

# GUIDANCE NOTE FOR HOST ORGANISATIONS ON VISA APPLICATION PROCESS FOR HUMAN RIGHTS DEFENDERS

This document provides a short overview of the visa application process for at risk human rights defenders (HRDs) in need of relocation to Europe, and offers a compilation of good practises in relation to this process. The practices were given to ProtectDefenders.eu by the different members of the EU Temporary Relocation Platform HRDrelocation.eu.

The information presented in this guidance note are the general rules that apply in regular situations. Note that exceptions are possible, but really depend on the HRD, the country of relocation and the organisation that is making the invitation. Any questions, comments or additions on this document can be send to Guus van Zwoll: [gvanzwoll@protectdefenders.eu](mailto:gvanzwoll@protectdefenders.eu)

## 1. The visa application process

### Which visa is applicable?

When inviting a human rights defender to Europe, the Host Organisation should be clear with the possible upcoming travels of the defender. Are all activities planned in the same country or in other Schengen states? Although a Schengen visa will allow the HRD to travel between states; **the country in which the HRD will reside longest, is the country that should give out the Schengen visa**<sup>1</sup>. In most cases, this will be the country in which the relocation programme for the HRD will take place.

There are several Schengen Visa types that the HRD can apply for<sup>2</sup>. The most commonly used are the following two types of Schengen visa:

#### → Short stay visa (Up to 90 days)

The two types of short stay visa are:

- Uniform visa which allows travel to all Schengen States (a type "C" visa)
- Visa with Limited Territorial Validity (LTV), which allows the HRD to travel only to the State(s) indicated on the visa sticker but not to any of the other Schengen States. This visa can be issued on humanitarian grounds<sup>3</sup>.

In a standard Short stay visa (both Uniform visa and LTV), the applicant can stay for a period of maximum 90 days during any 180-day period in the Schengen area. If the HRD

1 [Visa Code](#) article 5

2 For more information on the different visas; you <http://www.schengenvisainfo.com/schengen-visa-types/>

3 [Visa Code](#), Article 25, and/or the [Handbook for the processing of visa applications](#) of the European Commission



already spent time in the Schengen zone with an another visa (for another country), the short stay calculator<sup>4</sup> can be used to calculate how long the HRD can stay within the Schengen zone.

*The short stay Visa can only be requested for a period of 90 days. This doesn't mean that the stay of the HRD is bound by this. In certain cases, the stay of the HRD can be extended as a national visa. See "Extending the stay of an HRD who has a Uniform Visa" at page 4.*

### → Long stay visa (type "D" visa)

The long term visa or National visa is granted to people that are studying, working or permanently residing in one of the Schengen countries. With a type D visa, the applicant can stay one year within the Schengen zone. In some cases, the visa can allow a stay of up to five years. This visa is applicable when the organisation that is inviting the HRD is registered as a Fellowship, Research Institute, University or Business with the national visa authorities.

#### NATIONAL RESIDENCE VISA

*For the countries France, Spain, Sweden, Italy or Germany, it is a more common practice to apply for a National Residence Visa without being invited by an official sponsor. The visa allows a stay between 1 and 5 years in the country. The local visa authorities or the embassy can be contacted to see if this is possible in the situation of the HRD.*

The number of times that the HRD can enter the Schengen area is also to be taken into account; the number of entries apply to both the short term visas and the long stay visas.

- **Single-entry visa** allows the HRD to enter a Schengen country only once. Once the HRD leaves the Schengen area (or the country, in case of a LTV visa) after entering, the visa validity expires, even if the time period allowed for the stay in the country is not yet over .
- **Double-entry visa** applies the same policy as mentioned above, however the HRD is allowed to enter the Schengen area/country twice, meaning that for the period of time permitted by the visa the HRD can enter the Schengen country, leave and enter again without any problems. Once the HRD leaves the country for the second time, the visa expires.
- **Multiple-entry visa** allows its holder to go in and out of the Schengen area/country as pleased. However, in most cases, this visa allows its holder to stay in a Schengen Zone for a maximum of 90 days within a 180 days period, starting from the day the holder crosses the border between a Schengen member country and the non-Schengen member country.

When inviting a HRD and arranging his/her stay after arrival, it is always important to check the type of visa that the HRD has and on what date the HRD entered the country. A HRD might

<sup>4</sup> [https://ec.europa.eu/home-affairs/content/visa-calculator\\_en](https://ec.europa.eu/home-affairs/content/visa-calculator_en)



for example receive a single entry Uniform Schengen visa that is valid between 01-01-2017 and 01-08-2017; but if the HRD arrives on 15/01/17, the HRD can only stay until 14/04/17 (the end of his 90 day period) even though the end date states otherwise. More information on reading the visa sticker, can be found on the website of [European Commission – Migration and Home Affairs](#)

### Letter of invitation

Although it is possible for the HRD to apply for an Uniform Schengen (tourist) visa by him/herself, it significantly helps the HRD to be officially invited by an NGO. Besides confirming that the HRD has a valid reason to apply for the visa, an invitation letter could also work as a proof that the HRD has accommodation and sufficient means of subsistence during the intended stay in the Schengen area. Please make sure to mention the following data in the letter of invitation:

- The full name of the person(s) invited
- The passport data of the persons invited (name, date of birth, passport number, date of issue and date of expiry)
- Background of your organisation
- The reason for the invitation
- The dates of the period of stay in the Schengen area/Country

*In most cases, especially in cases of temporary relocation, the following information should also be added:*

- Commitment to provide the travel health insurance. In most cases, the health insurance should already be secured and attached to the letter of invitation
- Commitment to provide the accommodation
- Commitment to provide the means of subsistence during the intended stay

If the (relocation) programme is supported by the national government or if there are any laws or regulations that can facilitate the obtaining of a visa for the HRDs in question, this should be mentioned in the letter. An example letter of invitation is attached as an annex to this guidance note.

### The Schengen Visa procedure

Once the HRD has filled out the Schengen Visa Application form<sup>5</sup> and has the necessary supporting documents (photo, proof of insurance, etc), the HRD can apply for the visa. Although the visa procedure might change per country, it is good to have a general understanding of it. The application will usually go through the following steps:

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<sup>5</sup> Practical information on the necessary documentation, the Schengen Visa Photo Requirements and on how to do the application can usually be found on the website of the embassy of the Country of destination or on [schengenvisainfo.com](http://schengenvisainfo.com)



1. *The HRD applies in person at the embassy of the destination country in his/her home country.* However, this is not always possible. The country of destination may not have diplomatic representation in the country. In these cases, the HRD has either to apply in person in a third country<sup>6</sup> or at another member state's embassy. Different EU embassies can also be working together and have only one Schengen visa application desk in one of their embassies. Lastly, it can also be the case that the embassy cannot be (easily) accessed; in these cases embassies often use a private company for the Visa Services. Examples of these companies are VFS Global and Gerry's (in Pakistan). Although the use of third country embassies or companies will not change the basis of the Schengen visa application, it might influence the application of special laws and regulations of the destination country that might be in place to ensure a faster visa procedure or an extended stay.
2. *The Application is checked by the embassy and the Visa Authority in the country of destination.* The embassy checks if the application fulfils the entry requirements and sends the information through to the Visa Authority in the member state capital that will then decide on the visa. If the applicant is of a certain nationality or specific category, *prior consultation* is required. This means that all member states of the Schengen area have to be consulted on the visa application. This prior consultation can extend the time needed for the processing of the visa by another 14 days. The list of countries and categories can be found as [ANNEX 16](#) of the visa code.
3. *The visa is given out,* if both the embassy and the Visa Authority accept the application (and in case of prior consultation, no objections have been made). The visa is then to be retrieved by the HRD in the embassy.

## 2. Good practises on the visa process for HRDs

### 2.1 Good practises on the length of the visa

Although a stay of 90 days as provided by the Schengen Uniform visa will prove to be sufficient for most HRDs, some HRDs will not be able to go back after 90 days due to security issues. In order to provide HRDs with a timely and safe stay of an appropriate duration in the EU, and present them with another option than returning to the country of origin or claiming asylum, the following good practises can be considered:

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<sup>6</sup> This can also happen when the country of origin is very big. For HRDs in Goma, the East of Congo, it is often easier to apply in an embassy based Rwanda than in the embassy in Kinshasa.



### ***Extending the period of a Short Term Visa***

Within the Schengen framework, Member States are allowed to extend the stay of a HRD holding a Uniform Visa, by granting them a visa of Limited Territorial Validity. Although this extension might prohibit the HRD from engaging in lobby activities in the Schengen zone outside of the country (Brussels, Geneva)<sup>7</sup>, it could allow the HRD to stay up to another 90 days in the country, thereby increasing the maximum stay of a HRD in a 'short term relocation' from 90 to 180 days (almost 6 months).

### ***Applying for a multi-entry visa***

Whenever the HRD had to leave his/hers country of origin and stay in the Schengen area for security reasons, it can be challenging for them to return to their home country, especially if the risks have not decreased. Facing the possibility of being at risk again and of having to go through consular procedures (in case they need to leave again), might be a reason for HRDs to prioritize safety before their human rights work, and might even lead to applying for asylum.

Sometimes, the mere fact of having the possibility to return to safe grounds whenever needed, even if not used, can bring crucial (moral) support to HRDs. A multi-entry visa can be the incentive for HRDs to return to do their work, as they then know they can escape danger quickly without having to go through consular procedures again. It is possible for the HRD to apply for a multi-entry visa. There are two ways that have been proven to work:

- *Applying for a multi-entry visa in the first visa request.* In case the HRD needs to return to the Schengen area on a regular basis in relation to certain projects or returning (lobby) activities this can be a reason to apply for a one-year multiple entry Schengen visa.
- *Applying for a multi-entry visa after returning to the country of origin.* Not all HRDs conduct lobbying activities in the Schengen area. However, out of safety considerations, the Ministries of Foreign Affairs of some Schengen countries will allow the HRD, on return to the country of origin, to apply directly at the embassy for a multiple-entry visa. This will allow for prompt departure in case of threats.

## **2.2 Good practises to facilitate obtaining of visas**

### ***Maintaining relations with the Visa Authorities and Ministry of Foreign Affairs***

Because the local embassies, consulates and the national visa authorities play such an important role in the visa procedure, it always helps if the NGO that invites the HRD has good relations with these institutions. A good way of setting up these relations, is introducing the HRD to the embassy, especially to the policy officer for Human Rights/political affairs. Likewise, it can be also beneficial for the NGO to have good relations with the Ministry of

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7 It is (theoretically) possible to apply for a separate LTV visa for the Schengen country where the meeting is held, but this might need good preparation, contacts with the MFA and a longer processing period for the visa, since this is an unusual situation for most consulates/embassies within the Schengen zone



Foreign Affairs and/or Visa Authorities in the country of destination. Having good relations may:

- Help with answering questions about the visa application. By having short communication lines with the authorities, the NGO can clarify any doubt that might arise from the application.
- Help with solving problems faced during the visa application, for example in making the appointment (at the embassy or the shared Schengen desk) or explaining the application of certain rules and regulations that might only apply to HRDs
- Confirm the status of the HRD and the legitimacy of the visit to the Schengen area.
- Result in good contacts between the HRD and the embassy even after the visit to the Schengen Area, what can help in the human rights work of the HRD and even be beneficial for his security.
- Speed up the application. Sometimes, NGOs can already inform the Visa Authorities in the capital about the upcoming application. If they can already give all the necessary information, the Visa Authorities can emit their opinion about the application even before the application has reached the Visa Authorities through the normal channel. This can speed up the application significantly.<sup>8</sup>

### ***Register your organisation as an official sponsor for a Long stay visa***

The rules for a National Visa (type D) differ by member state. But in many states, organisations and companies can be registered with the national authorities as an official sponsor for Type D visa, which will allow them to invite HRDs on the basis of a National Visa. These invitation can be on the basis of an internship, fellowship or an academic programme. Rules for getting registered vary per member state and getting registered might be a bureaucratic and political process, but the result would be that the NGO could invite HRDs for a period ranging from one to five years. One of the NGOs in the Schengen Area that currently can invite HRDs for a long term visa is the [Hamburger Stiftung für Politisch Verfolgte](#), although it should be mentioned that in their case the initiative for the programme came from the government.

### ***Lobby to use the discretionary powers of the Minister.***

Within the legal framework of some countries, the Minister in charge of migration issues has the discretionary power to issue a national visa to individuals on a case by case basis. Although it is not a widespread practice, this power can be used to allow HRDs to receive a national visa.

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<sup>8</sup> This is for example the case with the Shelter City programme run by Justice and Peace. HRDs can apply for the accelerated assessment of the visa application, as stated by the Dutch Minister of Foreign Affairs in his letters to the House of Representatives of 2<sup>nd</sup> May 2011 and 25<sup>th</sup> October 2011.



### ***Lobby for specific legislation for the programme***

In some countries, there has been specific legislation created for relocation projects. Notable examples of this are the Spanish Program for Support and Protection of Human Rights Defenders at Risk, the accelerated assessment of the visa application in the Netherlands, and distinct national entry regulations for writers going to ICORN member cities in Denmark, Sweden and Norway.

#### *Spanish Program for Support and Protection of Human Rights Defenders at Risk*

The Spanish Program for Support and Protection of Human Rights Defenders at Risk, aimed at providing them with temporary shelter, was officially launched in 1995 by the Human Rights Office of the Ministry of Foreign Affairs and Cooperation of Spain. The initiative came from Amnesty Spain, but the Spanish Ministry of Foreign Affairs, especially the Director of the Human Rights Office played an important role in it.

Thanks to the programme, the HRD can be granted a one-year residential visa (Residencia Temporal no Lucrativa), which can be extended with another year if needed. More information about this programme can be found in the programme description (ANNEX B).

#### *Accelerated assessment of the visa application in the Netherlands*

In the Netherlands, Justice and Peace lobbied in parliament for the Shelter City Programme. This resulted in two letters by the Dutch Minister of Foreign Affairs to the Dutch House of Representatives, in which he stated his support to the programme and promised an accelerated assessment of the visa applications for threatened HRDs.

In practice, this means that at risk HRDs, who have been accepted by the Shelter City programme, can have their visa issued in two or three days, sometimes even within 24 hours. This can administratively be done by close cooperation between Justice and Peace and the Dutch Ministry of Foreign Affairs.

#### *Distinct national entry regulations for writers and artists at risk in Norway, Sweden and Denmark.*

ICORN is set up as a relocation programme for at risk artists, writers and HRDs, who receive relocation for at least 1 year. In Scandinavia, ICORN has done a lot of work to have the laws and legislation enacted to make their programme possible. These efforts resulted in the creation of three distinct national entry regulations. The information below is a summary of "Providing residencies for persecuted writers and artists in Europe – Immigration issues" by Elisabeth Dyvik. The full text and more information about these three distinct national entry regulations, can be found [here](#).

**Denmark:** In Denmark, ICORN, together with Danish PEN, was able to lobby for the passing of amendments to the national laws of immigration and of the municipalities. The amendment to the immigration act now states that writers invited to cities that are members of an international organisation (like ICORN), can be granted a two year residency permit. The permit can be extended, but does not give grounds for permanent residency. Close family members



(partners/ children) can also be given a residency permit, and the right to work, for the same time period. The writer is not given a work permit, but is free to work, and receive remuneration, if the work is related to the writer's profession. The only downside up to now, is that it takes the Danish authorities up to two months to process the residency permit. This is of course a challenge for the individual in distress.

Sweden: ICORN, PEN and the Swedish Art Council, discussed with the Swedish immigration authorities (Migrationsverket) solutions to the visa/residency challenges that ICORN faced. Migrationsverket found that as long as the writer/artist was provided for financially, s/he could enter on a residency permit for 'liberal professions' grounded on 'other means of income than employment'. They published their position in March 2011. It stated that Sweden could grant a temporary residence permit for two years to guest writers. Swedish immigration has since then developed an application form specifically for this type of residency permit.

After the initial two years, the writer/artist can be granted permanent residency in Sweden if s/he can show that s/he will be able to financially support him- or herself through her continued writing (13000 SEK per month).

Norway: In Norway, ICORN writers/artists can only enter the country as refugees under the Norwegian resettlement quota. Norwegian PEN has lobbied for and was later granted the right to suggest writers to the Norwegian Directorate of Immigration (UDI). Each year the Norwegian Parliament decides how many refugees will be resettled in Norway. The yearly quota letter from the Parliament also states where the refugees can be resettled from. There are some spaces not tied to a special country of origin, and some for emergency cases (handled in 48 hours). Norwegian PEN can suggest refugees to be resettled under the two latter categories. If the writer has his family with him at the time the suggestion is sent to UDI, they can enter the country together. If not, the family can apply for reunification, which is usually granted under Norwegian law. This opportunity to suggest writers for refugee status through Norwegian PEN, adds flexibility to ICORN's programme and also makes them able to offer residencies to writers and artists who need longer-term protection.

*ProtectDefenders.eu is the European Union Human Rights Defenders Mechanism implemented by international civil society and established to protect defenders at high risk and facing the most difficult situations worldwide.*





ANNEX A:

Example Visa Request Letter:

Embassy of Belgium  
ADDRESS

November 15th, 2016

**Re: Request for a 1 year multiple entry Schengen visa for [name of HRD].**

Dear Madam/Sir,

The [name of the inviting organisation] would like to request a visa for **Ms [name of HRD]** (Passport No #####, date of issue: #####, date of expiry: #####). The [name of the inviting organisation] is a human rights organisation that has several projects regarding the security of human rights defenders.

**Ms [name of HRD]** has been invited to the [name programme]; a programme that is set up to provide rest, respite and training to human rights defenders. During their stay in [CITY, COUNTRY] from [DATE] to [DATE], Ms [Name] will participate in the programme, which includes lobbying in the [country], attending meetings with MEPs at the European Union and informing partners in Brussels about the situation in her country. For this reason she needs to come to [Country], for follow up meetings and consultations on a regular basis.

The [name of the inviting organisation] would be very grateful if you could grant **Ms [name of HRD]** a **one-year multiple entry Schengen visa** to enable her to pursue her work with us. The [name of the inviting organisation] will cover all travel costs, accommodation and other living costs required in Europe.

For more information, please contact my colleague, NAME either by telephone or via email.

I thank you in advance for the attention you will pay to this request.

Yours faithfully,

Director  
[name of the inviting organisation]



## ANNEX B:

**Spanish Government Programme of Issuing Temporary Residency Permits to HRDs at Risk**

Since 1995, the Spanish Government has a programme of facilitating temporary shelter to HRDs in danger or in need of rest and respite. The impulse to start the programme came from Amnesty International. A key component of the programme is the granting of a visa and then a one-year temporary residency permit. Since the beginning of the programme, about 292 HRDs have been given temporary shelter.

The programme is open to HRDs from any country. There is no specific application period – applications can be made whenever an HRD is in danger or in need of rest and respite. HRDs can be accompanied by family members. HRDs approach the Spanish Embassy directly to apply. Alternatively, applications come from NGOs who write to the Director of the Human Rights Office (HRO) of the Spanish Ministry of Foreign Affairs (MFA) to request a visa/residency permit. Then the HRO contacts the Spanish Embassy about the case. Inclusion in the programme can be effected only if financial support is secured either by the requesting Organisation or by the HRO and if the requesting NGO or any other organisation commits to provide any needed assistance to the HRD while in Spain. The Spanish Government has a budget of €16.000 to cover cases of HRDs that have not been able to secure any financial support.

The Spanish Embassy checks the information provided regarding the HRD's situation (level of risk, need for rest and respite, etc.) and if the information is verified, grants a visa. If the HRD has already left his/her country, then the visa process is done by the Spanish Embassy of the country he/she finds themselves in. The visa process usually takes about two months (around 30 days in exceptional/urgent cases). After HRDs arrive in Spain, they receive a one-year permit for temporary residence without entitlement to work (Residencia Temporal no Lucrativa).<sup>1</sup> This permit is specifically provided for in an article of the Spanish migrant law concerning residency rules. Under exceptional circumstances, the permit can be extended for a second year.

The MFA has an agreement with the responsible Spanish authorities regarding the granting of this residency permit to HRDs included in its programme. In the issuing temporary residency permits, the MFA also collaborates closely with three programmes which select and host the HRDs and finance their stay in Spain. These programmes are run by NGOs in Asturias (with support of the Government of the Principality of Asturias), NGOs in the Basque Country (with Basque Government support) and by Amnesty International's Spanish Section (Protection Programme).

Spain grants an average of 10 to 15 non-lucrative residency permits for HRDs included in temporary shelter schemes per year. So far around 292 HRDs have been provided with temporary shelter in Spain since 1995 under the above-mentioned schemes.

For further information, contact:

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