



AD HOC QUERY ON 2021.5 visa requirements in extradition procedures

Requested by EMN NCP Belgium on 26 January 2021

Compilation produced on 9 April 2021

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden (22 in Total)

Disclaimer:

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1. Background information

The Belgian Immigration Office is giving thought to its visa requirements when requesting the extradition of a third-country national who is subject to visa requirements to enter Belgium and who has been detained in a third country. That's why the Belgian authorities are interested to learn how other Member States and Norway handle extraditions. We would like to ask the following questions:

2. Questions

1. Does this third-country national also needs to be granted a visa when he or she is subject to an extradition procedure requested by your Member State?

Available choices: Yes, No

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2. If you answer yes to question 1, can you please indicate which other documents the third-country national will need to be extradited to your Member State?

3. If you answer no to question 1, can you please indicate which travel documents are required to carry out the extradition?

We would very much appreciate your responses by **24 February 2021**.

3. Responses

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		Wider Dissemination ²	
	EMN NCP Austria	Yes	1. No 2. n/a 3. Pursuant to Art. 7 of the Extradition and Legal Assistance Act, persons who are taken over from another State in accordance with the provisions of the said Act do not require a travel document (passport or passport substitute) or visa to cross the border.

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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	EMN NCP Belgium	Yes	<ol style="list-style-type: none"> 1. Yes 2. To enter the Belgian territory, the third-country national to be extradited must have both a valid visa and a valid travel document if he or she has a nationality which is subject to visa requirements. 3. Not applicable
	EMN NCP Bulgaria	Yes	<ol style="list-style-type: none"> 1. No 2. N/A 3.
	EMN NCP Croatia	Yes	<ol style="list-style-type: none"> 1. No 2. N/A 3. Third-country national must have a travel document (laissez-passer or passport) to enter the Republic of Croatia.
	EMN NCP Cyprus	Yes	<ol style="list-style-type: none"> 1. No 2. N/A 3. N/A

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	<p>EMN NCP Czech Republic</p>	<p>Yes</p>	<p>1. No</p> <p>2. N/A</p> <p>3. The Czech Republic in these cases respects the Act No. 104/2013 Coll. on Judicial Cooperation. According to the Par. 10, Art. 5 of the mentioned Act the person who is the subject of an extradition does not have to have any travel document to cross borders when she/he is taken over by the Foreign Police of the Police of the Czech Republic or of the other state.</p>
	<p>EMN NCP Estonia</p>	<p>Yes</p>	<p>1. No</p> <p>2. N/A</p> <p>3. The identity of the person shall be established in advance. According to the State Borders Act § 11 1 p 6 by way of derogation, the state border may be crossed without a document by a person who is being extradited or handed over to Estonia or who is being extradited or handed over by Estonia by way of international cooperation in criminal proceedings.</p>
	<p>EMN NCP Finland</p>	<p>Yes</p>	<p>1. No</p> <p>2.</p> <p>3. Finland does not require a third-country national to obtain a visa if they are subject to an extradition procedure. In order for officials to carry out the extradition, third-country nationals are expected to have a document proving their identity. If they do not possess the required document their identity must be confirmed for example via fingerprints before the extradition can take place.</p>

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	<p>EMN NCP France</p>	<p>Yes</p>	<p>1. Yes The ordinary law does not apply to these procedures. The French authorities (ministry of European and Foreign Affairs) issue a visa with a limited territorial validity, free of charge, on a 'laissez passer' for third country nationals when the persons concerned do not have a travel document, without any supporting documents, at the request of the internal security attaché at the consular post.</p> <p>2. The ordinary law does not apply to these procedures. The French authorities (ministry of European and Foreign Affairs) issue a visa with a limited territorial validity, free of charge, on a 'laissez passer' for third country nationals when the persons concerned do not have a travel document, without any supporting documents, at the request of the internal security attaché at the consular post.</p> <p>3. N/A</p>
	<p>EMN NCP Germany</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. A third-country national with a nationality subject to visa requirements to be extradited must have a valid visa and a valid travel document to enter the German territory.</p> <p>3. n/a</p>
	<p>EMN NCP Hungary</p>	<p>Yes</p>	<p>1. No</p> <p>2.</p> <p>3. According to Act XXXVIII. of 1996. Mutual Assistance in Criminal Matters Act <i>"if the request for extradition is approved, the provisions of passport, visa, foreign exchange and customs legislation</i></p>

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			<p><i>shall not constitute an obstacle to the entry and exit of persons and to the transfer and receipt of items.”</i></p> <p>For this reason, the third-country national doesn't need to be granted a visa when he or she is subject to an extradition procedure requested by Hungary.</p> <p>According to widely used international practice, even the existence of a valid travel document is not a basic condition for the implementation of extradition procedures. Hungary is no exception in this regard.</p>
	<p>EMN NCP Italy</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. No 2. 3. According to Italian legislation (in particular, art. 720 of Criminal Procedure Code), in case of extradition requested by Italy, the Prosecutor General of the Court of Appeal (in which the trial takes place or the conviction was delivered) submits an application of extradition to the Minister of Justice, comprehensive of all documents and materials aimed at supporting the request. In particular, the request has to contain (according to the Criminal Procedure Code): <ul style="list-style-type: none"> - the indication of the competent judicial authority; - all information and documents useful for identification of the defendant/condemned who has to be deported: name, date of birth, nationality, identity document data and, if possible, photographic identification and fingerprints; - description of the crime for which the extraction has been requested; - text of the relevant penal provisions applicable to the concrete case; - authentic copy of the arrest warrant or of the enforceable judgement of condemnation. <p>Once receiving the application from the Prosecutor General of the Court of Appeal, the Minister of Justice requests the extradition to the competent authorities in the third country in which the defendant/condemned is located. Then, according to consolidated operating practices, if the</p>

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			<p>extradition application has been accepted, Italy and third country shall agree on place and date of the surrender of the person subjected to an extradition decision. Thus, this person enters in Italy by means of Public Force, once extradition to Italy has been granted.</p> <p>Therefore, upon his return, the person will be provided with all the documents necessary for his/her identification. The necessary document is any travel document valid for expatriation, including (and this is the most frequent case) the pass issued by the consular authorities.</p>
	EMN NCP Latvia	Yes	<ol style="list-style-type: none"> 1. Yes 2. To enter Latvia, the third-country national to be extradited must have both a valid travel document and a valid visa if s/he is subject to visa requirements. 3. N/a
	EMN NCP Lithuania	No	<p>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</p>
	EMN NCP Luxembourg	Yes	<ol style="list-style-type: none"> 1. Yes 2. The third-country national with a nationality that requires a visa for entering the Schengen area who is going to be extradited to Luxembourg will require to have a valid visa and a valid travel document to enter the territory. If the TCN doesn't have a valid travel document a Laissez-Passer with a valid visa may be issued. 3. N/A.

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	EMN NCP Netherlands	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	EMN NCP Poland	Yes	<ol style="list-style-type: none"> 1. No 2. n/a 3. As per information received from Police a person subjected to the extradition procedure needs documents authorizing him/her to cross the border, i.e. in the Schengen area a valid passport or other recognized document confirming identity and citizenship, while to leave the Schengen area a valid passport is required.
	EMN NCP Portugal	Yes	<ol style="list-style-type: none"> 1. No 2. NA 3. Normal CC/ID/Passport or equivalent travel documents are required. If the detainee has no documents in his/her possession, the consulate/embassy must be asked a laissez-passer with a photograph allowing the travel. In case, if there is no photo of the detainee in the diplomatic services, this service asks the prison services or the local police to obtain the photo.
	EMN NCP Slovakia	Yes	<ol style="list-style-type: none"> 1. No 2. N/A

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			3. In the case of persons subject to extradition, the existence or validity of travel documents is not examined. If a person does not have travel documents, the competent embassy in that country is requested to issue an ETD.
	EMN NCP Slovenia	Yes	<p>1. Yes</p> <p>2. Every third – country national (TCN) entering Slovenian territory must have travel documents, including visa (if required). If TCN does not have travel documents, he or she is part of the procedure for travel documents acquisition (e.g. emergency travel document). Within extradition procedure agreement between Slovenia and third country, detaining TCN, is concluded. Until now we had only one case, when TCN was extradited to Slovenia.</p> <p>3.</p>
	EMN NCP Spain	Yes	<p>1. No</p> <p>2.</p> <p>3. A laissez-passer issued by the Spanish Consulate at the country of arrest is enough to allow travel.</p>
	EMN NCP Sweden	Yes	<p>1. No</p> <p>2. NA</p> <p>3. This will be based on an individual assessment of the case at hand.</p>

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