



EMN Ad-Hoc Query on 2019.5 Right to work for asylum seekers

Requested by Simon WOOLLACOTT on 16 January 2019

Protection

Responses from EMN NCP Austria, EMN NCP Norway, EMN NCP Lithuania, EMN NCP Slovakia, EMN NCP Luxembourg, EMN NCP Estonia, EMN NCP Sweden, EMN NCP Italy (8 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:

Asylum seekers are not allowed to work in the UK unless their claim has been outstanding for at least 12 months through no fault of their own. Those allowed to work are restricted to jobs on the shortage occupation list published by the Home Office. There is an ongoing campaign initiated by Non-Governmental Organisations (NGOs) in the UK calling for the Government to allow asylum seekers to work sooner and have unrestricted access to the labour market. We are listening carefully to the complex arguments around allowing asylum seekers to work and in the process of reviewing the policy. We are considering all the evidence to ensure that our policy safeguards the integrity of our asylum and immigration system. As part of this we are keen to seek Member States' views and experiences of allowing asylum seekers to work, any restrictions in place and how this works in practice. We would therefore be grateful if you could respond to the questions below:

Questions

- 1. 1. When do you allow asylum seekers to work?**
- 2. 2. Are there any restrictions on the work they can undertake when they do have permission?**
- 3. 3. Why have you decided to put these restrictions in place?**
- 4. 4. How many asylum seekers find work within 12 months from making their asylum claim? How many asylum seekers find work before their asylum claim has been decided? And what, if any, support do you offer to help asylum seekers find work?**
- 5. 5. How much does your policy on allowing asylum seekers to work, save in asylum support costs in your Member State?**
- 6. 6. Have you seen an increase in the number of asylum claims lodged in your Member State following any changes in permission to work policy?**
- 7. 7. Do you have any plans to review or change your policy on permission to work and why?**

Responses

EMN NCP Austria

Wider Dissemination: Yes

Martin Stiller, EU Member State Officials

1. Asylum seekers are not allowed to engage in a self-employed activity for the first three months after their application for international protection (Art 7 para 2 Federal Basic Care Act 2005). There is no such time limit for asylum seekers for taking up employed activity. However, engaging in an employed activity is only permitted in accordance with the Act Governing the Employment of Foreign Nationals (Art 7 para 1 Federal Basic Care Act 2005). Asylum seekers therefore are only allowed to take up such activity if they are in possession of an official permit (Art 3 para 2 Act Governing the Employment of Foreign Nationals). It should also be noted that asylum seekers, who are accommodated in federal or provincial reception facilities, might be assigned to ancillary tasks directly related to their

reception facilities or in non-commercially activities for the Federal State, provinces, communities or community associations, provided the asylum seeker's consent. Furthermore, the Minister of the Interior is empowered to enact a decree, stipulating inter alia the conditions under which asylum seekers, with their consent, may be employed by non-governmental organizations for non-commercially ancillary tasks (Art 7 para 3a Federal Basic Care Act 2005). If such ancillary activities are provided, the asylum seeker must be granted a financial acknowledgement (Art 7 para 5 Federal Basic Care Act 2005). Furthermore, asylum seekers who have been admitted to the asylum procedure for at least three months may be employed on a service cheque basis for simple typical household tasks in private households without permit (Art 1 subpara 16 Regulation for the Employment of Foreign Nationals). From November 2017 to October 2018, 335 asylum seekers were employed on a service cheque basis in Austria. --- Source: Ministry of the Interior

2. If there is an official permit, there is no restriction of employment. --- Source: Ministry of the Interior

3. See Q2. --- Source: Ministry of the Interior

4. Asylum seekers are not registered or actively supported by the AMS (Arbeitsmarktservice, national employment service) during their asylum procedure. The labour market integration of refugees focuses on the large number of refugees who already have been granted asylum or subsidiary protection and therefore possess full labour market access. This status includes the full support and all sponsorship services of the AMS. --- Source: Ministry of the Interior

5. We cannot calculate or estimate any such numbers, because we do not have the necessary data. The income of asylum seekers from permitted regular employment, if over a certain threshold amount (between 100-200 € per month, depending on the province and type of work), is taken into account regarding the asylum seeker's "Grundversorgung" (basic provision). Full time employment according to the Austrian wage and working conditions will therefore have the consequence that an asylum seeker loses his/her claim for "Grundversorgung" (basic provision). --- Source: Ministry of the Interior

6. The further employment of asylum seekers even at non-governmental organizations was regulated by the Act Amending the Aliens Law 2017. This provision came into force on 1 April 2018. Since then, increases as well as a decrease of applications for international protection was recorded (https://www.bmi.gv.at/301/Statistiken/files/2018/Asylstatistik_November_2018.pdf). However, due to the usual monthly fluctuations and various other influencing factors, it is not possible to establish a link between the number of asylum applications and the changed legal situation regarding the employment of asylum seekers. --- Source: Ministry of the Interior

7. At the moment there are no plans to change the current policy. The government program clearly states the intention to strictly separate the areas of asylum and labour migration. --- Source: Ministry of the Interior

EMN NCP Norway

Wider Dissemination: Yes

Kathleen CHAPMAN, EU Member State Officials

1. In order for an asylum seeker to be granted a temporary work permit in Norway, certain criteria must be met: • The applicant has had his/her asylum interview. This condition can be waived if there are a high probability that the application for asylum will be granted. • The applicant presents a valid passport*, or a valid national identity card from certain countries, and there is no doubt about the identity of the applicant. • The applicant is not subject to a decision for removal, or a decision for transfer to another EU member state pursuant to the Dublin-regulation. *Referring to an amendment of the Norwegian Immigration Regulations, Section § 17-24 in 2018, residents from certain countries in integration reception centres are no longer obliged to present a valid passport/national ID card in order

to be granted a temporary work permit, as long as there is no doubt about the resident's identity. This is a temporary change and in effect only until May of 2021. The effect of this amendment will in the meantime be evaluated.

2. There are no restrictions as such. However, usually a refugee's qualifications, work experience and education would have to be reviewed and approved for any positions that require specialized education and/or higher education. Norway has government agencies that carry out this kind of evaluation and it can take some time to complete the process. Most refugees would need to get certified, get the necessary licences and prove they have the required Norwegian language skills for highly skilled jobs. However, much unskilled labour in Norway is carried out by immigrants lacking in advanced language skills and these kinds of jobs would presumably also be open to refugees.

3. The qualifications referred to in response 2. above apply to everyone living and working legally in Norway.

4. See attached table and EDITED version. ** In 2015, 31 150 persons applied for asylum in Norway. Of these, 1 023 persons were issued temporary work permits while they waited for their application to be completed. Of these 1 023 persons, 295 (29 %) took longer than 12 months from asylum application to get a temporary work permit, while 728 asylum seekers got a work permit in less than 12 months after they had registered their asylum application. We do not know if any of these persons actually found employment. In 2016, 3460 persons applied for asylum in Norway. Of these, 99 asylum seekers were granted temporary work permits, 78 persons (79 %) within 12 months after registering their asylum applications and 21 (21 %) after 12 months. (In 2017, 3560 persons applied for asylum and 120 temporary work permits were issued, 98 (82 %) within 12 months of registered asylum applications, while 22 took longer. In 2018, 2655 persons applied for asylum. So far, 158 of these have received a temporary work permit. We can conclude that in recent years, only small numbers of asylum seekers have been issued work permits in Norway while waiting for their asylum applications to be processed, approximately three percent of asylum seekers. We do not know how many actually become employed.And what, if any, support do you offer to help asylum seekers find work? All residents of asylum centers who are over the age of 16 and who have been granted a residence permit, or are highly likely to receive a residence permit, are offered the opportunity to register their qualifications. The purpose is to give public agencies who advise refugees who are granted a residence permit in Norway, information about training, education and work. The goal is for the individual to get better customized services and get into education and work faster. In 2016 Norway established the first integration reception centers. The reception centers are a part of a pilot project that will be evaluated. Staying in an integration reception center is voluntary, and the asylum seekers apply for a place in the program. The activities are mandatory, and the residents enter into an agreement with the municipality on participation in a full-time program. The activities in the full-time program are language training, work training, career guidance, education-oriented activities etc. The goal is early integration and preparation for education and work in Norway after settlement.

Clarification:

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5. Allowing asylum seekers to work does not lead to any savings in the "budget post for refugees" as such, though there is some gain since employment is taxed. Applicants for asylum are granted a small monthly allowance. This amount is not offset by possible earnings made while issued a temporary work permit. As such, there is no direct effect on the asylum support costs by the temporary work permit scheme. The numbers of asylum seekers this applies to are very small in number and no study has been conducted on this matter.

6. There are many factors affecting the number of asylum applicants arriving in Norway, amongst these are changes in policy. However, we do not have any data on a possible correlation between changes in the policy on temporary work permits for asylum seekers, and changes in the number of asylum seekers arriving in Norway.

7. No, the Norwegian Ministry of Justice and Public Security has no immediate plans on making any changes in these regulations, but the temporary amendment to the Norwegian Immigration Regulations about waiving the need for a passport/ national ID card for citizens (with an otherwise positive ID) from countries that do not issue such documents, was put into effect in 2018 and will be valid only until May of 2021. In the interim, the effect of the temporary amendment will be evaluated.

EMN NCP Lithuania

Wider Dissemination: Yes

Vytautas EŽERSKIS, EMN NCP Lithuania

1. Asylum seekers are not allowed to work during the asylum procedure. In Lithuania, the decision on asylum status must be adopted in 6 months, therefore, this is in line with the Directive. There were no cases of procedure exceeding this time limit, hence, no practice of allowing asylum seeker to work.

2. n/a

3. n/a

4. n/a

5. n/a

6. n/a

7. n/a

EMN NCP Slovakia

Wider Dissemination: Yes

Simona MESZAROSOVA, EMN NCP Slovakia

1. The applicant must not enter any employment relation or similar labour relation or start business; however, he/she can enter labour relations after 9 months since the initiation of the procedure, if: - bringing an action against the Ministry's decision in the asylum procedure has no suspensive effect and the Administrative Court has not decided to grant suspensive effect, - the cassation court did not decide to grant the suspensive effect of a cassation complaint against a decision of the administrative court which concerned an administrative action against a decision of the Ministry issued in asylum procedure.

2. No restrictions.

3. N/A

4. We do not have exact statistics. Social workers provide them with the assistance in writing a CV and finding a job (mostly a temporary one) in the close area. Employers find the duration of the procedure (until when the asylum seeker can actually work) and uncertainty of its result problematic. Another obstacle is the language barrier, recognition of education, etc. Social workers also inform asylum seekers about the situation on the labour market and salaries-wise.

5. No data available.
6. No, we have not seen any influence on the number of asylum claims because of this fact.
7. Currently there are no plans foreseen in the nearest future.

EMN NCP Luxembourg

Wider Dissemination: Yes

Adolfo SOMMARRIBAS, EMN statelessness platform

1. International protection applicants (IPA's) may apply to work temporarily in certain specific cases. An application for an authorisation of temporary occupation (AOT) can be submitted to the National Employment Agency (Agence pour le développement de l'emploi – ADEM) 6 months at the earliest after the application for international protection has been submitted to the Immigration Directorate of the Ministry of Foreign and European Affairs, if a decision on the application for international protection has not yet been taken by the Minister responsible for asylum, and provided that the IPA is not responsible for the delay in taking the decision (article 6 (2) of the amended law of 18 December 2015 on reception of applicants for international protection and temporary protection, Asylum Reception Law).
2. Yes. The IPA is subject to fulfil all the conditions of an authorisation of stay for salaried worker (article 41 (1) of the amended law of 29 August 2008 on free movement of persons and immigration) and s/he has to pass the labour market test (article L. 622-4 of the Labour Code). The AOT is valid for 6 months and can be renewed. It is only valid for one profession and for a specific employer. AOT applications and renewals may be rejected for reasons connected with the situation, changes to or the organisation of the employment market, in particular with regard to priority given to employing citizens of EU Member States or countries treated as such (Norway, Liechtenstein, Iceland and Switzerland) and third-country nationals with lawful residence who are receiving unemployment benefits (article 6 (3) of the Asylum Reception Law in accordance with article L. 622-4 of the Labour Code). The AOT is no longer valid when : • it expires; • one of the parties to the employment contract ends the working relationship; • the application for international protection is definitively rejected or cancelled (article 6(6) of the Asylum Reception Law) The AOT will be withdrawn if the beneficiary : • works in a different profession to that authorised; • fraudulently resorted to dishonest practices or incorrect declarations to obtain it (article 6 (7) of the Asylum Reception Law).
3. The legislator decided to transpose article 15 of the Reception Directive (Directive 2013/33/EU) granting access to the labour market to the international protection applicants, and before, when transposing article 11 of the Reception Directive (Directive 2003/9/CE). The legislator states clearly that the AOT is not a real work permit and does not grant the right to stay and that the salaries cannot be considered as sufficient resources in the context of entry and stay of foreigners (see comment to article 19 of the bill n° 6775, parliamentary document 6775/00 of 24 March 2015, p. 15). The government considered that it is essential to distinguish between an application for international protection and immigration and that the application for international protection should not become a back door for entry and stay as an immigrant (see comment to article 14 of the bill n° 5437, parliamentary document 5437/00 of 27 January 2005, p. 32)
4. a) There is no information available. b) There is no information available. c) The National Employment Agency (ADEM) is in contact with several NGOs engaging in the field of employment. A first major cooperation has thus been established between ADEM and ASTI's "Connections" project (co-financed by the National Relief Service Grande-Duchesse Charlotte), whose aim is to quickly establish links between IPAs and Beneficiaries of International Protection on the one hand and the job market on the other by preparing them for the labour market in Luxembourg. ASTI organizes training courses (with the participation of ADEM) as well as internships in companies where the IPAs / BIP are evaluated by the training supervisors using the ROME system of the ADEM. This project also benefits

from intensive French courses. However, IPAs may have their applications refused at any time and are therefore likely to leave the company during the probationary period.

5. There is not data available. The material reception conditions for IPA's are granted by the Luxembourg Reception and Integration Agency (OLAI) and the AOT is handled by the Directorate of Immigration. The level of material reception conditions which are provided to the IPA is granted in accordance with the household composition, the ages of household members and the financial resources of the IPA (article 9(1) of the Asylum Reception Law).

6. There has not been any increase in the number of international protection applications based on any changes in permission to work policy.

7. No.

EMN NCP Estonia

Wider Dissemination: Yes

Eike Luik, EMN NCP Estonia

1. An applicant for international protection may take employment in Estonia if the decision on his/her application for international protection has not entered into force within six months as of the submission of the application for international protection due to reasons beyond the applicant's control.

2. No, there are not any restrictions in place. Applicants for international protection do not have access to public sector jobs.

3. N/A

4. We do not collect any data concerning applicant's activity on labour market. Applicants have access to labour market services and trainings. It means that after they have received access to the labour market they can register themselves as unemployed. Also accommodation centre provides some help to find contact with employers, to prepare CV etc.

5. As the number of applicants for international protection is very small the saving is not significant. Applicants who work and still live in accommodation centre do not receive monthly monetary benefit.

6. No.

7. No.

EMN NCP Sweden

Wider Dissemination: Yes

Marie BENGTTSSON, EMN NCP Sweden

1. The asylum seeker is exempted from the requirement to have a work permit if he/she fulfil the following conditions: • provide proper identity papers or in some other way help to prove his/her identity. •The application is to be considered in Sweden. •There are solid reasons for the application for asylum. The person will not be granted AT-UND if he/she has been issued a refusal of entry with immediate effect. If the asylum seeker fulfil the conditions above, he/she will receive an

Asylum Seeker Card (LMA-kort) stating that he/she has AT-UND. This means that the person is exempt from the requirement for a work permit. The AT-UND status normally lasts until either the person is granted a residence permit or until he/she leaves the country.

2. No
3. Not applicable
4. No information available.
5. No information available
6. The policy has not been changed for a long time so no information available.
7. Not to the best of our knowledge.

EMN NCP Italy

Wider Dissemination: Yes

Viviana CAPRA, EMN NCP Italy

1. According to the Law Decree approved on August 18, 2015 n°142, asylum seekers are allowed to work after 60 days from the moment the asylum application has been lodged. This permit allows asylum seekers to work during the examination of the application and it cannot be converted into a permanent working permit.
2. After 60 days from the moment the asylum application has been lodged, asylum seekers are considered as any other Italian worker and they may freely register in the Public Employment Service (Centri per l'impiego). According to the Law Decree passed on 4th October 2018, n. 113, the residence permit issued to asylum seekers does not give them the right to be registered in the Civil Register, so they are allowed to access public services in the place where they have elected domicile or the reception centre is placed. Asylum seekers may access both public and private organizations, with the exceptions of positions involving the exercise of public authority or responsibility for safeguarding the general interest of the State.
3. The reason why these restrictions are in place relies on article 51 of the Italian Constitution, according to which those working positions involving the exercise of public authority or responsibility for safeguarding the general interest of the State are reserved to Italian citizens.
4. Not available data. According to the law decree 113/2018, asylum seekers may access to the services offered in the national territory based on their place of residence. Therefore, after 60 days the asylum application has been submitted, they can address themselves to the Centers for Employment (Centri per l'impiego) and to the Work Private Agencies. In this way, they will be able to receive work orientation services. Asylum seekers cannot benefit from integration services and social inclusion measures, offered in the SIPROIMI system.
5. Not available data
6. Not available data
7. Not available data