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4.14.2.5 Identity and travel documents

New legislation entered into force in Switzerland on travel bans, while administrative issues were noted in Greece and Italy. In addition, the ECtHR delivered a key judgment on the gender recognition procedure for trans-gender beneficiaries and their possibility to change gender in their new identification documents.

An amendment from 2018 to the Swiss Federal Act on Foreign Nationals and Integration entered into force on 1 April 2020, which makes it possible to impose a travel ban on refugees. The State Secretariat for Migration may pronounce a general travel ban for a group of refugees from a certain country of origin to all other states and particularly to neighbouring countries of the country of origin, if there is a justified suspicion that the travel ban to the country of origin will be disregarded.[1052] The SEM may authorise a person to travel to a state subject to a travel ban and the legislative amendment is completed by another amendment to the "Ordinance on delivering travel documents for foreigners", which lists the circumstances when refugees under a travel ban can still receive an exceptional authorisation to travel.[1053] The possibility was planned to extend this clause in the law to persons with temporary admission.[1054] There has been similar rules in force for this group, regulated by ordinances, and the plan was to align legislation in law for both refugees and persons with temporary admission. Breaching the travel ban may increasingly lead to the revocation of protection status. UNHCR noted that the legislation could be contested under international and constitutional law, and it considered the measures disproportional.[1055] The parliamentary process was still ongoing in April 2021 and one chamber of the Swiss Parliament was in favour of the amendment package, while the other was not.

A Greek Ministerial Decision in 2019 regulated the process of delivering a travel document for children when there is no official proof that one of the parents passed away and thus the other parent can exercise parental care alone. This Ministerial Decision aims to safeguard the best interests of the child. The Greek Council for Refugee noted that this process can be long and cumbersome.[1056]

The Cyprus Refugee Council reported that the Civil Registry and Migration Department announced the issuance of travel documents in line with the requirements of the International Civil Aviation Organization. Previously, beneficiaries of international protection could obtain a laissez-passer, but most countries did not accept this document. However, due to the demand for the new travel document, typically from Syrian beneficiaries of subsidiary protection planning to see family members in other EU Member States, the department added a preliminary assessment to the procedure. By the end of the year, no travel documents had been issued.[1057]

In Italy, the Regional Administrative Court in Sardinia ordered the police to issue travel documents for a beneficiary of subsidiary protection. The police originally rejected this request as there were differences in the information provided in the registration document and the asylum interview. The court underlined that the applicant's identity was ascertained during the asylum procedure, and the differences came from errors in the registration document because the applicant was illiterate and communication had been through an interpreter at the time of registration.

The ECtHR delivered a judgment in the case of a trans-gender man who was granted international protection in Hungary but could not change his gender and name. This procedure requires a birth certificate from Hungary, and there was no legal basis for non-Hungarians to initiate this procedure. The court found that there had been a violation of the applicant's right to respect for private and family life.

The Hungarian Helsinki Committee observed delays in a few instances in delivering ID cards to persons arriving through family reunification or for extending the validity of ID cards for persons under subsidiary protection whose status was under review.[1058]
As parents with international protection status often lack original documents, the registration of the birth of their children is likely to be a cumbersome process, as reported in Hungary[1059] and Romania.

[1052] Ordonnance portant mise en vigueur partielle de la modification du 14 décembre 2018 de la loi sur les étrangers et l'intégration, RO 2020 881 [Ordinance partially bringing into force the amendment of 14 December 2018 to the Law on Foreigners and Integration, RO 2020 881]. https://www.fedlex.admin.ch/eli/oc/2020/170/fr

[1053] Ordonnance sur l'établissement de documents de voyage pour étrangers (ODV), RO 2020 995 [Ordinance on the issuance of travel documents for foreigners (ODV), RO 2020 995]. https://www.fedlex.admin.ch/eli/oc/2020/177/fr

[1054] Loi fédérale sur les étrangers et l'intégration (LEI) (Restriction des voyages à l'étranger et modification du statut de l'admission à titre provisoire) (Projet) [Federal Act on Foreigners and Integration (LEI) (Restriction of Foreign Travel and Amendment of the Temporary Admission Status) (Draft)], September 29, 2020.
https://www.fedlex.admin.ch/eli/fga/2020/1946/fr

[1055] United Nations High Commissioner for Refugees. (2020, November 20). *Pas d'interdiction générale de voyager pour les personnes admises provisoirement : Le HCR plaide pour une réglementation proportionnée [No general travel ban for persons temporarily admitted: UNHCR calls for proportionate regulation]* . https://www.unhcr.org/dach/ch-fr/54547-kein-reiseverbot-fur-vorlaufig-aufgenommene-personen-unhcr-pladiert-fur-verhaltnismassige-regelung.html

[1056] Greek Council for Refugees | Ελληνικό Συμβούλιο για τους Πρόσφυγες. (2021). *Input to the EASO Asylum Report 2021.* /sites/default/files/Greek-Council-for-Refugees.pdf

[1057] AIDA Cyprus. (2021). *Country Report: Cyprus—2020 Update*. Edited by ECRE. Written by Cyprus Refugee Council. https://asylumineurope.org/wp-content/uploads/2021/04/AIDA-CY_2020update.pdf

[1058] AIDA Hungary. (2021). *Country Report: Hungary—2020 Update*. Edited by ECRE. Written by Hungarian Helsinki Committee. https://asylumineurope.org/wp-content/uploads/2021/04/AIDA-HU_2020update.pdf

[1059] AIDA Hungary. (2021). *Country Report: Hungary—2020 Update*. Edited by ECRE. Written by Hungarian Helsinki Committee. https://asylumineurope.org/wp-content/uploads/2021/04/AIDA-HU_2020update.pdf ; AIDA Romania. (2021). *Country Report: Romania—2020 Update.* Edited by ECRE. Written by Felicia Nica with the support of JRS Romania. https://asylumineurope.org/wp-content/uploads/2021/04/AIDA-RO_2020update.pdf

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