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4.14.2.1 National forms of protection and regularisation measures

Some countries introduced measures to regularise the situation of specific groups of foreigners. The EMN published national studies and an overview study presenting different statuses of national protection in the EU and Norway.[999]

According to the AIDA report for Cyprus, spouses of beneficiaries of international protection could still not receive a derivate beneficiary of international protection status. Authorities planned to provide them with humanitarian status, which offers only the right to stay in the country and does not grant any other rights.[1000]

The Italian Legislative Decree No 130/2020 created a special two-year permit based on the principle of non-refoulement. Legislative Decree No 34/2020 promoted regularisation on the basis of transforming undeclared work to regular employment in certain labour sectors, and this process could be initiated by asylum applicants as well. Previously applicants had to withdraw the asylum application when they launched the regularisation process.[1001] The measures were welcomed,[1002] yet criticised at the same time for discriminating among workers in different sectors.[1003]

Latvia, Lithuania and Poland enforced and facilitated policies to provide protection for applicants from Belarus. For example, Latvia granted a D-type/long-stay national visa for Belarusians which allowed them to access the territory of the country with the purpose of receiving medical support, requesting a residence permit or applying for international protection. In Poland, first humanitarian visas were issued to Belarusian citizens from 26 August 2020, and as of 17 September 2020, all Belarusian nationals possessing a tourist visa were allowed to enter on its territory.

Spain continued to typically grant humanitarian status to applicants from Venezuela. However, UNHCR observed in Spain that national authorities applied rejection criteria when assessing whether a Venezuelan would qualify for this status, such as having police or criminal records or arriving from a third country. The Ministry of the Interior clarified that the humanitarian status is denied based on a police record only when the applicant has committed a serious crime and when the person is considered to be a threat to the community. While the decision to reject the humanitarian status only affects the person with the police record and not the rest of the family unit, UNHCR underlined the indirect negative effect this may have for children and other family members of the main applicant.

In France, a draft law was presented by an opposition party to the National Assembly, which would

prohibit the regularisation of foreigners in irregular situations, such as former applicants. While taking a strict policy towards irregular situations, the proposal underlined that the right to asylum and dignified reception of applicants must be ensured.[1004]

Rejected applicants for international protection in Malta have to fulfil modified criteria to become eligible for the Specific Residence Authorisation (SRA) policy.[1005] In response, 25 civil society organisations issued a common statement warning that the 1-month time limit is too short to file the application, and previous beneficiaries risk reverting to an irregular situation.[1006]

A provisional regularisation process was launched in Portugal, settling the situation of around 365,000 foreigners, including asylum applicants. This process was necessary to provide access to public services, including to the National Health Service.[1007]

Among relevant court cases, CALL in Belgium annulled the decision to reject an applicant's request for medical regularisation. The applicant was at the same time in the Dublin procedure and the doctor only considered the availability and accessibility of care in Italy, but not in Côte d'Ivoire, the applicant's country of origin. However, CALL rejected the action for annulment in a case with a similar context, underlining that the applicant in that case was expected to be transferred to the Netherlands and not returned to Suriname, her country of origin.

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