



**Ad-Hoc Query on work, self-employment or studies of refugees and beneficiaries of subsidiary protection in other member states than those that granted the refugee status or subsidiary protection**

**Requested by CZ EMN NCP on 30<sup>th</sup> March 2010**

**Compilation produced on 4<sup>th</sup> May, 2010**

**Responses from Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Portugal, Slovak Republic, Spain, Sweden, United Kingdom (15 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**

Ministry of the Interior has received questions posed by recognized refugees and beneficiaries of subsidiary protection on their possibility to stay in other Member States over 90 days, to work/run business or study there. These persons were granted international protection in the Czech Republic. With regard to the fact that no mutual recognition of international protection statuses exists, Ministry of the Interior advice these people to contact the embassy of the respective Member State for more information. However we would like to know how other Member States treat refugees and beneficiaries of subsidiary protection recognized by another Member State if they wish to stay over 90 days, work, run business or study in a Member State different from that which granted international protection.

It would be very much appreciated if we could receive your answers by the **30<sup>th</sup> of April 2010**.



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## 2. Responses

|   |                       | Wider Dissemination? | How do Member States treat refugees and beneficiaries of subsidiary protection recognized by another Member State if they wish to stay over 90 days, work, run business or study in a Member State different from that which granted international protection?   |
|---|-----------------------|----------------------|--|
|  | <b>Austria</b>        | No                   | This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.  |
|  | <b>Belgium</b>        | Yes                  | They are treated in the same way as other Third Country Nationals and they have to apply for a residence permit if they wish to stay over 90 days to work or study, etc. The normal procedure is that they have to file their application to the Belgian embassy. However, as they are exempted from visa requirements, they can also file an application to the municipality, on the condition that they are in the possession of all the necessary documents.  |
|  | <b>Czech Republic</b> | Yes                  | We consider these persons as not having a valid residence permit in the Czech Republic. Therefore these persons are obliged to apply for a residence permit at the Czech embassy in the Member State where they were granted protection. They have to fulfill all obligations as other third country nationals.  |
|  | <b>Estonia</b>        | Yes                  | We have the same situation as in Czech Republic. These persons are considered as other third country nationals and they are obliged to apply residence permit for work or for study true Estonian embassy in respective Member State.  |
|  | <b>Finland</b>        | Yes                  | <p>The persons mentioned above are regarded as third country nationals who are obliged to apply residence permit prior to entering Finland. Exceptions to this principle are mentioned in Section 81 of the Aliens Act:</p> <p>Section 81<br/>Employment without residence permits<br/>(1) Aliens have the right to gainful employment without a residence permit if they:</p> <ol style="list-style-type: none"> <li>1) arrive in the country on the basis of an invitation or agreement to work as interpreters, teachers, experts or umpires for a maximum of three months;</li> <li>2) arrive in the country on the basis of an invitation or agreement to work as professional artists or athletes, including assisting, technical or training staff, for a maximum of three months;</li> <li>3) work as seamen either on board a vessel entered in the list of merchant vessels in international trade or, if they have entered the service outside Finland, on board a vessel which mainly sails between foreign ports;</li> <li>4) arrive in the country to pick or harvest berries, fruit, specialty crops, root vegetables or other vegetables or to work on a fur farm for a maximum of three months;</li> <li>5) have, after applying for international protection, resided in Finland for three months and no longer than until a final decision on the application was made;</li> <li>6) arrive in the country as permanent employees of a company operating in another Member State of the European Union or the European Economic Area to perform temporary contracting or subcontracting under the freedom to provide services, if they hold permits entitling them to reside and work in that other State, and if the permits remain in force once they have completed the work</li> </ol> |






CZ EMN Ad-Hoc Query: Work, self employment and studies of refugees in other MS

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|   |                |            |  |
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|   |                |            | <p>in Finland; or</p> <p>7) enter Finland for a maximum of three months as researchers on the basis of a hosting agreement under the Directive on researches signed in another Member State to carry out a research project specified in the Directive on researchers. (516/2008)</p> <p>(2) If the employer or contractor has no office in Finland, an alien has the right to gainful employment without a residence permit:</p> <p>1) as a product demonstrator or member of a film crew for a maximum of three months;</p> <p>2) as a member of the crew of a motor vehicle in foreign ownership or possession, with the alien driving the vehicle, the cross border transport of which consists of taking the vehicle to its destination or collecting the vehicle from its place of departure, or if the traffic in Finland is connected with a regular service between locations at least one of which is abroad, and the alien has no place of residence in Finland; or</p> <p>3) as the leader of a tourist group travelling to Finland from abroad.</p> <p>(3) If an application for a residence permit for an employed person or an application for an extended residence permit for a self-employed person concerning the same professional field was filed while the previous residence permit was still in force, an alien may continue the work until a decision has been made on the application.</p>   |
|    | <b>Germany</b> | <b>Yes</b> | <p>The regular visa procedure is also obligatory for persons who have been granted refugee status or subsidiary protection in a different country and who want to stay in Germany for more than three months or plan to take up work. The persons concerned must fulfil the conditions for granting the residence title like any other third country national who is not a beneficiary of international protection status. If a residence title is granted to a person enjoying refugee status, the conditions for the transfer of responsibility to Germany with regard to the refugee must be observed (pursuant to the European Agreement on Transfer of Responsibility for Refugees of 16 October 1980, or, in case of non-subscribing states, pursuant to the Geneva Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the UN Protocol Relating to the Status of Refugees of 1967, in connection with section 6 and 11 of its appendix).</p>  |
|  | <b>Hungary</b> | <b>Yes</b> | <p>According to Article 51 of the Act LXXX of 2007 on Asylum, if the conditions of the application of the Dublin Regulations do not exist, the refugee authority shall decide on the question of the admissibility of the application for refugee status (preliminary assessment procedure). An application is not admissible if (a) the applicant is a national of one of the member states of the European Union; <b>b) the applicant was recognised by another member state as a refugee;</b> ) the applicant was recognised by a third country as a refugee, provided that this protection exists at the time of the assessment of the application and the third country in question is prepared to admit the applicant; <b>d) following a final and absolute decision of refusal, the same person submits an application on the same factual grounds.</b></p> <p><b>Therefore if a refugee or a beneficiary of subsidiary protection recognized by another Member State would like to stay in the territory of Hungary, they can submit an application for residence permit.</b></p> <p>Article 47 of the Government Decree of the Act on Aliens:</p> <p><b>As a general rule applications for residence permits may be submitted at any consulate officer of Hungary, or any other agency authorized to accept such applications for residence permit in the country where the permanent or temporary residence of the applicant is located or in the country of the applicant's nationality.</b> For detailed rules see Article 47 of the Government Decree 114/2007.</p> |




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|   |                        |            | <p><b>As a special rule</b>, applications for residence permits may be submitted at the <b>consulate officers of Hungary, or any other agency</b> authorized to accept such applications for residence permit <b>in countries</b> other than the ones referred to in the general rule <b>in which the applicant is lawfully residing</b>, provided that:</p> <p>a) in the country referred to in the general rule there is no consulate officer or any other agency authorized to accept such applications for residence permit; or</p> <p>b) the applicant is able to provide documentary evidence to verify the reasons to submit his/her application in a country other than where his/her permanent or temporary residence is located; or</p> <p>c) the entry and stay of the applicant is desired on the grounds of substantial national interest of the Republic of Hungary in the field of economics, culture, science or sports.</p> <p>The competent consulate officer shall forward applications for residence permit to the regional directorate of jurisdiction by reference to the future residence in Hungary of the third-country national affected upon receipt without delay.</p> <p>Third-country nationals residing in the territory of the Republic of Hungary may lodge their applications for a residence permit <b>at the regional directorate of jurisdiction in Hungary</b> by reference to their <b>place of accommodation</b> if:</p> <p>a) there are special circumstances to justify submission of the application in Hungary, such as on the grounds of family reunification or medical treatment;</p> <p>b) the purpose of residence for a period of longer than three months is research;</p> <p>c) lawfully residing in the Republic of Hungary as nationals of the states listed in Annex II of Council Regulation 539/2001/EC, or together with such third-country national in the capacity of a family member.</p> <p>Concerning the conditions of granting a residence permit to these groups of people, the general rules apply (Article 13 of the Act on Aliens).</p> |
|    | <b>Italy</b>           | <b>Yes</b> | The alien receiving refugee status or subsidiary protection granted by a Member State has no right to move to Italy for work, business or study. In the same way as any other non-EU foreigners may apply for a visa to the Italian Embassy that will decide on the basis of rules applied to all third country nationals. If a refugee or subsidiary protection holder get a visa and then the residence permit to stay in Italy, after two years it may be provided the transfer of responsibility, as agreed by the European Agreement on Transfer of Responsibility for Refugees within Council of Europe signed by Italy in 1981 and entrusted in 1986.   |
|  | <b>Latvia</b>          | <b>Yes</b> | These persons can get the residence permit according to the Immigration Law if the Member State which had issued the travel document for the refugee or person with subsidiary protection status confirms that the person will be able to obtain the new travel document after the expiry date of current travel document.   |
|  | <b>Lithuania</b>       | <b>Yes</b> | We treat them as general aliens. Standard procedures and general rules are applied to them as to all other aliens.   |
|  | <b>Portugal</b>        | <b>Yes</b> | Similar to the Czech Republic, Portugal considers these persons as not having a valid residence permit in. Therefore these persons are obliged to apply for a residence permit at the Portuguese embassy in the Member State where they were granted protection. They have to fulfill all obligations as other third country nationals.  |
|  | <b>Slovak Republic</b> | <b>Yes</b> | Foreigners with refugee status and beneficiaries of subsidiary protection recognized by another Member State can apply for residence permit (permanent or temporary) in the Slovak Republic. They must submit the application directly to the respective police department (within 90 days period in one half-year) or to the Slovak embassy abroad. If they fulfill the conditions stated in the law they might be granted the residence permit.  |

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|---|-----------------------|------------|---|
|  | <b>Spain</b>          | <b>Yes</b> | <p>In Spain, a person granted international protection by another member state must apply for the corresponding residence permit if he/she wishes to stay for over three months, in accordance with <i>Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration (BOE number 299 of 12 December)</i>, recently amended by <i>Organic Law 2/2009, of 11 December, henceforth Organic Law 4/2000</i>.</p> <p>To this end, the person must request the corresponding visa at the Spanish consular office or diplomatic mission at his/her place of residence. As is the case with the Czech Republic, a person granted international protection who wishes to work or study in Spain must fulfil the same requirements as other foreigners. Requirements for different types of visas follow the <i>application procedure for the corresponding residence permit, in accordance with chapters II and III of section II of Organic Law 4/2000</i>.</p> <p>Finally, exceptions may be made to regular proceedings for entry to and stay in Spain “in the event of exceptional reasons of a humanitarian nature, public interest or the fulfilment of commitments acquired by Spain”, in accordance with Article 25.4. These circumstances are set forth in the Regulations of <i>Organic Law 4/2000</i>.</p>   |
|  | <b>Sweden</b>         | <b>Yes</b> | <p>They are treated like any other third country national who wants to study, work or run a business in Sweden. This means that they have to fulfil all conditions for the permit asked for, they have to submit their application to a Swedish embassy and their permits must be granted before entering Sweden.</p>   |
|  | <b>United Kingdom</b> | <b>Yes</b> | <p>Refugees who have been granted asylum or subsidiary protection by another member state are subject to normal immigration control. This means that visa nationals will require entry clearance to come to the United Kingdom whether they hold a 1951 Convention Travel Document or not. Refugees will only be entitled to freedom of movement as EU nationals if and when they obtain the nationality of the country of refuge.</p> <p>They will therefore need to qualify under the Immigration Rules (on the UKBA public website at <a href="http://www.ind.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/">http://www.ind.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/</a> ) for leave to enter and remain in the UK. The UKBA website has pages which explain the requirements relating to entry as, for example, visitors (<a href="http://www.ind.homeoffice.gov.uk/visitingtheuk/">www.ind.homeoffice.gov.uk/visitingtheuk/</a> ) and studying (<a href="http://www.ind.homeoffice.gov.uk/studyingintheuk/">www.ind.homeoffice.gov.uk/studyingintheuk/</a> ) and working (<a href="http://www.ind.homeoffice.gov.uk/workingintheuk/">www.ind.homeoffice.gov.uk/workingintheuk/</a> ) in UK.</p> <p>It should be noted that in the event of a prolonged stay in the UK, the UK does not routinely accept a transfer of responsibility for the protection of refugees recognised by other Member States. Applications to transfer refugee status from the host country to the UK would be considered under the European Agreement on the Transfer of Responsibility for Refugees (EATRR), to which the Czech Republic is a signatory.</p> |

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