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Comparative overview of national protection statuses in the EU and Norway

EMN Study – Questionnaire Form
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Preface

The study – prepared in the form of questionnaire - aims to provide an overview of protection statuses provided by the EU member states based on national legislation, i.e. apart from asylum, subsidiary protection or temporary protection which are defined by the European legislation. It contains also a summary of information about grounds for their granting, processes, scope of rights, period of validity and implementation. The study partly updates the data from the 2010 "*The Different National Practices Concerning Granting of Non-EU Harmonised Protection Statuses*" study by EMN. It covers the national protection statuses which were valid between 2010 and 2018 and planned or recently changed by legislation in 2019. It also mentions those national protection statuses which were ceased or cancelled during this period.

The methodological approach to the preparation of this study is based mostly on secondary sources, especially on legislative documents and related jurisprudence/case-law. Some questions were consulted with relevant departments of the MoI SR Migration Office and the Bureau of the Border and Foreign Police of the Police Force Presidium.

Based on the questionnaires from each EU member State, the European Commission will prepare a synthesis report covering the main findings from the members States. The synthesis report will summarise comparable data on protection statuses, which are in place in EU member States. The questionnaire form of the study 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
- EMN** – European Migration Network
- EU** – the European Union
- IOM** – International Organization for Migration
- MoI SR** – Ministry of Interior of the Slovak Republic
- SC SR** – Supreme Court of the Slovak Republic
- SR** – Slovak Republic

Summary

The SR describes the “asylum on humanitarian grounds” statute which is the only valid national protection status as far as the specifications of this study are concerned.¹

Based on the information in the first section of the study, asylum related issues in the Slovak Republic are governed by the Act No. 480/2002 Coll. on Asylum and on change and amendments, as amended (hereinafter “Act on Asylum”). The Slovak Republic has the right to grant asylum on humanitarian grounds to an asylum seeker under Section 9 of Act on Asylum. This is a specific national statute based on which the seeker can be granted asylum on humanitarian grounds even though they do not meet the strict criteria for refugee status. In other words, the state preserved the option to grant protection in cases other than those defined in the 1951 Geneva Convention.

The introduction to the second section of the study is concerned with the legal framework of the national status of “humanitarian asylum”. The Slovak Republic starts assessing asylum on humanitarian grounds after the asylum seeker has applied for it and the SR has concluded that the applicant does not meet the criteria for refugee status. The provision of Section 9 of Act on Asylum explicitly states: *The Ministry may grant asylum on humanitarian grounds even when no reasons under Section 8² are established in the procedure.* The Implementing Regulation of the Minister of Interior of the SR regarding the Act on Asylum No. 34/2014 from 21 February 2014 as amended specifies the humanitarian grounds. However, the list of humanitarian grounds is non-exhaustive which means that the state can consider other grounds sufficient for granting asylum on humanitarian grounds. Art. 13 of the respective Implementing Regulation of the Minister of Interior of the SR states: *Especially those cases of unsuccessful asylum seekers who are old, traumatized, seriously ill and whose return to the country of origin might constitute significant physical or mental harm or even death are considered humanitarian grounds.*

The study then describes in detail the proceedings in front of the first instance authority as well as the proceedings in front of the court conducting the judicial review. Granting of asylum according to the Geneva Convention is decided in administrative procedure by an administrative authority, i.e. the Migration Office of the Ministry of Interior of the SR while it is the same administrative authority who decides on the asylum granted on humanitarian grounds. They are identical proceedings and granting asylum on humanitarian grounds can be the result if the grounds for refugee status under the Geneva Convention were not met.

Granting asylum on humanitarian grounds falls under the discretion of the administrative authority which shall give reasons for its decisions based on their own discretion. The decision is generally issued within 6 months after submitting the application for asylum (the deadline may be prolonged on legal grounds). If the asylum seekers are unsuccessful in the proceedings, they have the right to file an administrative action to a regional court against the statement on not granting asylum (in compliance with the Geneva Convention). The court then examines the legality and correctness of the administrative authority decision. This court proceedings include also the evaluation of whether the given decision of the administrative authority to not/grant the status on humanitarian grounds was logical and non-discriminative, i.e. of whether it is not contrary to the prohibition of arbitrariness which applies to public authorities based on the constitutionally enshrined principles of democratic state respecting the rule of law. A cassation complaint may be filed against the decision of the regional court which is then decided upon by the Supreme Court of the SR.

¹ Generally speaking, also the “asylum for the purposes of family reunification” and “subsidiary protection for the purposes of family reunification” could be considered as national protection statuses. They are included in the valid legislation in compliance with the EU law and secure the rights of family members of persons who are beneficiaries of international protection so as to protect the family integrity under the Art. 23 and further of the Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (qualification directive). Granting tolerated residence to a minor detected in the territory of the SR could be seen in a similar way as well, as it reflects the international legal commitments of the SR stemming from the 1989 Convention on the Rights of the Child in particular. These statutes are, however, included in the legislation of the SR in compliance with EU law and international commitments and do not meet the definition in the specification of the study.

² Section 8 of Act No. 480/2002 Coll. on Asylum and on changes and amendments to some acts defines the reasons for granting the refugee status under international law and the Constitution of the SR: “(a) *The Ministry shall grant asylum to an applicant, unless otherwise stipulated in the Act on Asylum, a) who has well-founded fear of being persecuted in his/her country of origin on grounds of race, ethnic origin or religion, for reasons of holding certain political opinions or belonging to a certain social group and owing to such fears, is unable or unwilling to return to this country; or (b) who is persecuted in the country of his/her origin for exercising political rights and freedoms.*”

As compared with the older case law of the Supreme Court of the SR which stressed the need to deal with the application for asylum on humanitarian grounds in the reasoning of the judgement, the newest court judgements underline the need to duly justify and logically explain the decision. This signifies a certain degree of pressure on the administrative authority to resort to this statute when the application is based on serious health grounds. On the other hand, the Supreme Court of the SR consistently states that there is no legal entitlement to grant asylum on humanitarian grounds.

The second section of the study also deals with the legal status of the person granted asylum. After having been granted asylum on humanitarian grounds, the person granted asylum is considered a person who has been granted permanent residence. A family member of the person granted asylum who was granted it on humanitarian grounds does not have the right to family reunification under the Act on Asylum, but reunification is still possible under the Act on the Residence of Foreigners.

Immediately after being granted asylum on humanitarian grounds, the person granted asylum can find employment in the SR – without the need of an employment permit. A person granted asylum is a part of the public healthcare system and gets the education at elementary, secondary and tertiary education institutions under the same conditions as the citizens of the SR.

Slovak language courses are provided to the persons granted asylum. It is also a precondition for receiving the integration benefit. Persons granted asylum can access legal, psychological, employment and social counselling and aid. After four years of this national status the person granted asylum can be awarded State Citizenship.

In the third section of the study we conclude that as the number of asylum applications filed in the SR has been relatively low in recent years, we do not encounter serious challenges or issues which would need immediate legislative changes when applying the institute of “asylum on humanitarian grounds”.

Regarding the legislative changes as compared to the EMN study from 2010³, the 2018 Amendment to Act on the Residence of Foreigners can be mentioned. The statute covering “remaining” of a third-country national present in the territory of the SR was introduced by this amendment⁴. It is applicable also if obstacles to administrative expulsion exist. It replaced previously valid legislation regarding tolerated residence which was used when obstacles to administrative expulsion were present. Tolerated residence was in the past applied to legal situations in which it was not possible to expel the foreigner from the territory of the SR due to non-refoulement.

³ *The Different National Practices Concerning Granting of Non-EU-Harmonised Protection Statuses*. Member States that participated in the 2010 EMN study, were Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.

Study is available at : https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/0_emn_synthesis_report_noneuharmonised_finalversion_january2011_en.pdf.

⁴ Section 61a of Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts.

Section 1: Overview and mapping of types national protection statuses

Q1. Aside from the EU-harmonised protection statuses, are there any other protection statuses currently available in your Member States? Yes/No

Please note that any evolution in the type of statuses that were available in the past years but not currently available is to be developed in question 8.

Yes. Asylum on humanitarian grounds which can be granted to a foreigner in the territory of the SR is a non-harmonized type of protection.

Q2. If no to Q1, please elaborate.

N/A

Q3. If yes to Q1, please complete **Table 1** with the type of non-harmonised protection statuses currently available.

Please indicate in **Table 1** the type of non-harmonised protection status(es) currently available

- Do not include any non-protection statuses: please refer to the scope of the study as defined in the introduction of the template.
- The type of statuses listed in **Table 1** is not exhaustive and is meant to act as a guide.
- National protection statuses can include for example those issued on the basis of ECHR Articles 3 and the principle of non-refoulement, medical reasons, climate change reasons, and other measures used to facilitate the legal admission and issuing of residence permits to persons in need of protection.

If a group of statuses (e.g. for medical, climate change and non-refoulement reasons) fall within a more general, overarching humanitarian status, please fill in the row below related to humanitarian status and include information on who is eligible for such status in Table 3. If there are differences in the content of protection, however, please indicate them in Table 4.

Table 1 Type of non-harmonised protection status(es) currently available

| Type of non-harmonised protection status | Yes | No | Comments |
|---|--------------------------|-------------------------------------|--|
| Constitutional asylum | | | |
| Please note section 3 in the template for background; if the status provided falls under an 'EU protection status' please note that that in your answer in the 'comments' column. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | The Constitution of the SR defines the institute of asylum ⁵ : "The Slovak Republic shall grant asylum to foreigners persecuted for the exercise of political rights and freedoms. Asylum may be denied to those who have acted in contradiction with fundamental human rights and freedoms. A law shall lay down the details [transposed into the Act on Asylum]." |
| International protection | | | |

⁵ Art. 53 of Act No. 460/1992 Coll. Constitution of the SR.

| | | | |
|--|-------------------------------------|-------------------------------------|--|
| <i>Please note section 3; if the status provided falls under an 'EU protection status' (e.g. the Temporary Protection Directive) please note that that in your answer in the 'comments' column.</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| Other national (including humanitarian) statuses based on: | | | |
| Medical reasons <i>See section 3 of the introduction in the study's template</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Medical reasons can be the reason for granting asylum on humanitarian grounds (see below). |
| Statuses available for climate change reasons and natural disasters | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| Statuses available for local personnel of armed forces of respective Member States (e.g. interpreters in Afghanistan or Iraq) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| Special statuses available for unaccompanied/aged-out minors <i>* Please note the recent EMN study on UAM and summarise where relevant</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | A minor detected in the territory of the SR is granted tolerated residence under the Act on Residence of Foreigners ⁶ . The SR has no legislatively defined specific protection status for asylum seekers who are unaccompanied minors. In such cases, however, granting asylum on humanitarian grounds (see below) is considered. |
| Special statuses available for children <i>* Please include only if status is different from the protection-related status provided to adults/unaccompanied minors for the above-listed reasons</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| Other (national protection) grounds <i>Please specify and add as many rows as necessary.</i> <i>Please note that study covers only national statuses granted to persons based on protection grounds – which could be applicable to persons that cannot be returned on the principle of non-refoulement. However, <u>legal statuses granted due to practical challenges to remove a third-country national fall outside the scope of the study</u> (see Section 3 in the introduction).</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | The Slovak Republic can grant asylum on humanitarian grounds to an asylum seeker under Section 9 of Act on Asylum as a non-harmonized protection status. The Implementing Regulation of the Minister of Interior of the SR regarding the Act on Asylum No. 34/2014 as amended specifies the conditions for granting asylum on humanitarian grounds. If the grounds for asylum granted under the s Section 8 of Act on Asylum (i.e. – persecution grounds) were not met and at the same time neither grounds for asylum for family reunification purposes (Section 10 of Act on Asylum), especially the cases of unsuccessful asylum seekers who are old, traumatized, seriously ill, |

⁶ Sec. 58 Par. 1 Letter a) of Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts.

| | | | |
|--|--|--|---|
| | | | whose return to their country of origin might constitute significant physical or mental harm or even death are considered humanitarian grounds. |
|--|--|--|---|

Q4. If yes to Q1, please complete **Table 2** with the type of statuses currently available for relocated and resettled persons, persons who are admitted through private/community sponsorship or other type of special programmes

If statuses available also include *non-harmonised* protection status(es), please also complete Table 3 and Table 4 in section 2.

Table 2 Types of protection status(es) currently available for relocated and resettled persons, persons who are admitted through private/community sponsorship or other type of special programmes

| Type of protection status | Yes | | No | Comments |
|--|---------------------------------|----------------------------------|-------------------------------------|---|
| | EU-harmonised protection status | Non-harmonised protection status | | |
| Status(es) available for resettled persons | | | | |
| <i>*Please note: EMN study on resettlement and humanitarian admission programmes</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | SR has no specific protection status for resettled persons. After submitting asylum application, the applications of resettled persons are assessed in regular asylum procedure. |
| Status(es) available for relocated persons | | | | |
| <i>*Please note the EU relocation programmes (introduction of the template)</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | SR has no specific protection status for relocated persons. After submitting asylum application, the applications of persons in the EU relocation programme are assessed in regular asylum procedure. |
| Status(es) available to beneficiaries of community/private sponsorship programmes | | | | |
| <i>*Please note: EMN study on resettlement and humanitarian admission programmes</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | SR has no specific protection status for groups of persons or sponsorship programmes. |
| Statuses available to beneficiaries of other special programmes | | | | |
| <i>E.g.: special programmes designed to assist persons in need of protection to enter and reside in the EU (e.g. in the frame of humanitarian admission programmes; family members of third-country nationals already legally residing in Member States)</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | The SR has no specific programmes for persons in need of protection to enter the SR or reside in the SR. However, in 2015 the SR carried out on voluntary basis humanitarian admission of 149 persecuted Iraqi Christians which was only a one-time act. ⁷ These persons underwent asylum |

⁷ The executed type of resettlement programme can be considered in the Slovak context a combination of humanitarian admission and sponsorship programme, since the humanitarian admission was financed by a third party/sponsor. Source: EMN Study: Resettlement and Humanitarian Admission Programmes in Europe - What Works? Available at: https://ec.europa.eu/homeaffairs/sites/homeaffairs/files/24b_slovak_resettlement_and_humanitarian_admission_sk.pdf (consulted on 2/5/2019).

| | | | |
|--|--|--|--|
| | | | procedure in the same way as other applicants who come to the territory of the SR as individuals. They were granted asylum on humanitarian grounds. ⁸ |
|--|--|--|--|

Section 2: Rationale, procedure and content of protection of national protection statuses

Q5. If yes to Q1 and indicated in Tables 1 and 2 types of non-harmonised protection status(es), please elaborate on rationale for the adoption of the status(es) and the determination procedure for each of the non-harmonised protection statuses.

Please refer to the relevant law or policy throughout.

Please add as many tables as necessary, *filling one table per status*, clearly indicating to which type of non-harmonised category it belongs to.

Table 3: Rationale for national protection status and determination procedure

| Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2): | |
|--|--|
| Other (national protection) grounds | |
| Status Asylum on humanitarian grounds | |
| Background | |
| Why was the status adopted? <i>* please briefly brief outline of the policy background that led to the adoption of this status</i> | By this statute, the Slovak Republic kept the discretion to decide on granting asylum (on humanitarian grounds) above the criteria for refugee status under international law and harmonized EU law. |
| In what year was this status established? | On 1 January 1993, i.e. by the creation of the independent Slovak Republic. The legal statute was received from the valid legislation of the Czech and Slovak Federative Republic. |
| Is this status established on: a) A permanent basis? b) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation? | a) Asylum on humanitarian grounds is a permanent statute enshrined in the Act on Asylum. |
| Legal reasons. | |
| Is the <i>status</i> set out in: a) Legislation? b) Administrative decision/regulation/circular? | a) The status is legislatively set out in the Act on Asylum and specified in detail in the Implementing Regulation of the Minister of Interior of the SR. However, the development of this legal statute is influenced also by court decisions interpreting in specific cases, i.e. the case law of the Supreme Court of the SR. |

⁸ Source: EMN Study: Resettlement and Humanitarian Admission Programmes in Europe - What Works? Available at: https://ec.europa.eu/homeaffairs/sites/homeaffairs/files/24b_slovak_resettlement_and_humanitarian_admission_sk.pdf (consulted on 2/5/2019).

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):

Other (national protection) grounds

Status Asylum on humanitarian grounds

- c) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate

Eligibility

Who is eligible to receive this status?

An asylum seeker about whom administrative authority decided that asylum on the grounds of persecution (section 8 of Act on Asylum) or family reunification (section 10 of Act on Asylum) will not be granted to them but who at the same time meets the requirements for being granted asylum on humanitarian grounds. Migration Office within administrative discretion applied during the decision making, considers specific situation of an applicant in line with the Implementing Regulation of the Minister of Interior No. 34/2014 as amended by Regulation No 84/2016.

Determination procedure

Is an application procedure set out in:

- a) Legislation?
- b) Administrative decision/regulation/circular?
- c) Other (e.g. case law)?

a) Asylum granting procedure is set out in the legislation – Act on Asylum.

When is application for the national protection status possible:

- a) Immediately, as part of a single procedure examining the need for international protection?
- b) Immediately, as part of a separate procedure?
- c) After exhausting the asylum procedure in-country?
- d) Other (please explain).

a) After no ground has been found for granting refugee status under the 1951 Geneva Convention, the option to grant asylum on humanitarian grounds is simultaneously assessed within the asylum proceedings if the asylum seeker requires it. The result of the proceedings is one decision.

Where does the application take place:

- a) In the territory of your State?
- b) In a third country?
- c) Both are possible.

a) Asylum application is submitted and assessed in the territory of the SR.

Briefly outline the procedure in terms of:

- Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the same authorities as those responsible of examining international protection applications;
- Existing timelines and notification of the (first instance) decision, information to the beneficiary

Administrative authority – Migration Office of the Ministry of Interior of the SR decides on non/granting asylum according to the Geneva Convention in administrative proceedings. It is the same administrative authority who decides on the asylum granted on humanitarian grounds. It is an identical proceedings and granting asylum on humanitarian grounds can be the result if the grounds for refugee status under the Geneva Convention and neither grounds for asylum for

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):

Other (national protection) grounds

Status Asylum on humanitarian grounds

family reunification purposes according to Act on Asylum were not met.

A positive decision on granting asylum contains one statement, i.e. the asylum is granted either under Section 8 of Act on Asylum on the grounds of persecution or the asylum is granted under Section 10 due to family reunification or on humanitarian grounds under Section 9 of Act on Asylum.

As granting asylum on humanitarian grounds falls under the discretion of administrative authority, the decision does not contain a separate negative sentence on not granting asylum on humanitarian grounds. If the decision contains the sentence on not granting asylum (according to Section 8 of Act on Asylum), the justification of the decision contains also administrative reasoning which governed the administrative authority in assessing asylum on humanitarian grounds only if an asylum seeker applied during proceedings for asylum on humanitarian grounds. In such case, the applicant has the option to file an administrative action to a regional court against the statement on not granting asylum. The court then examines the legality and correctness of the administrative authority decision.

The decision is generally issued within 6 months following the submission of the application for asylum (the deadline may be prolonged on legal grounds). The decision is delivered to asylum seeker at the place and time determined by the Ministry.

In case asylum seeker is represented in the proceedings, decision is delivered to his/her legal representative only. Asylum seeker must be acquainted with decision in language he/she understands during the acceptance of decision. Notice of a right to file an administrative action against decision together with information on a time limit prescribed to lodge appeal and on court having subject-matter jurisdiction with contact address are included in the decision.

Migration procedure

Is there an appeal in the event of a negative decision? Yes/No

Yes.

If yes, is it a two-level system of appeal or one level?

two-level system

If yes, is it:

Judicial review.

| Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2): | |
|---|--|
| Other (national protection) grounds | |
| Status Asylum on humanitarian grounds | |
| <ul style="list-style-type: none"> - An administrative action? - A judicial appeal? - Judicial review? - Other? (please explain) | The applicant has the option to file an administrative action against the decision on not granting asylum. It is decided upon by a regional court. A cassation complaint may be filed against the decision of the regional court which is then decided upon by the Supreme Court of the SR. |
| Does the appeal have an automatic suspensive effect? Yes/No <i>If no, can it be requested and what is the procedure in this case?</i> | Generally, filing an administrative action against the decision on not granting asylum has an automatic suspensive effect. However, if the administrative authority issues a decision rejecting the asylum application as clearly unsubstantiated or inadmissible and at the same time the filing of an administrative action does not have automatic suspensive effect, it is possible to request it together with administrative action at the respective court. |
| Are the authorities involved <u>the same as those in appeal procedures against a negative decision in the international protection procedure?</u> | Yes. |
| If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No | Yes, it can result in administrative expulsion of the foreigner. |
| If there is no possibility for appeal, please explain what happens. | N/A |
| Change of status | |
| In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for: <ul style="list-style-type: none"> a. International protection status? (please specify which) b. Other legal migration statuses? (please specify which) | <p>a) In such case the foreigner can submit a new asylum application. However, it can be evaluated as inadmissible.</p> <p>b) If a foreigner in a specific case meets the legal conditions for granting a specific type of residence, they can apply for it even though they were not successful in the asylum procedure.</p> |
| Relevant case law | |
| <p>Is there any relevant case law (by the highest instance courts and final judgements) that led to systemic changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No</p> <p>If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.</p> <p><i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i></p> | <p>Yes. The development of this legal statute is influenced also by court decisions interpreting in specific cases. For example, the Supreme Court of the SR (SC SR) judgements 10Sžak/3/2018, 10Sžak/18/2017 and 10Sžak/41/2015 show the requirements of the Court in relation to the decisions issued in administrative proceedings in which the application for asylum on humanitarian grounds was not successful:</p> <p>SC SR judgment of 28 March 2018 M. A. S. v. Ministry of Interior of the SR, Migration Office,</p> |

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):

Other (national protection) grounds

Status Asylum on humanitarian grounds

No. 10Sžak/3/2018 states: *"Regarding the asylum on humanitarian grounds, the Cassation Court states that based on the wording of the law (given the administrative consideration) there is no legal entitlement to grant asylum on humanitarian grounds. Judicial review is limited to checking whether the decision of the defendant in the given matter is logical and non-discriminative, i.e. of whether it is contrary to the prohibition of arbitrariness which applies to public authorities based on the constitutionally enshrined principles of democratic state and state respecting the rule of law."*

SC SR judgment of 13 December 2017 G. A. M. A. v. Ministry of Interior of the SR, Migration Office, No. 10Sžak/18/2017 states: *"It has to be noted that the cases of unsuccessful asylum seekers (minors with serious disease) are among the reasons worthy of granting asylum on humanitarian grounds and therefore the Cassation Court considers the part of the defendant's decision regarding not granting humanitarian asylum to the complainant and her minor children (one of whom has serious heart disorder) to be beyond review for the lack of reasons but at the same time illogical."*

On 3 February 2016, the Supreme Court of the SR issued the 10Sža/41/2015 judgement and stated: *"Regarding the applicant's objection that the defendant did not consider the option to grant asylum on humanitarian grounds stated in Section 9 of Act on Asylum to the applicant the Court of Appeal states that the decision to grant/not grant asylum on humanitarian grounds under Section 9 of Act on Asylum depends on the discretion of the defendant and judicial review is not possible with regards to the results of this decision. Defendant's reasoning shows that the applicant's reasons were assessed and individually evaluated. No real threat of serious injustice was found. This is the reason why the applicant does not belong to any of the categories of persons who need some type of international protection and therefore the defendant in their case did not deem it needed to provide any form of protection to them. If the defendant did not consider the applicant's reasons for granting asylum to be such subjective circumstance which would in itself constitute a reason for granting asylum on humanitarian*

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):

Other (national protection) grounds

Status Asylum on humanitarian grounds

grounds and stated this consideration in the reasoning of their decision, it was not possible to regard the above objection of the applicant as justified."

Judgement of the SC SR file ID 1Sža/11/2009 of 26 May 2009 states that the law does not explicitly oblige the administrative authority to include the negative decision on granting asylum on humanitarian grounds under Section 9 of Act on Asylum into the statement. As this is not a claim which must be decided upon by an administrative authority ex lege but a result of the administrative authority's consideration which is not reviewable by the court, the claim of the applicant that administrative authority did not consider the option to grant asylum on humanitarian grounds will not stand – especially in situations when it was not even disputable that the applicant did not claim the existence of reasons stated in the provision during the administrative proceedings.

Based on the above examples we might conclude that as compared with the older case law of the Supreme Court of the SR which stressed the need to deal with the application for asylum on humanitarian grounds in the reasoning of the judgement, the newest court judgements underline the need to duly justify and logically explain the decision. This signifies a certain degree of pressure on the administrative authority to resort to this statute when the application is based on serious health grounds. On the other hand, the Supreme Court of the SR consistently states that there is no legal entitlement to grant asylum on humanitarian grounds.

Q6. If yes to Q1 and indicated in **Tables 1 and 2** types of non-harmonised protection status(es), please also fill in **Table 4** for each status. Please add as many tables as necessary, completing one table per status, clearly referring to the name/title of the status used in **Table 3**.

Table 4: Content of protection of national statuses

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|--|-----|----|-------|---------|
| Residence permit | | | | |

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|--|-------------------------------------|-------------------------------------|-------------------------------------|--|
| Issuance of a residence permit required? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | After being granted asylum on humanitarian grounds, the person granted asylum is considered a person granted permanent residence. |
| Validity of the first residence permit (or initial length) (in years) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | This is permanent residence for an indefinite period (with a document valid for 10 years at a time). |
| Possibilities of renewal/extension? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | While the protection status exists, the person granted asylum is considered a person granted permanent residence – only the document, not the residence, is valid for 10 years. |
| Validity of the residence permit after renewal? (in years) | - | - | - | As this is permanent residence for an indefinite period, there is no need for renewal (extension). |
| Time period required to be entitled to permanent residence permit (in years) ⁹ | - | - | - | A person granted asylum on humanitarian grounds can ask for long-term residence after 5 years since obtaining the protection status (asylum on humanitarian grounds). After obtaining long-term residence the national protection status expires. |
| Does this time period differ from the general rule for applying for permanent residence permit? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| Travel document | | | | |
| Is a travel document issued ? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| If so, what type of document is it? | - | - | - | Travel document of a foreigner according to the 1951 Geneva Convention. |
| Validity (in years) | - | - | - | 2 years |
| Accommodation | | | | |
| Access to accommodation (on the same basis as other legally residing third-country nationals)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

⁹ See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|--|-------------------------------------|-------------------------------------|-------------------------------------|--|
| Access to specific schemes/programmes to support access to accommodation? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | After having been granted asylum on humanitarian grounds, the person granted asylum is included into an integration programme. They receive assistance and financial support while searching for accommodation. The Ministry of Interior of the Slovak Republic can accommodate the person granted asylum in the accommodation centre for the time necessary on the basis of their written request. Under this arrangement, the foreigner is required to appropriately cover the expenses of their stay. |
| Dispersal mechanism? ¹⁰ | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Persons granted asylum are dispersed throughout Slovakia depending on integration options. This mechanism is not formally (legally) set out. |
| Family reunification | | | | |
| Right to family reunification? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <p>According to the Act on Asylum, the family member of the person granted asylum on humanitarian grounds does not have the right to have the asylum for the purposes of family reunification granted to them.</p> <p>However, according to the Act on Residence of Foreigners it is possible for a family member of the person granted asylum on humanitarian grounds to apply for temporary residence for the purposes of family reunification¹¹ (or for tolerated residence on the grounds of respecting private and family life – but only if the foreigner is not a holder of valid travel document and trustfully proves their identity in another way¹²).</p> |
| Eligible family members, for example: - partner in a legal marriage or in a comparable relationship | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Complying to the above, family reunification by means of temporary residence is possible in this way: |

¹⁰ In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

¹¹ Pursuant to Section 27, Paragraph 1 Letter a) of Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts: "Temporary residence for the purpose of family reunification shall be granted by a police department, if there are no reasons for the refusal of the application according to Art. 33 par. 6, to third country national who is a family member of the third country national with temporary residence or with permanent residence".

¹² Pursuant to Section 58, Paragraph 1 Letter b) of Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts.

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|--|-------------------------------------|-------------------------------------|--------------------------|---|
| - unmarried partner (e.g. registered partnership, cohabitation, attested long term relationship) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - underage partner | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - minor child (beneficiary's and/or partner's; foster or adopted child) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| - adult dependent children (beneficiary's and/or partner's or adopted child) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | his/her dependent single child older than 18 years of age or dependent single child older than 18 years of age of his/her spouse who cannot take care of him/herself due to long term unfavourable health condition ¹³ |
| - brother or sisters | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - dependent parents | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| - parents of UAMs | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <p>Material requirements sponsor must guarantee, for example:</p> <p>- accommodation</p> <p>- health insurance</p> | | | | <p>In this part, not only requirements which must be met by the sponsor (the person granted asylum with whom the family member is reuniting) are stated but also those required by the applicant or even both. The documents below are submitted if the temporary residence application for the purposes of family reunification is submitted later than after 3 months since the asylum had been granted to the sponsor. If the applicant submits the application within the three months, the application is only complemented by a valid travel document and proof of family relationship with the person granted asylum as stated below (in the answer to the question on "grace period"):</p> <p>Upon submitting the application, the applicant shall submit proof of accommodation provided by the sponsor for at least 6 months. The proof must prove that this is a shared accommodation with the sponsor.</p> <p>Health insurance of the SR is not a precondition of granting temporary residence for the purposes of family reunification. However, the applicant must submit proof of health insurance after the residence is granted to them.</p> |

¹³ Pursuant to Section 27, Paragraph 2 Letter e) of Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts.

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|---|-------------------------------------|-------------------------------------|--------------------------|--|
| <p>Is there an equivalent of a 'grace period'¹⁴ during which no material conditions are required?</p> <p>If so, please indicate the duration of the grace period in the comments column.</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>If a third country national files an application for the granting of temporary residence for the purpose of family reunification with the person granted asylum within three months from the granting of asylum, the application shall include only a valid travel document and a document proving affinity or another evidence which proves the existence of such a relationship¹⁵.</p> |
| <p>What is the validity of the residence permit of the family member?</p> | - | - | - | <p>5 years</p> |
| Labour market and qualifications | | | | |
| <p>Specific conditions to be granted access (e.g. hold work permit)?</p> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <p>Immediately after being granted the asylum on humanitarian grounds, the person granted asylum can seek employment in the SR – without an employment permit.</p> |
| <p>Access to procedures for recognition of qualifications?</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>The Centre for Recognition of Diplomas can accept a diploma or other document on completed education of the person granted asylum as well as a vocational qualification which was obtained in the past. Further information on recognition of foreign diplomas can be found at https://www.minedu.sk/recognition-of-foreign-diplomas/.</p> |
| Social assistance | | | | |
| <p>Social assistance limited to core benefits?</p> <p><i>*please note definition of 'core benefits' in the introduction</i></p> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <p>The person granted asylum has the right to benefits above the "core benefits", e.g. to various social benefits depending on meeting conditions defined in relevant legislation (such as parental allowance, benefit in material need etc.).</p> |
| Health care | | | | |
| <p>Access to emergency health care?</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <p>Access to mainstream services?</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>Persons granted asylum on humanitarian grounds are a part of public health insurance system.</p> |

¹⁴ See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

¹⁵ Pursuant to Section 32 Paragraph 13 of Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts.

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|--|-------------------------------------|--------------------------|--------------------------|---|
| Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Persons granted asylum can access psychological, psychiatric, legal and social counselling or help depending on individual needs. |
| Education | | | | |
| Access to general system of education (same as nationals)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Person granted asylum are provided education at elementary, secondary and tertiary education institutions under the same conditions as the citizens of the SR. |
| Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>A Slovak language course is provided to the persons granted asylum. It is also a precondition for receiving the integration benefit.</p> <p>Within further education, the persons granted asylum can continue their studies at Slovak educational institutions or in various retraining courses focused on teaching participants vocational skills in order to find employment.</p> <p>If needed, individuals get information which support their orientation in the culture and living in the country even after granting them asylum.¹⁶</p> |
| Integration | | | | |
| Access to 'mainstream' support (available for legally residing third-country nationals)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

¹⁶ The EMN focused study: Integration of beneficiaries of international/humanitarian protection into the labour market in the Slovak Republic: policies and good practices. (2015), p.24. <https://www.emn.sk/sk/na-stiahnutie-emn/publikacie-emn/item/369-studia-emn-integracia-osob-s-medzinarodnou-ochranou-na-trh-prace-2015>.

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|--|-------------------------------------|--------------------------|--------------------------|---|
| Access to targeted support (i.e. specifically for beneficiaries of the status)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>The SR provides the persons granted asylum on humanitarian grounds access to integration programme which considers their special needs.</p> <p>Persons granted asylum can access legal, psychological, employment and social counselling and support, Slovak language courses and are provided a one-time contribution. Such integration measures for beneficiaries of international protection (i.e. including the person granted asylum on humanitarian grounds) are implemented by means of State and EU funds. Projects funded from EU funds with participation of the SR are implemented through non-governmental organisations. Based on identified specific needs of the person granted asylum, various professional services are provided to them during their involvement in the integration programme.</p> |
| If so, how long is the support granted for? | - | - | - | <p>Length of the support depends on active cooperation of the person granted asylum in integration activities. During first six months of the integration, the person granted asylum receives a financial contribution while this benefit can be prolonged in justified cases.</p> |
| End of protection | | | | |

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|---|-------------------------------------|--------------------------|--------------------------|---|
| <p>Are there any <i>formal</i> ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>Pursuant to Section 14 of Act on Asylum: asylum shall terminate by granting the citizenship of the Slovak Republic or another EU Member State to the person granted asylum; person's granted asylum written declaration of waiving the asylum, person's granted asylum death or its withdrawal; by granting asylum by another EU Member State to the person granted asylum. Asylum granted on humanitarian grounds shall terminate also if the person granted asylum is granted other legal asylum than the asylum they had or permanent residence.</p> <p>Asylum can be withdrawn (pursuant to Section 15 of Act on Asylum) in the procedure on withdrawing asylum initiated by the Migration Office.</p> <p>Migration Office shall withdraw asylum in cases such as: if the person granted asylum voluntarily availed the protection granted to them by the country of their citizenship; if they reject without any grounds the protection availed by the state of their citizenship (and in case of stateless persons the state of last residence) despite the fact that circumstances for which they had been granted asylum ceased to exist.</p> <p>Migration Office shall withdraw asylum on humanitarian grounds also if another state granted residence for unlimited period to the person granted asylum or if the asylum was granted on the basis on false information or forged documents.</p> <p>Migration Office shall withdraw asylum on humanitarian grounds also if the person granted asylum can be reasonably considered to constitute a danger to the security of the SR or has been convicted of a particularly serious crime and constitutes a danger to the society.</p> <p>Further reasons for withdrawing asylum are stated in the Act on Asylum.</p> |
| <p>How can national protection end?</p> <ul style="list-style-type: none"> <li data-bbox="209 1906 699 1973">- The person no longer qualifies for protection <li data-bbox="209 1995 699 2022">- Protection was fraudulently acquired | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|--|-------------------------------------|-------------------------------------|--------------------------|--|
| - Status ceased | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - Status can no longer be renewed | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| - Other (please explain) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | As stated above. |
| Naturalisation/citizenship acquisition | | | | |
| Minimum legal residence required to apply for citizenship/naturalisation <i>*please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States</i> | | | | The applicant can be granted Slovak citizenship if they are a person granted asylum for at least four years immediately preceding submission of the application ¹⁷ . |
| Status offers more or less favourable conditions (compared to either refugee or subsidiary protection) | | | | |
| Please describe the extent to which the status offers a) <u>more</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The status of person granted asylum on humanitarian grounds is connected to permanent residence in the territory of the SR for an indefinite period of time while beneficiaries of subsidiary protection are considered to be persons granted temporary residence for a limited period of time. Beneficiaries of subsidiary protection are issued a foreigner's passport while person granted asylum have the right to have a travel document of a foreigner according to the 1951 Geneva Convention issued. The travel document of a foreigner is a public document used by the person granted asylum to prove their identity and which entitles them to travel outside of the SR. Travel document of a foreigner is a travel document pursuant to Act on Travel Documents ¹⁸ : as compared to foreigner's passport which is not a travel document. Foreigner's passport entitling the foreigner to travel outside of the SR and to return is only a replacement of a travel document if the foreigner does not have one. ¹⁹ |
| b) <u>same or</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The status is almost equal to the status of person granted asylum on the grounds of persecution (i.e. pursuant to the Geneva Convention). |

¹⁷ Sec. 7 Par. 2 Letter e) of Act No. 40/1993 Coll. on Slovak Citizenship.

¹⁸ Section 4, Section 13, Paragraph 1 Letter b) of Act no. 647/2007 Coll. on Travel Documents and on changes and amendments to some acts.

¹⁹Section 74 of Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts.

| Status [A] Asylum on humanitarian grounds <i>Please insert name as used in Table 3</i> | Yes | No | Other | Details |
|--|-------------------------------------|--------------------------|--------------------------|---|
| c) <i>less favourable conditions compared to either refugee or subsidiary protection?</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Based on the asylum on humanitarian grounds family reunification is not possible within the asylum granting procedure. However, it is possible in a special procedure under Act on Residence of Foreigners (as stated above). |
| Relevant case law | | | | |
| Is there any relevant case law (by the highest instance courts and final judgements) that led to systemic changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. <i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Relevant case law is stated in the answer to question 5. |

Section 3: National debates and challenges as regards national protection statuses

Q7. Are the national protection statuses the **subject of debate** in your Member State (e.g. political, academic and civil society debate)? Yes/No

Please outline the key debates referencing parliamentary questions or policy documents media, academic literature and commentary or literature from civil society organisations.

Please note that future plans – if any – should be mentioned under question 10.

Partly yes: during the adoption of the 2018 amendment to the Act on Asylum, one of the commenting subjects proposed to include the family members of persons granted asylum on humanitarian grounds to the pool of persons which would be granted asylum for the purposes of family reunification. This proposal was not included in the finally implemented legislative changes due to one reason – option for family reunification of such persons granted asylum already exists as the possibility to obtain temporary residence for the purposes of family reunification or tolerated residence due to respecting their private and family life.²⁰

Q8. What are the **key practical or operational challenges** in your Member State regarding national protection statuses?

Please consider in particular any challenges related to the implementation and uptake of these statuses in practice, challenges observed to ensure consistency with other EU-harmonised protection statuses, etc.

²⁰ Information provided by the Migration Office of the Ministry of Interior of the SR.

Given the fact that in recent years the number of asylum applications has been low in Slovakia, we do not encounter significant challenges or issues when applying asylum on humanitarian grounds which would need legislative changes.²¹

The SR is currently not planning any major changes regarding the asylum on humanitarian grounds.²²

Q9. Did your (Member) State adopt any **measures to tackle the above-mentioned challenges?**

Yes/No

If so, please elaborate.

No.

Q10. Is your Member State planning to introduce any **new protection statuses** that have been announced publicly (i.e. in the form of official strategy documents, existing draft legislation or proposal)?

Yes/No

If so, when and why?

No.

Q11. Is your Member State planning to **terminate or significantly change** any of the protection statuses currently available? Yes/No

If so, when and why?

No.

Q12. If applicable, have any of the statuses identified within the **2010 EMN study**,²³ and within the scope of the present study, ceased to exist or been significantly amended since 2010? Yes/No

Alternatively, if your Member State did not participate in the 2010 EMN study, have any statuses within the scope of the present study and available at the time of the study in 2010 ceased to exist or been significantly amended (regarding grounds and content of protection) since 2010? Yes/No

If so, how, when and why?

Yes. The 2018 amendment to the Act on Asylum added the reasons for termination and withdrawal of asylum on humanitarian grounds: if the beneficiary has unlimited residence in another state, or if they obtained citizenship in another EU MS or asylum on the grounds of persecution in another EU MS.

The 2018 Amendment to Act on the Residence of Foreigners introduced the statute covering the "remaining" of a third-country national present in the territory of the SR which is applied also if obstacles to administrative expulsion exist²⁴. Valid legislation replaced the status of tolerated residence

²¹ Ibidem.

²² Ibidem.

²³ 'The Different National Practices Concerning Granting of Non-EU-Harmonised Protection Statuses'. Member States that participated in the 2010 EMN study, were Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.

Study is available at : https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/0_emn_synthesis_report_noneuharmonised_finalversion_january2011_en.pdf.

²⁴ Obstacles to administrative expulsion.

(1) A foreigner cannot be administratively expelled to a state in which his/her life would be threatened for the reasons of his/her race, nationality, religion, membership in a particular social group or for his/her political conviction, or in

which was used before the adoption of the amendment if obstacles to administrative expulsion existed. Remaining of a third-country national in the territory of the SR covers the cases of foreigners on whom the qualification directive is not applied but who at the same time fall under the Art. 3 European Court of Human Rights. (In the past, the statute of tolerated residence was applied to the cases as above.)

Section 4 Conclusions

Q13. 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 statute of asylum on humanitarian grounds is a tool within the Slovak legislation which makes it possible to provide protection in situations where international or European law guarantees no international protection. Its aim is to help those who are outside of their country of origin and in such situations that a return there would mean dire hardship, especially due to serious health problems or old age. The Slovak Republic used this legal statute also when persons within humanitarian admission and relocated persons were placed into our territory.²⁵

As mentioned above, stemming from the Supreme Court decisions, issuing of positive decisions for the cases of applicants with health problems when deciding on asylum on humanitarian grounds is supported. This applies especially if an absence of necessary healthcare in the country of origin is identified during the proceedings and the applicant suffers a serious health condition. In this respect it needs to be added that asylum on humanitarian grounds is not a universal tool for solving the health problems of asylum seekers and its aim is not to develop into "asylum on health grounds".²⁶

To conclude we can state that based on experience with using the asylum on humanitarian grounds it is a solution to various complicated situations in which the asylum seeker is not entitled to any of the international protection forms. In such case this national status of protection of the SR makes it possible for them to remain in the European Union and integrate into our society.²⁷

which he/she would be threatened by torture, cruel, inhuman or degrading treatment or punishment. Similarly, a foreigner cannot be administratively expelled to a state in which he/she was imposed the death penalty or it may be assumed that he/she may be imposed such a penalty in the ongoing criminal proceedings.

(2) A foreigner cannot be administratively expelled to a state in which his/her freedom would be threatened for the reasons of his/her race, nationality, religion, membership in a particular social group or for his/her political conviction; this shall not apply if a foreigner threatens the state security by his/her actions or if he/she was sentenced for crime and represents a threat for the Slovak Republic.

(3) A person without any citizenship may be administratively expelled only if he/she threatens state security or public order by his/her actions and the obstacles to administrative expulsion according to paragraphs 1 and 2 do not apply to him/her.

(4) A foreigner cannot be administratively expelled to any state where there is a threat for him/her to be forced to return to the state under paragraph 1 or 2.

²⁵ Information provided by the Migration Office of the Ministry of Interior of the SR.

²⁶ Ibidem.

²⁷ Ibidem.

Statistical annex

Table A : Asylum on humanitarian grounds in the SR by age

| Type of national protection status | Year 2017 | | Year 2018 | |
|--|--------------|----------|--------------|----------|
| | Age under 18 | Age 18 + | Age under 18 | Age 18 + |
| Decisions on granting asylum on humanitarian grounds | 8 | 15 | 2 | 1 |

Source: Migration Office of the MoI SR

*Statistical data are not available according to the set criteria for years 2010-2016

Table B : Asylum on humanitarian grounds in the SR by gender

| Type of national protection status | Year 2017 | | Year 2018 | |
|--|-----------|--------|-----------|--------|
| | Male | Female | Male | Female |
| Decisions on granting asylum on humanitarian grounds | 13 | 10 | 3 | 0 |

Source: Migration Office of the MoI SR

*Statistical data are not available according to the set criteria for years 2010-2016

Table C : Decision on granting asylum on humanitarian grounds in the SR by nationality

| Year | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|--------------------|---------------------------------|---------------------|---------------------------------------|-----------------------------|---------------------------------------|----------------------|--|---|--------------------------|
| Nationality | - Without nationality - Iraq | - Cuba - Somalia | - Afghani stan - Iraq - Somalia | - Afghani stan - Somalia | - Afghani stan - Iran - Somalia | - Libya - Ukraine | - Afghani stan - Iraq - Pakistan - Syria - Ukraine | - Afghani stan - Bangladesh - Iraq - Cuba - Syria | - Afghani stan - Iraq |
| Total | 3 | 2 | 18 | 10 | 9 | 2 | 159 | 23 | 3 |

Source: Migration Office of the MoI SR