



Ad-Hoc Query on uniform international protection status

Requested by Austria on 14 October 2014

Compilation produced on 24 November 2014

Responses from Austria, Belgium, Bulgaria, Czech Republic, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (22 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

The recast version of the asylum Qualification Directive is moving in the direction of a single international protection status. Only in few areas such as the level of social benefits recognized asylum seekers and persons being granted subsidiary protection status may be treated differently.




We would like to ask the following question:

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.





Are there Member States that have already implemented an equal and uniform international protection status (covering both asylum and subsidiary protection status)? Or do you still differ between asylum status and subsidiary protection status?

We would very much appreciate your responses as soon as possible, the latest by **14 November 2014**.



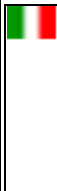
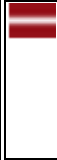
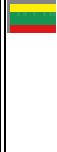
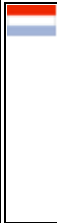

2. Responses

		Wider Dissemination?	
	Austria	Yes	In Austria, we still make a difference between asylum status and subsidiary protection status. First, the assessment is done regarding the asylum status, and, if the person is found not be in need of refugee status, the assessment regarding subsidiary protection grounds takes place. Source: Federal Ministry of the Interior.
	Belgium	Yes	The Office of the Commissioner General for Refugees and Stateless Persons (CGRS), which is an independent administrative authority, is competent for interviewing asylum seekers and first instance asylum decision making. In a single procedure, the CGRS first examines whether the asylum applicant fulfils the eligibility criteria for refugee status according to the Geneva Convention. Only if the asylum applicant can not be granted refugee status, subsequently there will be assessed whether the asylum applicant is eligible for the subsidiary protection status. A suspensive judicial appeal at the Council of Aliens Law Litigation (CALL) can be introduced against a negative decisions of the Commissioner General for Refugees and Stateless Persons (CGRS), including against a decision were the refugee status has been refused but subsidiary protection was granted. The residence permit for persons who were granted refugee status is permanent; asylum seekers who were granted subsidiary protection will get a (renewable) temporary residence permit. Since a Constitutional Court judgment on 26 September 2013, beneficiaries of subsidiary protection have equal rights with recognised refugees with regard to family reunification. Besides the asylum procedure, there is also a “medical regularisation procedure”. In case a return to the country of origin would imply an inhuman or degrading treatment resulting from the deterioration of the health of the person concerned because of a lack of (actual access to) appropriate medical treatment, an application should be lodged with the Immigration Office, instead of the CGRS. This application for a residence permit on medical grounds is a separate procedure with different procedural guarantees.
	Bulgaria	Yes	There is a difference between refugee status and humanitarian status (subsidiary protection) in our national legislation. The requirements for granting refugee status are laid down in Article 8 of the Law on asylum and refugees: “Refugee status in the Republic of Bulgaria shall be granted to an alien who has a well-founded fear of persecution due to his/her race, religion, nationality, membership of a specific social group or political opinion and/or belief, who is outside his/her country of origin”.








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.

			<p>The requirements for granting subsidiary protection are laid down in Article 9 of the Law on asylum and refugees: “Humanitarian status shall be granted to an alien forced to leave, or to stay outside his/her country of origin because of facing a real danger of severe encroachment in such state, such as</p> <ol style="list-style-type: none"> 1. death penalty or execution; 2. torture or inhuman or degrading treatment, or punishment; 3. severe and personal threats to his/her life or his/her person as an individual with civil legal status as a result of violence arising out of situations of a domestic or international armed conflict.” <p>In accordance with Article 32 (1) of the Law on asylum and refugees “an alien who has been granted refugee status shall have the rights and obligations of a Bulgarian citizen with the exception of:</p> <ol style="list-style-type: none"> 1. the right to participate in general and municipal elections, in national and regional referenda, as well as to participate in the establishment of political parties and be a member of such parties; 2. the right to hold positions for which Bulgarian citizenship is required by law; 3. the right to serve in the armed forces; 4. other restrictions explicitly laid down by law.” <p>With respect to refugees, there are also other restrictions introduced in the law.</p> <p>In accordance with Article 36 of the Law on asylum and refugees, “any alien who has been granted humanitarian status shall have the same rights and obligations as an alien holding a permanent residence permit in the Republic of Bulgaria”.</p>
	Czech Republic	Yes	Yes, we have already implemented an equal and uniform international protection status.
	Finland	Yes	The recast version of the Asylum Qualification Directive has been implemented in Finland. A difference between asylum status and subsidiary protection status is still made. First, the assessment is done regarding the asylum status, and, if the person is found not to be in need of refugee status, the assessment regarding subsidiary protection grounds takes place. In Finland, the beneficiaries of refugee status and subsidiary protection have equal rights and benefits.
	France	Yes	In France, a difference still exists between the refugee status (article L. 711-1 of the Code for Entry and Residence of Foreigners in France and the Right of Asylum – CESEDA) and the subsidiary protection status (article L. 712-1 of the CESEDA).
	Germany	Yes	In Germany we provide three “levels” of protection: Asylum Status (Ar.t 16a GG(Basic Law)) granted by the German constitution for victims of political persecution and International and subsidiary protection (§§ 3 and 4 AsylVfG(Asylum Procedure Act)) based on the Directive 2011/95/EU.


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.

			In cases of international protection and asylum status the right of residence is granted for three years but usually leads to the right of establishment. The family (husband, wife , minor children) will receive the same rights. (§§ 29 II,III and 25 I,II AufenthG).
	Greece	Yes	In Greece, we do retain a difference between asylum status and subsidiary protection status. The procedure is that the case worker first examines and ascertains whether the asylum seeker should receive refugee status. In the event that asylum status is not justified, then the case worker proceeds with examining and ascertaining whether the asylum seeker should receive subsidiary protection status.
	Ireland	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Italy	Yes	On 12 November 2014, Law No 154/2014 entered into force in Italy, delegating the Government to issue a Consolidated Text of the provisions implementing EU legislation on the right to <i>asylum</i> and <i>subsidiary</i> and <i>temporary protection</i> . The Consolidated Text will include all acts implementing Community measures with the aim of fully reforming the subject-matter in the next three years. So, currently there is no uniform international protection status (covering both asylum and subsidiary protection status) while pending the approval of a consolidated text.
	Latvia	Yes	In order to provide international protection two different statuses - refugee status or alternative status (subsidiary form of protection) can be granted. When examining an application on international protection first it is always be decided on granting of refugee status. If the person is found not to be in need of refugee status application is examined whether there are grounds for subsidiary protection. There are still some differences between two statuses with regard to social benefits and issuing of travel documents and residence permits.
	Lithuania	Yes	In Lithuania refugee status and subsidiary protection are granted under a uniform asylum procedure: after asylum seeker submits request to grant asylum, civil servants from the Migration Department under the Ministry of the Interior, first of all, evaluate, whether the asylum seeker can be granted refugee status; if the asylum seeker does not fulfill conditions necessary for granting refugee status, decision is made on the possibility to grant him subsidiary protection.
	Luxembourg	Yes	Luxembourg still makes a difference between asylum status and subsidiary protection status: First, the assessment is done regarding the asylum status, and, if the person is found not be in need of refugee status, the assessment regarding subsidiary protection grounds takes place. However, in Luxembourg the content of the international protection status has been uniformed by the Law of 19 June 2013. According to article 42 (2) of the amended law of 5 May 2006 on the right of asylum and complementary forms of protection, the content of international protection applies to persons who have been granted refugee status or subsidiary protection.
	Netherlands	Yes	In the Netherlands, we make a difference between asylum status and subsidiary protection status. First, the assessment is done regarding the asylum status, and, if the person is found not be in need of refugee status, the assessment regarding subsidiary protection grounds takes

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.

			place. In the Netherlands, since 2000, the rights and facilities are the same for all asylum seekers granted for asylum (refugee or subs. Status). The so called single permit for asylum.
	Poland	Yes	In Poland, we still make a difference between refugee status and subsidiary protection status. First, the assessment is done regarding the refugee status, and, if the person does not qualify for refugee status, the assessment regarding subsidiary protection grounds takes place.
	Portugal	Yes	PT implemented a uniform international protection status. Applicants or persons who benefit from refugee status or subsidiary status have the same rights and the same guaranties. The only difference concerns the duration of the residence permits. Refugee status is valid for 5 years and renewable for the same period. Subsidiary status is valid for 3 years and renewable for the same period.
	Slovak Republic	Yes	In the Slovak Republic, we still differentiate between asylum and subsidiary protection. If a third country national applies for asylum in the Slovak Republic, firstly the assessment of entitlement for asylum is carried out and if the person is not eligible for asylum, the assessment of entitlement for subsidiary protection is carried out. The assessment of eligibility for asylum and for subsidiary protection is carried out within one procedure.
	Slovenia	Yes	We are still making a difference between asylum status and subsidiary protection status. First the assessment regarding asylum status is done and if the person does not need protection as refugee than assessment for the subsidiary status in following.
	Spain	Yes	In Spain we distinguish between Refugee status and subsidiary protection. If the applicant do not fulfil the requirements to be a refugee under the Geneva Convention he can be assessed in order to obtain the Subsidiary Protection; nevertheless the benefits obtained in both status are the same.
	Sweden	Yes	We still differ between refugee status and subsidiary protection status with assessment of refugee status prior to assessment of subsidiary protection status.
	United Kingdom	Yes	Under UK provisions in accordance with the Procedures Directive (2005/85/EC) of 1 December 2005, any application for international protection is considered as an application for asylum (even if the applicant does not claim to be a refugee under the Refugee Convention). The UK's legislation and policy provides for the grant or refusal of Humanitarian Protection (HP) in the event that a claimant requires protection, but is not a refugee as defined by the Refugee Convention. This reflects the subsidiary protection provisions of Articles 15 - 19 of the Qualification Directive (2004/83/EC) of 29 April 2004. Such protection is intended to be complementary and additional to the protection available in the Refugee Convention. Those granted HP in the UK do not have the same international legal status as that enjoyed by refugees and are not entitled to apply for a travel document issued in accordance with Article 28 of the Refugee Convention. However, there are many similarities in the content of the

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.

			leave granted. Those granted HP are granted the same period of leave to enter or remain for 5 years. There is also the possibility of settlement (Indefinite leave to Remain) after 5 years of leave. They can access public funds, can work, and have family reunion in the same way as refugees.
	Norway	Yes	<p>Under the single procedure, Norway will first consider whether a person meets criteria for Convention refugee status, cf Section 28a of the Immigration Act, then for protection against refoulement, cf Section 28b of the Immigration Act, and finally for a permit on humanitarian grounds</p> <p>According to Section 28 b of the Immigration Act, all individuals entitled to international protection following the provisions of any international agreement to which Norway is a party, will be covered by the definition of “refugee” and will be granted all corresponding rights and benefits.</p> <p>If an applicant does not meet the inclusion criteria for Convention refugee status, he or she will be granted a residence permit on protection grounds and will also be recognised as a refugee if there is a risk of torture or other inhuman or degrading treatment or a situation of general unrest that may lead to life-threatening danger if he or she is returned to the country of origin.</p>
