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4.14.2.6 Beneficiaries of international protection moving to another Member State

Several court cases considered the situation of persons who have been granted international protection in one Member State but then moved and applied for asylum again in another one. The occurrences are of increasing importance for some Member States and were highlighted in the political debates of the 2016 reform proposals and the Pact in Migration and Asylum *(see Sections 2.1.1 and 2.1.2).*

The Czech Supreme Administrative Court held that the principle of mutual trust should apply and the Czech authorities are not obliged to examine whether the person qualifies for international protection. However, given the general and absolute nature of the prohibition of inhuman or degrading treatment, the authorities are bound to examine and eliminate any risk of violation of this prohibition, and these considerations should be explicitly included in the administrative authority's written reasoning. It is up to the applicant to prove an apparent risk. In the specific case, the applicant did not provide any evidence to prove that he would be at risk of inhuman or degrading treatment in Greece and the court noted that the situation in Greece could generally be considered as improved.

The German Regional Administrative Court came to similar conclusions in the case of a Syrian family who obtained protection in Greece and then applied for asylum again in Germany. The court examined whether the family's return to Greece would put them at risk of inhuman or degrading treatment and noted that this prohibition did not oblige convention states to grant the right to housing for all persons under their sovereignty and there was also no general obligation to provide financial support for refugees so that they can maintain a certain standard of living. The Greek state did provide some form of support and did not refuse this completely, and the medical care was also considered to be sufficient. The Swiss Federal Administrative Court followed comparable reasoning for an Iraqi applicant who had already received subsidiary protection in Greece.

The court in the Netherlands assessed the case of a Syrian woman with three (now adult) children who were given international protection in Bulgaria before applying again in the Netherlands. The court concluded that, due to the loophole in Bulgarian legislation, they would not be able to obtain a proof of identity and, thus, would not have access to housing or exercise any other rights. The court underlined that the Bulgarian authorities seemed to provide support for asylum applicants, but information from this particular case suggested that situation is different for recognised

beneficiaries. An appeal was lodged as the family was not considered vulnerable and the Administrative Court’s final ruling is still pending.

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