

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*



**Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland**

**HUNGARY**

**2018**



**This publication was funded by the European Union's Asylum, Migration and Integration Fund**



MINISTRY OF INTERIOR

**Title: Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland**

**Member State: HUNGARY**

**Year: 2018**

**This project has been funded with support from the European Commission. The content of this publication represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.**



**The European Migration Network (EMN) is co-ordinated by the European Commission with National Contact Points (EMN NCPs) established in each EU Member State plus Norway.**



**This publication was funded by the European Union's Asylum, Migration and Integration Fund**

## EMN STUDY 2018

# Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland

### Top-line factsheet [max. 2 pages]

The main subject of the study is not as relevant in Hungary on a political, or policy making level as it is in other mainly Western European countries. Cessation of the status is regulated by a cardinal law. Since 2018, certain parts of the Act of LXXX of 2007 on Asylum (further: Asylum Act) has been declared as a cardinal law, thus the two-third majority is needed to amend the Act. There is no separated database dedicated to this issue, since it is not a major relevant phenomenon in Hungary.

In case a beneficiary of international protection contact any authority of his or her country of origin the Hungarian practice concerns this action as an attempt to re-avail the protection of the country of origin. A cessation/revoking procedure starts, if any of the grounds of cessation exists. Since re-aviation of the protection in the Hungarian practice involves the contact of the authorities of the country of origin, any kind of contact could lead to the cessation of the status. Since the refugee status based on the presumption that the beneficiary is persecuted in his/her country of origin, the Hungarian law does not let any possibility to travel back legally. Any contact, especially traveling back is a clear statement that refugee does not need international protection, and can re-avail the protection of that country. We haven't detected any challenges. The one case we have found was an obvious case. The asylum experts explained, the only challenges was the non-compliance of the beneficiary.

The Hungarian authorities notify the refugees after recognition on their rights, the refugees are well aware that they cannot travel back to their country of origin. There is no possibility in the Hungarian law to travel back to the country of origin. Thus there isn't any option for permission. The fact itself is enough to revoke the status of the beneficiary regardless of any other circumstances.

Contrary to the refugees, a beneficiary of subsidiary protection shall be entitled to a travel document determined in a separate legal rule. For reasons of national security or public order the issue of such a document can be refused. Other than this the same rules apply to beneficiary of subsidiary protection as the refugees.

In the Hungarian legislation there is an automatic system, and the frequency of the review is regulated, in the Asylum act. The previous version of the Asylum act regulated, the review every five years, but the Act was amended, after 2016 and changed the frequency of the review to every three years. The asylum authority may decide on, *ex officio*, to review the status of a beneficiary. If the authority has any knowledge, that the status is not needed, or any of the cessation grounds can be applied, they start the status review, and as a consequence of the review they cease the status. The beneficiary at first is informed by the authority that he/she has to attend a personal interview regarding the review of his/her status. The beneficiary may decide to not to attend, but send a written statement to the authority. Not attending the personal interview doesn't affect the procedure, the authority can decide on the cessation of the status on the basis of the evidences available. There are no specific rules applying for the cessation procedure. The procedure is carried out in accordance with the ordinary procedure, where the competent authority decides on the qualification for international protection. The asylum procedure will be carried out in 60 days, certain procedural steps (for example, checking the authenticity of documents, translation of attached documents) will not be included in the duration of the procedure, consequently, in some cases the procedure may actually take as long as a few months. If the authority decided to withdraw the status of the beneficiary of international protection, and if there is no other reason for his/her lawful

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

residence in Hungary, the authority shall order his/her expulsion from the territory of the European Union, to be executed by the immigration authority.

In Hungary, after recognition the beneficiaries are individuals, and not interrelated with other beneficiaries. This situation is different, when a beneficiary had been recognised on the basis of the recognition of another beneficiary. In this case, a status review procedure starts after the original beneficiary's status ceases.

As a rule only the asylum authority can decide, or investigate in asylum cases. This rule applies for the review and cassation of the status as well. The Immigration and Asylum Office, is the only competent authority to decide on international protection.

## Section 1: Overview of national policy context [max. 3 pages]

**Q1.** Is the topic of beneficiaries of international protection travelling to their country of origin a national policy priority in your Member State? **YES/NO**

Since the massive influx of third country nationals to the EU, Hungary has faced a lot of challenges. In 2015 more than 300 000 third country nationals marched through the territory of Hungary to reach a Western European country to apply for asylum. Since this phenomenon determined Hungary's position as a transit country, so little amount of third country national decided to stay and apply for asylum in the country. As a classic transit country Hungary has decided ever since to stop the mass influx and protect the external border, with a physical and legal border barrier. Since Hungary is not an attractive county of destination, we don't have that many beneficiaries of international protection.

Thus the main subject of the study is not as relevant in Hungary on a political, or policy making level as it is in other mainly Western European countries. This phenomenon is not a matter of concern, thus there hasn't been any discussion on this topic on a national, or regional level. However the relevant authorities have detected some cases where beneficiaries of international protection somehow re-avail the protection of the country of origin.

The Hungarian legislative framework is very precise regarding the connecting legal provisions. Cessation of the status is regulated by a cardinal law. Since 2018, certain parts of the Act of LXXX of 2007 on Asylum (further: Asylum Act) has been declared as a cardinal law, thus the two-third majority is needed to amend the Act. As a result of this legislative step, the Hungarian national asylum law is hard to change, and the provisions of cessation are concerned as a cardinal law. Cessation of the status is a complex provision in the Hungarian law; there are nine grounds for cessation regarding both refugee status, and beneficiaries of subsidiary protection. Re-avilment of the protection of the country of origin is covered by two point out of nine.

The Hungarian law doesn't separate the cessation procedure, from the review procedure. In the case of cessation a withdrawal procedure starts, which is regulated by the Asylum Act.

The procedure for revoking the recognition of the refugee or beneficiary of subsidiary protection status shall start ex officio – except in the case of a renunciation of the status in written form. The provisions set forth in Chapter VII of the Act shall apply accordingly to the procedure for revoking the recognition of the refugee or beneficiary of subsidiary protection status.

If the authority establishes upon the revision of the existence of the criteria of recognition as a refugee or beneficiary of subsidiary protection that recognition is to be revoked, it shall notify the refugee or the beneficiary of subsidiary protection thereof in writing, in his/her mother tongue or in another language understood by him/her. Simultaneously with the above notification, the authority shall call upon the refugee or the beneficiary of subsidiary protection to state the reasons, within the time limit set, which verify or substantiate the existence of the criteria of recognition as a refugee or beneficiary of subsidiary protection and that no reason for exclusion exists. The authority shall interview the refugee or the beneficiary of subsidiary protection in person.

If the authority establishes that no circumstance giving rise to the revocation of recognition exists, it shall discontinue the procedure. No legal remedy shall lie against a resolution discontinuing the procedure. If the authority establishes the existence of any of the circumstances set forth in Section 11 (2) in the case of a refugee or in Section 18 (2) in the case of a beneficiary of subsidiary protection, it shall revoke the

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

recognition as a refugee or a beneficiary of subsidiary protection. Section 11 and section 18 regulates the grounds of cessation, with contains the grounds of re-avail the contact with the country of origin.

A decision revoking recognition as a refugee or a beneficiary of subsidiary protection maybe subject to court review, unless the revocation is based on the waiving of the legal status by the holder.

The request for review shall be submitted to the authority within eight days of the communication of the decision. The authority shall forward the request for review, together with the documents of the case and its counter-application, to the court without delay. The court shall decide on the request for review in a litigious (adversarial) procedure within sixty days of receipt of the request for review. The court's review shall include a complete examination of both the facts and the legal aspects as they exist at the date when the court's decision is made. The personal hearing of the applicant shall be mandatory in the court procedure.

The topic itself is not a major concern in Hungary, although migration is the top subject both in political, and social level.

**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).

There is no information on this specific question. There is no separated database dedicated to this issue, since it is not a major relevant phenomenon in Hungary. The authorities could detected some relevant cases, where beneficiaries of international protection somehow re-avail the protection of the country of origin, but all together the there is no data regarding the travelling habits of the beneficiaries of international protection.

## Section 2: Travels to or contacts with national authorities of the country of origin and possible cessation of international protection [max. 12 pages]

### 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 your (Member) State contacts official authorities of their country of origin (e.g. *consulates, embassies, or other official representations of the country of origin in the State that granted protection*), can this possibly lead to the cessation of his/her refugee status? **YES/NO**

In case a beneficiary of international protection contact any authority of his or her country of origin the Hungarian practice concerns this action as an attempt to re-avail the protection of the country of origin. Any contact would be sufficient according to the practice and law to revoke the status of the beneficiary of international protection, however regarding the small amount of relevant cases, the authorities withdraw the status of the beneficiaries in case of a serious connection, e.g. possessing a new passport of the country of origin.

**Q3a.** If a refugee in your (Member) State contacts official authorities of their country of origin, can this have other consequences on his/her refugee status? **YES/NO**

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

As it is indicated above, a cessation/revoking procedure starts, if any of the grounds of cessation exists. Since re-availation of the protection in the Hungarian practice involves the contact of the authorities of the country of origin, any kind of contact could lead to the cessation of the status.

**Q4.** If yes to Q3, is it specified:

In national legislation.

*If box is marked, please specify legislation:*

In case law.

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

*If box is marked, please indicate case law reference and short summary:*

In practice.

*If box is marked, please explain practice:* in practice, since the refugee status based on the presumption that the beneficiary is persecuted in his/her country of origin, the Hungarian law does not let any possibility to travel back legally. Traveling back legally means that the refugee needs to contact the authorities at least at the border when enters the country of origin, this is well-known for the refugees also, thus when they travel back to their country of origin they re-establish the connection of their country of origin and proves that they are not persecuted in that country.

Any contact, especially traveling back is a clear statement that refugee does not need international protection, and can re-avail the protection of that country. Since re-availment is a ground for cessation any information which is related to a possible travel back to the country of origin is a solid ground to the cessation of the refugee status.

**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:

*Please tick boxes that apply.*

*For each of the (ticked boxes) options below, please indicate whether it is based on legislation, case law or (administrative) practice.*

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 birth certificates*

Marriage in the country of origin

Other (please specify)

**Q6.** If yes to Q3, are exceptions or derogations possible (*e.g. if the fear of persecution emanates from non-State actors*)? **YES/NO**

Since this topic is not relevant, there is no relevant practice, thus there is no derogations or exceptions.

**Q6a.** If yes to Q6, is it specified:

In national legislation?

*If box is marked, please indicate legislation:*

In case law?

*If box is marked, please indicate case law reference and a short summary:*

In practice?

*If box is marked, please explain practice:*

**Q6b.** If yes to Q6, please specify which circumstances are taken into account.

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

*E.g.: need to apply for a divorce in his home country because no other divorce may have the necessary international recognition.<sup>1</sup>*

*E.g.: 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 nationality without specific permission.<sup>2</sup>*

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

As it was indicated several time before, this is not a major problem in Hungary. Thus we haven't detected any challenges. The one case we have found was an obvious case. The asylum experts explained, the only challenges was the non-compliance of the beneficiary.

**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 your (Member) State? **YES/NO**

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

Internal guidelines

*Please specify:*

UNHCR guidelines (e.g. guidelines on cessation)

Other

*Please specify:*

## 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).

The Hungarian national law on asylum regulates the refugees' right to a travel document.

The LXXX Act on Asylum Article 10 paragraph 3 says "A refugee shall be entitled to an identity card determined in separate legal rule and a bilingual travel document specified by the Geneva Convention, insofar as no reasons of national security or public order bar the issue of such a document..."

**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 your (Member) State? **YES/NO**

There is no limitation explicitly stated in the document. The refugees must know after the recognition that they cannot re-establish their connection with their country of origin.

*If yes*, please elaborate whether this limitation stems from:

National legislation

*Please specify:*

<sup>1</sup> UNHCR Handbook, 2011, para. 120. <http://www.unhcr.org/3d58e13b4.html>

<sup>2</sup> UNHCR Handbook, 2011, para. 124. <http://www.unhcr.org/3d58e13b4.html>

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

- Practice developed by competent authorities

*Please elaborate:*

- Case law

*Please elaborate:*

- Other sources

*Please elaborate:*

- b)** To neighbouring countries of the country of origin (or country of habitual residence) specified in the travel document issued to refugees in your (Member) State? **YES/NO**

There is no limitation explicitly stated in the document.

**Q11.** If refugees travel to their country of origin:

- a)** Do they need to notify in advance national authorities of the State of protection? **YES/NO**

As the Hungarian authorities notify the refugees after recognition on their rights, the refugees are well aware that they cannot travel back to their country of origin, thus the Hungarian legislation does not know such provision, especially because the refugees are persecuted in their country of origin, and thus the Hungarian law contains a rebuttable presumption that they don't want to travel back to their country of origin.

- b)** Do they need to request a specific permission or authorisation to do so to a designated national authority in the State that granted protection? **YES/NO**

There is no possibility in the Hungarian law to travel back to the country of origin. Thus there isn't any option for permission. Since the refugee status based on the presumption that the beneficiary is persecuted in his/her country of origin, the Hungarian law does not let any possibility to travel back legally.

**Q12.** Can refugees request their original passport from authorities of the State that granted protection? **YES/NO**

If a refugee wants to request a passport of their country of origin, that means that he/she doesn't need the protection anymore. Since the possession of a passport means that the emitter of the passport is the responsible for the possessor, there is no legal possibility in Hungary to request the passport of the country that has been persecuted the refugee.

This would also create the situation when the country of recognition contact to the country of origin, which is against the Geneva Convention. Since the so called rebuttable presumption there is no legal way in the Hungarian legal framework to contact the country of origin anyhow.

**Q13.** What are the most common reasons for travel to their country of origin stated by refugees to authorities in your (Member) State?

There is no option for the beneficiaries to travel back to their country of origin legally, thus there is no available information regarding this question.

- Visits for family reasons (please specify)
- Marriage in the country of origin
- Business reasons
- Other reasons (please specify)



*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

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

There is no option for the beneficiaries to travel back to their country of origin legally, thus there is no available information regarding this question.

**Q14.** If a refugee travelled to his/her country of origin, can this possibly lead to the cessation of his/her refugee status? **YES/NO**

Since the refugee status based on the presumption that the beneficiary is persecuted in his/her country of origin, the Hungarian law does not let any possibility to travel back legally. Traveling back legally means that the refugee needs to contact the authorities at least at the border when enters the country of origin, this is well-known for the refugees also, thus when they travel back to their country of origin they re-establish the connection of their country of origin and proves that they are not persecuted in that country.

Any connection, especially traveling back is a clear statement that refugee does not need international protection, and can re-avail the protection of that country. Since re-availment is a ground for cessation any information which is related to a possible travel back to the country of origin is a solid ground to the cessation of the refugee status.

**Q14a.** If a refugee travelled to his/her country of origin, can this have other consequences on his/her refugee status? **YES/NO**

It may be considered that the refugee has never been qualified as a refugee, but there is no such procedure that eventually determines that the beneficiary hasn't been qualified for the refugee status for the first place.

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

In national legislation?

*If box is marked, please specify legislation:* the national legislation states only that there is a ground for cessation of the status when the beneficiary re-avail the protection of the country of origin, or re-establish in the country considered. The Act on asylum hasn't specified traveling to the country of origin.

In case law?

*If box is marked, please indicate case law reference and short summary:*

In practice?

*If box is marked, please explain practice:* : in practice, since the refugee status based on the presumption that the beneficiary is persecuted in his/her country of origin, the Hungarian law does not let any possibility to travel back legally. Traveling back legally means that the refugee needs to contact the authorities at least at the border when enters the country of origin, this is well-known for the refugees also, thus when they travel back to their country of origin they re-establish the connection of their country of origin and proves that they are not persecuted in that country.

Any contact, especially traveling back is a clear statement that refugee does not need international protection, and can re-avail the protection of that country. Since re-availment is a ground for cessation any information which is related to a possible travel back to the country of origin is a solid ground to the cessation of the refugee status.

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

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

The fact itself is enough to revoke the status of the beneficiary regardless of any other circumstances.

Please indicate which options apply. For each of the (ticked boxes) options below, please indicate whether it is based on legislation, case law or (administrative) practice.

- 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

Please specify:

**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?

In practice, since the refugee status based on the presumption that the beneficiary is persecuted in his/her country of origin, the Hungarian law does not let any possibility to travel back legally. Traveling back legally means that the refugee needs to contact the authorities at least at the border when enters the country of origin, this is well-known for the refugees also, thus when they travel back to their country of origin they re-establish the connection of their country of origin and proves that they are not persecuted in that country.

Any contact, especially traveling back is a clear statement that refugee does not need international protection, and can re-avail the protection of that country. Since re-availment is a ground for cessation any information which is related to a possible travel back to the country of origin is a solid ground to the cessation of the refugee status.

**Q18.** Do national authorities encounter any **challenges** when assessing such cases of cessation? **YES/NO.**

As it was indicated several time before, this is not a major problem in Hungary. Thus we haven't detected any challenges. The one case we have found was an obvious case. The asylum experts explained, the only challenges was the non-compliance of the beneficiary.

**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 your (Member) State? **YES/NO**

If yes, do these take the form of:

- Internal guidelines

Please explain:

- UNHCR guidelines on cessation
- Other

Please specify:

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

***Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland***

**Contacting official authorities of the country of origin**

**Q20.** If a beneficiary of subsidiary protection in your (Member) State 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/NO**

Since the legal framework and the practice is the semi regarding this topic both on refugees and beneficiaries of subsidiary protection, see our answers in Section 2.2.

**Q20a.** If a beneficiary of subsidiary protection in your (Member) State contacts official authorities of his/her country of origin, can this can have other consequences. **YES/NO**

Since the legal framework and the practice is the semi regarding this topic both on refugees and beneficiaries of subsidiary protection, see our answers in Section 2.2.

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

Since the legal framework and the practice is the semi regarding this topic both on refugees and beneficiaries of subsidiary protection, see our answers in Section 2.2.

*Please indicate whether the same legislative provisions (and/or case law or practice) are applicable to refugees and to beneficiaries of subsidiary protection in your (Member) State.*

In national legislation?

*If box is marked, please specify legislation:*

In case law?

*If box is marked, please indicate case law reference and short summary:*

In practice?

*If box is marked, please explain practice:*

**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:

Since the legal framework and the practice is the semi regarding this topic both on refugees and beneficiaries of subsidiary protection, see our answers in Section 2.2.

*Please tick options that apply. For each of the (ticked boxes) options indicated, please elaborate whether it is based on legislation, case law or (administrative) practice.*

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

*Please elaborate (e.g. other administrative formalities):*

**Travelling to the country of origin**

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

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

**Q24.** Can a beneficiary of subsidiary protection request a travel document in your Member State?

**YES/NO**

Contrary to the refugees, a beneficiary of subsidiary protection shall be entitled to a travel document determined in a separate legal rule. For reasons of national security or public order the issue of such a document can be refused.

The bilingual travel document of persons recognized as refugee and the travel document of beneficiary of subsidiary protection shall be valid for one year.

The travel document of persons recognized as a beneficiary of subsidiary protection is a booklet containing 32 numbered pages.

The travel document of persons recognized as a beneficiary of subsidiary protection shall include: the applicant's family name, first name, place of birth, date of birth, sex, nationality or statelessness, faculty and signature; the entry for the applicant's protected status; the name, number, date, period of validity of the travel document, the name and stamp of the Hungarian passport issuing authority.

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

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

*Please specify:* there aren't enough cases to have such conclusion.

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

Since it is not a major issue in Hungary there is no specific database in this regard.

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

**YES/NO**

Since the legal framework and the practice is the semi regarding this topic both on refugees and beneficiaries of subsidiary protection, see our answers in Section 2.2.

**Q26a.** If yes to Q26, is it specified:

Since the legal framework and the practice is the semi regarding this topic both on refugees and beneficiaries of subsidiary protection, see our answers in Section 2.2.

*Please indicate whether the same legislative provisions (and/or case law or practice) are applicable in the same way to refugees and beneficiaries of subsidiary protection in your (Member) State.*

- In national legislation?

*If box is marked, please specify legislation: see section 2.2*

- In case law?

*If box is marked, please indicate case law reference and short summary:*

- In practice?

*If box is marked, please explain practice: see section 2.2*

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

**Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland**

Please tick options that apply. For each of the (ticked boxes) options indicated, please specify whether it is based on legislation, case law or (administrative) practice.

- 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

Please specify:

**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? **YES/NO**

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

- Internal guidelines

Please explain:

- UNHCR guidelines on cessation
- Other

Please specify:

**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?

As it was indicated several time before, this is not a major problem in Hungary. Thus we haven't detected any challenges.

**Section 3: Adoption of a decision on cessation of international protection and implications on the right of residence in the (former) State of protection [max 16 pages]**

**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/NO**

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

**Table 1 informing beneficiaries of international protection**

<b>Means used to inform beneficiaries of international protection</b>	<b>Contacting authorities of the country of origin</b>	<b>Travelling to the country of origin (or country of habitual residence)</b>
It is indicated on beneficiaries' travel document	<input type="checkbox"/>	<input type="checkbox"/>
Beneficiaries are informed in writing by national authorities	<input type="checkbox"/>	<input type="checkbox"/>
<i>Please specify language of</i>		

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

<b>Means used to inform beneficiaries of international protection</b>	<b>Contacting authorities of the country of origin</b>	<b>Travelling to the country of origin (or country of habitual residence)</b>
<i>communication used by national authorities:</i>		
Beneficiaries are informed orally by competent authorities  <i>Please elaborate:</i> Right after the recognition of a beneficiary of international protection, the authority inform the beneficiary on their rights, which contains detailed information on not to travel or contact the country of origin.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Beneficiaries are informed at their request  <i>Please elaborate (e.g. whether in writing or orally):</i> If a beneficiary asks the authority about his/her rights and possibility to travel, the authority automatically inform the beneficiary, that traveling bac, or contacting the country of origin, may lead to a cessation of his/her status.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other means  <i>please elaborate:</i>	<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 your (Member) State? **YES/NO**

After the authority has any information on such acts, they start the review of the status of the beneficiary.

**Q30a.** If yes to Q30, please briefly elaborate on the framework of the review in your (Member) State:

- There is a systematic review of all international protection statuses.

*Please briefly elaborate on the frequency of the review:* The Hungarian Act on Asylum states, that "The asylum authority shall review the existence of the criteria for recognition as a refugee at least every three years following recognition. The asylum authority shall review the existence of the criteria for recognition as a refugee if extradition of the refugee has been requested." This means that in the Hungarian legislation there is an automatic system, and the frequency of the review is regulated, in the Asylum act. The previous version of the Asylum act regulated, the review every five years, but the Act was amended, after 2016 and changed the frequency of the review to every three years.

In the Hungarian law the same rules apply for the beneficiaries of subsidiary protection. The Asylum Act of Hungary states, that "The refugee authority shall review the existence of the criteria for subsidiary protection at least every three years following recognition."

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

*Please elaborate:*

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

A review can be triggered *ex officio* by national authorities.

*E.g. as part of procedures to cease international protection*

The asylum authority may decide on, *ex officio*, to review the status of a beneficiary. If the authority has any knowledge, that the status is not needed, or any of the cessation grounds can be applied, they start the status review, and as a consequence of the review they cease the status.

**Q30b.** If yes to Q30, please briefly elaborate on (i) authorities involved and procedure followed (*e.g. same authorities involved in the review and adoption of a decision to cease international protection*), and (ii) whether a beneficiary of international protection is informed of the review.

As a rule only the asylum authority can decide, or investigate in asylum cases. This rule applies for the review and cassation of the status as well. The Immigration and Asylum Office, is the only competent authority to decide on international protection. Since only the IAO has the necessary knowledge and tools to assess asylum cases.

The beneficiaries of international protection as a rule are informed as soon as the status review is triggered. They are informed in writing in a language they are likely to understand, on the ground of the review, and the following procedural steps, as well as the consequences of non-compliance. The authority in case of a review/cessation procedure informs the beneficiary on his/her last known address that a procedure has started. If the address is not correct, or the beneficiary is not found at the place, the beneficiary is informed by a public notice in accordance with national law.

**Q31.** Can a review of international protection status lead to a decision to cease international protection in your (Member) State? **YES/NO**

If the authority has any knowledge, that the status is not needed, or any of the cessation grounds can be applied, they start the status review, and as a consequence of the review they cease the status. Thus the review procedure can be also a cessation procedure, as the direct consequences of the review can be the cessation of the status.

### 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 your (Member) State?

*Please elaborate:*

As a rule only the asylum authority can decide, or investigate in asylum cases. This rule applies for the review and cassation of the status as well. The Immigration and Asylum Office, is the only competent authority to decide on international protection. Since only the IAO has the necessary knowledge and tools to assess asylum cases.

**Q33.** Can the beneficiary of international protection present contrary evidence or elements during the procedure to cease his/her protection status? **YES/NO**

The beneficiaries can present any kind of evidence and information, according to the national law, as the ordinary rules apply for the status review procedure as well.

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

In writing to the competent authority?

*Please specify:*

*E.g. can the beneficiary of international protection present testimonial evidence?*

Orally?

*Please specify:*

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

*E.g. does the beneficiary of international protection have the right to an interview? Can s/he be accompanied by a lawyer?*

Both?

*Please specify:* The beneficiary at first is informed by the authority that he/she has to attend a personal interview regarding the review of his/her status. The beneficiary may decide to not to attend, but send a written statement to the authority. Not attending the personal interview doesn't affect the procedure, the authority can decide on the cessation of the status on the basis of the evidences available.

The beneficiaries also have the right to legal assistance and/or legal representation. Thus during the cessation/review procedure the legal representative can be also present any kind of evidence, except orally statement, but all kind of written testimony can be presented to the competent authority through a lawyer or other legal representative.

Other?

*Please specify:* Thus during the cessation/review procedure the legal representative can be also present any kind of evidence, except orally statement, but all kind of written testimony can be presented to the competent authority through a lawyer or other legal representative.

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

**YES/NO**

There are no specific rules applying for the cessation procedure. The procedure is carried out in accordance with the ordinary procedure, where the competent authority decides on the qualification for international protection. The asylum procedure will be carried out in 60 days, certain procedural steps (for example, checking the authenticity of documents, translation of attached documents) will not be included in the duration of the procedure, consequently, in some cases the procedure may actually take as long as a few months.

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

Is it done:

In writing?

Orally?

Other means?

*Please specify:*

**Q34b.** If yes to Q34, does the decision include the reason(s) for cessation? **YES/NO**

According to the Hungarian national law, every single decision of any authority has to be reasoned with the relevant facts and laws, which led to the decisions.

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

**a)** What are the timeframes for appealing the decision?

*Please elaborate:* The procedure is carried out in accordance the ordinary procedure, thus the beneficiary has 8 day to lodge his appeal to the competent authority. After this, the competent authority has 8 days to forward the appeal and the authority's defence to the competent jurisdiction.

**b)** Which authority examines the appeal application?

*Please elaborate:* First the competent authority examines weather, the first instance of the authority decided in accordance with the relevant national and European laws, or not. If the second instance of



*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

the authority finds the decision and the appeal lawful they forward it to the competent jurisdiction, and that the judicial body examines in merit the appeal.

**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? **YES/NO**

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

If the authority decided to withdraw the status of the beneficiary of international protection, and if there is no other reason for his/her lawful residence in Hungary, the authority shall order his/her expulsion from the territory of the European Union, to be executed by the immigration authority. The refugee authority may also bring an exclusion order.

In any case the principle of non-refoulement is applies. If there is a possibility that the beneficiary is persecuted in the country of origin, regardless of the cessation of his/her status, the removal order shouldn't be executed.

**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 your (Member) State? **YES/NO**

There haven't been any cases related to traveling back to country of origin. There have been cases where the beneficiary possessed a valid passport of his/her country of origin, after recognition.

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*).

### 3.4. CONSEQUENCES OF A CESSATION DECISION

#### **Right to stay, possible change of status or return**

**Q38.** In your (Member) State, is the decision to cease international protection issued together with the decision to end the residence permit? **YES/NO**

Beneficiaries in Hungary don't have a right to a resident permit, since their rights are the same as the nationals, they don't need separated resident permit. Every beneficiary gets an ID card which is similar to the nationals, and which embodies the rights to reside.

In the context of the above explained, in the decision to cease international protection the authority withdraw the ID card as well.

**Q39.** What are the consequences of a decision to cease international protection in your (Member) State 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). **YES/NO**

*If yes, is the decision to cease international protection accompanied by a return decision? **YES/NO***

*Please elaborate:* If the authority decided to withdraw the status of the beneficiary of international protection, and if there is no other reason for his/her lawful residence in Hungary, the authority shall order his/her expulsion from the territory of the European Union, to be executed by the immigration authority.

- 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*). **YES/NO**

*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):* The authority

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

takes into account the family links, other legal ground for staying in the territory of the Member State, or other Member State and the principle of non-refoulement.

**Q40.** Can a (former) beneficiary of international protection be granted another status? **YES/NO**

*If yes*, this can be:

*Please indicate options that apply. For each option marked, please elaborate on how and when a (former) beneficiary of international protection can apply for or obtain that status.*

A subsidiary protection status

*Please elaborate:*

A national protection status

*Please elaborate:* In case of the cessation of the status, when the principle of non-refoulement applies, the person cannot be removed from the territory of Hungary, thus the national legislation knows a temporary status, called tolerated status, where, the beneficiary shouldn't be removed, but doesn't have as broad rights as a refugee or beneficiary of subsidiary protection.

A legal migration status

*Please elaborate (e.g. based on family, social or economic links):* If a person has a final removal order, but has a family member who is a citizen of an EEA Member State, the decision cannot be executed.

Other

*Please specify:*

**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

*Please briefly elaborate on 'other grounds':*

Case by case decision if they keep or lose their international protection status and their right to stay

*Please elaborate on elements taken into account:* In the Hungarian legislation, after recognition the beneficiaries are individuals, and not interrelated with other beneficiaries. This situation is different, when a beneficiary had been recognised on the basis of the recognition of another beneficiary. In this case, a status review procedure starts after the original beneficiary's status ceases.

Other consequences

*Please elaborate:*

**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

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

*Please elaborate:*

- Lose their right to stay

*Please elaborate:*

- Case by case decision if they keep or lose their right to stay

*Please elaborate:* In the Hungarian legislation, after recognition the beneficiaries are individuals, and not interrelated with other beneficiaries. This situation is different, when a beneficiary had been recognised on the basis of the recognition of another beneficiary. In this case, a status review procedure starts after the original beneficiary's status ceases.

- Other consequences

*Please elaborate:*

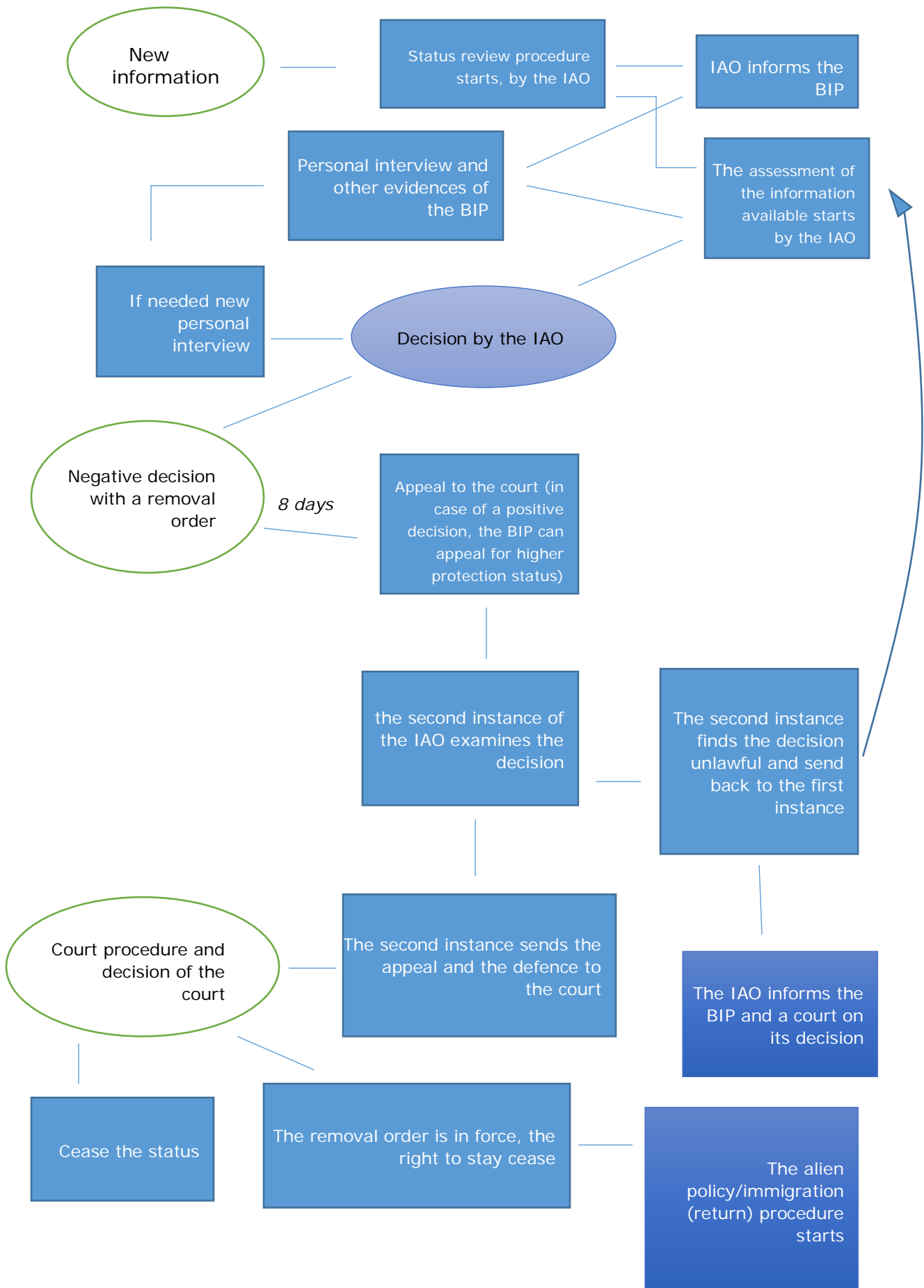
**Summarising chart and case study(-ies)**

**Q43. Summarising chart and illustrative examples** on the adoption of a decision on cessation of international protection and implications on the right of residence in the (former) State of protection

*[Possible visual element]*

*Please include a **chart** to visualise and describe (a) the actors involved and (b) process followed in all stages mentioned in Section 3, namely the process of adopting a decision to cease international protection status as a result of travels to the country of origin (and/or contacts with national authorities of the country of origin) and appeal procedures, possible consequences on the right of stay of the former beneficiary of international protection, his family members and issuance of a return decision. This chart can accompany and illustrate the case studies below.*

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*



*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

Please provide **one or two illustrative (and anonymised) case(s)** of a beneficiary of international protection travelling to his/her country of origin, the consequences on his/her international protection status and procedures followed. If available, please select case studies reflecting different situations, including, for example and if available, examples where the decisions taken was not to withdraw international protection status.

Only one case has been detected by the authority regarding the traveling back to the country of origin.

Mr. Sanchez<sup>3</sup> from Venezuela was granted a refugee status in 2002 in Hungary based on his political opinion. He was granted the status upon his political activity against the Venezuelan government.

On July 2017 the Immigration and Asylum Office (IAO) in Budapest got a request from the Hungarian Embassy in Bogotá, Columbia that Mr. Sanchez wanted to travel back to Hungary. For this purpose Mr. Sanchez provided the relevant and necessary documents to the Hungarian consul. Mr. Sanchez provided, his refugee travel document which was issued by Hungary, but was expired, his recognition decision, and his new Venezuelan passport. Mr. Sanchez, since his refugee travel document has been expired, wanted to ask for a one-time travel document to come back to Hungary to renew his refugee travel document. The consul immediately contacted the IAO, and asked for a clarification regarding the status of Mr. Sanchez.

The consul held a rapid interview where he asked Mr. Sanchez about his Venezuelan passport. Mr. Sanchez then during the official interview with the consul admitted that he had travelled back to Venezuela and asked for a new passport, since his refugee travel document had been expired after one year. Mr. Sanchez stayed 3 years in Venezuela, and wanted to leave the country and return to Hungary to renew his refugee passport, to be able to travel to the USA.

After the request from the Embassy in Bogotá, the Hungarian national authority started the cessation/review of his status. Since Mr. Sanchez never showed up again at the Embassy after the consul informed him on the situation, the authority ceased his refugee status.

*Below are examples of case studies based on existing legislation and practices in Belgium*

#### **Case studies**

- ★ Mr Ahmadzai<sup>4</sup> from Afghanistan was granted refugee status in Belgium in March 2012 based on his fear of the Taliban. On 7 October 2016, upon arrival in Belgium at the airport from Kabul, he was subjected to a check by the border police, where he presented his travel document for refugees. The entry and exit stamps on this document showed that he stayed in Afghanistan for over a month. The border police transmitted a copy of the travel document to the Immigration Office (to the International Protection Follow-up Unit) on 9 October 2016. As a result, the Immigration Office requested the Office of the Commissioner General for Refugees and Stateless persons to cease his refugee status.

A few months later, in January 2017, Mr Ahmadzai was invited for an interview by the Office of the Commissioner General for Refugees to explain the reasons of his visit to his country of origin and provide him with the opportunity to present evidence showing that he was still in need of refugee protection. Based on these statements, the length of stay in Afghanistan and the extensive family ties there, the Office of the Commissioner General for Refugees established that his behaviour did not show a fear of persecution in the country of origin. It took the decision to

<sup>3</sup> this is a fictional name

<sup>4</sup> Names used in these examples are fictional.

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

cease his refugee status on 28 April 2017. Mr Ahmadzai filed a suspensive appeal before the Council for Alien Law litigation against this decision on 31 May 2017. The Council confirmed the decision of cessation on 15 February 2018.

As a consequence of the end of his refugee status, the Immigration Office examined on 28 February 2018 whether his right to stay in Belgium should be ended or not. The Immigration Office first sent Mr Ahmadzai a registered letter asking him to submit any evidence and elements deemed necessary in favour of keeping a residence right. He didn't reply to this letter. After analysing all the elements in his file, and taking into account his length of stay, medical situation, family life and cultural and social links in Belgium, the Immigration Office took on 18 March 2018 a decision to end Mr Ahmadzai's right to stay in Belgium and issued a decision to return within 30 days.

- ★ Mr Al-Nouri from Syria was granted refugee status in Belgium in April 2010. On 15 November 2017, he arrived at Brussels airport returning from Syria and was subjected to a border check. The entry and exit stamps in his travel document for refugees showed that he went back to Syria for three weeks. The border police transferred its report and a copy of the travel documents to the Belgian Immigration Office (International Protection Follow-up Unit). On 18 November 2017, the Immigration Office asked the Office of the Commissioner General for Refugees and Stateless Persons to cease his status.

Mr Al-Nouri was interviewed at the Office of the Commissioner General on 10 March 2018 to enable him to present evidence in favour of maintaining his protection status. Based on this and past behaviour, the Commissioner General assessed that he failed to establish a real fear of persecution in Syria. Hence, on 28 March 2018, a decision to end his refugee status was adopted. Mr Al-Nouri did not bring an appeal against it.

After analysing Mr Al-Nouri file, the Immigration Office established that his wife and three underage children were staying in Belgium through family reunification. From a legal point of view, the residence right of Mr Al-Nouri and his family could be ended. On 15 May 2018, a questionnaire was sent to both him and his wife asking them to fill this in and to submit all documents and provide all elements deemed necessary for reviewing their residence rights. Based on all these elements (employment status of Mr Al-Nouri and his wife, school-aged children, integration courses followed), the Immigration Office decided on 25 June 2018 not to end Mr Al-Nouri's and his family's right to stay in Belgium.

## Section 4 Conclusions [max 2 pages]

**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 major conclusion of the study is that the Hungarian legal framework doesn't pay attention to this specific issue. Traveling back to the country of origin is not a relevant problem in the country, thus there is no need for specific actions and legal framework in this regard. The Hungarian authority decides on a case-by-case basis which would lead to a different legal interpretation, but since only one case could be detected there is no different legal interpretation.

The Hungarian legislation is very strict regarding the grounds of cessation. Although the procedure of cessation is not a separate procedure. The Hungarian law regulates the procedure, of granting international protection, cessation, review and revoking of the status in the same way.

The beneficiaries of international protection in general have the right to travel, but there is a very specific and strict rule in practice regarding any contact to the country of origin. The beneficiaries can contact non-governmental organizations to reach family members in their country of origin. Most commonly the International Red Cross is the one who helps the beneficiaries find their relatives in their country of origin. Since there is a well-managed way to contact the country of origin, there is no need for the beneficiaries to contact themselves directly, thus the Hungarian practice is very strict when it comes to contact the country of origin.

*Beneficiaries of international protection travelling to their country of origin: Challenges, Policies and Practices in the EU Member States, Norway and Switzerland*

Since there was only one case, conclusion couldn't be drawn from the findings. The general regulation of the procedure was shown in the study, but there wasn't special practical information or any guidance regarding this special issue. As it was indicated in the introductory Hungary is a classical transit country, regardless the recognition of the beneficiaries. Since the majority of the recognised persons travel further in the EU, the authorities don't have the necessary information and tools to detect their travels and movements.

With more beneficiaries the system could evolve in Hungary, but since there is not needed to regulate such special and small segment of cessation the general rules are seemed to be enough and seem to be sufficient regarding the travelling habits of beneficiaries. As a result of the lack of cases there is no database regarding this issue, neither the police, nor the asylum authority connects data on the travelling habits of the beneficiaries.

With the secondary movement a sufficient system could be set up, if the EU member states cooperate more and more effective, but until this relevant issue won't be solved.