



## Asylum Seekers and the Right to Work in the European Economic Area

### Summary

1. Every member state of the EEA, except the Republic of Ireland and Lithuania, grants asylum seekers the right to work at some point during their application process. The United Kingdom grants the right to work after 12 months if the applicant is still awaiting a decision. However, the job must be on the Shortage Occupation List. Other major recipients of asylum applications, notably France and Germany have a similar policy. The major exception is Sweden which receives ten times as many asylum applications per head as the UK.

### Working Rights of Asylum Seekers in the EU

2. There is no obligation on countries, by way of the Refugee Convention, to grant asylum seekers the right to work and each individual country is free to determine whether or not to grant the right and under what conditions. Usually there is a time period after which asylum seekers may apply for a work permit and there are often conditions attached to taking up employment.

#### a) Immediate rights to work

It is not particularly common for a country to grant asylum seekers the right to work immediately. This may be due to concerns that this initial right could act as a pull factor and encourage illegal work migration. The immediate right to work can be granted to asylum seekers who apply in Austria, Greece, Malta and Sweden. The reality in Austria is that asylum seekers are rarely granted the right to work as due to employment restrictions they can only work in sectors which are highly specialised or in demand. A resident labour market test applies in both Greece and Malta to ensure that the job could not be filled by someone from the domestic labour force, i.e. another EEA citizen or resident third party national with the right to work. **There are no restrictions on the working rights of asylum seekers in Sweden.**

#### b) Rights to work after one month

In Portugal an asylum seeker goes through a two stage asylum process. The first phase determines whether their application is admissible during which period an asylum seeker cannot work. This period last around 28 days. If the application is found to be admissible it is then sent for decision: during this period the right to work can be granted.

#### c) Rights to work after three months

In Switzerland an asylum seeker can apply for work if after three months they have not received a decision on their application. They must apply for a permit to work and can only take up employment in jobs where no candidate can be found amongst the domestic labour force.

#### d) Right to work after six months

In many countries asylum seekers can apply to work if they are still awaiting a decision on their asylum application after six months. In Belgium, Denmark, Finland, Italy, Poland and Spain an asylum seeker can work without restrictions after six months. In Cyprus an asylum seeker can work after six months however such work is restricted to low skilled work such as in the farming, fishing, manufacturing and waste management industries, trade and repairs, and other lower skilled work. In the Netherlands asylum seekers can be granted the right to work after six months but they are only allowed to work for 24 weeks a year.

#### e) Right to work after nine months

In Luxembourg, if no decision has been made on an application after nine months, the applicant can work but a resident labour market test applies to ensure that the job could not be filled by the domestic labour force. In Slovenia an asylum seeker can apply for a three month work permit if after nine months they are yet to receive a decision on their application; this period can subsequently be extended.

#### f) Right to work after 12 months

It is most common for countries to grant asylum seekers the right to work if after twelve months they are yet to receive a decision on their asylum application. In Bulgaria, the Czech Republic, Estonia, Romania and Slovakia an asylum seeker can work without restrictions after twelve months. In **France, Germany**, Hungary and Latvia an asylum seeker can work after twelve months however they are subject to a resident labour market test to ensure that the position could not be filled by a member of the domestic labour force.

#### g) No working rights

In the Republic of Ireland and Lithuania asylum seekers are not allowed to work until they receive a decision on their application.

3. Croatia, which joined the European Union on 1 July 2013, grants asylum seekers the right to work in accordance with the regulations for the employment of aliens. There may therefore be restrictions on the working rights of asylum seekers but in principle they have a statutory right to work.

4. The right to work if a decision is pending is often dependent on the decision making delay being no fault of the asylum seeker. If, for example, an asylum seeker has frustrated the asylum process by providing inaccurate or incomplete information they may be denied the right to work.

### **The UK position**

5. In the UK an asylum seeker must apply to work if after 12 months they are yet to receive an initial decision on their application and the delay is through no fault of their own. Asylum seekers can only work in jobs on the shortage occupation list to ensure that asylum seekers do not take jobs for which a domestic worker could be found. The conditions under which asylum seekers can work in the UK are very similar to its international counterparts in Europe who receive asylum seekers in similar numbers, such as France and Germany.

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