



EMN Ad-Hoc Query on Ad-Hoc Query on protection of victims of human trafficking

Requested by LU EMN NCP on 4th May 2016

Summary prepared by NO EMN NCP on the basis of responses from

Austria, Belgium, Finland, France, Germany, Ireland, Luxembourg, Netherlands, Slovenia, Sweden, United Kingdom and Norway

Disclaimer:

The responses were 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 was up-to-date, objective and reliable. Note, however, that the information provided did not necessarily represent the official policy of the EMN NCPs' Member State.

Background information:

Article 5 of the amended Law of 8 May 2009 on assistance, protection and the security of victims of human trafficking establishes that the assistance services must guarantee that their activities have to be carried on in collaboration with the Grand Ducal police, the judiciary authorities and any other competent public institution. Also article 8 guarantees the collaboration between the Police and the assistance services in order to assure an adequate and effective protection of the victims against any reprisals or possible intimidation, mainly during the reflection period, during the investigation, prosecution and judicial procedures against the authors of the trafficking.

The size of Luxembourg and the proximity to its neighbouring countries makes the practical implementation of the protection of the victim, who is a witness against the presumed authors of the trafficking, very difficult. The Luxembourgish authorities and more precisely the national committee to monitor trafficking in human beings, are reflecting on the possibility of a temporary placement of the victim in need of protection in a residence or facility in another neighbouring Member State. This issue does not carry a major problem for victims who are European Union or EEA citizens. However, when the victim is a third-country national this possibility is hard to implement because the temporary residence permit issued to the

victim under article 92 (1) of the amended Law of 29 August 2008 on free movement of persons and immigration only allows to reside on the territory of the Grand-Duchy of Luxembourg.

Questions

1. What kind of residence permit is allocated to an identified victim of THB who is a third country national?
2. Is the residence permit issued to the victims by your MS based upon the directive 2004/81/ECs the residence permit issued to the victims by your MS based upon the directive n° 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities or on national law? If it is based on national law can you please indicate the text.?
3. Does the residence permit you allocate (temporary or not) allow the victim to travel and/or stay in another European country?
4. Can the victims who are detected during their application for international protection in your MS travel to another MS?
5. Does your MS have been confronted with cases of third country national THB victims who need placement in another MS in order guarantee their protection? If yes, how did your MS manage to transfer them to another MS if the residence permit did not allow them to reside in the other MS?
6. If the answer to question 5 was 'yes':
 - a) how is the communication between the police and the NGO(s) managed after the victim is placed in another MS?
 - b) how is the communication between the police and the public prosecutor office managed when the victim is placed in another MS?
 - c) Does your MS cover the costs of the transfer and the placement?

Responses

From most of the replies it was clear that the kind of residence permit eventually granted to an identified victim of human trafficking depended on the circumstances of the case and the individual. Several replies made a reference to an initial 'reflection period', lasting from 1.5 months up to 3 or 6 months, and renewable or being replaced by another permit depending e.g. on the willingness of the victim to witness and the duration of the investigation and resulting judicial proceedings. Only one reply (UK) did not indicate any duration of such residence permits.

Three countries responding (IE, NO and UK) were not bound by the EU Directive 2004/81/EC, but they, as well as the others, stated that their relevant legal provisions are in line with the Directive.

While the residence permit granted in 7 of the responding countries did allow the victim to travel to another Schengen country and return without any further procedures, after a short period of absence, the this would not be the case for the other 5 responding countries, which included the 3 countries not bound by the EU Directive.

None of the responding countries indicated that they knew about a case where a third country victim of human trafficking needed to be transferred to another MS to guarantee his/her protection. Some of the answers indicated that it might be that no such cases had been reported rather than that no such situation had ever occurred.