only-document and this is always approved by the foreigner's embassy/state.</p> <p>3. Yes, we advise about travel in advance.</p>
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