



AD HOC QUERY ON 2019.71 Crimes committed by International Protection holders in other EU countries

Requested by Viviana CAPRA on 16 July 2019

Compilation produced on 8 August 2019

Responses from EMN NCP Austria, EMN NCP Croatia, EMN NCP Czech Republic, EMN NCP France, EMN NCP Italy, EMN NCP Latvia , EMN NCP Lithuania, EMN NCP Luxembourg, EMN NCP Malta, EMN NCP Netherlands, EMN NCP Slovakia (11 in Total)

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1. Background information

Due to the increasing number of reports of crimes committed in other European Countries by beneficiaries of international protection, Italy is currently exploring how to deal with it. Therefore, the National Asylum Commission would be very interested in getting insights from all Member States, in particular from Belgium, France, Germany, Greece and Spain regarding their policies and practices when there is a case involving a beneficiary of international protection convicted for crimes committed abroad.

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2. Questions

1. What is the procedure adopted by your country toward a report of a crime, committed by beneficiaries of international protection, in another EU country?

2. If, according to your national legislation, the crime committed abroad leads to revocation of international protection, do you implement the revocation procedure? If yes, how?

3. Regarding the sentence, do you need it to be converted into your national legislation?

Available choices: Yes, No, Not Applicable

4. If no, can you ground your international protection revocation's decision merely on the definitive sentence of the other EU country?

5. In order to start a revocation procedure against a beneficiary of international protection, does he/she need to be physically in your national territory?

We would very much appreciate your responses by **16 August 2019**.

3. Responses

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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.

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
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	<p>EMN NCP Austria</p>	<p>Yes</p>	<p>1. The European legal provisions of the Directive 2011/95/EU were implemented in Art. 7 and 9 Asylum Act 2005. Information about a criminal offence committed abroad received by the Federal Office for Immigration and Asylum is generally examined with regard to its content. If there are indications of a possible revocation of the protection status, such a procedure could be initiated under the conditions of Art. 7 Asylum Act 2005 in conjunction with Art. 73 Criminal Code or Art. 9 Asylum Act 2005 in conjunction with Art. 73 Criminal Code (see question 2). --- Source: Ministry of the Interior</p> <p>2. The reasons leading to the revocation of the international protection status are based on the reasons for exclusion. A foreigner is excluded from the status of a recognized refugee if he or she has been convicted of a particularly serious crime by a final decision of a domestic court and if this criminal conduct constitutes a danger to the community. A conviction by a foreign court, which meets the requirements of Art. 73 Criminal Code, is to be regarded as equivalent to a conviction by a domestic court. According to Art. 73 Criminal Code, unless the law explicitly refers to a conviction by a domestic court, foreign convictions are equivalent to domestic convictions, if they find the offender guilty of an offence which is also punishable by Austrian law, and have been imposed in proceedings corresponding to the principles of Art. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Federal Law Gazette No. 210/1958. --- Source: Ministry of the Interior</p> <p>3. Not Applicable See answer to question 2.---Source: Ministry of the Interior</p> <p>4. See answer to question 2. --- Source: Ministry of the Interior</p>
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			<p>5. The initiation of a revocation procedure may also take place in the absence of the person concerned. However, the person has a right to be heard and for further procedural steps must be questioned to the identified revocation case.</p> <p>---</p> <p>Source: Ministry of the Interior</p>
	<p>EMN NCP Croatia</p>	<p>Yes</p>	<p>1. There is no adopted procedure because there is no relevant number of described situations at this moment, but national legislation does regulate revocation of international protection if a crime is committed abroad.</p> <p>2. Crime committed abroad can lead to revocation of international protection in Republic of Croatia.</p> <p>Article 50. paragraph 1. point 1. of International and Temporary Protection Act states that International protection shall be revoked if reasons for exclusion, as referred to in Article 30. or 31. of this Act, are subsequently established.</p> <p>Article 30. paragraph 1. point 3. states that asylum shall not be granted to an applicant who meets the conditions under Article 20. of this Act if there are serious reasons for considering that he/she committed, incited or in some other way participated in committing a serious non-political crime outside the Republic of Croatia, before his/her arrival in the Republic of Croatia, also including particularly cruel acts, even if committed with an allegedly political objective.</p> <p>Also, Article 50. paragraph 1. point 3. of International and temporary protection act states that International protection shall be revoked if the person to whom international protection was granted represents a risk to the national security or public order of the Republic of Croatia, so if there are grounds to consider that person who committed a crime abroad is a risk to the national security or public order of the Republic of Croatia, that crime can also be ground for revocation based on Article 50 paragraph 1. point 3. of International and temporary protection act.</p> <p>Crime committed abroad can also be ground for revocation of subsidiary protection. Article 31. paragraph 1. point 1. states that subsidiary protection shall not be granted to an applicant who</p>


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			<p>meets the conditions under Article 21 of this Act if there are serious reasons for considering that he/she has committed, incited or in some other way participated in committing a serious crime. A serious crime referred to is a crime which, pursuant to legislation of the Republic of Croatia, is punishable by a term of imprisonment of five years or more.</p> <p>3. No</p> <p>4. Yes, if it is established that crime committed is a serious non political crime as described in Article 30. paragraph 1. point 3. of International and temporary protection act.</p> <p>5. No, but he would still be summoned, at his last known place of residence in Croatia, to make an oral statement about circumstances of revocation, on the record.</p>
	<p>EMN NCP Czech Republic</p>	<p>Yes</p>	<p>1. There is no systematic reporting procedure adopted. The competent asylum authorities of the Czech Republic are informed about a crime committed by the beneficiary of the international protection on the ad hoc basis.</p> <p>2. he national legislation provides for the grounds for revocation of the recognised refugee status as well as the status of the beneficiary of the subsidiary protection. According to national legislation only committing of the serious crime may lead to revocation of the subsidiary protection status (please see Article 17 par. 1 in connection with Article 19 par. 3 of the Qualification Directive 2011/95/EC). Our national legislation does not provide for the distinction where (i.e. in which state) the serious crime may be committed.</p> <p>The recognised refugee status also may be revoked based on the ground of the committing of the particularly serious crime and there is a danger to the society of the Czech Republic.</p> <p>The general administrative procedure according to Administrative procedure Act is applicable in the case of revocation procedure.</p>

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			<p>3. No</p> <p>4. No, it is also necessary to justify the danger to the society in the case of revocation of the recognised refugee status.</p> <p>5. In theory or according to applicable law, it is not necessary, but it happens usually in practice due to the other obligations in relation to the administrative procedure such as the obligation to interview the person in question.</p>
	EMN NCP France	Yes	<p>1. France is making a distinction between revocation of refugee status and subsidiary protection.</p> <p>Regarding revocation of refugee status of people having committed a reported crime in another EU country: According to article L. 711-6 2° of the Code on Entry and Residence of Foreigners and Right of Asylum (CESEDA), this status is revoked to a person who has been finally sentenced, in France, in a Member State of the European Union, or in a limited number of States of which France recognizes the criminal laws and jurisdictions given its democratic system and the general political circumstances (Iceland, Norway Swiss, Lichtenstein), either for a crime, either for an offense constituting an act of terrorism or punishable by 10 years' imprisonment, and its presence constitutes a serious threat to French society.</p> <p>FR underlines that it is also possible to proceed to an a posteriori exclusion on the grounds of Articles 1F(c) of the Geneva Convention, notably for acts of terrorism or trafficking in human beings committed in the framework of transnational networks. More marginally, Art. 1F(a) of the Geneva Convention could also be applied for crimes committed within the European Union.</p> <p>Regarding revocation of subsidiary protection of people having committed a reported crime in another EU country: According to Article L. 712-3 CESEDA, the French determining authority can end at any time the benefice of subsidiary protection where its beneficiary should have been excluded from this protection because of serious reasons to believe that he/she has committed,</p>



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			<p>(a) a crime against peace, a war crime or a crime against humanity; (b) a serious crime; (c) acts contrary to the purposes and principles of the United Nations; (d) an activity on the territory constituting a serious threat to public order, public security or the security of the State. The same provision applies where the beneficiary of subsidiary protection has committed the crimes or offences above mentioned after he/she granted the protection.</p> <p>The commission of the crimes above listed is not limited in time or territorially. Therefore, it is possible to proceed to exclusion/revocation of subsidiary protection for crimes committed on the territory of other Member States.</p> <p>2. Yes, when the French determining authority plans to revoke international protection (refugee status or subsidiary protection), it informs the protected person in writing, and it specifies the reasons for the initiation of this procedure. The protected person is also informed of the possibility of presenting his written observations (Articles L. 724-1 to L. 724-3 of CESEDA). If the determining authority considers it necessary, it shall conduct an interview with the protected person.</p> <p>The decision of revocation of protection is notified to the interested party by letter with acknowledgment of receipt and a copy of it is communicated to the competent prefecture.</p> <p>In case where the elements do not lead to the revocation of international protection, the person concerned is informed of the maintenance of the protection by simple mail in which are attached copies of the birth certificate and, where appropriate, the 'marriage certificate.</p> <p>3. Yes Refugee status: OFPRA is currently analyzing whether or not the sentence needs to be converted into FR national legislation. However, in any case, the serious threat to the French society must also be evaluated. Subsidiary protection: OFPRA is currently analyzing whether or not the sentence needs to be converted into FR national legislation. However, according to the CJEU judgment (CJEU, 13 sept 2018, C-369/17, Shajin Ahmed v Bevándorlási és Menekültügyi Hivatal), a person who has committed a serious crime cannot be excluded from the benefit of the subsidiary protection on the sole basis of the penalty incurred in the Member State where he lodged his application. The determining authority must first assess the gravity of the offense by</p>
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			<p>carrying out a thorough examination of the circumstances of the individual situation. reponse_it-201971-question_3_to_upload.docx</p> <p>4. N/A</p> <p>5. No, in order to start a revocation procedure against a beneficiary of international protection, he/she doesn't need to be physically in France. The refugee or beneficiary of the subsidiary protection must be informed in writing of the procedure and of the reasons for the initiation of it, and he/she must beneficiate from a sufficient time to assert his arguments.</p>
	EMN NCP Italy	Yes	<p>1. Currently, there is not a standard procedure adopted, because so far we have not received a relevant number of reports of crimes committed abroad.</p> <p>2. Not directly, we need the sentence of the other EU country to be recognized by our judicial authorities in order to proceed.</p> <p>3. Yes</p> <p>4. No</p> <p>5. No, in order to start a revocation procedure against a beneficiary of international protection, he/she doesn't need to be physically in Italy.</p>
	EMN NCP Latvia	Yes	<p>1. There is no special procedure toward a report of a crime, committed by beneficiaries of international protection, in another EU country. However the Asylum Law in accordance with requirements of the Directive 2013/32/EU defines the grounds and procedure for revocation of</p>


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			<p>international protection status. As required by the Asylum Law if the Office of Citizenship and Migration Affairs (hereinafter – the Office, the 1st instance in asylum procedure) has become aware of any of the circumstances which could lead to revocation of international protection, for example, subsidiary form of protection shall be withdrawn for a person, if the person has committed a crime which, in accordance with the law of the Republic of Latvia, is recognised as a serious or an especially serious crime, the Office shall, within a month, request that the person who has been granted subsidiary form of protection submits written information regarding why he or she should not be withdrawn from international protection status or shall ensure such person with the possibility of providing the abovementioned information in an interview. The decision on revocation of international protection shall be taken not later than within two months from the day when the grounds of revocation has become aware. The decision of the Office can be appealed to the District Administrative Court. The District Administrative Court shall take a decision within a month from the day of receipt of the application and shall notify it to the person. The decision of the District Administrative Court is final and indisputable.</p> <p>2. No practice until now. Please see the answer above.</p> <p>3. No</p> <p>4. Yes, the revocation's decision could be based on the definitive sentence of the other EU country if such information have been received from the competent authorities.</p> <p>5. No, in order to start a revocation procedure it is not necessarily for the person to be in the country physically.</p>
	<p>EMN NCP Lithuania</p>	<p>Yes</p>	<p>1. There are no provisions regarding this in the Lithuanian legislation on asylum.</p> <p>2. There are no such provisions in the Lithuanian legislation on asylum. However, if the information on the committed criminal offences and/or convictions in another Member State is</p>


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			<p>known/found, it would be taken into account during the assessment of the person's threat to the public security, and the threat to public security could be ground for withdrawing asylum/international protection.</p> <p>3. Not Applicable</p> <p>4. N/A</p> <p>5. No, there is no such requirement.</p>
	<p>EMN NCP Luxembourg</p>	<p>Yes</p>	<p>1. In principle, the simple report of a crime (notitia criminis) committed in another MS does not amount to a sufficient reason to revoke the international protection status (refugee or subsidiary protection status) of an individual. The presumption of innocence applies in these cases so if there is no res judicata there cannot be a revocation procedure. In any case, Luxembourg requests official information and verifies the nature of protection as well as the nature of the crime committed.</p> <p>2. Yes. First of all, it is important to mention that Luxembourg clearly differentiates between the refugee status and the subsidiary protection. Therefore, different articles of the amended law of 18 December 2015 on international protection and temporary protection (Asylum Law) apply. According to article 47 (4), the Minister may revoke the status granted to a refugee (a) where there are reasonable grounds to consider it to be a threat to the security of the country; (b) when, having been sentenced in last resort for a particularly serious crime, he poses a threat for the society of the country. Even if the crime was committed abroad, the nature of the crime could mean that the refugee poses a threat to the security of the country and the society of the country. Furthermore, article 47 (5) of the aforementioned law states that in the situations described in subsection (4), the Minister may decide not to grant refugee status, when such a decision has not yet been taken.</p>


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			<p>Concerning subsidiary protection article 52 (3) a) in accordance with article 50 (1) b) of the Asylum Law foresees the possibility of revoking the subsidiary protection status if there are serious motives that the beneficiary of subsidiary protection has committed a serious crime.</p> <p>3. No</p> <p>4. Yes, Luxembourg can ground its international protection revocation's decision merely on the definitive sentence of the other EU country. Article 47 (4) of the Asylum Law states that the Minister in charge of Asylum can revoke the international protection status if the individual is condemned (res judicata) for a crime that is particularly serious so that the individual constitutes a threat to Luxembourg society. Concerning subsidiary protection please see answer to question 2.</p> <p>5. No, the beneficiary's presence on the national territory is not a requirement to start a revocation procedure. Both the notification of the decision by public display, as well as the notification in a prison abroad are possible.</p>
	<p>EMN NCP Malta</p>	<p>Yes</p>	<p>1. This will kick start an internal review of the application to determine whether the crime committed by the beneficiary in another EU country constitutes a serious crime that could lead to the withdrawal of international protection. If it is determined that the crime is serious in nature, the Office of the Refugee Commissioner will initiate a withdrawal procedure.</p> <p>2. The beneficiary is informed in writing that his protection status is being reconsidered on the basis that he/she committed a serious crime in another EU country. The beneficiary is subsequently given the opportunity to present, in a personal interview, reasons why protection should not be withdrawn.</p> <p>3. No</p>


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			<p>4. Yes since national law does not specify where the crime needs to have been committed in order to initiate a withdrawal procedure.</p> <p>5. National legislation does not state where the beneficiary needs to be present in order to initiate a withdrawal procedure. However, the applicant needs to be given the opportunity to present, in a personal interview, reasons why protection should not be withdrawn.</p>
	<p>EMN NCP Netherlands</p>	<p>Yes</p>	<p>1. If the person has been granted international protection in the Netherlands and he has been (irrevocably) convicted of a crime in another member state we will ask for the decision of the courts to assess whether or not the crime meets our standards for revoking the granted international protection. This policy is written down in our alien circular (C 2/7.10 Vc) and alien decree (3.86 Vb). The sentence does not have to be converted into our national legislation, but we will assess whether the crime would grant a similar sentence in the Netherlands. Furthermore, we will assess whether the person has committed a (very) serious crime according to the 2011 Qualifications Directive. This is further specified in national policy (C2/7.10 Vc).</p> <p>2. See answer to question 1.</p> <p>3. No The sentence does not have to be converted into our national legislation, but we will assess whether the crime would grant a similar sentence in the Netherlands. Furthermore, we will assess whether the person has committed a (very) serious crime according to the 2011 Qualifications Directive. This is further specified in national policy (C2/7.10 Vc).</p> <p>4. The sentence does not have to be converted into our national legislation, but we will assess whether the crime would grant a similar sentence in the Netherlands. Furthermore, we will assess whether the person has committed a (very) serious crime according to the 2011 Qualifications</p>

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			<p>Directive. This is further specified in national policy (C2/7.10 Vc).</p> <p>5. No, the person can still be in (detention) the other member state, he does not need to be in the Netherlands for us to start te revocation procedure.</p>
	EMN NCP Slovakia	Yes	<p>1. Slovak legislation does not provide for a report of a crime committed by refugee (granted asylum) in another EU Member State to be a ground for withdrawing asylum granted due to persecution. Act on asylum, however, specifies a reason for revoking the subsidiary protection in case there is a reasonable suspicion that foreigner granted subsidiary protection committed a particularly serious crime. This regulation is not geographically limited, thus it is possible to apply it also in cases of committing a crime in another MS.</p> <p>2. In such cases a standard procedure for subsidiary protection revocation as in any other case would be applied. However, Slovak Republic has not had such case yet.</p> <p>3. No</p> <p>4. Yes.</p> <p>5. No, such person does not have to be physically present in the territory of the Slovak Republic for to start a revocation procedure of the subsidiary protection.</p>
