



Beneficiaries of International Protection Travelling to their Country of Origin

Contribution of the Slovak Republic

EMN Study – Questionnaire Form

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EMN activities are focused on topics related to migration of third-country nationals. The activities are implemented through national contact points in all EU Member States and Norway in coordination with the European Commission (Directorate-General for Migration and Home Affairs).

Elaboration of the study was conducted by the International Organization for Migration (IOM) Bratislava as the coordinator of the EMN National Contact Point for the Slovak Republic. The Slovak EMN National Contact Point comprises of the Ministry of Interior of the Slovak Republic (the Bureau of Border and Foreign Police of the Police Force Presidium, the Migration Office, the Department of Foreign and European Affairs of the Office of the Minister of Interior), the Ministry of Labour, Social Affairs and Family of the Slovak Republic (the Department of International Relations and European Affairs), the Statistical Office of the Slovak Republic (the Section of Social Statistics and Demography) and IOM.

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Except for the questionnaire specification, the text of the study is an unofficial translation prepared by IOM Bratislava as the coordinator of the EMN National Contact Point for the Slovak Republic provided for reference only. In the event of any ambiguity about the meaning of certain translated terms or of any discrepancy between the Slovak version and the translation, the Slovak version shall prevail. Users are advised to consult the original Slovak language version of the study.

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Preface

Travels of beneficiaries of international protection to their country of origin or applications for a passport at the embassy of their country of origin were observed by competent authorities in several EU Member States. While such acts do not automatically imply a misuse of their international protection status, they could, in certain circumstances, contradict the grounds that led to granting protection, namely the individual's fear of persecution in the country of origin or real risk of suffering serious harm. Both international refugee and EU asylum law encompass several grounds whereby protection status may come to an end in circumstances where it is apparent that protection is no longer necessary nor justified. Obtaining a national passport and/or frequently travelling to the country of origin could, in certain circumstances, indicate that beneficiaries are no longer in need of international protection.

Thus in this regard the aim of the study - prepared in the form of questionnaire - is to map information on the reasons for such travels of persons granted international protection, or the reasons to contact the state authorities of their countries of origin. Furthermore, the study aims to analyse the possible consequences of such acts on the international protection status and residence rights of the persons concerned in the Slovak Republic leading to, for example, the status being ended, revoked or not renewed and, ultimately, the permission to stay withdrawn.

The methodological approach to the preparation of this study is based mostly on secondary resources, especially information on national policies and approaches. Key sources were information received from the Migration Office of the Ministry of Interior of the Slovak Republic and the Bureau of Border and Foreign Police of the Police Force Presidium.

Based on the questionnaires from the EU Member States, Norway and Switzerland, the European Commission prepared a synthesis report covering the main findings. The questionnaire form of the study from the Slovak Republic in Slovak and English language as well as the synthesis report are available on the Slovak EMN National Contact Point website www.emn.sk.

List of abbreviations

Coll. – Collection of Laws of the Slovak Republic

EASO –European Asylum Support Office

EC – European Commission

EMN – European Migration Network

EU – European Union

IOM – International Organization for Migration

MoI SR – Ministry of Interior of the Slovak Republic

MO MoI SR – Migration Office of the Ministry of Interior of the Slovak Republic

MS – Member State(s) of the European Union

PF – Police Force

PFP – Police Force Presidium

SR – Slovak Republic

UNHCR - United Nations High Commissioner for Refugees

Summary

The European Migration Network (EMN) Study¹ entitled "*Beneficiaries of International Protection Travelling to their Country of Origin*" was selected for elaboration by the EMN Steering Board within the work programme for 2018. The study is prepared by each EU Member State, Norway and Switzerland on the basis of common specifications - questions provided below.

In addition to informing policy makers and the general public, information collected for this study would also support EASO's activities to further develop the Common European Asylum System, particularly in relation to ending the status of international protection. The UNHCR could also benefit from the findings of this study to better understand how guidelines on cessation clauses are applied in practice.

For the purpose of this study, 'beneficiaries of international protection' comprise persons who are granted refugee status or subsidiary protection status in the EU Member States. National forms of protection and humanitarian statuses thus fall outside the scope of the study. Similarly, applicants for international protection, persons excluded from international protection, persons with international protection who have acquired citizenship in one of the EU Member States, Norway or Switzerland are not included in this study.

Travel by beneficiaries of international protection to their country of origin or contact with the authorities in their country of origin are important issues, as each case needs to be thoroughly investigated to establish whether given individuals still need to be granted international protection. The Asylum Policy of the SR stipulates that all relevant reasons need to be reviewed individually not only when it comes to granting subsidiary protection, but also in cases of its withdrawal. It is not in the interest of the SR to grant international protection to persons who are not eligible for such protection. Similarly, it is not in the interest of the SR to allow asylum and subsidiary protection status to be abused.

In the SR, there have been only a small number of individual cases of beneficiaries of international protection travelling to their country of origin or contacting state authorities in their country of origin and, compared to the number of international protection statuses granted, the number is negligible. However, despite that, these activities remain among the priorities of the Migration Office MoI SR. There were 4 proven cases when international protection was withdrawn in the Slovak Republic. Two of the cases involved Iranian nationals granted asylum² and the other two were cases of beneficiaries of subsidiary protection from Afghanistan. There were also other suspected cases, but the suspected facts were not proven. Most often, suspicions concerned individuals from Afghanistan and Iran.

The Slovak Republic considers each case individually and even though there are no established mechanisms to ascertain given facts, some of the cases were solved and a sufficient body of evidence was acquired thanks to the cooperation between the Migration Office MoI SR and the Bureau of the Border and Foreign Police of the Police Force Presidium.

Much more frequently than travelling to their country of origin, beneficiaries of international protection travel to its neighbouring countries and, since these are regions where borders can be crossed freely, it is impossible to ascertain whether a person has travelled to the country of their origin. Similarly, duplicity regarding travel documents is an issue: if international protection beneficiaries withhold the fact that they own travel documents, Slovak travel documents are issued for them and they are then able to use both sets of travel documents as needed.

¹ The European Migration Network (EMN) provides current, objective, reliable, and comparable information on migration and international protection to support the EU and its MS policies creation. EMN implements their activities through national contact points in every EU MS as well as Norway in coordination with the EC, particularly the Directorate-General for Migration and Home Affairs. These activities focus on issues related to migration of third country nationals. The EMN National Contact Point for the SR consists of the Ministry of Interior of the SR (Bureau of the Border and Foreign Police of the Police Force Presidium, Migration Office, Department of Foreign and European Affairs of the Office of the Minister of Interior), the Ministry of Labour, Social Affairs and Family of the SR (the Department of International Relations and European Affairs), the Statistical Office of the SR (Social Statistics and Demography Directorate), and the International Organization for Migration (IOM) as the coordinator. The EMN was established by Council Decision 2008/381/EC and is funded by the European Union and co-funded by the Ministry of Interior of the Slovak Republic. More information about the EMN can be found at www.emn.sk and www.ec.europa.eu/emn.

² The term 'refugee' does not exist in Slovak legislation. Thus, the concept is provided for exclusively as 'a person granted asylum' in Slovak legislation. The terms 'refugee' and 'person granted asylum' are used as synonyms in this study.

There are only limited possibilities to acquire evidence that would prove a person travelled to his/her country of origin or contacted authorities in his/her country of origin as, pursuant to Slovak legislation, the SR as a state of protection must not contact the country of origin. The main way of ascertaining these facts is through border checks information, stamps in travel documents, or individuals' statements. In this respect, the Migration Office, in its capacity as the decision-making authority, cooperates with the Bureau of the Border and Foreign Police of the Police Force Presidium, which executes the specific activities. The final decision regarding withdrawal of protection is issued by the Migration Office. This decision can be appealed by an administrative action filed with the relevant regional court, where filing of such administrative action has suspensive effect. Thus, cessation of protection and, by implication, cessation of stay in the Slovak Republic are measures taken only after all regular legal remedies have been exhausted.

As for the actual travel of beneficiaries of international protection into their country of origin, this, in itself, is not a reason for withdrawal of protection. The reason for the journey, its duration, frequency of travel and geographic locations the person has travelled to in their country of origin are always examined and compared with the reasons for which the protection has been granted and with the potential actor of persecution or serious harm. Of course, the reason for travel is also reviewed individually. The main thing that is reviewed is whether travelling for the stated specific reason is reasonable with regard to the circumstances and if the travel is of a reasonable length.

Thus, all the above mentioned criteria are considered. It also needs to be noted that the Slovak Republic considers each journey of a person granted asylum to the country of his/her origin to be voluntary travel. The Slovak Republic has not registered cases of beneficiaries of international protection who travel to their country of origin other than voluntarily and deems such cases virtually impossible.

With regard to beneficiaries of international protection contacting authorities of their country of origin, the main things examined during the review process are the grounds on which international protection was granted and, most importantly, who the actor of persecution or serious harm is. Where the persecuting actor is a non-state entity, the reasons for which person contacts authorities of their country of origin are not important and such action does not form grounds for the international protection withdrawal procedure initiation. In the case where the persecuting actor is the state, the reasons for contacting its authorities have to be serious and it is essential that the need for contacting such authority cannot be satisfied by any other means. Thus, such contact necessarily has to be an unavoidable act. Certain extraordinary situations which cannot be addressed in any other way are deemed to fulfil these conditions. At the same time, it should be mentioned that the Slovak Republic never requires persons granted asylum to carry out acts that would require them to contact the authorities of their country of origin, and it is in this context that an assumption exists that it is always a case of voluntary contact with such authorities. However, the person always gets an opportunity to rebut this assumption.

With regard to beneficiaries of subsidiary protection contacting authorities of their state of origin, such an act can have consequences only in the case that subsidiary protection has been granted to the person on the grounds of the possibility of death penalty or execution being imposed on the person or due to the possibility of torture and inhuman or degrading treatment or punishment.

Even in such a case, however, the actor of such serious harm must be the state, its authorities or persons connected with these authorities in some way. The burden of proof in such a case is borne by the beneficiary of subsidiary protection who has to prove that his/her well-founded fear of persecution from state authorities persists. The very fact that a person contacted the authorities of his/her state of origin, which is the source of serious harm, means that such fears cannot be justified and it is up to the protected person to prove the continuing justifiability of his/her fears. An assumption is made in such cases that, were the fears well-founded and justified, the person would not have contacted the persecuting state's official authorities. Following individual review of each case, in theory, a situation might occur when subsidiary protection would not have to be ceased, however the Slovak Republic has not had practical experience with such cases yet.

The SR does have experience with beneficiaries of subsidiary protection applying for travel documents at their embassies. However, these are persons who have been granted subsidiary protection on the grounds of the existence of serious and individual threat to their life or person by reason of indiscriminate violence in situations of international or internal armed conflict. Since the state is not the persecuting actor here, the SR does not examine such cases.

In terms of the procedural aspect, in cases of persons granted asylum the Migration Office can initiate the cessation of the asylum ex officio procedure at any moment of its duration.

Similarly, in case of beneficiaries of subsidiary protection, the Migration Office can initiate the cessation of subsidiary protection ex officio procedure at any moment of its duration.

However, initiation of such procedures is always preceded by a preliminary investigation, which is not of an official nature. The actual ex officio procedure commences only after and on the basis of said investigation.

Pursuant to Slovak legislation, subsidiary protection is granted at first for the period of 1 year and, subsequently, it can be prolonged by 2 years at a time repeatedly at the request of the beneficiary of subsidiary protection. Thus, after one year and then subsequently every 2 years the subsidiary protection prolongation procedure takes place, in course of which the protection status is examined, with the possibility of not extending subsidiary protection even during the examination phase on the same grounds as there are for cessation of subsidiary protection.

These procedures are dealt with by the Migration Office, i.e. the same body that decided about the granting of asylum or of subsidiary protection. The Migration Office issues a decision within the procedure.

Beneficiaries of international protection can present evidence both orally and in writing. They have the right to be interviewed, the right to propose or expand on evidence, and, prior to the issuance of the decision, they have the right to comment on the grounds of the decision and on the means of investigation or to propose its expansion.

If a person is present and his/her whereabouts are known, he/she always has the right to oral interview, during which he/she can be accompanied by a lawyer.

The decision can be appealed within 30 days of its reception by means of administrative action filed with the relevant regional court. A negative ruling of the regional court can be appealed by a cassation appeal filed with the Supreme Court of the SR. The cassation appeal has to be filed within one month from the receipt of the regional court's decision. During the appeal procedure, suspensive effect applies to the decision.

A person, for whom the international protection withdrawal procedure is underway, thus has all the rights granted for them by the Geneva Convention and by the EU legislation.

The SR has not yet had extensive experience with the beneficiaries of international protection travelling to their country of origin, the cases that occurred were rather isolated. Even in spite of that, however, there were certain problems linked to reviewing of proofs of such persons' travel and the withdrawal of international protection procedure had not been initiated in all the cases where such conduct was suspected. The biggest issue is the fact that there is no Europe-wide instrument that would record information on such persons' travels. Thus, ascertaining that a person travels in this way and obtaining of evidence that proves such conduct remains problematic.

Section 1: Overview of national policy context

Q1. Is the topic of beneficiaries of international protection travelling to their country of origin a national policy priority in the Slovak Republic?

YES

Travel by beneficiaries of international protection to their country of origin are issues that are important as each case needs to be thoroughly reviewed to establish whether the individuals still need to be granted international protection. The Asylum Policy of the SR stipulates that all relevant reasons need to be reviewed individually not only when granting subsidiary protection, but also in cases of its withdrawal. It is not in the interest of the SR to grant international protection to persons that are not eligible for such protection.

Travel by beneficiaries of international protection to their country of origin is a matter falling within the exclusive competence of the Ministry of Interior of the SR, specifically two of its bodies: the Migration Office, which decides in the matters of granting as well as withdrawal of international protection; and the Bureau of the Border and Foreign Police of the Police Force Presidium, which directly manages, issues methodological guidance for and controls the performance of its organizational units in the following areas:

- Border control;
- Granting of residence permits for beneficiaries of international protection;
- Issuing travel documents for beneficiaries of international protection;
- Travel documents analyses;
- Foreigners' residence regime;
- Foreigners' returns;

With regard to this, it is evident these issues concern only these two units of the Ministry of Interior of the SR and that it is the cooperation of these two units that makes proof of the actual journey of a person to his/her country of origin possible; with the Migration Office being a decision-making authority which decides about the withdrawal of international protection based on the abovementioned proofs.

As, apart from the abovementioned units, there are no other authorities within the SR involved in the process, there are no outputs of any other organization on this topic. Similarly, there is no relevant Slovak national case-law.

Q2. If available, please provide (estimated) statistics on the number of beneficiaries of international protection (allegedly) travelling to their country of origin registered from 2012 to 2018 (until 30 June 2018, if available).

Persons granted asylum:

The SR has information about 3 beneficiaries of international protection travelling to their country of origin, of which 2 persons had their asylum status withdrawn on the grounds of these findings. In all three cases, the persons in question were Iranian nationals.

In the period of years 2017 – 2018, a total of 83 persons granted asylum for humanitarian reasons (asylum granted not on the basis of the Geneva Convention but pursuant to national law) returned to their country of origin. In this case, however, the return was preceded by the persons granted asylum providing a written statement of renouncement of their asylum and cessation of their asylum status.

Beneficiaries of subsidiary protection:

Compared to persons granted asylum, the situation is much more complex in the case of beneficiaries of subsidiary protection. In case of their travel to their country of origin, the reason for the travel, its duration and the part of the country the beneficiary travels to need to be reviewed. Moreover, such travels are often to the country of origin's neighbouring countries from which it is possible to enter the country of origin away from the border crossing points (e.g. from Pakistan to Afghanistan, etc.), hence the journey often only gives rise to a suspicion which cannot be proven. There have been several cases of such suspicions but no exact statistical data is available as the Migration Office does not gather such statistics and often the information in question is only of an operational nature.

It should be noted, though, that in two cases subsidiary protection status was withdrawn after it had been verifiably proven the persons travelled to their country of origin (both cases involved nationals of Afghanistan) and stayed there for a longer period of time.

Section 2: Travels to or contacts with national authorities of the country of origin and possible cessation of international protection

2.1. REFUGEES CONTACTING AUTHORITIES OF COUNTRY OF ORIGIN AND RE-AVAILMENT OF THE PROTECTION OF THE COUNTRY OF NATIONALITY

Q3. If a refugee in the SR contacts official authorities of his/her country of origin (e.g. consulates, embassies, or other official representations of the country of origin in the SR), can this possibly lead to the cessation of his/her refugee status?

YES

If yes, please elaborate (e.g. this can be considered as re-availment of national protection of the country of nationality in certain circumstances (see options in question 5)):

In such cases, mainly the grounds on which asylum was granted and who are the persecutors of the given person are reviewed. Where the persecutor is the state, contacting such state's official authorities can result in the asylum status being withdrawn. On the contrary, if the persecutor was a non-state entity and the reason for which asylum was granted was the fact the state was unable to grant protection to the person in question, contacting official authorities of the state does not form grounds for the asylum status to be withdrawn. Each case needs to be reviewed individually.

Q3a. If a refugee in the SR contacts official authorities of his/her country of origin, can this have other consequences on his/her refugee status?

YES

If yes, please elaborate (e.g. this can trigger a (re)assessment of the initial application for refugee protection):

If the persecutor of the person granted asylum is the state, the very fact the person contacted authorities of this state is a reason to examine the purpose of such contacting and, subsequently, to initiate asylum status withdrawal procedure. However, each application is reviewed individually and in case asylum status withdrawal procedure has been initiated, the person granted asylum has a right to express his/her opinion on all facts and explain his/her reasons for contacting given authorities.

Q4. If yes to Q3, is it specified:

In national legislation.

This is governed by Section 15 (2) (a) of Act No. 480/2002 Coll. on Asylum and on changes and amendments to some acts, as amended as follows: "Asylum shall be withdrawn when the person granted asylum has voluntarily availed himself/herself of the protection granted to him/her by the country of his/her nationality".

In case law.

In practice.

In practice, initiation of asylum status withdrawal procedure is always preceded by a preliminary examination of all known facts, the procedure being initiated ex officio only if serious suspicion exists that the person granted asylum has really availed himself/herself of the protection granted to him/her by his/her country of origin.

Q5. If yes to Q3, which of the following acts (by the refugee) can lead to re-availment of protection of the country of origin:

Frequency of contacts with national authorities over a certain period of time

Obtaining the issuance or renewal of a passport

Requesting administrative documents (E.g. documents pertaining to family reunification or civil status such as birth certificates)

Marriage in the country of origin

Other (please specify) – e.g. assistance provided by the embassy in ongoing criminal proceedings

Any circumstances in which such person contacts official authorities of his/her country of origin forms a reason to review whether the asylum status granted should be withdrawn. All of the options are based on the Migration Office MoI SR administrative practice.

Q6. If yes to Q3, are exceptions or derogations possible (e.g. if the fear of persecution emanates from non-State actors)?

YES

As stated above, if the actor of persecution for which the person was granted asylum is a non-state entity, contacting authorities of the country of origin is not, in itself, a reason to initiate the asylum status withdrawal procedure. In such case only the review of concrete circumstances of the case should be considered, i.e. whether the circumstances on the grounds of which the person was granted asylum and whether the person granted asylum does not reject the protection granted by the country of his/her nationality groundlessly, and whether the country of his/her nationality is able and willing to grant such protection to him/her.

Q6a. If yes to Q6, is it specified:

In national legislation.

This is governed by Section 15 (2) (d) of Act No. 480/2002 Coll. on Asylum and on changes and amendments to some acts, as amended as follows: "Asylum shall be withdrawn when the person granted asylum rejects without any grounds to avail himself/herself of the protection granted by the country of his/her nationality despite the fact that circumstances, for which he/she was granted asylum, ceased to exist; this shall not apply when the person granted asylum proves his/her serious reasons based on previous persecution on grounds of which he/she refuses the protection of the country of his/her nationality".

In case law.

In practice.

In practice, initiation of the asylum status withdrawal procedure is always preceded by a preliminary examination of all known facts, the procedure being initiated ex officio only if serious suspicion exists that the circumstances have changed and that the country of origin is able to grant sufficient protection to the person.

Q6b. If yes to Q6, please specify which circumstances are taken into account (e.g.: need to apply for a divorce in his/her home country because no other divorce may have the necessary international recognition³ or obtaining a national passport or an extension of its validity may not involve cessation of refugee status for example where the holder of a national passport is not permitted to return to the country of his/her nationality without specific permission⁴).

Where the persecuting actor is a non-state entity, the reasons for which the person contacts authorities of the country of origin are not important. If the persecuting actor is the state, the reasons for contacting its authorities have to be serious and it is essential that the need for contacting such authority cannot be satisfied by any other means. Certain extraordinary situations which cannot be addressed in any other way are deemed to fulfil said conditions, e.g. obtaining a death certificate of a spouse or getting a divorce, in order for the person to be able to enter into another marriage, etc. In addition, it needs to be stated that the Slovak Republic never requires persons granted asylum to carry out acts that would require them to contact the authorities of their country of origin, and it is in this context that an assumption exists that it is always the case that contact with such authorities is voluntary.

Q7. If yes to Q3, what challenges do national authorities encounter in practice when assessing such circumstances and cessation ground?

The main challenge is the fact that there is no possibility for the state authorities to find out and subsequently prove that a person has indeed contacted the authorities of his/her country of origin. There are no mechanisms for such investigation. Moreover, said authorities cannot be contacted with regard to the case of a particular person granted asylum.

Due to the fact such cases are really rare, no relevant case-law exists and there are no national regulations to provide for this issue. Therefore, solutions applied are mainly based on the decision-making authority's practice and on the interpretation of relevant provisions of the Geneva Convention and of the European legislation transposed into Member States' legislation.

Q8. Is guidance or any other form of established practice on cessation on the grounds of 'voluntary re-availment of the protection of the country of nationality' available to national authorities in the SR?

If yes, please elaborate whether it takes the form of:

- Internal guidelines, *Please specify:*
- UNHCR guidelines (e.g. guidelines on cessation)
- Other, *Please specify:*

NO

2.2. REFUGEES TRAVELLING TO AND 'VOLUNTARY RE-ESTABLISHMENT' IN THE COUNTRY OF ORIGIN

Q9. Please describe national legislation applicable to refugees regarding their right to travel (i.e. outside the State that granted them protection).

Please note the right to a travel document for refugees set in Article 28 of the Refugee Convention and 25 of the recast Qualification Directive.

Issuance of travel documents for persons granted asylum is provided for by Act no. 647/2007 Coll. on Travel Documents and on changes and amendments to some acts. The Act on Travel Documents provides for the issuance of travel documents for a foreign national. Within the meaning of Section 13 of the Act on Travel Documents a foreign national's travel document can be issued to a person who has been granted asylum in the Slovak Republic.

No limitations apply to the foreign national's travel document issued for a person granted asylum.

³ UNHCR Handbook, 2011, para. 120. <http://www.unhcr.org/3d58e13b4.html>

⁴ UNHCR Handbook, 2011, para. 124. <http://www.unhcr.org/3d58e13b4.html>

Q10. Is a travel limitation:

a) To the country of origin (or country of habitual residence) specified in the travel document issued to refugees in the SR?

E.g. the name of the country the refugee is not allowed to travel to is explicitly mentioned in the travel document. If yes, please elaborate whether this limitation stems from:

National legislation

Please specify:

Practice developed by competent authorities

Please elaborate:

Case law

Please elaborate:

Other sources

Please elaborate:

NO

b) To neighbouring countries of the country of origin (or country of habitual residence) specified in the travel document issued to refugees in the SR?

If yes, please elaborate on the rationale behind the limitation to travel to neighbouring countries:

NO

Q11. If refugees travel to their country of origin:

a) Do they need to notify in advance Slovak national authorities, i.e. authorities of the State of protection?

If yes, please specify (i) procedures and (ii) national authority they should notify.

NO

b) Do they need to request a specific permission or authorisation to do so to a Slovak designated national authority, i.e. the State that granted protection?

If yes, please answer by indicating (i) what procedures and authorities are involved, and (ii) on what grounds they can request such authorisation.

NO

Q12. Can refugees request their original passport from Slovak authorities, i.e. the authorities of the State that granted protection?

YES

A person granted asylum can request his/her original passport after the completion of the asylum procedure.

Q13. What are the most common reasons for travel to their country of origin stated by refugees to authorities in the SR?

Visits for family reasons

Marriage in the country of origin

Business reasons

Other reasons (permanent return to their country of origin)

In the SR, the most common reason is the wish of persons granted asylum to permanently return to their country of origin. The reasons in other cases were not always confirmed, therefore they cannot be deemed to be of high relevance.

Q13a. Please specify if this information is recorded by national authorities (e.g. in a database).

No, there is no official database of the reasons and they are only recorded in the specific case file documents.

Q14. If a refugee travelled to his/her country of origin, can this possibly lead to the cessation of his/her refugee status?

YES

If yes, please elaborate (e.g. this can be considered as re-establishment in the country of origin, etc):

It leads to the initiation of the asylum status withdrawal procedure. Significant are the individual aspects of the application, such as the reasons, the persecuting actor, reasons for the return to the country of origin, its duration, the region the person granted asylum returned to, etc. These aspects are then assessed with regard to their context and the asylum status can be withdrawn only on the basis of this individual assessment.

Q14a. If a refugee travelled to his/her country of origin, can this have other consequences on his/her refugee status?

YES

If yes, please elaborate (e.g. this can trigger a (re)assessment of the initial application for refugee protection):

As stated in Q14, it can lead to the initiation of the asylum status withdrawal procedure, which will consider abovementioned aspects.

Q15. If travelling to the country of origin may lead to cessation of protection (see question 14), is it specified:

In national legislation

Aforesaid is governed by Section 15 (2) (f) of Act No. 480/2002 Coll. on Asylum and on changes and amendments to some acts, as amended as follows: "Asylum shall be withdrawn when the person granted asylum is again voluntarily staying in the country he/she left for fear of persecution".

In case law

In practice

In practice, initiation of asylum status withdrawal procedure is always preceded by a preliminary examination of all known facts, the procedure being initiated ex officio only if it has been proven that the person granted asylum really travelled to his/her country of origin.

Q16. Which of the following circumstances are taken into account when assessing cessation of protection (e.g. re-establishment in the country of origin):

Frequency of travels to the country of origin

Length of stay in the country of origin

Specific place of stay in the country of origin

Reasons to travel to the country of origin

Other (permanent return to their country of origin, reason unknown)

All of the reasons are taken into consideration and, at the same time, reasons providing grounds for which the asylum was granted, and persecuting actors are also considered. Mutual context of given factors (such as whether the persecuting actors have some influence on the part of the territory the person granted asylum travelled to) is also important.

Q17. If travelling to the country of origin could lead to cessation of refugee protection, are there any criteria to assess the voluntariness and/or refugee's intent to re-establish himself/herself in the country of origin?

Note: For the cessation ground of re-establishment to be applicable, both the return and the stay must have been undertaken voluntarily. For example, where the return of the refugee in his/her country of origin was the result of coercion or the prolonged stay was not voluntary (e.g. imprisonment), such travels to the country of origin may not amount to cessation of international protection.

A temporary visit by a refugee to his former country of origin not with a national passport but with a travel document issued by the State that granted protection may not necessarily amount to reestablishment: travelling to the country of origin for the purpose of visiting an old sick parent is different from frequent travels to the country of origin with the purpose of establishing business relations.⁵

⁵ UNHCR Handbook, para. 125 and 134. <http://www.unhcr.org/3d58e13b4.html>

Voluntariness and/or the person's intent to re-establish himself/herself in his/her country of origin are taken into consideration in the course of the assessment. However, it needs to be said that the Slovak Republic considers each journey of a person granted asylum to the country of his/her origin as voluntary. The Slovak Republic has not registered cases of persons granted asylum who would travel to their country of origin other than voluntarily, and deems such cases virtually impossible.

The intent to travel of the person granted asylum is reviewed individually. Contexts in which the person granted asylum decided to travel, such as e.g. attendance at the funeral of a relative, visiting of sick parents, etc., are taken into consideration. Yet, even in such cases it is tested as to whether travel for the given purpose is reasonable in relation to the circumstances and whether the length of travel is reasonable.

Q18. Do Slovak national authorities encounter any challenges when assessing such cases of cessation?

If yes, please elaborate e.g. case law (if available).

For each challenge describe a) for whom it is a challenge (policy-maker, organisation, other), b) why it is considered a challenge and c) whether the assessment that this is a challenge based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or other sources.

NO

The SR has only had a limited number of such cases and they were all reviewed individually. However, for the Migration Office, in its capacity of a decision-making authority, lack of evidence of the journey is more of a challenge than the assessment of reasonability of the travel to the country of origin.

Since such cases are really rare, no relevant case-law exists and there are no national regulations to provide for this issue. Therefore, solutions applied are mainly based on the decision-making authority's practice and on the interpretation of relevant provisions of the Geneva Convention and of the European legislation transposed into national legislation.

Q19. Is guidance or any other form of established practice on cessation on the grounds of 'voluntary re-establishment in the country of origin' available to authorities in the SR?

If yes, do these take the form of:

- Internal guidelines, *Please explain:*
- UNHCR guidelines on cessation
- Other, *Please specify:*

NO

2.3. BENEFICIARIES OF SUBSIDIARY PROTECTION TRAVELLING TO AND/OR CONTACTING AUTHORITIES OF THE COUNTRY OF ORIGIN

Contacting official authorities of the country of origin

Q20. If a beneficiary of subsidiary protection in the SR contacts official authorities of his/her country of origin (e.g. consulates, embassies, other official representations of the country of origin), can this possibly lead to the cessation of the subsidiary protection status?

YES

If yes, please elaborate (e.g. re-availment of national protection of the country of nationality):

Subsidiary protection is a protection from serious harm in the country of origin. Serious harm consists of:

1. death penalty or execution;
2. torture or inhuman or degrading treatment or punishment of an applicant; or
3. serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

If subsidiary protection was granted to the beneficiary on the grounds of reasons in point 1 or 2, just as in case of asylum, the person's persecuting actors have to be identified. In case the state is the serious harm actor, contacting the official authorities of such state leads to subsidiary protection withdrawal. Each case needs to be reviewed individually. On the contrary, if the persecuting actor is a non-state entity and the reason for which subsidiary protection was granted was the fact the state was unable to grant protection

to the person in question, contacting the state's official authorities does not form grounds for the subsidiary protection withdrawal.

Point 3 is rather specific, as it refers to serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict. Since this clearly refers to protection of a person, for general reasons, from intentional and indiscriminate violence, contacting the country of origin's authorities does not form grounds for the subsidiary protection withdrawal.

Q20a. If a beneficiary of subsidiary protection in the SR contacts official authorities of his/her country of origin, can this have other consequences.

YES

It can lead to different results only in the case subsidiary protection was granted on the grounds of the threat of death penalty or execution or the threat of torture or inhuman or degrading treatment or punishment. Even in such case, however, the actor of such serious harm must be the state, its authorities or persons connected with these authorities in some way. Information about person's contacting such official authorities would lead to the withdrawal of subsidiary protection procedure, in which the person would have to prove his/her reasons for contacting such authorities, and a review would take place. Withdrawal of subsidiary protection is the final consequence, which occurs in the case the person failed to prove that his/her well-founded fear of serious harm persists.

Q21. If a beneficiary of subsidiary protection contacting official authorities of his/her country of origin may lead to cessation of subsidiary protection, is it specified:

In national legislation

In national legislation, withdrawal of subsidiary protection is provided for in two provisions of the Act on Asylum, namely Section 15b (1) (a): "if the circumstances, based on which the subsidiary protection was granted, ceased to exist or changed to such an extent that its further provision is not necessary; this does not apply in case the foreigner granted subsidiary protection states imperative grounds based on the previous serious harm on which he/she rejects to avail himself/herself of the protection granted by his/her country of origin", or Section 15b (1) (c): "if the foreigner was granted subsidiary protection only based on false data or forged documents or on the grounds that the foreigner, who was granted subsidiary protection concealed facts which were significant for a reliable establishment of the facts of the case". It means that in case of the beneficiary of subsidiary protection when the subsidiary protection was granted on the grounds of the threat of death penalty or execution or the threat of torture or inhuman or degrading treatment or punishment from the state it can be assumed that his/her contact with the authorities of his/her country of origin means he/she no longer fears the abovementioned or that he/she did not fear it from the beginning and he/she concealed this fact in the past. Obviously, the foreigner always gets a chance to rebut such assumption during the procedure initiated by the Migration Office ex officio and explain his/her reasons for contacting authorities of his/her country of origin. Even here, all cases are reviewed individually.

In case law

In practice

In practice, initiation of the subsidiary protection withdrawal procedure is always preceded by a preliminary examination of all known facts, the procedure being initiated ex officio only if serious suspicion exists that the conditions based on which subsidiary protection was granted, changed, and the beneficiary of subsidiary protection no longer faces serious harm, or if suspicion exists that the beneficiary withheld some significant facts during the subsidiary protection granting procedure.

Q22. If a beneficiary of subsidiary protection contacts official authorities of his/her country of origin, which of the following circumstances can lead to cessation of subsidiary protection:

Frequency of contacts with national authorities of the country of origin

Obtaining the issuance or renewal of a passport

Requesting administrative documents (E.g. Document pertaining to family reunification or civil status such as birth certificates)

Marriage

Other (e.g. other administrative formalities)

Each of the circumstances can lead to withdrawal of subsidiary protection, but only if subsidiary protection was granted on the grounds of the threat of death penalty or execution or the threat of torture or inhuman

or degrading treatment or punishment. Even in such case, however, the actor of such serious harm must be the state, its authorities or persons connected with these authorities in some way.

At the same time, if we encountered any other relevant circumstances, they, too, could lead to withdrawal of subsidiary protection.

Travelling to the country of origin

Q23. Please briefly describe Slovak national legislation on the right to travel (i.e. outside the State that granted subsidiary protection, i.e. SR) of beneficiaries of subsidiary protection in the SR?

Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts (hereinafter referred to as Act on Residence of Foreigners) in its Section 74 provides for the issuance of a foreign national's passport which enables a foreign national to leave and return to the Slovak Republic. A Police Force department can issue a foreign national's passport to a foreign national who was granted subsidiary protection in the Slovak Republic and does not have his/her own travel document.

A foreign national's passport is a document which enables a third country national to travel. A foreigner's passport entitling a third country national to leave and return to the Slovak Republic shall be issued by a Police Force department to a foreign national who was granted subsidiary protection in the Slovak Republic and does not have his/her own valid travel document.

Q24. Can a beneficiary of subsidiary protection request a travel document in the SR?

YES

Please note the provisions of Article 25 of the recast Qualification Directive on this question.

If yes, please specify (i) its format (similar to the one issued to refugees?), (ii) duration and (iii) any geographical limitations attached to it (i.e. is a travel limitation to the country of origin specified in the travel document?)

Any beneficiary of subsidiary protection who does not own a passport issued by his/her country of origin can apply for the foreign national's passport. A foreign national's passport is different than the passport issued for persons granted asylum. The foreign national's passport is issued pursuant to an Act on Residence of Foreigners. Validity period of the foreign national's passport shall be determined by a police department for the necessary time period, however, for a maximum of one year. The validity of a foreign national's passport may be repeatedly extended by the police department. The territorial validity of a foreign national's passport shall be determined by the police department according to the purpose for which it was issued. If a foreign national's passport is issued for beneficiaries of subsidiary protection, its territorial validity is not limited.

Q25. What are the most common reasons for travel to their country of origin stated by beneficiaries of subsidiary protection to Slovak national authorities:

- Visits for family reasons
- Marriage in the country of origin
- Business reasons
- Other reasons

As the SR has not experienced frequent travelling of beneficiaries of subsidiary protection to their country of origin, this question cannot be answered adequately. If an analogy with the cases of the beneficiaries travelling to their country of origin's neighbouring countries was to be used, their statements clearly show the most common reason for such travels is to visit their relatives.

Q25a. Please specify if this information is recorded by national authorities (e.g. in a database).

This information is not recorded in any database.

Q26. If a beneficiary of subsidiary protection in the SR travels to his/her country of origin, can his/her protection status be ceased (e.g. re-establishment in the country of origin)?

YES

Yes, in such case the subsidiary protection withdrawal procedure can be initiated.

Q26a. If yes to Q26, is it specified:

- In national legislation

Withdrawal of subsidiary protection is provided for in two provisions of the Act on Asylum, namely Section 15b (1) (a): "if the circumstances, based on which the subsidiary protection was granted, ceased to exist or changed to such an extent that its further provision is not necessary; this does not apply in case the foreigner granted subsidiary protection states imperative grounds based on the previous serious harm on which he/she rejects to avail himself/herself of the protection granted by his/her country of origin", or Section 15b (1) (c): "if the foreigner was granted subsidiary protection based only on false data or forged documents or on the grounds that the foreigner, who was granted subsidiary protection concealed facts which were significant for a reliable establishment of the facts of the case". In case of a beneficiary's travel to his/her country of origin it can be assumed that the very fact the beneficiary travels to his/her country of origin means the circumstances have changed, as it shows the beneficiary no longer fears serious harm or that he/she did not fear it from the beginning and he/she concealed this fact in the past. Obviously, the beneficiary always gets a chance to rebut such assumption during the subsidiary protection withdrawal procedure initiated by the Migration Office ex officio and to explain the reasons for travelling to his/her country of origin and details such as the region he/she has travelled to, the purpose of his/her travel, its duration, etc. are thoroughly reviewed. A conclusion can only be drawn after all reasons and circumstances are examined. A short journey to the beneficiary's country of origin for justified reasons shall not, in itself, be deemed grounds for subsidiary protection withdrawal.

In case law

In practice

In practice, initiation of subsidiary protection withdrawal procedure is always preceded by a preliminary examination of all known facts, the procedure being initiated ex officio only if serious suspicion exists that the conditions based on which the subsidiary protection was granted, changed, and the beneficiary of subsidiary protection no longer faces serious harm, or if suspicion exists that the beneficiary withheld some of the significant facts during the subsidiary protection granting procedure. It needs to be added, however, that in the SR the subsidiary protection is granted at first for the period of 1 year and, subsequently, it can be prolonged by 2 years at a time repeatedly at the request of the beneficiary of subsidiary protection. In case a beneficiary of subsidiary protection decides to return to his/her country of origin voluntarily, he/she does not file the extension application and his/her subsidiary protection status expires at the end of the period for which it was granted. Therefore, it is not possible to establish the number of subsidiary protection statuses that have ceased due to the fact a beneficiary returned to his/her country of origin or travelled there for a longer period of time.

Q26b. If yes to Q26, which of the following circumstances are taken into account when assessing cessation of protection:

Frequency of travels to the country of origin

Duration of stay in the country of origin

Specific place of the stay in the country of origin

Reason for travel to the country of origin

Other

All of the circumstances are taken into account, as well as the grounds on which subsidiary protection was granted and who the persecuting actor is.

[Guidance and challenges in assessing cases of cessation of subsidiary protection](#)

Q27. Is guidance or any other form of established practice on cessation of subsidiary protection available to national authorities?

If yes, please indicate whether they take the form of:

Internal guidelines, *Please explain:*

UNHCR guidelines on cessation

Other, *Please specify:*

NO

Q28. Based on previous answers to questions in this sub-section 2.3., what challenges do national authorities encounter when assessing cases of cessation of subsidiary protection?

Similarly to the situation regarding asylum, the main challenge resides in the difficulty of proving that a person has indeed travelled to his/her country of origin and, especially, the region in the country of origin that the person travelled to. There are countries in which there are less dangerous and more dangerous regions and it is very important that this aspect is taken into consideration during each case review. A

stamp in the passport in itself does not specify the region travelled to, yet the information is essential for subsidiary protection.

Section 3: Adoption of a decision on cessation of international protection and implications on the right of residence in the SR

3.1. INFORMING BENEFICIARIES OF INTERNATIONAL PROTECTION

Q29. Are beneficiaries of international protection informed about possible consequences on their protection status if they contact authorities or travel to their country of origin?

YES

If yes, please indicate the means by answering in the Table 1 below:

Table 1 informing beneficiaries of international protection

Means used to inform beneficiaries of international protection	Contacting authorities of the country of origin	Travelling to the country of origin (or country of habitual residence)
It is indicated on beneficiaries' travel document	<input type="checkbox"/>	<input type="checkbox"/>
Beneficiaries are informed in writing by national authorities in language which the person is assumed to understand	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Beneficiaries are informed orally by competent authorities	<input type="checkbox"/>	<input type="checkbox"/>
Beneficiaries are informed at their request (e.g. whether in writing or orally)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other means	<input type="checkbox"/>	<input type="checkbox"/>

3.2. REVIEW OF PROTECTION STATUS

Q30. Is the status of beneficiaries of international protection that travelled to and/or contacted authorities of their country of origin reviewed in the SR?

YES

Q30a. If yes to Q30, please briefly elaborate on the framework of the review in the SR:

There is a systematic review of all international protection statuses.

There is a possibility to review the international protection status upon renewal of residence permit accompanying status.

A review can be triggered ex officio by national authorities. (E.g. as part of procedures to cease international protection)

The Migration Office can initiate withdrawal procedure of the asylum ex officio at any moment of its duration.

Similarly, in case of subsidiary protection, the Migration Office can initiate the withdrawal of subsidiary protection procedure ex officio at any moment of its duration.

However, initiation of such procedures is always preceded by a preliminary investigation, which is not of an official nature. The actual ex officio procedure commences only after and on the basis of said investigation.

Subsidiary protection is granted at first for the period of 1 year and, subsequently, it can be prolonged by 2 years at a time repeatedly at the request of the beneficiary of subsidiary protection. Thus, after one year and then subsequently every 2 years the subsidiary protection extension procedure takes place, in course of which the actual protection status is reviewed, with the possibility to not prolong subsidiary protection including during the examination phase, on the same grounds as there are for withdrawal of subsidiary protection.

Q30b. If yes to Q30, please briefly elaborate on (i) authorities involved and procedure followed, and (ii) whether a beneficiary of international protection is informed of the review.

The authority reviewing the case is the Migration Office. Following such review, the Migration Office issues its decision in writing. In case the international protection withdrawal procedure is initiated, each beneficiary is informed about the fact that his/her case is subject to such procedure.

Q31. Can a review of international protection status lead to a decision to cease international protection in the SR?

YES

Each of the procedures described in Q30 can lead to cessation of international protection, namely:

- withdrawal of asylum status,
- withdrawal of subsidiary protection,
- decision to not prolong subsidiary protection.

All of the abovementioned procedures include review of all evidence available, assessment of proofs takes place and if the reasons for cessation or for not prolonging of international protection are found, the decision is issued.

3.3. CESSATION PROCEDURE

Q32. Based on circumstances that can trigger cessation grounds explored in section 2, which authorities are involved in the decision to cease international protection status in the SR?

This procedure is dealt with by the Migration Office, i.e. the same body that decided about the granting of asylum or of subsidiary protection. The Migration Office issues a decision within the procedure.

In the procedure, cooperation with the Bureau of the Border and Foreign Police of the Police Force Presidium is established, too, as the Bureau carries out the tasks stipulated in Q1 and as it is through the Bureau that the Migration Office secures evidence in the case.

Q33. Can the beneficiary of international protection present contrary evidence or elements during the procedure to cease his/her protection status?

YES

Q33a. If yes to Q33, can he/she present defence:

In writing to the competent authority (E.g. in the form of testimonial evidence?)

Orally (E.g. does the beneficiary of international protection have the right to an interview? Can he/she be accompanied by a lawyer?)

Both

Other

Beneficiaries of international protection can present evidence both orally and in writing. They have the right to be interviewed, the right to propose or expand on evidence, and, prior to the issuance of the decision, they have the right to comment on the grounds of the decision and on the means of investigation or to propose its expansion.

If a person is present and his/her whereabouts are known, he/she always has the right to oral interview, during which he/she can be accompanied by a lawyer.

Q34. Is there a specific deadline set to issue the decision to (possibly) cease international protection?

YES

The deadline to issue the decision is half a year from the beginning of the procedure.

Q34a. If yes to Q34, how is the decision notified to the (former) beneficiary of international protection?

In writing

Orally

Other means

A beneficiary is notified of the decision of withdrawal of international protection in writing, with the written copy issued in the Slovak language and orally interpreted to the language he/she is assumed to understand.

The only exception is if a beneficiary has an authorised legal representative. In such case the decision is delivered only to the beneficiary's legal representative.

Q34b. If yes to Q34, does the decision include the reason(s) for cessation?

YES

The decision includes the justification of the decision, in which detailed information about the reasons for withdrawal of protection and about the evidence leading to the decision are provided.

Q35. In case a decision to cease the international protection status is adopted:

a) What are the timeframes for appealing the decision?

The decision can be appealed within 30 days of the receipt of the decision of withdrawal of international protection.

b) Which authority examines the appeal application?

Such decision can be appealed by an administrative action filed with the relevant regional court.

Moreover, a negative ruling of the regional court can be appealed by a cassation appeal filed with the Supreme Court of the SR. The cassation appeal has to be submitted within one month from the receipt of the regional court's ruling.

Q36. When a competent authority assesses elements to cease (or not) an international protection status, does it also assess the proportionality of a removal from national territory?

If yes, please elaborate (e.g. taking into account of the principle of non-refoulement).

NO

Migration Office does not assess proportionality of removal from the territory of the SR when ceasing protection.

The non-refoulement principle is reviewed only during the expulsion procedure by the Bureau of the Border and Foreign Police of the Police Force Presidium.

Q37. Have there been any court decisions on appeals against a (first instance) decision of cessation of a protection status due to travels to the country of origin in the SR?

If yes, please briefly summarise:

a) The result of the appeal (e.g. was the initial decision to cease international protection reverted?), and

b) The main justifications given by the Court (e.g. reasons to uphold or quash the first instance decision).

NO

There has been no remedial action concerning the issue in question, hence the Slovak Republic does not have relevant case-law it could refer to.

3.4. CONSEQUENCES OF A CESSATION DECISION

Right to stay, possible change of status or return

Q38. In the SR, is the decision to cease international protection issued together with the decision to end the residence permit?

YES

In the SR, the residence issued for beneficiaries of international protection is tied directly to their status.

A person granted asylum is deemed a foreign national who was granted permanent residence.

A foreign national granted subsidiary protection is deemed a foreign national who was granted temporary residence; this does not apply if the person has had permanent residence granted within the territory of the Slovak Republic.

Thus, a person's residence expires with cessation of his/her international protection status.

Q39. What are the consequences of a decision to cease international protection in the SR on the right to stay of the (former) beneficiary of international protection:

a) Automatic loss of the right to stay (in the State that granted protection, i.e. SR).

YES

If yes, is the decision to cease international protection accompanied by a return decision?

NO

b) Individual circumstances of the (former) beneficiary of international protection are taken into account (e.g. the person has a right to stay on other grounds).

If yes, please elaborate (e.g. taking into account health or medical reasons, other humanitarian grounds, length of stay in the (Member) State, the principle of non-refoulement, etc):

NO

Q40. Can a (former) beneficiary of international protection be granted another status?

YES

If yes, this can be:

- A subsidiary protection status
- A national protection status
- A legal migration status (e.g. based on family, social or economic links)
- Other

A person whose asylum status has been withdrawn can be granted subsidiary protection. The decision of granting or not granting subsidiary protection forms a part of the decision on asylum withdrawal.

At the same time, a person who is in the Slovak Republic pursuant to the Act on Residence of Foreigners can be granted residence on various grounds. This, however, is subject to another procedure within the scope of authority of the Bureau of the Border and Foreign Police of the Police Force Presidium.

If the foreigner's departure from the country is not possible and detention is considered inefficient, such person can remain in the territory of the Slovak Republic during the period when a TCN does not hold a valid passport and it is not possible to provide him/her the valid travel document through the Embassy of his/her national country; the period of detention has expired and it is not possible to ensure the departure of the TCN with a foreigner national's passport. Remaining in the territory of the SR is not considered a residence according to this Act.⁶

Right to stay of family members and dependents

Q41. In case of a (final) decision to cease international protection status, what are the consequences on family members and dependents included in the initial application for international protection:

- Keep their international protection status
- Lose their international protection status and lose their right to stay
- Lose international protection status and keep their right to stay on other grounds
- Case by case decision if they keep or lose their international protection status and their right to stay
- Other consequences

Q42. In case of a (final) decision to cease international protection status, what are the consequences on family members and dependents not included in the initial application for international protection, and who got a residence permit through family reunification with the former beneficiary of international protection.

- Keep their right to stay
- Lose their right to stay
- Case by case decision if they keep or lose their right to stay
- Other consequences

Summarising chart and case study(-ies)

Q43. Summarising chart and illustrative examples on the adoption of a decision on cessation of international protection and implications on the right of residence

Summary

- Travelling to the country of origin or contacting official authorities of the country of origin
- Interim examination of the reasons to travel and of all known aspects
- Initiation of the asylum status withdrawal procedure or of the cessation of subsidiary protection procedure
- International protection withdrawal procedure – including oral interview
- Issuance of the decision on withdrawal of asylum status or on the withdrawal of subsidiary protection
- Delivering of the decision
- Filing of an administrative action with the relevant regional court – suspensive effect
- In case an administrative action is not filed, the decision is enforceable and the right of residence in the territory of the SR expires
- In case of the administrative action dismissal, cassation appeal can be filed with the Supreme Court of the SR
- Administrative action is de facto an extraordinary remedy, yet, pursuant to Slovak legislation, filing of such action has a suspensive effect
- In case a cassation appeal is not filed, the decision is enforceable and the right of residence expires
- In case of the cassation appeal rejection by the Supreme Court of the SR, the decision is enforceable
- In case of a negative decision of the Supreme Court of the SR, the right of residence in the territory of the SR expires
- With the asylum withdrawn, also the asylum status granted to the beneficiary's family members on the grounds of family reunification ceases
- Expulsion procedure concerning a person whose asylum status has been withdrawn is carried out by the Bureau of the Border and Foreign Police of the Police Force Presidium

Case studies

On 4 May 2013, Mr. Joseph from Iran was granted asylum in the SR on religious grounds. Mr. Joseph stated he had converted from Islam to Christianity and, as a result of that, he had been persecuted in Iran by the Police. He failed to produce any evidence during the asylum procedure. During 2014 and 2015 he repeatedly travelled to Iran. All in all, he travelled to Iran on 6 different occasions and he spent a total of 4 months there. He travelled by plane and used his Iranian passport during the travels. An asylum status withdrawal procedure was initiated by the Migration Office. Mr. Joseph was invited for an interview, where he stated he had travelled to Iran for business reasons and he had been using his Iranian passport, information about the existence of which he withheld in the asylum procedure. It was therefore clear he had repeatedly travelled to Iran and did not have any problem with religious persecution. Based on the abovementioned, his asylum status was withdrawn. Mr. Joseph appealed the decision by filing an administrative action which was rejected by the regional court. He did not file a cassation appeal against the regional court's decision. With the asylum status withdrawal his permanent residence expired, too, and the Bureau of the Border and Foreign Police of the Police Force Presidium initiated an expulsion procedure.

Mr. Karos from Iraq was granted subsidiary protection in the SR on the grounds of serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict since 6 February 2011. On 2 July 2017, he filed an application for further subsidiary protection prolongation. Mr. Karos held an Iraqi passport, which he presented during the subsidiary protection prolongation procedure and the stamps on this document showed that he visited Iraq between 5.9.2016 – 9.9.2016 and 10.12.2017 – 12.12.2017. He used a land border crossing point from Turkey. As a part of the procedure, Mr. Karos was interviewed and during the interview he stated that in September 2016 he went to visit his seriously ill mother who suffered from pancreatic cancer and, later in December, he travelled to attend her funeral, since his mother died on 8 December 2016. Mr. Karos presented his mother's medical records as well as her death certificate. He stated he had been willing to take the risk of facing treats in Iraq or even of losing the subsidiary protection he had been granted since his mother was his closest person. His explanation was assessed and it was established that Mr. Karos' case involved extraordinary circumstances and that there was no other option to meet and say his last goodbye to his seriously ill mother. It was decided that even despite the risk taken by Mr. Karos, the circumstances for

which subsidiary protection was granted did not change. On the grounds of the abovementioned, his subsidiary protection was prolonged.

Conclusions

Q44. With regard to the aims of this study, what conclusions would you draw from your findings reached in elaborating your national contribution? In particular, what is the relevance of your findings to (national and/or EU level) policy-makers?

The SR only has limited experience with beneficiaries of international protection travelling to their country of origin or contacting official authorities in their country of origin. Cases that occurred were mostly isolated and they were addressed individually, therefore they cannot be analysed more thoroughly. Cessation of international protection procedure was not initiated in all cases where suspicions of such travel were raised. Legislation of the SR, which is fully compatible with the Geneva Convention and with EU asylum directives, is sufficient to address similar situations. However, based on practical experience it can be said that the problems which occurred in such cases concerned mainly obtaining evidence of beneficiaries of international protection travelling into their country of origin or discovering that a beneficiary of international protection had a passport issued at the embassy of his/her country of origin. One of the issues is also the fact that there is no Europe-wide system that would record information on such persons' travels. However, the current knowledge also shows signs that beneficiaries of international protection travel to their country of origin using mainly international airports in the surrounding or other countries to undermine the possibility of identifying such journeys and returns. In such cases, it is the abuse of the asylum system.