



## **EMN Ad-Hoc Query on 2019.50 LT AHQ on asylum applications submitted at the border or transit zones**

Requested by Vytautas EŽERSKIS on 10 April 2019

### **Protection**

Responses from EMN NCP Lithuania, EMN NCP Germany, EMN NCP Belgium, EMN NCP Luxembourg, EMN NCP Netherlands, EMN NCP Ireland, EMN NCP Latvia , EMN NCP Finland, EMN NCP Slovakia, EMN NCP Austria, EMN NCP Estonia, EMN NCP Norway (12 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:**

On 20 December 2019, amendments to the Law of the Republic of Lithuania on the Legal Status of Aliens were adopted. According to the amendments, migration management functions are to be reallocated as of July 2019. The State Border Guard Service will be responsible for, inter alia, carrying out the control of irregular migration of aliens in the country's territory, implementing initial asylum procedures and providing accommodation for asylum seekers. In order to prepare for the upcoming changes, the State Board Guard Service would like to ask (Member) States the following:

## **Questions**

- 1. When an asylum application is submitted at the border or transit zone and is examined under the accelerated procedure, does your (Member) State apply the practice of transferring such asylum applicants to accommodation centre(s) in the territory of the MS, while applying the status of refusal of entry to such applicants?**
- 2. If yes, are there any specific requirements applied to the accommodation centers and procedure described in the Question 1?**

## **Responses**

### **EMN NCP Lithuania**

Wider Dissemination: Yes

*Vytautas EŽERSKIS, EMN NCP Lithuania*

1. Currently, the Law of the Republic of Lithuania on the Legal Status of Aliens does not stipulate the possibility to asylum applicants whose asylum applications are examined under the accelerated procedure and who are not admitted to the territory of the Republic of Lithuania to be transferred to an accommodation center in the territory of Lithuania. Such asylum applicants are accommodated at a state border crossing point while their application is being examined.
2. N/A

### **EMN NCP Germany**

Wider Dissemination: Yes

*Heiko HECHT, EMN NCP Germany*

1. Under the responsibility of the Federal Office for Migration and Refugees, an accelerated procedure - so-called "airport procedure" (§ 18a AsylG) - applies to entry attempts by air. The asylum procedure is carried out before the decision of the Federal Police about the entry - so still in the transit area - if the applicants cannot prove after oral request for protection with a valid passport or passport substitute or come from a safe country of origin. The airport procedure is only implemented at airports that can accommodate asylum seekers at the airport.

2. The airport procedure is subject to the so-called principle of promptness. After receiving the asylum application, the Federal Office must hear the applicants within two days and decide whether entry is permitted or if the asylum application is rejected as "of obvious unfounded". If the application for asylum cannot be decided in the short term, entry must be allowed and a decision taken in the regular asylum procedure. In case of refusal, the Federal Police may refuse entry. Urgent protection may be brought before the administrative court against this border police refusal of entry. Until the court decision, the applicants must remain in the transit area of the airport. In case of refusal, they will be returned to their place of departure or to their country of origin. The accommodation of asylum seekers during the airport procedure requires a decent treatment. In addition to the pure accommodation, the supply of the applicants must be ensured; In addition, the implementation of the accelerated procedure must be possible by the border authorities and the Federal Office. Using the example of the Frankfurt/M. airport, the accommodation is provided in an initial reception facility for applicants carried by the state of Hesse.

## EMN NCP Belgium

Wider Dissemination: Yes

*Bram DEVOS, Practitioners (Government Officials only)*

1. No. The asylum applicant will stay at a closed center at the border during the accelerated asylum procedure. If international protection is granted, he or she will get access to the Belgian territory. If the application is rejected, he or she will be turned back to the place of departure. If for some reason (lack of capacity in the closed center, state of health, family residing in Belgium, the application can't be decided in a short term, ... ) the asylum applicant can go to an (open) accommodation center, the refusal of entry doesn't apply anymore and the accelerated asylum procedure will become a regular procedure.

2. Not applicable

## EMN NCP Luxembourg

Wider Dissemination: Yes

*Adolfo SOMMARRIBAS, EMN statelessness platform*

1. . Luxembourg does not have external borders with the exception of the Luxembourg International Airport. In case the third-country national indicates that s/he wants to make an international protection application to the police agent at the airport, in accordance with article 4 (1) of the amended Law of 18 December 2015 on international protection and temporary protection, this agent will refer the applicant to the Directorate of Immigration to make the application at the Directorate of Immigration (the maximum delay for registering the application is of 6 days). Once the application is registered and lodged, it is up to the Minister in charge of Asylum and Immigration to decide whether the application will be processed under the normal international protection procedure or under the accelerated procedure. During the examination procedure the international protection applicants will be accommodated in a reception center where they will remain until a decision is issued. In practice, if the application is made at night or during the weekend, the international protection applicant will be driven by the police to a reception center. The following working day s/he is required to make the application at the Directorate of Immigration.

2. N/A

## EMN NCP Netherlands

Wider Dissemination: Yes

*Linda Burger, EMN NCP Netherlands*

1. If an asylum application is submitted at the border, it will be processed in the border procedure as long as it is expected that this application is apparently unfounded, inadmissible or a Dublin-case. During the border procedure the alien will be kept in detention in Judicial Complex Schiphol, which is located near the external border. When a decision has been made regarding the asylum application, the alien will be transferred to detention centre Rotterdam. If an asylum application is rejected, an entry refusal will be given on the basis of the Schengen Borders Code.

2. When an asylum application is submitted at an external border, it is always assessed whether detention is disproportionately onerous for the alien. If that is the case, the application will not be processed in the border procedure. In addition, families with minor children and unaccompanied alien minors who submit an asylum application at the external border, will get access to the Netherlands and will be referred to the application centre in the country. The border accommodation regulations (<https://wetten.overheid.nl/BWBR0005848/2001-04-01>) apply in detention centre Rotterdam and Judicial Complex Schiphol. It states for example that aliens have freedom of movement within the border accommodation and that they could receive visitors, send and receive mail and, at their own cost, make phone calls.

## **EMN NCP Ireland**

Wider Dissemination: Yes

*Anne SHERIDAN, EMN NCP Ireland*

1. Ireland does not have a border or accelerated procedure for protection applications made at the border.

2. N/a

## **EMN NCP Latvia**

Wider Dissemination: Yes

*Stanislavs LOPATINSKIS, EMN NCP Latvia*

1. According to the Asylum Law if the asylum application is submitted at the border or transit zone before entering the territory decision on admissibility/inadmissibility of the application should be taken by the Office of Citizenship and Migration Affairs (hereinafter – the Office). The State Border Guard carry out the initial interview with applicant in order to obtain necessary information for decision on admissibility/inadmissibility. The decision on inadmissibility is taken if there is a reason to consider that any of grounds for inadmissibility according to the Article 33 parag. 2.a), b), c) of the Directive 2013/32/EU exist. The Office takes the decision on admissibility/inadmissibility of the application within 5 working days. During the application of border procedure including the stage of appeal when the application is submitted at the border or transit zone the applicant is detained and accommodated in premises specially equipped for this purpose in a unit of the State Border Guard. It means that the applicant can be transferred to the State Border Guard Accommodation centre for detained asylum seekers in the territory.

2. There are no specific requirements for the accommodation centres in cases the border procedure is applied.

## EMN NCP Finland

Wider Dissemination: Yes

*Rafael BÄRLUND, Practitioners (Government Officials only)*

1. Yes.

2. No. The applicants are transferred to so called transit reception centers (5 in Finland) to await their first interview. Depending on the case processing the applicants may be transferred to other reception centres after that.

## EMN NCP Slovakia

Wider Dissemination: Yes

*Simona MESZAROSOVA, EMN NCP Slovakia*

1. In the Slovak Republic, there is a difference whether an application for international protection is filed in a border zone or in transit zone of an international airport. In the Slovak Republic, proceeding at the border is not carried out in a specific way, nor is it regulated in any way. A standard procedure is conducted with the applicant who submits his/her application at the border. As far as the procedure in the international airport transit zone is concerned, the person is placed in the reception center of the international airport. Taking into account that only a minimum number of applicants for international protection arrives in Slovakia via international airports, these reception centers, although built, are not currently operated. The national legislation reflects this matter and the transit area is dislocated in another asylum facility. Being placed in the reception center (including the transit area in another asylum facility) is not considered an entry and residence of the applicant in the territory of the Slovak Republic. The transport of the applicant to the premises set up in another asylum facility during his/her placement in the reception center is carried out in the company of a policeman, while the transport is not considered to be an entry or stay of an alien in the SR. The placement of the applicant in the reception center is terminated and s/he placed in a standard asylum facility if (a) his/her application is not decided upon within seven days of completion of the questionnaire; or (b) court does not decide within 30 days from the delivery of the appeal against the decision in the asylum procedure. In the event that a decision is made in accordance with the Act within the aforementioned time frames, the person is considered to be an alien who has not entered the territory of the SR.

2. Reception facility in which an international airport transit area is established does not apply any special procedures to applicants located there. Such a center is located in a separate part of the facility and the only exception to the other asylum seekers is that such an applicant is obliged to stay at the reception center. So s/he has limited movement within the SR, and is required to stay exclusively in that facility.

## EMN NCP Austria

Wider Dissemination: No

## EMN NCP Estonia

Wider Dissemination: Yes

*Barbara ORLOFF, EMN NCP Estonia*

1. According to the Act on granting international protection to aliens a clearly unfounded application for international protection may be reviewed under the accelerated procedure, including at the border. Nevertheless, in practice the Police and Border Guard Board does not examine asylum applications at the border. Hence, all the asylum seekers are transferred to accommodation center or if necessary to the detention center.

2. N/A

## **EMN NCP Norway**

Wider Dissemination: Yes

*Kathleen CHAPMAN, EMN NCP Norway*

1. Yes. They are either sent to a detention center, or to a short term arrival center for clearance. If a foreign national applies for asylum at the border he/she will first be transported to the National Police Immigration Service (offices) for registration. This includes single adults, families and unaccompanied minors. Where the applicant goes after registration depends on whether a positive ID has been made, and whether the application is considered manifestly unfounded or not.

2. Foreign nationals may be placed in a detention/holding centre when it's considered necessary to arrest or detain the foreign national to either clarify his/her identity, or to secure a removal in cases where there is a risk of absconding. The Immigration Detention Centre Regulations regulate the operation of the detention centre. In addition, foreign nationals who are considered to have no grounds for protection are examined under the 48-hour procedure and are placed at the immigration detention centre. The conditions are adequate but very simple. Transit/detention center: <https://www.politiet.no/en/om/organisasjonen/specialist-agencies/politiets-utlendingsenhet/national-police-immigration-detention-centre-and-family-detention-centre/> arrival center in southern Norway <https://heromottak.no/location/ankomstsenter-ostfold/>