



AD HOC QUERY ON 2019.61 The explicit and implicit withdrawal of an application for international protection submitted by a third-country national

Requested by EMN NCP Bulgaria on 5 June 2019

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovakia, Spain, Sweden, United Kingdom plus Norway (23 in Total)

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1. Background information

The State Agency for Refugees with the Council of Ministers (SAR) is the responsible authority in the Republic of Bulgaria for examining applications for international protection, competent to take decisions at the first instance in such cases.

The Law on Asylum and Refugees regulates the right of explicit withdrawal of an application for international protection. The Bulgarian national legislation also provides for discontinuation of the examination when there is reasonable cause to consider that the applicant has implicitly withdrawn or abandoned his or her application. In both of these hypotheses, SAR takes a decision to terminate (discontinue) the examination of the application.

According to Article 27 of Directive 2013/32/EU of the European Parliament and of the Council, Member States may provide for the possibility of explicit withdrawal of an application for international protection. In such cases, Member States shall ensure that the determining authority takes a decision either to discontinue the examination

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or to reject the application. Paragraph 2 of the same article stipulates that Member States may also decide that the determining authority may decide to discontinue the examination without taking a decision. In that case, Member States shall ensure that the determining authority enters a notice in the applicant's file.

As per Article 28 of Directive 2013/32/EU of the European Parliament and of the Council, Member States shall ensure that when there is reasonable cause to consider that an applicant has implicitly withdrawn or abandoned his or her application, the determining authority takes a decision either to discontinue the examination or to reject the application. In order to reject an application for international protection in such cases, the determining authority shall first consider the application to be unfounded on the basis of an adequate examination of its substance in line with Article 4 of Directive 2011/95/EU.

The Asylum Procedures Directive also provides that Member States may lay down in national legislation the conditions under which it can be assumed that an applicant has implicitly withdrawn or abandoned his or her remedy pursuant to Article 46(11), together with the rules on the procedure to be followed.

In relation to the optimization of the procedure regarding applications for international protection, we would like to receive information on the Member States' national legislation on the following questions:

2. Questions

1. Does your Member States' national legislation provide for the possibility of explicit withdrawal of the application, as stipulated in Article 27(1) of Directive 2013/32/EU? If so, how does your Member States' national legislation regulate cases when the applicant explicitly withdraws his or her application for international protection? What is the decision taken in such cases - to discontinue the examination or to reject the application, or discontinuation of the examination without taking a decision, but ensuring that a notice has been entered in the applicant's file?

2. How does your national legislation regulate cases, when there is reasonable cause to consider that an applicant has implicitly withdrawn or abandoned his or her application, within the meaning of Article 28(1) of Directive 2013/32/EU? What is the decision taken in such cases - to discontinue the examination or to reject the application, provided that the determining authority considers the application to be unfounded on the basis of an adequate examination of its substance in line with Article 4 of Directive 2011/95/EU of the European parliament and of the Council?

3. Does your national law provides for conditions under which it can be assumed that an applicant has implicitly withdrawn or abandoned his or her remedy pursuant to Article 46(11) of Directive 2013/32/EU? If so, what are the rules to be followed in such procedure?



We would very much appreciate your responses by **5 July 2019**.

3. Responses

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		Wider Dissemination ²	
	EMN NCP Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	EMN NCP Belgium	Yes	<p>1. Article 27, §1 of APD has been transposed in article 57/6/5, §1, 7° of the Belgian Immigration Act. According to that article, the applicant can withdraw his/her application before the end of the procedure with a written request. He/She needs to fill out a form to do this. Only the applicant (or his/her mandated lawyer) can withdraw the application, trusted persons cannot do so on the applicant's behalf. If there is any doubt about the explicit character of the withdrawal, the CGRS can invite the applicant to personally confirm his/her intention. After the reception of the form, the determining authority takes a decision to discontinue the examination.</p> <p>2. Article 57/6/5 of the Belgian Immigration Act provides for a non-exhaustive list of 8 specific situations where an application may be considered as implicitly withdrawn. These situations are the following: 1) The applicant does not show up for a personal interview and does not provide for a valid reason for his/her absence within a specific time-limit, 2) The applicant does not respond to a query for information within one month and does not provide a valid reason regarding this matter, 3) The applicant is admitted or authorized</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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			<p>to stay for an unlimited period and does not request within 60 days the further consideration of his/her application, 4) The applicant, who is in detention or subject to a security measure, left without authorization and has not contacted the authorities within 15 days, 5) The applicant does not comply with the reporting duty for at least 15 days and does not provide valid reason for this act, 6) The applicant has passed away and, if there is a minor on whose behalf the application was made, this latter do not request the continuation of the examination, 7) The applicant returns voluntarily and definitively in his/her country of origin and 8) The applicant acquires the Belgian nationality. When one of this situation occurs, the determining authority takes a decision to discontinue the examination. Moreover, in the case 1 to 5 of implicit withdrawal, the determining authority may also reject the application, if there is enough information to that effect in the administrative file.</p> <p>3. Article 39/59, §2, al.2 of the Belgian Immigration Act provides that when the applicant or his/her lawyer does not appear at the hearing, the case is rejected. An appeal for cassation to the Council of State is possible.</p>
	EMN NCP Bulgaria	Yes	<p>1. In the Republic of Bulgaria the procedure for international protection shall be terminated (discontinued) if the applicant explicitly withdraws his or her application. The national legislation does not provide for the possibility to reject an application that has been explicitly withdrawn by the applicant.</p> <p>2. As per the national legislation of the Republic of Bulgaria the procedure for international protection shall be terminated (discontinued) when there is reasonable cause to consider that an applicant has implicitly withdrawn or abandoned his or her application. The Republic of Bulgaria has not transposed the possibility to reject the application in such cases.</p> <p>3. The Republic of Bulgaria has not transposed Article 46(11) of Directive 2013/32/EU.”</p>
	EMN NCP Croatia	Yes	<p>1. Yes. In the Republic of Croatia, the procedure for international protection shall be terminated (discontinued) if the applicant explicitly withdraws his or her application (Act on International and temporary</p>


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			<p>protection, Article 39.,1.)</p> <p>2. According to paragraph 2 of the Article39, (2) It shall be deemed that the applicant has withdrawn the application if:1. he/she does not appear at the Reception Centre or avoids lodging an application and fails to justify this within 2 days of the time limit set for appearing at the Reception Centre, or for lodging an application;2. he/she does not respond to the summons to an interview, and does not justify his/her absence within 2 days of the scheduled interview;3. leaves his/her place of residence for longer than 2 days without the consent of the Reception Centre; or4. he/she withdraws the application. In the case the applicant does not appear at the Reception Centre or avoids lodging an application and fails to justify this within 2 days of the time limit set for appearing at the Reception Centre, or for lodging an application; the Ministry shall institute proceedings ex officio and render a decision on discontinuation. The Ministry may, in the case the applicant does not respond to the summons to an interview, and does not justify his/her absence within 2 days of the scheduled interview; or in case he/she leaves his/her place of residence for longer than 2 days without the consent of the Reception Centre; reject the applicant's application if, on the basis of the facts and circumstances established, it may be assessed that they do not meet the conditions for approval of international protection.</p> <p>3. Republic of Croatia has not transposed Article 46(11) of Directive 2013/32/EU but rules about withdrawal or abandonment of legal remedy are provided in national law, in Administrative disputes act.</p>
	EMN NCP Cyprus	Yes	<p>1. The Cypriot National Refugee Law provides the possibility of an explicit withdrawal, according to the article 16C: 1.The applicant shall be entitled to withdraw his application at any stage prior to the decision being taken by the Head of the Asylum Service.2.If the applicant explicitly withdraws from his application in accordance with subsection (1), the Head of the Asylum Service decides to reject the application on the ground that the applicant explicitly withdraws as above.</p> <p>2. According to the Cypriot National Refugee Law:16B.- (1) Where there is reasonable cause to believe that the applicant, implicitly, has withdrawn his application, the Head of the Asylum Service could: I.Close the</p>


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			<p>applicant's file and interrupt the procedure for examining the application by decision taken and registered in the file or II. Decide to reject the application if considers it to be unfounded, after examining it adequately its substance (core).</p> <p>3. The Head of the Asylum may assume that the applicant, implicitly, has withdrawn his application, in particular when he ascertains that the applicant,(a) did not respond to a request from the Asylum Service to provide information necessary to his request or did not attend the personal interview unless the applicant proves within a reasonable time that this is due to circumstances beyond his control; or(b) escaped or departed without permission from the place where he was living or was in custody without contacting the Asylum Service within a reasonable time, or failed to comply within a reasonable time with the reporting obligation or other communication obligations, unless the applicant demonstrates that this took place due to circumstances beyond his control.</p>
	EMN NCP Czech Republic	Yes	<p>1. Yes, explicit withdrawal of the application is possible under national legislation. In such a case it is issued the decision to discontinue (to stop) the proceeding concerning international protection application (Section 25 of Act No. 325/1999 Coll., on Asylum).</p> <p>2. As implicit withdrawn of application are deemed these three cases:- the applicant for international protection has not, without any serious reason, appeared to provide information on the submitted application for international protection or for interview or does not provide the information necessary to ascertain the state of the case for which there is no reasonable doubt,- the applicant for international protection has entered the territory of another country during the proceedings without any serious reason or has tried to enter the territory of another state, - it is not possible to determine the place of residence of the applicant for international protection and no decision can be made on the basis of the ascertained state of affairs. Also, In this case it is issued the decision to discontinue (to stop) the proceeding concerning international protection application (Section 25 of Act No. 325/1999 Coll., on Asylum).</p> <p>3. Yes. The proceeding concerning remedy is discontinued (stopped) by the court if it is assumed that</p>



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			implicit withdrawn took place (Section 33 of Act No. 325/1999 Coll., on Asylum), i.e. in cases below:- if it is not possible to determine the place of residence of the applicant for international protection (of plaintiff),- if the applicant for international protection during the proceedings entered the territory of another state,- if the applicant for international protection (plaintiff) does not stay in the place of the reported residence and has not notified the court of its change.
	EMN NCP Estonia	Yes	<p>1. Yes, according to the Act on Granting International Protection to Aliens the applicant has the right to withdraw the application for international protection throughout the proceedings for the granting of international protection. In such case the proceedings for the granting of international protection is terminated. A decision is made to discontinue the examination of the application.</p> <p>2. The Act on Granting International Protection to Aliens regulates that The Police and Border Guard Board presumes that the application has been withdrawn or waived if the applicant: 1) has not fulfilled the obligation to provide oral and written information and explanations and has not submitted all information and documents in his or her possession or other relevant evidence unless he or she proves within a reasonable period of time that he or she was unable to fulfil the specified obligations with good reason;2) applicant is in hiding or has left his or her residence, the detention centre or accommodation centre for applicants for international protection without permission, without having informed the Police and Border Guard Board, the detention centre or the accommodation centre for applicants for international protection thereof within a reasonable period of time;3) has not appeared at the Police and Border Guard Board for performance of a procedural act within one month without good reason. If an applicant has withdrawn the application indirectly or has waived it, the Police and Border Guard Board shall make a decision on the rejection of the application in accordance with Article 4 of Directive 2011/95/EU of the European Parliament and of the Council. The applicant has the right to request a new review of the application for international protection, except if the application for international protection was reviewed pursuant to the proceedings provided for subsequent applications. In case the applicant exercises the right to request a new review, the Police and Border Guard Board shall cancel the decision of rejection and continue review of the application, renewing the previous proceedings concerning international protection. If the application to review has been</p>

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			<p>submitted more than nine months after the decision on the rejection of the application has been made, the new application may be treated as the subsequent application.</p> <p>3. There is no specific regulation in the Act on Granting International Protection to Aliens, but the Code of Administrative Court Procedure regulates that the court may dismiss the action if: 1) the applicant has applied for a court session to be held in the matter and neither the applicant nor his or her representative attends the court session or 2) the court has ordered the applicant to attend the court session in person and the applicant does not so attend.</p>
	EMN NCP Finland	Yes	<p>1. Section 95 b of the Finnish Aliens Act (30.4.2004/301) provides for the possibility of explicit withdrawal of an application. In such a case, the Immigration Service makes a decision to discontinue the examination (decision on expiry of the application). The immigration service also makes the decision on refusal of entry/deportation and entry ban if there is basis for such a decision in the aliens act.</p> <p>2. According to section 95 c of the Aliens act, the immigration service makes a decision to discontinue (decision on expiry of the application) when: the applicant has died, the applicant has left the country, or the applicant has likely left the country. The applicant is seen to have likely left the country if his or her whereabouts have been unknown for the past two months or if he or she has not been reached for two months through the contact details provided by him or her.</p> <p>3. Section 198 a of the Aliens Act states that the administrative court or the supreme administrative court may make a decision to discontinue (decision on expiry of the application) if the applicant has left the country on his or her own initiative (ie. the applicant has not been removed by the officials) or if the applicant is seen to have likely left the country as defined in section 95 c (see question 2).</p>
	EMN NCP France	Yes	<p>1. Explicit withdrawn: The explicit withdrawn is organised by the articles L.723-12 and R.723-13 of the CESEDA. The applicant can explicitly withdraw his/her application by letter sent to the French Office for the</p>


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			<p>protection of refugees and stateless persons (OFPRA), or during his/her eligibility interview. In this last case, the caseworker will stop the eligibility interview and write down the applicant's motivations concerning the withdrawal. OFPRA will send its decision by recorded letter or directly to the applicant during the interview if he/she signs it. On a case by case basis, OFPRA will take a decision on the merits of the application, or a discontinuation decision.</p> <p>Reopening In the event that the consideration of the application is closed, the asylum seeker can ask for it to be reopened within the 9 months following the decision to discontinue the examination. For this, the asylum seeker must go to the prefecture to register again. The asylum seeker then has 8 days from this registration in the prefecture to submit the reopening request to OFPRA, who will therefore reopen the file and reconsider the asylum application from the stage where it was interrupted. If the applicant does not reopen his/her application in the 9 months period as explain above, it will be considered as a subsequent application.</p> <p>2. Implicit withdrawn. The implicitly withdrawn is organised by the article L.723-13 of the CESEDA which planned several cases for discontinuation. OFPRA shall take a discontinuation decision if the applicant has not lodged his/her application. Besides, on a case by case basis, OFPRA may take a discontinuation decision, rather than a decision on the merits of the application, in the following cases:• the applicant has not submitted his/her application within the deadline of 21 days; • the applicant was not present for his/her interview and has not provided any valid justification;• the applicant is deliberately refusing to provide essential information for the examination of the application;•the applicant cannot be contacted or has changed his/her address and has not informed OFPRA in due time. OFPRA will send its decision by recorded letter to the applicant. Reopening: In the event that the consideration of the application is closed, the asylum seeker can ask for it to be reopened within the 9 months following the decision to discontinue the examination. For this, the asylum seeker must go to the prefecture to register again. The asylum seeker then has 8 days from this registration in the prefecture to submit the reopening request to OFPRA, who will therefore reopen the file and reconsider the asylum application from the stage where it was interrupted. If the applicant does not reopen his/her application in the 9 months period as explain before, it will be considered as a subsequent application.</p> <p>3. Remedy's withdrawn: As for all administrative jurisdictions in France, the remedy's withdrawal is supposed to be explicit and is planned in article R.631-1 of the Code of administrative justice. The CNDA</p>
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			can reject the explicit withdrawal of an application by a one-judge ruling according to articles L.733-2 and R.733-4 of the CESEDA.
	EMN NCP Germany	Yes	<p>1. The German legislator transposed the first alternative of article 27(1) of the Directive 2013/32/EU. When an applicant explicitly withdraws his or her application for international protection, the Federal Office for Migration and Refugees shall indicate in its decision that the asylum procedure has been discontinued and whether a deportation ban exists pursuant to section 60 (5) or (7) of the Residence Act (section 32 phrase 1 of the Asylum Act).</p> <p>2. Under section 33 of the Asylum Act an asylum application shall be deemed to have been withdrawn if the foreigner fails to pursue it. It shall be presumed that the foreigner has failed to pursue the procedure, if he 1. fails to comply with a request to present information which is important for the application as described in section 15 or with a request to attend a hearing pursuant to Section 25;2. has gone underground;3. has violated the geographic restriction of his permission to remain pending the asylum decision defined in section 56 to which he is subject on account of the obligation to live in a reception centre in line with section 30a (3).The presumption described in the first sentence shall not apply if the foreigner proves without delay that the failure referred to in the first sentence, no. 1, or the action referred to in the first sentence, nos. 2 and 3, were due to circumstances beyond his control. In this case, the procedure shall be continued. The asylum application shall furthermore be deemed to have been withdrawn if the foreigner has travelled to his country of origin during the asylum procedure. As a result, the Federal Office for Migration and Refugees shall discontinue the asylum procedure.</p> <p>3. In German legislation article 46(11) of the Directive 2013/32/EU is transposed by section 81 of the Asylum Act (Abandonment of the proceedings): "In legal proceedings pursuant to this Act, the action shall be deemed to have been withdrawn if the plaintiff, despite a request by the court, has failed for a period exceeding one month to pursue the proceedings. The plaintiff shall bear the costs of the proceedings. The request by the court shall inform the plaintiff of the consequences resulting from the first and second sentences above."</p>


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	EMN NCP Hungary	Yes	<p>1. The Hungarian legislation provides for the possibility of explicit withdrawal. In these cases, the determining authority shall discontinue the examination.</p> <p>2. In such cases mentioned above, the Hungarian legislation provides the possibility to discontinue the examination, or to decide upon the available information. The practice in such cases, that the determining authority discontinues the examination, because of the lack of the information. This is highly applicable when the applicant abandons his or her application.</p> <p>3. This is regulated under the law on judicial procedure, and it is a general rule. In case the applicant doesn't appear in court for the first time and does not explain his or her absence the court may decide to reject the appeal, or may decide on the merit of the appeal as well.</p>
	EMN NCP Ireland	No	<p>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</p>
	EMN NCP Italy	Yes	<p>1. Yes.</p> <p>2. Article 23-bis of law 25/2008 regulates cases in which the applicant has absconded or left without authorization the place where he was hosted or detained and he has not been interviewed. In these cases, the competent administrative authority suspends the examination of the asylum claim and the applicant may request - only once and within 12 months - the reopening of the procedure. After the 12 months deadline had expired, the Commissione Territoriale declares the extinction of the procedure and, if the foreigner may apply for asylum again, his claim has to be preliminarily assessed, according to art. 29 comma 1-bis of law 25/2008. In particular, the authority has to assess the reasons of his new asylum claim and the reasons of his past unavailability. Generally, if the applicant - regularly called for the interview - does not appear without justified reasons, the administrative authority decides on the basis of the available documentation. The authority may set a new date for the interview, also if the applicant demonstrates that he had no prior</p>


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			<p>knowledge of the convocation (article 12 law 25/2008).If, after an adequate examination, the application is considered unfounded, the Commissione Territoriale rejects it (see article 8-ter of law 25/2008) even if the applicant is absent, unless justified cases (for example for medical certified reasons).Cases in which the authority decides without an examination (in line with art. 4 of Directive 2011/95/EU) are only those of inadmissibility, such as subsequent application.</p> <p>3. No. It may be useful to underline that, in case of appeal against the decision taken at first instance by the administrative authority, the trial in front of judge shall not be dropped because of the absence of the applicant.</p>
	EMN NCP Latvia	Yes	<p>1. Yes, the national legislation provides for the possibility of explicit withdrawal of the application, as stipulated in Article 27(1) of Directive 2013/32/EU. If a request from the asylum seeker to discontinue examination of the application has been received the Office of Citizenship and Migration (hereinafter - the Office) takes a decision to discontinue examination of the application. The national legislation does not provide for the possibility to reject an application that has been explicitly withdrawn by the applicant.</p> <p>2. If the asylum seeker has indirectly revoked (withdrawn) his/her application or refused from it, the Office takes a decision to discontinue examination of the application. The reasons to assume that the application has been indirectly revoked (withdrawn) are following: he/she has not cooperated with the institutions involved in the asylum procedure, including participation in the interview, not provided information regarding the address of the place of residence and its change or has left the accommodation center without an advance notice. A decision to discontinue examination of the application shall be taken not later than within three months from the day when any of the circumstances in relation to the reasons for discontinuation became known, unless the asylum seeker has proved in a timely manner that it has happened due to circumstances independent from him/her.</p> <p>3. The Republic of Latvia has transposed Article 46 (11) of Directive 2013/32/EU and an asylum seeker has a right to appeal the decision to discontinue examination of the application taken by the Office. The asylum</p>



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			<p>seeker has a right within nine months from the day when the decision to discontinue examination of the application has entered into effect, to request that examination of his or her application is resumed by the Office. This time period shall not apply to cases with regard to application of Regulation 604/2013. If the request to resume the examination is rejected by the Office an asylum seeker has a right to appeal it before the Administrative District Court (hereinafter – the Court) within 15 working days from the day when the decision has entered in effect. The Court shall take a decision either to discontinue examination of the application or on rejection to resume examination within 5 working days from the date of taking the decision to accept the application and to initiate the matter.</p>
	EMN NCP Lithuania	Yes	<p>1. In Lithuania, application for asylum is withdrawn if the asylum seeker declares his willingness to discontinue the asylum application in writing. In that case, a decision to withdraw the examination of application without making a decision to refuse or grant the asylum (refugee status or subsidiary protection) is taken. The decision to withdraw asylum application is attached to the alien's case.</p> <p>2. If the asylum seeker moved out from the place of residence, in which he/she is placed during the examination of the asylum application or does not return to that accommodation for more than 72 hours, also if it is not possible to contact the asylum seeker residing in a place of his/her choice, within 72 hours, a decision to suspend the examination of an asylum application is taken. Examination of an asylum application is renewed after receiving the request by an asylum seeker if the asylum seeker has returned to the institution in which he/she was accommodated or it became possible to contact him/her and if 9 months have not passed since the decision to suspend the asylum application. The examination can be renewed once. If the asylum seeker has not returned to the institution in which he/she was accommodated or it's not been possible to contact him/her and 9 months have passed since the decision to suspend the asylum application, a decision to discontinue the examination of an asylum application without a decision to refuse or grant the asylum (refugee status or subsidiary protection) is taken.</p> <p>3. An alien who lodged the application and adult member of his/her family may appeal against decisions taken during the examination of an asylum application. The asylum seekers and their legal rights in the</p>


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			Court(s) are represented by State legal aid lawyers or by their own hired lawyers, however, lawyers cannot lodge an appeal to court without the consent of the asylum seeker. Without the participation of an asylum seeker in the judicial appeal process, the court has the discretion to decide whether to examine the complaint of a person who is not present at the trial.
	EMN NCP Luxembourg	Yes	<p>1. Yes. Article 23 (1) of the amended law of 18 December 2015 on international protection and temporary protection (Asylum Law) foresees the possibility of an explicit withdrawal of an international protection application. In the case of an explicit withdrawal of the application the Minister closes the examination of the application without taking any decision and indicates this situation in the file of the applicant.</p> <p>2. Article 23 (2) of the Asylum law establishes that when there is reasonable cause to consider that the applicant has implicitly withdrawn or abandoned his/her application the Minister either closes the file without taking a decision but ensuring a note is entered in the applicant's file, or rejects the application if he considers the application to be unfounded on the basis of a proper examination of the substance of the file.</p> <p>3. No. Luxembourg has not transposed article 46 (11) of the Directive into its national legislation, so if the applicant has filed an appeal it is irrelevant if s/he has implicitly withdrawn or abandoned the appeal because a final decision will be taken by the First instance Administrative Court or by the Administrative Court. The only possibility foreseen by the law is the explicit withdrawal of the appeal in accordance with article 25 of the amended law of 21 June 1999 regulating the procedure before the administrative courts.</p>
	EMN NCP Netherlands	Yes	<p>1. In case of an explicit withdrawal the application for international protection is discontinued. In the Netherlands we speak however of the withdrawal of an application. However, before we withdraw the application we make sure that the applicant understands the consequences of the withdrawal of his application and we bring him in contact with a legal adviser. The legal adviser then talks to the applicant about the consequences. If the applicant still wants to withdraw the application, he or she may get a short</p>

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			<p>interview about possible reasons for not issuing a travel ban for two years. In the Netherlands it is according to our national legislation possible to issue a travel ban for two years, if the applicant withdraws the application without good reasons. When a travel ban is issued a 'return decision' according to Directive 2008/115/EU will also be given. This of course will be put in the file of the applicant.</p> <p>2. The Dutch legislation regulates cases, when there is reasonable cause to consider that an applicant has implicitly withdrawn or abandoned his or her application, within the meaning of Article 28(1) of Directive 2013/32/EU, in the following way: Article 30C.1 of the Aliens Act 2000 states that: It could be decided that an application to the granting of a temporary residence permit as meant in article 28 will no longer be considered as understood in article 28 of the Procedures Directive in case: a. the alien has failed to respond to requests to provide information essential to his or her application; b. the alien has not appeared for a personal interview and did not prove within two weeks that this is not his fault; or c. the alien has absconded or without authorisation of Our Minister has left, accountably without contacting the competent authority within two weeks. Article 30C.3 of the Aliens Act 2000 states that: The decision to no longer consider an application will be equated with a rejection for the application of the provisions under or pursuant to this Act. In such cases it is thus decided to discontinue the examination, which in the Dutch context is legally the same as rejecting the application. It could however be possible that in cases where the applicant has absconded or left but did this after the personal interview that the application is rejected on its merits. However, in most cases the application will be rejected on article 30C of the Aliens Act on the grounds that the applicant no longer takes interest in the examination of the application. Note that in cases of explicit withdrawal the application is not rejected according to article 30 of the Aliens Act but it is withdrawn. The applicant will only receive a return decision and if applicable a travel ban.</p> <p>3. No, however according to jurisprudence an appeal is not admissible when it is not clear where the applicant is residing and also when the lawyer has no longer contact with the applicant. It is however not necessary that the applicant is present during the handling of the appeal.</p>
	EMN NCP	Yes	1. Yes, Polish national legislations provide for the possibility of explicit withdrawal of the application as



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	Poland		<p>stipulated in art. 27(1) of Directive 2013/23/EU. In cases where the foreigner has implicitly withdrawn his or her application for international protection the Head of the Office for Foreigners (responsible for international protection procedures) takes decision to discontinue the examination without taking a decision. A notice is always entered in the applicant's file. If, within nine months of the date on which the decision to discontinue the proceedings for granting international protection was issued, the applicant declares in writing to the Head of the Office that s/he will further apply for having that protection granted, the decision to discontinue the proceedings shall be terminated by law following the date on which the body received the declaration. The declaration of intention to further apply for international protection shall be filed with the Head of the Office through the Chief of the Border Guard Unit or the commanding officer of the Border Guard post. The declaration of intention to further apply for international protection may not be re-filed.</p> <p>2. Based on the national legislation (the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland, Journal of Laws of 2018, item 1109, as amended) the application is considered to be implicitly withdrawn on following cases:1) when the applicant did not appear at the reception center within 2 days from the day of submitting the application, and in the application he did not indicate any other address under which he/she will stay;2) when the applicant did not appear in the reception center within 2 days from the day of release from the detention center for foreigners, in the event that the Head of the Office pursuant to art. 89c did not order him to stay in a specific place or a specific place, and the applicant did not indicate in the application another address where he would be staying3) when the applicant left the reception center and did not return to it for more than 7 days without a justified reason4) when the applicant left the place of residence or town specified in the decision of the Head of the Office releasing the foreigner from the guarded center or from detention for foreigners without the consent of the Head of the Office or fails to report at specified intervals to the body indicated in the decision5) when the applicant left the territory of the Republic of Poland6) when the applicant did not appear for the interview and did not show within 7 days from the date set for the interview that failure to comply with this obligation was caused by circumstances for which he was not responsible. In all cases indicated above the Head of the Office for Foreigners take decision to discontinue the examination without taking a decision on granting international protection.</p> <p>3. During the period allowed for submitting appeals, a party may waive the right to file the appeal before the Head of the Office for Foreigners. Upon the delivery of the statement on waiving the right to the appeal</p>
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			by the last of the parties in the proceedings to the Head of the Office for Foreigners, the decision becomes final and legally binding. If all parties waived their right to file an appeal, the decision is enforceable before the lapse of the time limit for filing appeals. Legal basis: Article 107 par. 1 point 7, Article 127a par. 1 and 2, Article 130 par. 4 of the Act of 14 June 1960 – Code of Administrative Procedure (consolidated text: Dz. U. (Polish Journal of Laws) 2016 item 23 as amended).
	EMN NCP Slovakia	Yes	<p>1. Yes, the Act on Asylum regulates the possibility to explicitly withdraw the application for asylum. Ministry of Interior discontinues the procedure (by issuing a decision) for granting asylum if the applicant has withdrawn his/her application for asylum.</p> <p>2. Act on Asylum provides an exhaustive list of reasons considered to create the so called “implicit withdrawal” of application for asylum. In these cases, Ministry of Interior also discontinues the procedure (as in the first question). These cases can be e.g. when the applicant has left the territory of the Slovak Republic; when the applicant does not fulfil his/her duty to cooperate with the ministry in line with this Act, especially when repeatedly and without any serious reasons does not attend the interview thus making it impossible to assess the application, and other.</p> <p>3. The Slovak Republic did not transpose the Art. 46 of the Directive 2013/32/EU.</p>
	EMN NCP Spain	Yes	<p>1. Yes</p> <p>2. A cross-reference is made to general administrative law provisions on implicit and explicit withdrawal (see article 27 of asylum act). In the context of asylum, a presumption exists in the following cases: the person has not responded within a 30-day period on an information request made by the authority- provided that this information is essential, the person misses an appointment or a hearing with the authority, the person does not renew the administrative authorisation as an asylum seekers. A possible</p>


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			<p>exception exists in all cases where the person can prove that this behaviour was caused by reasons beyond the applicant's control.</p> <p>3. Not explicitly under asylum law. The proceedings would be closed and no decision on the merits of the case would be taken, only a decision confirming this circumstance.</p>
	EMN NCP Sweden	Yes	<p>1. Article 27.1 of the Asylum Procedures Directive is not implemented in the Swedish legislation. According to general principles of administrative procedures in general, an applicant may always withdraw an application explicitly. In these cases, the determining authority takes a decision to discontinue the examination. If a personal interview has been held (according to Article 14.2 a) and the criteria to consider the application as unfounded are fulfilled, a decision to reject the application may be taken. A decision on return may also be taken.</p> <p>2. If there is reasonable cause to consider that an applicant has implicitly withdrawn or abandoned his or her application, the same decisions as above in question no. 1 may be taken.</p> <p>3. No, there are provisions on explicitly withdrawal of the remedy in Article 46.1, but no provisions on implicitly withdrawal.</p>
	EMN NCP United Kingdom	Yes	<p>1. The United Kingdom are not taking part in the adoption of this Directive and are not bound by it or subject to its application.</p> <p>2. N/A</p> <p>3. N/A</p>

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	<p>EMN NCP Norway</p>	<p>Yes</p>	<p>1. The Norwegian Immigration Act does not explicitly regulate the explicit withdrawal of an application. It is, however, obvious that an application might be withdrawn at any stage before the Norwegian Directorate of Immigration (the UDI) has decided on the case. We do have internal guidelines on procedures for such cases, see RS 2014-007 (Routines for cases when asylum seekers withdraw the asylum application and standard form for withdrawal; in Norwegian language only)</p> <p>2. The Norwegian Immigration Act does not explicitly regulate the implicit withdrawal of an application. The applicant does have an obligation to report on their place of residence and of any changes of address (Immigration Act section 19). If the applicant has no known address, the person might be regarded as disappeared. As a general rule, we will handle the case even if the person has disappeared, but only if it is highly probable that the person is not in need of international or subsidiary protection. Other cases will be dismissed and can be reopened if the person reappears. Dublin procedures continue even if the person disappears. See more information in RS 2014-020; in Norwegian language only).</p> <p>3. The general regulations for complaints regulate this situation. The general time limit is three weeks from the notification of the decision (see Public Administration Act section 29). The notification is generally done via the attorney of the applicant. If the appeal is lodged too late, it might be dealt with if there are circumstances as mentioned in Public Administration Act section 31: Even if the appellant has exceeded the time limit for an appeal, the appeal may be dealt with if a) the party or his agent cannot be blamed for having exceeded the time limit or for having been tardy in lodging the appeal afterwards, or b) special circumstances indicate that it would be reasonable for the appeal to be tried. When deciding whether the appeal should be tried, due regard shall also be paid to whether altering the administrative decision may be detrimental or cause inconvenience to others. An appeal may not be dealt with if it is more than one year since the administrative decision was made (see Public Administration Act section 31). We will, however, consider if there are any reasons to reverse the administrative decision in absence of an appeal (see Public Administration Act section 35), for example if the person invokes circumstances as mentioned in the Immigration Act section 28 (Residence permit for foreign nationals in need of protection).</p>
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