



Ad-Hoc Query on definition and application of “acceptable progress” during the studies of third-country national students

Requested by LU EMN NCP on 13 March 2014

Compilation produced on 17 April 2014

Responses from Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Sweden, United Kingdom plus Norway (19 in Total)

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1. Background Information

Article 12 (2) (b) of the Directive 2004/114/EC expressly indicates that a student who “...does not make acceptable progress in his/her studies in accordance with national legislation or administrative practice” can have his/her residence permit withdrawn or not renewed. This article was transposed by article 57 (4) of the amended law of 29 August 2008 on free movement of persons and immigration. However, this article indicates that the residence permit will not be renewed or withdrawn if the student “does not make sufficient progress in his studies according to the evaluation of the educational establishment” where s/he is registered for obtaining a higher education diploma.

EMN Ad-Hoc Query: Ad-hoc query on definition and interpretation of acceptable progress during the studies of TCN students

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Article IV.2.101, par. 9, of the Internal rules (ROI) of the University of Luxembourg establishes that a student that has not accomplished 25 ECTS during the first two semesters in accordance with article 7, par. 3, of the Grand-ducal regulation of 22 May 2006, is excluded for 2 consecutive semesters, however, there is no further disposition on this matter.



The University of Luxembourg is being confronted with TCN students which fulfil the minimum requirements of the 25 ECTS during the first two semesters, but during the rest of their studies do not fulfill the necessary credits, leaving the University with students who at the end of a four-year or even five-year period have in some cases only 50% of the required ECTS, if not less.

The University of Luxembourg considers that there is no clear definition on what “sufficient progress” means and that this situation allows multiple interpretations in cases of renewals or withdrawals of residence permits.

The University of Luxembourg would like to know:

- 1) Does your MS have a legal definition of “sufficient progress”?
- 2) In case there is no a legal definition, how does your MS apply the concept “sufficient progress” for renewing or withdrawing a residence permit?
- 3) Does your MS require a recommendation of the higher education institution in these cases?
- 4) Does your MS have jurisprudence on this matter?
- 5) Are there any legal dispositions and/or good practices implemented in your MS to avoid misuse of the student residence permit?

2. Responses¹

		Wider Dissemination? ²	[Ad-Hoc Query 1 if separate Table for each query – Requesting EMN NCP to decide most appropriate Format]
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	No	1) Does your MS have a legal definition of “sufficient progress”? No 2) In case there is no a legal definition, how does your MS apply the concept “sufficient progress” for

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.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."





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			<p>renewing or withdrawing a residence permit?</p> <p>The following criteria may be taken into account:</p> <p>1° the student who stayed in the same field of study and who did not pass a single test for three consecutive school or academic years or at least two tests over the last four years of study;</p> <p>2° the student started at least two different fields of study but did not pass a single test for four consecutive school or academic years or at least two tests over the last five years of study;</p> <p>3° the student started at least three different fields of study but did not get any educational qualification during the last two fields.</p> <p>The academic authorities' opinion of the educational establishment in which the student is enrolled and the opinion of the establishment in which he was enrolled the previous year are gathered for that purpose. The academic authorities have to take into account the studies undertaken in other institutions as well as the results that were obtained. They must convey their opinion to the Immigration Office within two months following the request. On the expiry of that period, an order to leave the territory can be issued without having to wait for those opinions.</p> <p>3) Does your MS require a recommendation of the higher education institution in these cases?</p> <p>A recommendation is required of the higher education is required if an order to leave the territory is issued. See also point 2 above.</p> <p>4) Does your MS have jurisprudence on this matter?</p> <p>There is a lot of jurisprudence on this matter. See for example the following judgements of the Council of State: CoS 19 November 1986, nr. 27.140; CoS 28 June 1989, nr. 32.874; CoS 30 June 1994 nr. 48.393; CoS 21 October 1994, nr 49.829; CoS 30 June 1998, nr. 74.883; CoS 5 March 2007 nr. 168.545.</p>
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			<p>5) Are there any legal dispositions and/or good practices implemented in your MS to avoid misuse of the student residence permit?</p> <p>There are some dispositions and good practices, like for example the possibility to issue an order to leave the territory if the student extends his studies in excessive way (insufficient progress), visa-profiling and the guarantee underwriting.</p> <p>For further information we refer to our EMN study on migration of international students (2012).</p>
	Bulgaria	Yes	<p>1) No, there is not a legal definition of “sufficient progress” especially in the context of obtaining and continuation of the residence for the international students;</p> <p>2) The documents necessary for renewing a residence permit by reason of higher education do not include any requirement for a criterion of any progress made by the student. In the case of renewing the student’s residence permit it is necessary to present a certificate issued by the university that the foreigner will be trained during the respective year based on the required number of exams passed in the respective university.</p>
	Czech Republic	Yes	<p>Act on residence of foreign nationals provides for withdrawal of a student visa in case that the foreign national does not meet the purpose for which the visa has been granted. It also obliges education institutions to forthwith inform the Ministry of the Interior on interruption or discontinuation of the studies of a holder of a student visa.</p>
	Estonia	Yes	<p>1.2. No, we don’t have legal definition for „sufficient progress“ but under this definition is understand students obligations to fulfil the standard workload in university, which is for part-time study - student complete at least 50% of the standard cumulative workload of the curriculum and at least 75% when he is matriculated to full-time study. In some faculties as medical, dentistry and pharmacy studies the person should fulfil 100% of the obligatory studies of the previous semester's workload as foreseen in the curriculum.</p> <p>And according to Aliens Act a temporary residence permit for study shall be annulled if an alien has failed to complete the study programme to the extent required for holding a residence permit for study, has terminated his or her studies or has failed to perform to a significant extent an obligation.</p> <p>3. No, upon application for a residence permit for study, the relevant educational institution or international student organisation shall provide the Police and Border Guard Board with documentary evidence in proof that an alien commences his or her studies, indicating the title and the estimated duration of the study programme, course or traineeship. Students should renew their residence permit once a year and provide to Police and Border Guard Board also an approval document from University.</p> <p>4. No</p> <p>5. The number of students misuse is extremely low in Estonia.</p>
	Finland	Yes	<p>1. No legal definition.</p> <p>2. As stated in the FI National Report on the Study “Immigration of International Studensts to the EU”: Pursuant to Section 54(1) of the Finnish Aliens Act, a new fixed-term residence permit is issued if the requirements under which the alien</p>


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			<p>was issued his/her previous fixed-term residence permit are still met. In other words, a student must meet the same requirements for extension as when applying for the first residence permit.</p> <p>Some differences between local police departments have been observed in how students' residence permit extensions are processed. According to the officers in charge of permit-related matters at the Helsinki Police Department, the applicant's academic record is taken into consideration when deciding on a residence permit extension.</p> <p>Simply maintaining enrolment in an educational institution does not qualify an applicant for an extended residence permit. As a rule, students are expected to earn 45 credits per academic year. However, this requirement is merely indicative and the authorities also take the applicant's field of study and stage of studies into consideration. If an applicant falls short of the expected number of credits, the reasons for this are investigated further.</p> <p>For example, students who have suffered from health problems can provide medical certificates as evidence.</p> <p>Higher education institutions cooperate with local police authorities during the residence permit extension process by providing information on credits earned when requested by the police. This cooperation could be developed by having educational institutions inform police directly (without being requested) of foreign students who are not making any progress in their studies.</p> <p>Students must also provide evidence of secure means of support, as stipulated by Section 39 of the Finnish Aliens Act, when applying for a residence permit extension.</p> <p>Students are considered to have secure means of support if they have at least €500 per month (€6,000 per year) at their disposal. According to the Helsinki Police Department, this requirement is flexible in practice if the student is making progress in his/her studies.</p> <p>Students must enclose a bank statement with their residence permit extension application as evidence of having the required means of support. Students who have deposits of substantial amounts of money in their bank accounts are requested to provide further information on the source of the funds. In suspicious cases, the authorities request the applicant to provide a new bank statement to confirm the continued availability of the funds. Applicants who do not have the required €6,720 in their bank accounts are required to enclose a certificate of employment and pay slip with their application as evidence of earning a minimum of €560 per month. The authorities can also use the information on employment and pay to estimate the total hours worked by the student and determine whether they are in excess of the legal limit.</p> <p>According to Section 68(1)(2), new fixed-term residence permits are issued by the District Police of the alien's municipality of domicile, except where the District Police has referred a matter under its jurisdiction to the Finnish Immigration Service to decide on, or where the Finnish Immigration Service has taken up a matter falling under the jurisdiction of the District Police under Section 210 of the Finnish Aliens Act.</p>
	<p>France</p>	<p align="center">Yes</p>	<p>1) In France, a student residence permit may not be renewed in the case of unjustified and repeated failures, poor attendance or an incoherent study plan. French procedure is thus in alignment with Article 12 of Directive 2004/114/CE which stipulates that a Member State may refuse renewal if the student "does not make acceptable progress in his/her studies in accordance with national legislation or administrative practice."</p> <p>When renewing a student residence permit, the Prefect assesses whether or not the proposed studies are genuine and serious. This assessment is based on several criteria, which are defined in the Circular dated 7 October 2008 concerning the genuine and serious nature of studies proposed by international students:</p> <ul style="list-style-type: none"> - regular attendance and participation in examinations; - continuation of studies within the same degree course;


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			<ul style="list-style-type: none"> - seriousness of proposed studies in the case of a change of course. <p>2) See above.</p> <p>3) No. When applying for the renewal of a residence permit at the prefecture, students have to provide evidence on their regular attendance, their examinations, or their diplomas. Students holding a multi-annual residence permit have to provide each year evidence that they have successfully completed their studies.</p> <p>4) Yes. The criterion of genuine and serious nature of the studies is applied under the supervision of the administrative judge, who had to clarify the definition of this principle on numerous occasions:</p> <ul style="list-style-type: none"> - the Council of State generally maintains that there is no obligation, under regulatory provisions, for the administration to issue a residence permit to all foreign nationals in possession of an enrolment certificate from an institution of learning. The provisions, rather, enable it to gauge, under the authority of the judge, the authenticity and seriousness of the studies pursued (Council of State ruling, 11 February 1994, No. 104337). - four years to obtain a Licence is considered an average timeframe for students (Bordeaux Administrative Court of Appeals ruling, 8 December 2008, No. 08PA00317) - delay (of eight years) in proceeding with the defence of a thesis because of alleged – but not demonstrated – financial difficulties and health reasons, justifies a refusal of a renewal application (Council of State ruling, 6 November 2000, No. 216454). - failure to appear for examinations and repeated academic failures since 1996 cannot be justified solely by difficulties with the French language (Council of State ruling, 29 June 2001, No. 220409). <p>5) Misuse of the student residence permit can be identified during a residence permit renewal by the services at the Prefecture. Heads of Higher Education Institutions can also alert the authorities in case of suspicion of fraud.</p> <p>Several measures have been undertaken by the French authorities to detect and prevent misuse of the student residence permit:</p> <ul style="list-style-type: none"> - Checking qualifications upon receipt of visa applications: verification of qualifications, study plan and the student’s ability to carry out the proposed course of study; verification of the applicant’s situation in terms of resources, accommodation, and public order and/or public security; - Checking qualifications upon residence permit renewal: according to the Circular dated 7 October 2008, three cumulative criteria must be taken into consideration: regular attendance at classes and examinations pertaining to the course of study pursued; verified continuation of studies within the same degree course; and verified seriousness of proposed studies in the case of a change of course. - Obligation to take language tests: international students wishing to enrol in a French higher education institute must provide the results from their French language test.
	<p>Germany</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1. A <u>legal</u> definition concerning the acceptability of progress and/or the duration of studies does not exist (cf. § 2 and § 16, section 1, sentence 5, German Residence Act). 2. The Administrative Regulation governing the German Residence Act which is in principle legally binding for the




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			<p>application of the law by the local Immigration Authorities defines, however, the following under number 16.1.1.6.2 :</p> <p><i>A course of studies shall be deemed to be a regular study course as long as the foreigner does not exceed the average duration of studies at the university in question and the respective course of studies by more than three semesters (please see also number 16.1.1.7). The university informs the Immigration Authorities about the duration of the average, individual course of studies upon request. The period for preparatory classes (e.g. language classes, preparatory courses, and internships) shall not be taken into account when calculating the number of subject-related semesters.</i></p> <p>No. 16.1.1.7 of the General Administrative Regulation governing the German Residence Act defines:</p> <p><i>If the maximum duration permitted for the studies in question has been exceeded (number 16.1.1.6.2), the foreigner must be informed in writing by the Immigration Authorities that an renewal of the residence permit can only be granted, if and when the educational institute, whilst taking into consideration the individual situation of the foreign student, can confirm a regular course of the studies, indicate the estimated further duration of the studies and deliver an opinion on the chances of success. If this information by the educational institute leads to the assumption that the studies can not be completed successfully within the ... period of ten years, the application for renewal must be rejected as a rule. Should the Immigration Authority be informed during the period of the residence permit that the foreigner's progress in his or her studies is not sufficient in the aforementioned sense, the possibility exists for the residence permit to be revoked (...). ...</i></p> <p>3. Please see answer under 2.</p> <p>4. Yes. The Hessian Administrative High Court has, for example, dealt with the legal issue whether the expected period of time to complete one's studies successfully is acceptable (by order dated 23 July 2012 – 3 B 874/12).</p> <p>5. See answer under 2. The competent Immigration Authorities continues to check on the progress of the studies when applications for a renewal of the residence permit are received and may request, at its own discretion and at any other point in time, appropriate evidence to be provided by the foreign student if the Immigration Authorities should consider this to be necessary.</p>
	<p>Hungary</p>	<p align="center">Yes</p>	<p>1) No, there is no legal definition. 2)-3) Third-country nationals are entitled to receive a residence permit for the purpose of studies if they have full time legal student relationship with a registered Hungarian public educational institution working in line with the public education information system, or wish to stay in Hungary in order to carry out full time studies organized by a state-recognized higher education institution, or to participate</p>


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			<p>in a preparatory course for studies organized by a state-recognized higher education institution and can prove to meet the language skill requirements. Therefore if the purpose of entry and residence is the pursuit of studies, the applicant third-country national may verify the purpose of residence by the following: a certificate from the relevant educational institution; a document to verify his/her student status; or other reliable means.</p> <p>Although the non-compliance of the defined study requirements is not a special reason for refusing or withdrawing a residence permit for study purpose in the Hungarian aliens policing measures, and there is no legal definition for „sufficient progress, if the student status of a third-country national has been terminated according to the provisions of the Act on the National Higher Education there is a notification obligation of educational institutions towards the immigration authorities. Because of the termination of the student status the purpose of residence will be cancelled, which could be the base for withdrawing the residence permit.</p> <p>4) N/A</p> <p>5) Two specific measures proved to be good tools to avoid or fight misuse of the student residence permit: notification obligation of educational institutions in case the student status of a third-country national has been terminated; and the specific requirement of the knowledge of the language of the studies.</p>
	Latvia	Yes	<p>Latvia has not introduced the legal definition of “sufficient progress” and has not included this term into national legislative acts. If a student has been expelled from the respective educational establishment, only then the residence permit, issued to that student, can be annulled. The educational establishments are obliged to inform the Office of Citizenship and Migration Affairs within three working days from the data of expulsion of the student. However, the State Border Guard office carries out regular checks in educational establishments in order to ensure that all foreign students are attending the lectures regularly. If this is not the case, the residence permit could be annulled on the ground of the suspicion that the reason of issuance of the residence permit is not in force anymore. In such cases the educational establishment will be consulted as an inviter of the student. In case of annulment of the permit, the educational establishment is always informed about this decision. There is no jurisprudence on this matter as cases of annulment are quite rare and almost always takes place on the ground of the information, given by the educational establishment.</p>
	Lithuania	Yes	<ol style="list-style-type: none"> 1. No. 2. N/A 3. In order to renew a residence permit a student besides other documents needs to provide a letter from the university confirming that s(he) is not expelled from the educational establishment. 4. No 5. No
	Luxembourg	Yes	<ol style="list-style-type: none"> 1) No, the University of Luxembourg has its legal definition of “sufficient progress” related to the Bologna Process and its internal rules (ROI). 2) It is up to the University of Luxembourg or all other higher education institution to consider if a student progresses enough in his studies, because they are the only ones, who are able to decide on how well a student improves, and this mostly due to their ECTS validation system. In addition to that, the students of the aforementioned institutions are constantly supervised by professors during their study time, who check if students are progressing or not and this mainly due to their permanent physical interaction with each other. 3) Indeed, the Immigration services ask frequently the University of Luxembourg or the respective higher education institution to confirm whether an individual is progressing enough in his studies or not. In the case in which the University of Luxembourg or a higher education institution confirms that the student doesn't progress enough and as a consequence, that the subject in question is no longer admitted to the

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			<p>respective studies, the Immigration services react immediately and proceed to the non-renewal or the withdrawal of the residence permit.</p> <p>4) N/A</p> <p>5) - Concerning misuse of a student residence permit related to “(in)sufficient progress”, the Immigration services are bound by the information given by the University of Luxembourg or all other higher education institution.</p> <p>- In general, in order to avoid misuse of the student residence permit, the Immigration services are always examining meticulously the authenticity and completeness of every introduced document of a student who applies for a first resident permit or the renewal of a residence permit. In particular, if a doubt on the authenticity on a certain document comes up (i.e. banc attestation, birth certificate, criminal record, etc.), the document in question will immediately be scanned and sent per email to the diplomatic or consular representation of Luxembourg or the diplomatic or consular mission representing Luxembourg in the relevant third-country in order to get controlled on the spot. If the investigation of the above mentioned authorities reveals attempted forgery and falsification of the relevant documents, we are acting in consequence by issuing refusal letters on residence to the attention of the concerned individuals.</p> <p>- Only the University of Luxembourg or other concerned higher education institution handling the academic admission of the applicant have the legal means to check the academic documents (i.e. diploma) in order avoid misuse on an academic basis.</p>
	<p>Netherlands</p>	<p align="center">Yes</p>	<p>1) Yes, the ‘Ministerial Regulation standardization of study progress because of residence permit in connection with study’ (17 may 2013, nr. HO&S/504498) makes a reference to the ‘Code of Conduct international students of higher education’ (further: Code of Conduct). The standard for sufficient study progress is set out in article 5.5 of the Code of Conduct.</p> <p>This is as follows:</p> <p>At the end of each academic year, the institution determines the annual student progress of the international student, except for the exchange student. Satisfactory student progress is considered: 50% (or more) of the proportional nominal study load for a full or partial academic year. Contrary to this, international students must successfully complete the preparatory year.</p> <p>In case of insufficient student progress, the institution will examine the cause, for instance by conducting a student's progress discussion with a student advisor.</p> <p>In case the international student does not study at all, does not study enough or cannot handle the level, the Immigration and Naturalisation Service (IND) is notified of the lack of progress of the third-country national within one month after establishing the fact.</p> <p>In case of personal circumstances as referred to in Article 7.51 (Dutch) Higher Education And Research Act (WHW) as well as in Article 2.1 of the WHW Implementation Decree, which can be regarded as valid reasons for unsatisfactory student progress, binding agreements are made with the international student so that the study can be completed in time. In such cases the IND will not be notified of the lack of progress of the third-country national.</p> <p>Only one exception for not notifying the IND about the lack of progress of the thirdcountry national as a result of the same personal circumstances will be made per reference period.</p> <p>The institution records any unsatisfactory progress and any personal circumstances as well as, in case of a third-country national, the fact that the IND was not notified.</p> <p>2) Not applicable</p> <p>3) See 1</p> <p>4) Answer to follow next week</p> <p>5) The approval of higher education institutions wanting to recruit students from outside the EU is a cornerstone in the new migration policy that is in force in The Netherlands. The general principle of approval is:</p>



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			<ul style="list-style-type: none">- an organization is approved after a test on reliability;- an approved institution is trusted by the government;- there is a fast track procedure for an approved institution;- the approved institution holds a large responsibility for the migrant he recruited;- If the approved institution does not observe the rules, he can be warned, fined or the approval can be withdrawn. <p>In this system of trust, responsibility and liability, the approval of the institution is a requirement for recruiting third country nationals. Important advantages for the institution are a fast track procedure and less administrative burden.</p> <p>In case of higher education institutions the conditions for approval of such institutions are:</p> <ul style="list-style-type: none">a) members of the board of the higher education institution do not have a criminal record;b) the higher education institution complies with the legislation of the Ministry of Education, Culture and Science (ECS);c) the higher education institution subscribes the Code of Conduct. This Code has been developed by the government and the sector of higher education. It contains a set of rules regarding the recruitment of international students, like the obligation:<ul style="list-style-type: none">- to recruit students in a honest way i.a. by providing fair information;- to give the international student sufficient guidance during the study;- to offer only accredited programmes, and- to monitor the study-progress (article 5.5 Code of Conduct);d) the higher education institution declares to provide correct information to the IND in the application procedure. <p>An independent Inspectorate supervises and controls the compliance of the Code. In case of violation of the Code or violation of the legislation of the Ministry of ECS, the higher education institute can be given a warning, the approval can be suspended or even withdrawn.</p> <p>This system of approval of higher education institutions functions well. Almost all higher education institutes have asked for approval and are satisfied. The benefits are:</p> <ul style="list-style-type: none">a) it provides for guarantees for international students, like quality of education and a complaint procedure in case of problems;b) higher education institutions have a large own responsibility in the recruitment of international students;c) because of this large responsibility, the government offers a fast track procedure;d) the institutions, and not the students themselves, apply for the visa and residence permits to the IND;e) the institutions must inform the IND immediately when an international student has terminated his or her registration at the university or makes too little annual progress in his or her study;f) a system of supervision and control and the possibility to lose the approval is enough for the higher education institutes to abide by the rules. <p>On the basis of article 3.87a, paragraph 1, subparagraph (b), of the Aliens Act Decree 2000 the residence permit of the foreign student can be withdrawn if insufficient study-progress is posted. The standard for sufficient study progress is laid down in article 5.5 of the Code of</p>
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			<p>Conduct (see above). The foreign student who has been admitted to the Netherlands for the purpose of study, must actually study during his/her stay and show sufficient progress. If that is not the case, then the residence permit will be withdrawn.</p> <p>For the operation of the new system of sponsors in the modern migration policy the duty of the referent organization (higher education institution) to provide information is essential. Higher education institutions attract foreign students, must inform the IND article 54, paragraph 2, of the Aliens Act 2000, if individual students have insufficient study progress. In cases of non-compliance with this duty an administrative fine can be imposed. Also in severe cases the recognition of the educational institution as a sponsor organization can be suspended or revoked, making foreign students no longer may be admitted for study at that institution.</p> <p>If there are special circumstances, the institution is not required to inform the IND, at least as far as it is the first time on the basis of relevant special circumstances. This because of the trust inherent in being a 'recognized sponsor organization'. If there is limited study progress but there are no special circumstances the education institution informs the IND about the study delay and the study progress. The IND may take a decision to withdraw the residence permit. There is no obligation to do so: the IND can act discretionary. But it is obvious when there are no reason for delay, that the residence permit will be withdrawn. The student can lodge an appeal against the decision by the IND.</p>
	<p>Poland</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1) No. 2) The concept of „sufficient progress” is interpreted in Poland as not being promoted to the next year of studies within a given deadline. In accordance with the Act of 12th December 2013 on Foreigners (the new act enters into force on 1st May 2014) not being promoted to the next year of studies is an optional ground for refusal to renew or withdrawal of the temporary residence permit for the purpose of undertaking full-time studies. 3) No, but as of 1st May 2014 the body issuing the residence permits will refuse to grant or withdraw subsequent residences optionally and therefore will verify all grounds for refusing to grant or withdrawing inter alia by cooperating closely with higher education institutions. 4) No. 5) The universities are obliged to inform in writing the immigration authority, which issued the residence permit for the purpose of undertaking studies about the fact that a given third country national was expelled from university or that he/she didn't get promoted to the next year of studies within a given deadline.
	<p>Slovak Republic</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1) There is no legal definition of “sufficient progress”. 2) Upon renewal of the temporary residence permit, the Police does not take into consideration the study results. The purpose of residence permit is considered on the basis of the confirmation of enrolment. 3) No. 4) No. 5) Several bodies cooperate in the detection and prevention of possible misuse of temporary residence permits granted to international students. Firstly, the Bureau of Border and Alien Police of the Slovak Republic is responsible for decision-making on granting the residence permit, issuing documents to foreigners, registration and control of stay as well as decision-making on



EMN Ad-Hoc Query: Ad-hoc query on definition and interpretation of acceptable progress during the studies of TCN students

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			<p>offences and administrative torts related to the stay of foreigners and imposition of sanctions including administrative expulsion. The most common problem related to international students is irregular stay in the Slovak Republic caused by late submission of the application for extension of a temporary residence permit or by failure to depart from the territory of the Slovak Republic upon expiry of the temporary residence permit.</p> <p>Secondly, higher education institutions cooperate with the respective Police departments by reporting any interruption, abandonment or completion of the study or expulsion of a student from the study as well as assessing student's qualification for the study in the Slovak Republic.</p> <p>Thirdly, among the responsibilities of the Ministry of Education, Science, Research and Sports of the Slovak Republic belongs the recognition of qualifications of international students in special cases and award/cancellation of accreditation for individual study programmes in which the international students are enrolled.</p>
	<p>Sweden</p>	<p align="center">Yes</p>	<p>1) Does your MS have a legal definition of “sufficient progress”? No.</p> <p>2) In case there is no a legal definition, how does your MS apply the concept “sufficient progress” for renewing or withdrawing a residence permit?</p> <p>The Swedish Migration Board does not withdraw a residence permit for study reasons due to a lack of progress in studies of an international student. A residence permit for study purposes can only be withdrawn if it turns out that the requirements for the residence permit to be granted are no longer fulfilled. Thus, requirements regarding “sufficient progress” are only relevant when a student applies for an extension of his/her residence permit.</p> <p>The amount of university credits that an international student has obtained during his/her initial study period determines whether the Swedish Migration Board can assert that enough progress has been made to justify an extension. Credits awarded are usually assessed by the Migration Board whereby the student submits an official transcript from the student registry. The dates of completed courses are provided in this transcript. On 6 February 2009, the Swedish Migration Court of Appeal issued two judgements that determined acceptable credit requirements and the period during which they are to be obtained. The Court stated that a student's progress in academic studies should always be assessed according to the same principles, regardless of the language of instruction (Swedish or English).</p> <p>On the basis of these judgements, the Migration Board has set the following “sufficient progress” requirements for extensions of residence permits:</p> <ul style="list-style-type: none"> • For the first academic year: 15 higher education credits • For the second academic year: 22.5 higher education credits • For third and subsequent academic years: 30 higher education credits <p>(Further to this, the Court considered that events such as illness or similar, including illness or death of dependants, may result in less credits being obtained, and that therefore exceptions can be made. As a result, breaks from studies due to illness or other special circumstances are taken into consideration if the applicant can provide proof and if these circumstances have had a direct impact on results of studies, to such a degree that inadequate results can be assumed to be a result of this.)</p> <p>As a rule, the necessary credit requirements must have been fulfilled during the period of study for the respective residence permit period. This means that during the assessment for a residence permit extension, higher education credits achieved during</p>

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			<p>the latest residence permit period form the basis of the assessment of whether the student has made acceptable progress. Exceptions can be made for higher education credits achieved through retakes in close proximity to when the residence permit expires. If the student has not attained the necessary credits in time and has no reasons for this, the application should be rejected.</p> <p>3) Does your MS require a recommendation of the higher education institution in these cases? No, please see above. Credits awarded are usually assessed by the Migration Board whereby the student submits an official transcript from the student registry. The dates of completed courses are provided in this transcript.</p> <p>4) Does your MS have jurisprudence on this matter? Yes, please see above. Current practice is based on a judgement by the Swedish Migration Court of Appeal of 2009.</p> <p>5) Are there any legal dispositions and/or good practices implemented in your MS to avoid misuse of the student residence permit? Since the granting of a residence permit for study purposes is dependent on the fulfilment of certain conditions, such as, for example, the requirement to be admitted to studies, to hold comprehensive health insurance and sufficient financial means of support, it can be assumed that misuse of the student residence permit is avoided though the practice of examining applications for student residence permits. The fact that persons immigrating for study reasons are required to pay tuition fees can also be seen as indirectly contributing to the avoidance of misuse.</p>
	United Kingdom	Yes	<p>1&2) Under the Immigration Rules, students are required to show that the course they are studying meets the requirements of ‘academic progression’. For a course to represent academic progress from previous study, the course must: (i) be above the level of the previous course for which the applicant was granted leave as a Tier 4 (General) Student or as a Student, or (ii) involve further study at the same level, which the Tier 4 Sponsor confirms as complementing the previous course for which the applicant was granted leave as a Tier 4 (General) Student or as a Student.</p> <p>3) All students who wish to come to the UK under Tier 4 of the points-based system must obtain a visa before they travel. Students who are already in the UK under Tier 4 can apply for an extension of their permission to stay. We call this ‘further leave to remain’. They cannot apply for a visa or extension of their permission to stay without a CAS (Confirmation of Acceptance to Studies). If the student is taking a further course in the UK, the sponsor (education provider) must confirm that this is academic progression in the ‘evidence provided’ box on the CAS unless the new course is an obvious step up in academic level.</p> <p>4) This is a requirement under the Immigration Rules that makes up the UK’s Immigration Law.</p> <p>5) Foreign nationals from outside the European Economic Area making certain applications to the Home Office have to apply for a biometric residence permit. This applies to both postal applications and applications made in person. If the residence permit is lost or stolen, the student must apply for a replacement permit. If they do not apply for a replacement permit, the student may have to pay a financial penalty of up to £1,000, or we may shorten their permission to stay. Licensed sponsors have certain duties they must abide by, including a duty to inform the Home Office if a student does not arrive for their course either following a refusal of entry clearance or leave to remain, or where leave is granted but the student fails to enrol; where the student is absent without permission for a significant period; the student leaves their course earlier than expected; or the educational provider asks the student to leave the course.</p>
	Norway	Yes	<p>1) Does your MS have a legal definition of “sufficient progress”?</p>

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			<p>Sorry, we do not.</p> <p>2) In case there is no a legal definition, how does your MS apply the concept “sufficient progress” for renewing or withdrawing a residence permit? The expression ‘adequate/sufficient progression in studies’ is defined in an internal memo under administrative practices. The point of departure is full-time studies with normal progress. (as defined by the institutions of higher education)Any delays in a student’s studies must be explained and documented. Any delays of more than one year which can not be attributed to illness with a doctor’s verification or due to giving birth and having subsequent leave, will in general not be accepted as valid reasons.</p> <p>If work permits for part time employment have been issued, they can be denied when a new application is made for renewal of student visas if it is believed that employment is hindering study progression.</p> <p>3) Does your MS require a recommendation of the higher education institution in these cases? YES, in all applications for renewal of student permits.</p> <p>4) Does your MS have jurisprudence on this matter? NO</p> <p>5) Are there any legal dispositions and/or good practices implemented in your MS to avoid misuse of the student residence permit? The immigration authorities invite institutions of higher education to a seminar day where we inform them about the rules, regulations and practices. This has proved very useful.</p>
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