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RÉPUBLIQUE FRANÇAISE  
MINISTÈRE DE L'INTÉRIEUR  
DIRECTION GÉNÉRALE  
DES ÉTRANGERS EN FRANCE

## AD-HOC QUERY SUMMARY

### French Contact Point of the

## Ad-hoc query on ill third-country nationals invoking their state of health (launched by France) – June 2018

As from 1 January 2017, France modified its legislative process for the issuance of residence permits for ill TCNs invoking their state of health to reside in France. France looked forward to receiving information from other Member States on their applicable regulation regarding removal orders for TCNs invoking their state of health in order to avoid a removal order, and the cooperation between the different national authorities which have to process such a request.

7 Member States (BE, BG, HR, CY, LU, NL, UK) have implemented a dedicated process allowing a TCN to invoke his/her health status when s/he is subject to a removal order. However, in the other Member States, health status is also taken into account by the administrative authorities in the removal process.

Among responding Member States, only **Bulgaria** has a particular process to qualify this request as a delaying tactic and to refuse it without examining its merits, when it appears that the invocation of the health status is for the sole purpose of defeating the removal order. In the other Member States, though, the merits of medical issues are addressed by the competent authority.

The authority competent for the decision on the merits of the application differs from a Member State to another: medical doctors of the Immigration Office and caseworkers representatives of the Ministry of Interior (BE), Medical institute of the Ministry of Interior (BG), French Office for Immigration and Integration (FR), Ministry of Health (EL), the Minister in charge of Immigration (LU), and immigration removal centres' healthcare provider (UK).

In case of rejection of the medical grounds, a new decision is taken by the administrative authorities in **4 Member States**: the Prefect (FR), the Minister in charge of Immigration (LU),

Swedish Migration Agency (SE) and immigration removal centres' healthcare provider (UK).

In the other Member States (AT, BE, BG, DE, HR, CY, CZ, EL, NL), there is no further decision taken by the administrative authority.

TCNs can appeal a removal order in most responding Member States (AT, BE, BG, HR, CZ, DE, HU, FR, IT, LU, NL, PL, SE, UK). In most of them, the Court rules on the basis of medical documents and decides on the merits of the invocation of the health status in order to avoid or to postpone the removal process.

Defending the medical decision in case of judicial appeal is the responsibility of the competent authority responsible for migration and asylum in 13 Member States (AT, BE, BG, HR, CZ, DE, HU, FR, LU, NL, PL, SE, UK), and the doctor who conducted the assessment on TCN's health status in Italy.

In 6 Member States (BE, BG, HR, HU, LU, SE), the Court rules on the basis of information on the applicant's pathology sent by the medical authority to whom the case was presented. In **Austria**, such information is only shared with the Federal Office for Immigration and Asylum. The court has to revise the decision of the Federal Office for Immigration and Asylum and therefore only receives the information in the respective file (no additional information on the applicant's pathology).

Also, the issue of access to health care in the country of origin is provided to the administration by the medical authority which examined the applicant's file in 4 Member States (BE, BG, HR, LU), by the Federal Office for Immigration and Asylum in Austria, and by the refugee authority in Hungary.

*List of 17 responding (Member) States : Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, France, Germany, Greece, Hungary, Italy, Luxembourg, Netherlands, Poland, Slovak Republic, Sweden, United-Kingdom.*