



Ad-Hoc Query on withdrawing temporary and permanent non-asylum residence permits because of issues of public order in other EU member states

Requested by NL EMN NCP on 29 January 2015

Summary prepared 10 April 2015 for NO EMN NCP of the responses from Austria, Belgium, Croatia Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom and Norway

Disclaimer: The 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 was up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCP's Member State.

1. Background Information

The Netherlands is sometimes confronted with criminal third country nationals who hold a residence permit of another EU country. In order to examine the possibilities of co-operation with other EU Member states in dealing with these individuals, we would like to find out about the possibilities in your country to withdraw a residence permit because of issues of public order. Therefore we would like to ask you the following questions.

1. What are the criteria in your country for withdrawing temporary non-asylum residence permits because of issues of public order?
2. What are the criteria in your country for withdrawing permanent non-asylum residence permits because of issues of public order?
3. Does your country withdraw non-asylum residence permits based on issues of public order in other member states?

2. Summary of responses

With certain caveats a temporary or permanent non-asylum residence permit may be withdrawn from a third-country national in all the responding countries on the basis of issues of public order that have been identified in another EU/EFTA member country, except in the case of Estonia. In most of the responding countries the caveats are related to whether the public order issues in the other member country would also be an issue in the member country in question, the nature of the issue, whether there is a risk that a similar issue would arise in this country, as well as the length of residence in and the strength of other links to the country. One response (from Belgium) notes that such withdrawals are seldom, and links this to poor exchange of information between member states in this regards.

Most of the responses signal that there is no material difference between the criteria for withdrawal of a temporary and a permanent residence permit.

It is not easy to deduct from the responses to what extent similar criteria are used when determining whether there is a threat to public order which warrants a withdrawal of a residence permit. No responses provide a definition of ‘threat to public order’ but some responses provide a comprehensive, but not necessarily exhaustive, list of offenses that may qualify for the withdrawal of a residence permit, e.g. the responses for Austria, Estonia, Lithuania and the United Kingdom. It would seem that having been sentenced for offences against either criminal laws or immigration legislation may qualify in most countries, but that considerations of the severity of the offences as well as the length of residence and other links to the country may differ when the countries decide whether a residence permit is to be withdrawn or not. References are made to decisions in ECHR and CJEU in the responses for Austria and Luxembourg respectively.
