



AD HOC QUERY ON 2019.71 Crimes committed by International Protection holders in other EU countries

Requested by EMN NCP Italy on 16 July 2019

Responses from Austria, Belgium, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovakia, Sweden, United Kingdom (20 in Total)

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1. Background information

Due to the increasing number of reports of crimes committed in other European Countries by beneficiaries of international protection, Italy is currently exploring how to deal with it. Therefore, the National Asylum Commission would be very interested in getting insights from all Member States, in particular from Belgium, France, Germany, Greece and Spain regarding their policies and practices when there is a case involving a beneficiary of international protection convicted for crimes committed abroad.

2. Questions

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1. What is the procedure adopted by your country toward a report of a crime, committed by beneficiaries of international protection, in another EU country?
2. If, according to your national legislation, the crime committed abroad leads to revocation of international protection, do you implement the revocation procedure? If yes, how?
3. Regarding the sentence, do you need it to be converted into your national legislation?

Available choices: Yes, No, Not Applicable

4. If no, can you ground your international protection revocation's decision merely on the definitive sentence of the other EU country?
5. In order to start a revocation procedure against a beneficiary of international protection, does he/she need to be physically in your national territory?

We would very much appreciate your responses by **16 August 2019**.

3. Responses

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		Wider Dissemination ²	
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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.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."


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	<p>EMN NCP Austria</p>	<p>Yes</p>	<p>1. The European legal provisions of the Directive 2011/95/EU were implemented in Art. 7 and 9 Asylum Act 2005. Information about a criminal offence committed abroad received by the Federal Office for Immigration and Asylum is generally examined with regard to its content. If there are indications of a possible revocation of the protection status, such a procedure could be initiated under the conditions of Art. 7 Asylum Act 2005 in conjunction with Art. 73 Criminal Code or Art. 9 Asylum Act 2005 in conjunction with Art. 73 Criminal Code (see question 2). --- Source: Ministry of the Interior</p> <p>2. The reasons leading to the revocation of the international protection status are based on the reasons for exclusion. A foreigner is excluded from the status of a recognized refugee if he or she has been convicted of a particularly serious crime by a final decision of a domestic court and if this criminal conduct constitutes a danger to the community. A conviction by a foreign court, which meets the requirements of Art. 73 Criminal Code, is to be regarded as equivalent to a conviction by a domestic court. According to Art. 73 Criminal Code, unless the law explicitly refers to a conviction by a domestic court, foreign convictions are equivalent to domestic convictions, if they find the offender guilty of an offence which is also punishable by Austrian law, and have been imposed in proceedings corresponding to the principles of Art. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Federal Law Gazette No. 210/1958. --- Source: Ministry of the Interior</p> <p>3. Not Applicable See answer to question 2.---Source: Ministry of the Interior</p> <p>4. See answer to question 2. --- Source: Ministry of the Interior</p> <p>5. The initiation of a revocation procedure may also take place in the absence of the person concerned. However, the person has a right to be heard and for further procedural steps must be questioned to the</p>
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			<p>identified revocation case.</p> <p>---</p> <p>Source: Ministry of the Interior</p>
	EMN NCP Belgium	Yes	<p>1. In October 2017 a small dedicated SPOC service was created inside the Immigration Office (International Protection Follow-up Unit) with the task to initiate requests and follow-up on possible withdrawals or cessations of international protection statuses. Such a request can be based on return to the country of origin, fraud, threat to national security, or threat to public order.</p> <p>A crime (it has to be a particularly serious crime) committed in Belgium or another Member State will not automatically lead to an end of the international protection status, but it can and often will be a reason for the Immigration Office to request the Commissioner General for Refugees and Stateless Persons (CGRS) to (re)asses the need for international protection. The CGRS can also decide on its own initiative (ex officio) to reconsider the need for international protection.</p> <p>The decision to end the international protection status is issued by the CGRS. If the CGRS ends the international protection status, it will also give an opinion on possible violations of the European Convention on Human Rights in case of a forced return of the former beneficiary to the country of origin. However, the Immigration Office, and not the CGRS, is competent to take decisions on the residence right and to issue return decisions.</p> <p>2. Yes. Please see above.</p> <p>3. No.</p> <p>4. According to Belgian law, revocation of the REFUGEE status is possible if there is a sentence, if that sentence is definite, and if the sentence is because of a particularly serious crime.</p>


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			<p>According to Belgian law, revocation of the SUBSIDIARY protection status is possible if there are serious reasons for considering that a particularly serious crime was committed. So in theory a sentence isn't even necessary. But if the subsidiary protection is revoked, it is in practice often based on a (not definite) sentence for a particularly serious crime.</p> <p>5. No. The CGRS (which is an independent administration) legally has the option to ask for written arguments or to summon for an interview in case of review of the protection status. In practice, the beneficiary of international protection will always be summoned for an interview in order to enable him to present elements in favor of maintaining his protection status. Presenting those elements in writing is also possible (but happens rarely). If the beneficiary doesn't respond to the invitation (to come to the interview or to submit written arguments), it's possible to take a decision without hearing him or her.</p> <p>If the protection status is ended by the CGRS, the Immigration Office (International Protection Follow-up Unit) has to decide whether or not to end the residence right and to issue a return decision. In general the former beneficiary will be given the chance to be heard in writing (by sending a registered letter to his last known address). In principle the former beneficiary has 15 days to submit these elements, unless there are reasons to shorten or lengthen this period (with some exceptions, e.g. for state security reasons). If the former beneficiary doesn't respond, it's possible to take a decision without hearing him or her.</p> <p>We would also like to mention the EURESCRIM initiative. This is based on a bilateral cooperation between Belgium and Spain. Quite a lot of third-country nationals who are in a Belgian prison have a residence permit from another EU Member State (not only beneficiaries of international protection). The Immigration Office has developed a system in order to verify whether the residence permit could be revoked in Spain, so that a return decision could be issued and the third-country national can be returned from Belgium to his country of origin. Furthermore, an entry ban for the whole Schengen area could be imposed. The goal is to expand the Spanish-Belgian pilot EU-wide, so that convicted criminals will be systematically sent to their country of origin. In 2015 and 2016 several workshops were organised, to which a dozen Member States and associated states, as well as Frontex participated.</p>
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	<p>EMN NCP Croatia</p>	<p>Yes</p>	<p>1. There is no adopted procedure because there is no relevant number of described situations at this moment, but national legislation does regulate revocation of international protection if a crime is committed abroad.</p> <p>2. Crime committed abroad can lead to revocation of international protection in Republic of Croatia. Article 50. paragraph 1. point 1. of International and Temporary Protection Act states that International protection shall be revoked if reasons for exclusion, as referred to in Article 30. or 31. of this Act, are subsequently established.</p> <p>Article 30. paragraph 1. point 3. states that asylum shall not be granted to an applicant who meets the conditions under Article 20. of this Act if there are serious reasons for considering that he/she committed, incited or in some other way participated in committing a serious non-political crime outside the Republic of Croatia, before his/her arrival in the Republic of Croatia, also including particularly cruel acts, even if committed with an allegedly political objective.</p> <p>Also, Article 50. paragraph 1. point 3. of International and temporary protection act states that International protection shall be revoked if the person to whom international protection was granted represents a risk to the national security or public order of the Republic of Croatia, so if there are grounds to consider that person who committed a crime abroad is a risk to the national security or public order of the Republic of Croatia, that crime can also be ground for revocation based on Article 50 paragraph 1. point 3. of International and temporary protection act.</p> <p>Crime committed abroad can also be ground for revocation of subsidiary protection. Article 31. paragraph 1. point 1. states that subsidiary protection shall not be granted to an applicant who meets the conditions under Article 21 of this Act if there are serious reasons for considering that he/she has committed, incited or in some other way participated in committing a serious crime. A serious crime referred to is a crime which, pursuant to legislation of the Republic of Croatia, is punishable by a term of imprisonment of five years or more.</p> <p>3. No.</p>
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			<p>4. Yes, if it is established that crime committed is a serious nonpolitical crime as described in Article 30. paragraph 1. point 3. of International and temporary protection act.</p> <p>5. No, but he would still be summoned, at his last known place of residence in Croatia, to make an oral statement about circumstances of revocation, on the record.</p>
	EMN NCP Cyprus	Yes	<p>1. According to national legislation, the refugee status shall be revoked as soon as the Head of the Asylum Service considers that the person concerned constitutes a danger to the Cypriot society, because he was ultimately convicted of committing a particularly serious crime, irrelevant where the crime was committed.</p> <p>2. The revocation procedure in this case does not differ from any revocation procedure.</p> <p>3. Not Applicable</p> <p>4. Yes, as long as the Head of the Asylum Service considers that the person concerned constitutes a danger to the Cypriot society, because he was ultimately convicted of committing a particularly serious crime</p> <p>5. There never was such a case in Cyprus. Hypothetically, there is no obstacle to start a revocation procedure against a beneficiary of international protection, while he/she is not physically present in Cyprus</p>
	EMN NCP Czech Republic	Yes	<p>1. There is no systematic reporting procedure adopted. The competent asylum authorities of the Czech Republic are informed about a crime committed by the beneficiary of the international protection on the ad hoc basis.</p>


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			<p>2. The national legislation provides for the grounds for revocation of the recognised refugee status as well as the status of the beneficiary of the subsidiary protection. According to national legislation only committing of the serious crime may lead to revocation of the subsidiary protection status (please see Article 17 par. 1 in connection with Article 19 par. 3 of the Qualification Directive 2011/95/EC). Our national legislation does not provide for the distinction where (i.e. in which state) the serious crime may be committed.</p> <p>The recognised refugee status also may be revoked based on the ground of the committing of the particularly serious crime and there is a danger to the society of the Czech Republic.</p> <p>The general administrative procedure according to Administrative procedure Act is applicable in the case of revocation procedure.</p> <p>3. No.</p> <p>4. No, it is also necessary to justify the danger to the society in the case of revocation of the recognised refugee status.</p> <p>5. In theory or according to applicable law, it is not necessary, but it happens usually in practice due to the other obligations in relation to the administrative procedure such as the obligation to interview the person in question.</p>
	EMN NCP Estonia	Yes	<p>1. Currently there is no special procedure toward a report of a crime, committed by beneficiaries of international protection, in another EU country.</p> <p>2. There are no such provisions in the Estonian legislation (Act on Granting International Protection to Aliens). Nonetheless, if the information on the committed criminal offences and/or convictions in another Member State is known/found, it would be taken into account during the assessment of the person's threat to the public security, which could be ground for withdrawing international protection. The Police and Border Guard</p>



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			<p>Board shall notify the TCN of the initiation of proceedings for revocation of his or her refugee status or subsidiary protection status and of the reasons for initiating thereof and shall grant the TCN an opportunity to submit objections.</p> <p>3. Not Applicable.</p> <p>4. N/A.</p> <p>5. No, the person does not need to be physically in the territory of Estonia.</p>
	EMN NCP Finland	Yes	<p>1. Finland has no specific or differing procedure for these cases. The questions are not directly applicable to Finnish legislation.</p> <p>2. The revocation of the international protection status can only be performed based on the grounds described in the Finnish legislation. A crime committed in another Member State does not constitute such a ground for revocation per se, although the knowledge of a crime committed in another Member State allows to investigate if other possible grounds for revocation exist. If there are grounds, the person can be expelled for security reasons.</p> <p>3. Not Applicable.</p> <p>4. No.</p> <p>5. The person does not need to be physically present in order to start the procedure. Although if the person cannot be heard, it can in practice limit the possibility to carry out the process.</p>



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	EMN NCP France	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 Germany	Yes	<p>1. The Federal Office for Migration and Refugees reports any crimes it becomes aware of – whether they were committed in Germany or any other country – to the relevant investigative police agency. Currently crimes involving illegal entry into the Schengen Area and misuse of visas are reported to the Federal Police, crimes involving terrorism, extremism, war crimes and espionage are reported to the Federal Criminal Police Office. All other crimes are reported to the Criminal Police Office of the German State in which the foreigner currently resides. Additionally, cases may be reported to federal intelligence agencies, if the relevant laws allow for it.</p> <p>German law enforcement agencies are required to prosecute any crime they become aware of, Sec. 152 German Code of Criminal Procedure (https://www.gesetze-im-internet.de/englisch_stpo/englisch_stpo.html#p1230). In many instances the German Criminal Code is applicable to crimes committed outside of Germany, even without the involvement of German citizens, Sec. 3-7 German Criminal Code (https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p0017). If German criminal law is not applicable, law enforcement agencies cooperate to the fullest extent possible with other countries to prosecute a crime. The most important law in this regard is the Act on International Cooperation in Criminal Matters (https://www.gesetze-im-internet.de/englisch_irk/index.html) which regulates extraditions, transit, mutual legal assistance between German law enforcement agencies and other countries.</p> <p>2. A revocation procedure will be launched when there is a reference that the beneficiary of international protection has committed a crime that is relevant in the context of an exclusion clause. In this regard it is irrelevant whether the crime has been committed in Germany or in another (EU) country.</p> <p>3. No. There is no formal conversion into national legislation. But the foreign sentence will be scrutinized whether it can be taken into consideration as an exclusion clause under national legislation. In this context the elements of the crime itself, the reasons for the judgment as well as the level of the penalty must be</p>


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			<p>comparable to national standards. In this regard the main features of national legal conception, particularly the rule of law principle must be re-spected.</p> <p>4. See comment to question 3.</p> <p>5. No.</p>
	EMN NCP Hungary	Yes	<p>1. Upon the notification of a crime, the Hungarian authorities decide on the procedure to be applied with regard to the certain characteristics of the case. If the perpetrator is a beneficiary of international protection who received his/her status in Hungary, the asylum authority is also notified in order to verify the perpetrator's status.</p> <p>2. Yes, a revocation procedure is getting started by the asylum authority where the committed crime can be a basis for exclusion.</p> <p>3. Yes</p> <p>4. N/A.</p> <p>5. No.</p>
	EMN NCP Italy	Yes	<p>1. Currently, there is not a standard procedure adopted, because so far we have not received a relevant number of reports of crimes committed abroad.</p> <p>2. Not directly, we need the sentence of the other EU country to be recognized by our judicial authorities in</p>



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			<p>order to proceed.</p> <p>3. Yes.</p> <p>4. No.</p> <p>5. No, in order to start a revocation procedure against a beneficiary of international protection, he/she doesn't need to be physically in Italy.</p>
	EMN NCP Latvia	Yes	<p>1. There is no special procedure toward a report of a crime, committed by beneficiaries of international protection, in another EU country. However, the Asylum Law in accordance with requirements of the Directive 2013/32/EU defines the grounds and procedure for revocation of international protection status. As required by the Asylum Law if the Office of Citizenship and Migration Affairs (hereinafter – the Office, the 1st instance in asylum procedure) has become aware of any of the circumstances which could lead to revocation of international protection, for example, subsidiary form of protection shall be withdrawn for a person, if the person has committed a crime which, in accordance with the law of the Republic of Latvia, is recognised as a serious or an especially serious crime, the Office shall, within a month, request that the person who has been granted subsidiary form of protection submits written information regarding why he or she should not be withdrawn from international protection status or shall ensure such person with the possibility of providing the abovementioned information in an interview. The decision on revocation of international protection shall be taken not later than within two months from the day when the grounds of revocation has become aware. The decision of the Office can be appealed to the District Administrative Court. The District Administrative Court shall take a decision within a month from the day of receipt of the application and shall notify it to the person. The decision of the District Administrative Court is final and indisputable.</p> <p>2. No practice until now. Please see the answer above.</p> <p>3. No</p>

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			<p>4. Yes, the revocation's decision could be based on the definitive sentence of the other EU country if such information have been received from the competent authorities.</p> <p>5. No, in order to start a revocation procedure, it is not necessarily for the person to be in the country physically.</p>
	EMN NCP Lithuania	Yes	<p>1. There are no provisions regarding this in the Lithuanian legislation on asylum.</p> <p>2. There are no such provisions in the Lithuanian legislation on asylum. However, if the information on the committed criminal offences and/or convictions in another Member State is known/found, it would be taken into account during the assessment of the person's threat to the public security, and the threat to public security could be ground for withdrawing asylum/international protection.</p> <p>3. Not Applicable.</p> <p>4. N/A.</p> <p>5. No, there is no such requirement.</p>
	EMN NCP Luxembourg	Yes	<p>1. In principle, the simple report of a crime (notitia criminis) committed in another MS does not amount to a sufficient reason to revoke the international protection status (refugee or subsidiary protection status) of an individual. The presumption of innocence applies in these cases so if there is no res judicata there cannot be a revocation procedure. In any case, Luxembourg requests official information and verifies the nature of protection as well as the nature of the crime committed.</p>



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			<p>2. Yes. First of all, it is important to mention that Luxembourg clearly differentiates between the refugee status and the subsidiary protection. Therefore, different articles of the amended law of 18 December 2015 on international protection and temporary protection (Asylum Law) apply. According to article 47 (4), the Minister may revoke the status granted to a refugee:</p> <ul style="list-style-type: none"> • where there are reasonable grounds to consider it to be a threat to the security of the country; • when, having been sentenced in last resort for a particularly serious crime, he poses a threat for the society of the country. <p>Even if the crime was committed abroad, the nature of the crime could mean that the refugee poses a threat to the security of the country and the society of the country.</p> <p>Furthermore, article 47 (5) of the aforementioned law states that in the situations described in subsection (4), the Minister may decide not to grant refugee status, when such a decision has not yet been taken. Concerning subsidiary protection article 52 (3) a) in accordance with article 50 (1) b) of the Asylum Law foresees the possibility of revoking the subsidiary protection status if there are serious motives that the beneficiary of subsidiary protection has committed a serious crime.</p> <p>3. No.</p> <p>4. Yes, Luxembourg can ground its international protection revocation's decision merely on the definitive sentence of the other EU country. Article 47 (4) of the Asylum Law states that the Minister in charge of Asylum can revoke the international protection status if the individual is condemned (res judicata) for a crime that is particularly serious so that the individual constitutes a threat to Luxembourg society. Concerning subsidiary protection please see answer to question 2.</p> <p>5. No, the beneficiary's presence on the national territory is not a requirement to start a revocation procedure. Both the notification of the decision by public display, as well as the notification in a prison abroad are possible.</p>
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	<p>EMN NCP Malta</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. This will kick start an internal review of the application to determine whether the crime committed by the beneficiary in another EU country constitutes a serious crime that could lead to the withdrawal of international protection. If it is determined that the crime is serious in nature, the Office of the Refugee Commissioner will initiate a withdrawal procedure. 2. The beneficiary is informed in writing that his protection status is being reconsidered on the basis that he/she committed a serious crime in another EU country. The beneficiary is subsequently given the opportunity to present, in a personal interview, reasons why protection should not be withdrawn. 3. No. 4. Yes since national law does not specify where the crime needs to have been committed in order to initiate a withdrawal procedure. 5. National legislation does not state where the beneficiary needs to be present in order to initiate a withdrawal procedure. However, the applicant needs to be given the opportunity to present, in a personal interview, reasons why protection should not be withdrawn.
	<p>EMN NCP Netherlands</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. If the person has been granted international protection in the Netherlands and he has been (irrevocably) convicted of a crime in another member state we will ask for the decision of the courts to assess whether or not the crime meets our standards for revoking the granted international protection. This policy is written down in our alien circular (C 2/7.10 Vc) and alien decree (3.86 Vb). The sentence does not have to be converted into our national legislation, but we will assess whether the crime would grant a similar sentence in the Netherlands. Furthermore, we will assess whether the person has committed a (very) serious crime


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			<p>according to the 2011 Qualifications Directive. This is further specified in national policy (C2/7.10 Vc).</p> <p>2. See answer to question 1.</p> <p>3. No. The sentence does not have to be converted into our national legislation, but we will assess whether the crime would grant a similar sentence in the Netherlands. Furthermore, we will assess whether the person has committed a (very) serious crime according to the 2011 Qualifications Directive. This is further specified in national policy (C2/7.10 Vc).</p> <p>4. The sentence does not have to be converted into our national legislation, but we will assess whether the crime would grant a similar sentence in the Netherlands. Furthermore, we will assess whether the person has committed a (very) serious crime according to the 2011 Qualifications Directive. This is further specified in national policy (C2/7.10 Vc).</p> <p>5. No, the person can still be in (detention) the other member state, he does not need to be in the Netherlands for us to start the revocation procedure.</p>
	EMN NCP Poland	Yes	<p>1. The exchange of information takes place on the basis of consultations with other Member States. There is not any access to the data register of third-country nationals convicted of a crime within the European Union.</p> <p>2. According to Polish asylum law a foreigner shall be deprived of subsidiary protection if he or she committed a crime on the territory of the Republic of Poland or committed an act outside this territory which is a crime under Polish law. As a result of this, the information about a crime committed abroad should be a reason to start ex officio a proceeding to withdraw subsidiary protection.</p> <p>According to the judgement of the Court of Justice (C-391/16, C-77/17, C-78/17) there is not possibility of refusing or withdrawing refugee status solely on the basis of a threat to national security. In conclusion when a foreigner committed a crime on the territory of the Republic of Poland or committed an</p>



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			<p>act outside this territory which is a crime under Polish law, there is possibility to withdraw a subsidiary protection but not refugee status.</p> <p>3. N/A.</p> <p>4. N/A.</p> <p>5. Polish asylum law does not provide such an obligation. The procedure against a beneficiary of international protection can be conducted even when the foreigner is not present on the Polish territory. In relation to a foreigner who has international protection, the Head of the Office for Foreigners initiates proceedings on depriving a foreigner of refugee status or subsidiary protection ex officio or on the request of Chief of the Border Guard Unit, Chief of the Voivodship Police, Head of the Internal Security Agency or the Minister of Justice.</p>
	EMN NCP Slovakia	Yes	<p>1. Slovak legislation does not provide for a report of a crime committed by refugee (granted asylum) in another EU Member State to be a ground for withdrawing asylum granted due to persecution. Act on asylum, however, specifies a reason for revoking the subsidiary protection in case there is a reasonable suspicion that foreigner granted subsidiary protection committed a particularly serious crime. This regulation is not geographically limited, thus it is possible to apply it also in cases of committing a crime in another MS.</p> <p>2. In such cases a standard procedure for subsidiary protection revocation as in any other case would be applied. However, Slovak Republic has not had such case yet.</p> <p>3. No.</p> <p>4. Yes.</p>

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			5. No, such person does not have to be physically present in the territory of the Slovak Republic for to start a revocation procedure of the subsidiary protection.
	EMN NCP Sweden	Yes	<p>1. It is very rare that the Swedish Migration Agency (SMA) receives information of crimes committed in another EU-country. Even if information about such a crime comes to the Swedish Police or Prosecutors office it is seldom shared with the SMA. The SMA and the Police work together regarding organized crime in Sweden and very serious criminal activities (such as terrorist acts/war-criminals and other persons that jeopardizes the security of the state).</p> <p>2. It is only possible to revoke a refugee-status if the person has committed war-crimes, crimes against humanity, genocide or terrorist acts. Other serious crimes can only lead to revocation if they took place before the person sought asylum in Sweden. It is possible to revoke status of subsidiary protection also for serious crimes committed after the person sought asylum and for crimes that suggests that the person is a danger to the security of the state. Should the SMA receive such information the case is handled by a case officer that initiates the revocation procedure.</p> <p>3. No.</p> <p>4. Yes.</p> <p>5. No – but the revocation process requires that the person can be notified that the process has been initiated and that the person is notified of the decision and have had the possibility to appeal to a court.</p>
	EMN NCP	Yes	1. N/A.

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	United Kingdom		2. N/A. 3. No 4. N/A. 5. No.
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