



## **EMN Ad-Hoc Query on 2019.27 IE AHQ on driving licences for protection applicants**

Requested by Anne SHERIDAN on 25 February 2019

### **Protection**

Responses from EMN NCP Ireland, EMN NCP Sweden, EMN NCP Austria, EMN NCP Lithuania, EMN NCP Germany, EMN NCP Latvia , EMN NCP Luxembourg (7 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.*



## **Background information:**

Following a Supreme Court ruling in May 2017, applicants for international protection in Ireland are allowed to access the labour market if they have not received a first instance recommendation on their application after nine months from the date it was lodged, and if they have cooperated with the process. Ireland has opted into the recast Reception Conditions Directive, and transposed it into Irish law via the European Communities (Reception Conditions) Regulations 2018, which were signed into law on 30 June 2018. There is a policy review on the granting of driving licences to protection applicants for the purpose of a) travelling to work and b) to use as an ID document. However, there is an ongoing debate that some protection applicants may not have the appropriate ID documentation to apply for a driving licence. Ireland would like to seek background information from other Member States and Norway on their experience and would like to ask the following questions:

## **Questions**

- 1. Can a protection applicant be granted a driving licence in your Member State (EU MS and Norway)? YES/NO**
- 2. If the answer is Yes, how do you interpret national residence in accordance with Article 12 of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast)?**
- 3. How can a protection applicant with no ID documentation apply for a driving licence?**
- 4. If given a drivers licence - what is the duration/is it revoked if the application is refused - do other Member States and Norway provide short duration licences in such circumstances?**

## **Responses**

### **EMN NCP Ireland**

Wider Dissemination: Yes

*Anne SHERIDAN, EMN NCP Ireland*

1. Ireland is examining this issue.
- 2.
- 3.
- 4.

## EMN NCP Sweden

Wider Dissemination: Yes

*Marie BENGTTSSON, EMN NCP Sweden*

1. Yes
2. The protection applicant is allowed to apply for a driving licence provided he/she can prove his/her identity with a valid and acceptable identity document. The person must then undergo training, including compulsory risk education, and then take the driving test. The driving test consists of a theoretical knowledge test and a practical driving test. The person must be permanently resident in Sweden. Permanent residence means living for at least 185 days of each calendar year in Sweden as a consequence of a professional or personal link that is characterised by a close connection between a person and the place where he or she lives. This applies on condition that he/she regularly return there. If the person perform a task for a certain predetermined period of time in another country, he/she do not need to return regularly to the country where he/she has a personal link in order to be considered as being a permanent resident there.
3. He or she cannot - as stated in question 2 a valid and acceptable identity document is a requirement for a drivers licence.
4. No - the duration is the same as for everyone taking a drivers licence.

## EMN NCP Austria

Wider Dissemination: Yes

*Martin Stiller, Wider Group*

1. Yes

Clarification:

In principle, asylum seekers can be granted a driving license in Austria. It must be distinguished whether asylum-seeking third-country nationals already obtained a driving license in their country of origin. Driving licenses from most third countries are recognized in Austria – not recognized are for example driving licenses from Afghanistan, Nepal or Sudan, since they are not contracting parties to the agreements referred to in Art. 23 para 1 Driving License Act. Recognized Non-EEA driving licenses of asylum seekers aged 18 and over who established a residence in Austria are valid for limited time (six months to one year), starting from establishment of residence (Art. 23 para 1 Driving License Act). After that, the driving license becomes invalid, but it may be converted into an Austrian driving license (Art. 23 para 1 and 3 Driving License Act). Asylum seekers from third countries, who have not already obtained a driving license from their country of origin, may obtain it in Austria if they meet the criteria (Art. 3 Driving License Act). These include, among others, appropriate fitness (Art. 8 Driving License Act) and residence in Austria (Art. 5 Driving License Act). Furthermore, the theoretical and practical training/driving test must be completed in driving schools (costs of approx. € 1,000.00–1,500.00) (Art. 3 para 1, Art. 10, 11 Driving License Act). The driving test can only be taken if a photo ID is shown (Art. 14 Driving Test Regulation).

2. In Austria, a “residence” in the sense of Art. 12 of the Directive on driving licenses OJ No. 403/2006 is deemed to exist if the person concerned, on the basis of their personal and where applicable occupational ties, has demonstrably resided in Austria for at least 185 days within the last 12 months, or if the person demonstrates that he/she intends to reside in Austria for at least 185 days. As residence of an applicant for or an owner of a driving license whose occupational ties are in a country other than the one of his personal ties, the place of personal ties shall be regarded as the person’s residence, provided he/she returns there

regularly. This applies irrespectively of the 185-day period. Even if the person does not regularly return to the place of personal ties, the place of personal ties is considered to be the place of residence if the person resides in the other country only for carrying out a task of definite duration. Attendance at a university or school does not imply transfer of residence (Art. 5 para 2 Driving License Act).

3. For the conversion of a foreign driving license, the applicant's passport (<https://www.help.gv.at/Portal.Node/hlpd/public/content/4/Seite.040500.html#ErforderlicheUnterlagen>) must be shown. For taking the driving test, a photo ID (Art. 14 Driving Test Regulation) is required. Consequently, it is not possible in Austria to issue a driving license to persons who are not in possession of these identification documents.

4. The validity of driving licenses is determined according to the general criteria laid out in the Driving License Act. It depends on the respective class of vehicle the driving license is valid for and lays between 5 (trucks, buses) and 15 (cars, motorcycles) years (Art. 17a Driving License Act). According to Austrian law, the driving license can only be withdrawn on the grounds of traffic safety requirements (Art. 24 Driving License Act).

## EMN NCP Lithuania

Wider Dissemination: Yes

*Vytautas EŽERSKIS, EMN NCP Lithuania*

1. Yes
2. There are no specific provisions for persons applying for asylum in the law governing the issue of driving licenses. Such person may receive a driving license by following the general order. E. g. if Lithuania is his / her habitual residence, determined by one of the grounds (among other reasons) - when foreigner: - has resided for at least 185 days in each calendar year due to personal and work-related or only personal ties, and has not resided abroad; - has been studying or attending school in Lithuania for at least 6 months; - has worked or is currently working abroad, but has always returned to Lithuania due to personal ties; - has lived abroad or has gone abroad to reside, but has arrived or returned to Lithuania permanently for personal and / or employment relations. For more information, please see: <http://www.linava.lt/naujiena/policijos-departamento-isaiskinimas-kada-treciuju-saliu-pilieciai-neprivalo-keisti-vairuotojo-pazymejimo/> (in Lithuanian).
3. If a person does not have a valid identity document (where "identity document" is a document confirming the identity of a person), it is not possible to apply for a driving license. Examples of identity document: an identity card, a passport, a temporary passport, a temporary certificate, a passport of a foreign citizen, a travel document corresponding to it, or an other identity document issued by a foreign institution, a Republic of Lithuania long-term resident's residence permit in the European Union, a temporary residence permit in the Republic of Lithuania.
4. There are no specific provisions on driving licenses in the legislation governing the issue of driving licenses to persons applying for asylum. Such person may receive a drivers license following the general order.

## EMN NCP Germany

Wider Dissemination: Yes

*Heiko HECHT, EMN NCP Germany*

1. Yes.

2. An applicant for a driving licence is considered to be normally resident in the Federal Republic of Germany when he is resident in Germany for at least 185 days a year on account of his personal or work-related ties. When a corresponding duration of residence applies, the place of residence allocated for the duration of the asylum process can thus be deemed to constitute a normal place of residence.
3. The confirmation of permission to remain pending the asylum decision which is issued for the purposes of the asylum process enables the holder to furnish proof of his place and date of birth, as is required when applying for a driving licence. The confirmation of permission to remain pending the asylum decision is also sufficient to verify the candidate's identity prior to the driving test and issue of the driving licence. This also applies where the permission to remain pending the asylum decision includes a note that the personal details are based on information provided by the holder, except in case of concrete doubt concerning the correctness of this information (Federal Administrative Court, ruling of 08.09.2016, 3 C 16/15).
4. The result of the asylum process has no effect on the issued driving licence.

### **EMN NCP Latvia**

Wider Dissemination: Yes

*Stanislavs LOPATINSKIS, EMN NCP Latvia*

1. No
2. N/A
3. N/A
4. N/A

### **EMN NCP Luxembourg**

Wider Dissemination: Yes

*Adolfo SOMMARRIBAS, EMN statelessness platform*

1. Yes
2. An applicant for international protection may be granted a driving licence in Luxembourg. However a small difference is being made between applicants that already have a driving licence in their country of origin and applicants that, so far, did not have one: - Applicants already in possession of a licence: the Ministry of Foreign and European Affairs has to give a favorable opinion on the transcription of the driving licence. If the country of origin of the applicant, which issued the driving licence, is a party to the Geneva and the Vienna Convention on Road Traffic, the applicant does not have to fulfill any more requirements. However, if the country of origin of the applicant is not a party to these conventions, the applicant has to take a practical exam in order to obtain a driving licence. - Applicants who never had a driving licence, but wish to obtain one in Luxembourg: these applicants have to fulfill the same requirements and take the same exams (theoretical and practical exam) as national residents.

3. 3. An international protection applicant with no ID documentation cannot apply for a transcription of his/her licence. Furthermore, for the application, s/he has to provide a certified copy as well as a translation of his/her driving licence, a doctor's certificate attesting his/her fitness to drive, as well the certificate attesting that s/he is an international protection applicant in Luxembourg.

4. 4. The duration of the driving licence for applicants of international protection is two years. The licence is not revoked if the applicant is refused international protection.