

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION
OF THE DIRECTIVE :**

TEMPORARY PROTECTION OF 20 JULY 2001

**IN
Estonia**

By
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FIRST PART

1. NORMS OF TRANSPOSITION AND JURISPRUDENCE

Q.1.A. Identify the central norm(s) of transposition and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: *legislative* refers to a norm adopted in principle by the Parliament; *regulation* refers to a norm complementing the law and adopted in principle by the executive power; *circular or instructions* refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Act on Granting International Protection to Aliens
DATE: 14.12.2005
NUMBER: N/A
DATE OF ENTRY INTO FORCE: 01.07.2006
PROVISIONS CONCERNED : 2001/55/EC, 2003/9/EC, 2003/86/EC, 2004/83/EC (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: RT I 2006,2,3
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.1.B.

Please list the others norms of transposition according to their hierarchical position in your legal system (first laws, to be followed by regulations; and circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is termed a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

When answering this question, please use one or more of the tables below (one norm per table). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

TITLE: Order of applying for, granting of, extending of or annulling of the residence permits of a person receiving temporary protection and his/her family member, the list of data and evidence to be submitted upon the application for the residence permit and the order of entry of residence permit data on the identity document.
DATE: 28.09.2006
NUMBER: Government Regulation no. 211
DATE OF ENTRY INTO FORCE: 08.10.2006
PROVISIONS CONCERNED : (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: RT I 2006, 24,324
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input checked="" type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 2

TITLE: The forms of the asylum application and application for residence permit, application for residence permit on the basis of temporary protection and application for extending of the residence permit.
DATE: 21.12.2006
NUMBER: Regulation of the Minister of Internal Affairs no. 67
DATE OF ENTRY INTO FORCE: 02.01.2007
PROVISIONS CONCERNED : (for example if the norm is not devoted only to the transposition of the concerned directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: RT L 2006, 93, 1731
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input checked="" type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 3

TITLE: Form of the travel permit and the data to be submitted on it
DATE: 14.07.2006
NUMBER: Regulation of the Minister of Internal Affairs no. 48
DATE OF ENTRY INTO FORCE: 06.08.2006
PROVISIONS CONCERNED : (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: RTL, 03.08.2006, 61, 1102
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input checked="" type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.2. This question needs to be answered only for **FEDERAL OR SIMILAR MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN**

Q.2.A. Explain which level of government is competent to adopt the norms of transposition.

Please include your answer in the tables below

LEGISLATIVE RULES
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

REGULATIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

CIRCULAR OR INSTRUCTIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

Q.2.B. Where appropriate, please explain if the federal structure and the distribution of competences between the different levels creates any problem or difficulty regarding the transposition and/or the implementation of the directive.

Q.3. Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

When answering this question, please use one or more of the tables below (one table per competence concerned). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

COMPETENCE CONCERNED:	Decides whether to grant temporary protection
CENTRAL MINISTRY OF:	
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	
OTHER LEVEL OF ADMINISTRATION:	Government of the Republic
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

Table 2

COMPETENCE CONCERNED:	Accepts and applications for residence permits on the basis of temporary protection
CENTRAL MINISTRY OF:	Ministry of Internal Affairs

DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	
OTHER LEVEL OF ADMINISTRATION:	Citizenship and Migration Board
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

Table 3

COMPETENCE CONCERNED:	Accepts applications for residence permits on the basis of temporary protection
CENTRAL MINISTRY OF:	Ministry of Internal Affairs
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	Border Guard Authority
OTHER LEVEL OF ADMINISTRATION:	
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

Q.4.A. Has the central regulation foreseen by the central norm of transposition already been adopted?

YES NO

Q.4.B. If the central norm(s) of transposition foresee(s) the adoption of one or several regulations, indicate if they have all been adopted:

YES NO

If NO, please indicate the missing text(s) in the table below. Where necessary, please add further explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):

When answering this question, please use one or more of the tables below (one table per missing text). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

MISSING TEXTS
<i>INDICATE HERE THE MISSING TEXTS</i>

SECOND PART

Duration and implementation of temporary protection

Q.5. According to article 5(1) in the Directive the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council. According to article 5(3) the Council Decision shall have the effect of introducing temporary protection for the displaced persons to which it refers, in all the Member States, in accordance with the provisions in the Directive.

Do the national norms of transposition in your Member State mandate the Council to decide about the existence of a mass influx of displaced person, with the effect of introducing temporary protection for the displaced persons to which it refers in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation (if the answer is “no”, how is a Council decision transposed ad hoc into national law?)

Under section 52 (1) of the Act Granting International Protection to Aliens the Council of the EU shall establish the existence of mass influx and the need for temporary protection.

Q.6. According to article 6 in the Directive, temporary protection shall come to an end when the maximum duration has been reached or at any time by Council Decision on a proposal from the Commission. *See article 6 (1-2).*

Do the national norms of transposition mandate the Council to decide when temporary protection in your Member State shall come to an end?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is ‘no’, how is a Council decision transposed ad hoc into national law?)

According to section 70 of the Act the temporary protection shall terminate at the termination of maximum term of protection or at any time according to a decision of the Council of the European Union. Under section 53 (1) of the Act Granting International Protection to Aliens the temporary protection lasts for one year, and according to section 53 (2) in case the Council has not ended the term of the temporary protection, the term will be prolonged by six months, up to one year. Section 53 (3) of the same Act stipulates that in case the implementation of temporary protection is continuously justified both of the terms stated above can be prolonged up to one year.

Q.7. According to article 7, a Member States may extend temporary protection, as provided for in the Directive, to additional categories of displaced persons over

and above those to whom a Council decision applies, where they are displaced for the same reasons and from the same country or region of origin. *See optional provision in article 7 (1-2).*

Do the national norms of transposition allow your Member State to extend temporary protection to additional categories of displaced persons?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is "yes", if any, what are the criteria for extending protection to additional categories of displaced persons)?

Under section 52 (2) of the Act Granting International Protection to Aliens, the Government of the Republic may decide to extend the temporary protection to other asylum seekers in Estonia, who fall within the same category of aliens.

Obligations of the Member States towards persons enjoying temporary protection

Q.8. Questions regarding obligations of the Member States towards persons enjoying temporary protection. *See article 8(1-3):*

Q.8.A. Does your Member State provide persons enjoying temporary protection with a residence permit? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Under section 55 (1) of the Act for Granting International Protection to Aliens.

Q.8.B. Answer this question if the answer on Q.8.A is 'yes': **Is the residence permit valid for the entire period of temporary protection?** *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Q.8.C. Will documents or other equivalent evidence for the residence permit be issued? See mandatory provision in article 8(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 60 (1) of the Act for Granting International Protection of Aliens the residence permit shall be entered into the identity document. Also during the residence permit application procedure the Citizenship and Migration Board shall issue the applicant a document (certificate), certifying that he/she is applying for a residence permit (under section 54 (8)). Under section 67 (1) of the Act for Granting International Protection of Aliens the alien, who will be transferred to another EU Member State, will be issued a travel permit. However, the law does not provide that the family members of the recipient of the temporary protection shall also receive a travel permit.

Q.8.D. Will your Member State provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them, is clearly set out? See mandatory provision in article 9.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 60 (1) of the Act for Granting International Protection of Aliens the residence permit shall be entered into the identity document. There is no stipulation about the language of the entry nor about the provisions of the temporary protection and the need to clearly set them out. The travel permit discussed above in section Q8C is in Estonian and in English (exactly as provided in Annex I to the Directive). Also during the residence permit application procedure the Citizenship and Migration Board shall issue the applicant a document (certificate), certifying that he/she is applying for a residence permit (under section 54 (8)), no language requirement again applies.

Q.8.E. Will the personal data of the persons enjoying temporary protection (name, nationality, date and place of birth, marital status, and family relationship) be registered? See mandatory provision in article 10.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 77 (1) of the Act for Granting International Protection for Aliens a national register on granting international protection (including temporary protection) for the processing of personal data and data collected during the application procedure.

Q.8.F. Will your Member State provide facilities for obtaining the necessary visas, including transit visas, to persons which will be admitted to the

territory for the purposes of temporary protection? *See mandatory provision in article 8(3).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Q.8.G. According to the national law of your Member State: Will the visas referred to in Q.8.F, be free of charge? *See mandatory provision in article 8(3).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (if the answer is “no”, please indicate the amount charged and indicate amounts charged for other types of visas)

All of the work permits applied for by people who have received a residence permit under the Act on Granting International Protection to Aliens are exempt from state fee. However, the CMB may exempt a person from paying the state fee under section 39 of the State Fee Act if the persons financial situation provides a reason, or a public office or local government requests so, or a foreign agreement stipulates so.

Q.9. According to national law of transposition, is your Member State responsible to take back a person enjoying temporary protection on its territory if that person seeks to enter onto or remains on the territory of another Member State without authorisation during the period of temporary protection? *See mandatory provision in article 11.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Under section 68 of the Act on Granting International Protection to Aliens Estonia is required to re-admit a recipient of temporary protection who holds a valid residence permit issued in Estonia and who is illegally staying in another member state of the European Union or who has illegally entered another member state of the European Union, unless specified otherwise in an international treaty.

Q.10. Has your Member State concluded bilateral agreements with other Member States regulating the responsibility for persons enjoying temporary protection under the Directive? *See optional provision in article 11, final sentence.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, please specify with which country)

Q.11. Questions regarding work and other activities during temporary protection: *See mandatory provision in article 12.*

Q.11.A. Are the persons enjoying temporary protection allowed to engage in:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- | | | |
|--|--|------------------------------------|
| Employed activities? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Self-employed activities? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Educational opportunities for adults? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Vocational training? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Practical workplace experience? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Explanation:

Under Section 61 of the Act Granting International Protection to Aliens provides that a recipient of temporary protection may contract employment in Estonia on the conditions set forth in the Aliens Act and under section 75 subsection 1 the recipient has the right to receive state allowances, family benefits, employment services and other assistance on the same grounds as a permanent resident of Estonia as provided for by law. Furthermore, under section 75 subsection 6 a recipient of international protection has the right to education and employment in Estonia as provided by law.

Q.11.B. According to optional provision in article 12, Member States may, for reasons of labour market policies, give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.

Do the national norms of transposition in your Member State give priority, or allow giving priority, to:

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- | | | |
|---|-------------------------------------|---|
| EU citizens? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Citizens of the European Economic Area? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Legally resident third-country nationals who receives unemployment benefits? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Explanation:

Question to be answered only if persons enjoying temporary protection are allowed to work:

Q.11.C. According to article 12, final sentence, the general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply if persons enjoying temporary protection are allowed to work.

If persons enjoying temporary protection are allowed to work: Will your country's general laws be applicable regarding:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Remuneration? **Yes** **No**

Access to social security systems relating to employed or self-employed activities and other conditions of employment? **Yes** **No**

Explanation:

Under article 75 subsection 1 of the Act Granting International Protection to Aliens the benefits and allowances are available to recipients of temporary protection.

Q.12. Questions regarding the Member States obligation towards the temporary protected regarding accommodation, subsidies, medical care etc. *See article 13(1-4).*

Q.12.A. **Is your Member State obliged under national law to provide the persons enjoying temporary protection with suitable accommodation or means in order to obtain housing?** *See mandatory provision in article 13(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation :

Under section 73 subsection 1 of the Act Granting International Protection to Aliens, the recipient of international protection may stay at the reception centre or the place determined by the Ministry of Social Affairs or agencies within its area of government until the recipient settles in the territory of a local government. The reception centre is located in the forest in East Virumaa (near the border to Russia) and the unemployment rate is quite high in that region, therefore, living in the reception centre makes it difficult to find a job and is hard to commute as the infrastructure is low in case you find a job elsewhere.

According to subsection 2 of the same section the Ministry of Social Affairs or agencies within its area of government shall organize the settlement of recipients of international protection into the territories of local

governments in agreement with the local governments, taking into account the state of health of the recipients, the location of the residence of their relatives by blood or marriage, and considering the employment and housing opportunities as well as the proportional allocation of recipients of international protection among the local governments. The recipient may participate in the selection of the local government most suited for him/her. According to subsection 5 of the same section the expenditures relating to the settlement of recipients of international protection into the territories of local governments shall be covered from the state budget. The local governments do not have any experience integrating or assisting foreigners and therefore may not be able to assist the alien in integration.

Q.12.B. Will your Member State, according to national law, be obliged to provide the persons enjoying temporary protection with economic assistance such as social welfare and means of subsistence? See mandatory provision in article 13(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

As stated above under section 75 subsection 1 of Act Granting International Protection to Aliens the recipient is entitled to receive state allowances, family, state unemployment and social benefits and other assistance on the same grounds as a permanent resident of Estonia as provided by law. Furthermore, under subsection 2, a local government may pay a subsistence benefit to a recipient whose financial status does not allow supporting him/herself.

Q.12.C. Do the persons enjoying temporary protection have access to emergency medical care and essential treatment of illness? See mandatory provision in article 13 (2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details whether persons enjoying temporary protection have access to *general medical care* or if it is restricted to *emergency care and essential treatment of illness?*)

Section 75 of the Act Granting International Protection to Aliens as above and Medical Insurance Act section 29 (3) the state medical system provides emergency medical care free of charge.

Q.12.D. Will your Member State, according to national law, be obligated to provide for necessary medical or other assistance to persons enjoying temporary protection who have special needs such as unaccompanied minors, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence? See mandatory provision in article 13(4).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details about the assistance given to different groups of persons with special needs, for example psychological help for persons who have undergone torture).

There is no special regulation for this. It is stated in section 74 subsection 2 of the Act Granting International Protection to Aliens that in organizing the reception of a recipient who is an unaccompanied minor, the rights and interests of the minor shall be taken into consideration above all. No other stipulation is available for special needs.

Q.13. Questions regarding access to education. *See article 14 (1-2):*

Q.13.A. Do persons who are under 18 years of age and enjoying temporary protection have access to the education system under the same conditions as nationals of your Member State? See mandatory provision in article 14(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 75 subsection 6 of the Act Granting International Protection to Aliens a recipient of international protection has the right to education and employment in Estonia as provided by law.

Q.13.B. If the answer on Q.13.A is ‘yes’: Is access to education confined to the state education system or does it cover all kinds of educational institutions?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Only state educational system.

Q.13.C. Do adults enjoying temporary protection have access to the general education system? See optional provision in article 14(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Right to education as provided in the Educational Act is guaranteed under law to recipients.

Q.14. Questions regarding right to family reunification. *See article 15:*

Q.14.A. Do the national norms of transposition in your Member State allow separated family members, which enjoy temporary protection in different Member States, to reunite? See mandatory provision in article 15(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to section 65 of the Act Granting International Protection to Aliens the Citizenship and Migration Board shall decide the reunification of families that were separated in the circumstances of mass influx.

Q.14.B. Do the national norms of transposition in your Member State allow family members who are not yet in a Member State to reunite with a person enjoying temporary protection in your Member State? See mandatory provision in article 15(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 65 subsection 1 points 3 and 4 of the Act Granting International Protection to Aliens the aliens who receive temporary protection in Estonia and his/her family member is not staying in Estonia are enabled to reunite with their family members in Estonia.

Q.14.C. For the application of the rules regarding family reunification: Whom does your Member State consider a “family member”? See article 15(1)(a)(b).

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- The spouse of the person enjoying temporary protection.**
- The unmarried partner in a stable relationship to the person enjoying temporary protection.**
- The minor unmarried children of the person enjoying temporary protection or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted.**
- Other close relatives who lived as part of the family unit with the person enjoying temporary protection at the time of the events leading to the mass influx, and who were wholly or mainly dependent on him/her at the time.**

Explanation:

Under section 7 subsection 4 of the Act Granting International Protection to Aliens the family members are defined differently for the recipients of temporary protection than for recipients of other statuses.

Q.14.D. What means of proof is needed in your Member State to verify family membership, is for example documentary evidence needed?

Under section 54 subsection 5 of the Act Granting International Protection to Aliens the applicant for residence permit on the basis of temporary protection is required immediately after submission of an application of residence permit also to submit documents certifying the family relations. According to subsection 4 superscript 1 of the same section of the Act, the applicant for residence permit in order to facilitate family reunification must submit data on his/her family, including data on spouse. A general basis for the submission of proof is provided in section 11 subsection 2 point 3 of the Act Granting International Protection to Aliens, under which the applicant is required to submit all information and documents and other evidence in his or her possession which are relevant to the proceedings. The law does not state any consequence to the lack of documents certifying family relations. In practise, the CMB does not require the existence of documents to prove family relations, but might decide to question the family relations if other evidence refers to different status of the applicant.

Q.14.E. Explain which measures have been taken in your Member State to ensure that ‘the best interest of the child’ is accounted for when applying the provisions on family reunification in the national norms of transposition? *See mandatory provision in article 15(4).*

Under section 3 of the Child Protection Act the general rule is that the best interests of children have to be taken into account in all cases and irrelevant of status in respect to any children at the territory of Estonia. According to section 72 subsection 2 of the Act Granting International Protection to Aliens, after the termination of temporary protection, the return of an alien may be postponed until the end of a school year of a minor child of an alien or his or her spouse. Also under section 65 subsection 2 the family reunification shall take place considering as a priority the rights and interests of minors. Also there are special provisions for unaccompanied minors and their placement during temporary protection. Otherwise no special clauses in respect to children apply to the recipients of temporary protection. More on this topic under the relevant directive discussion (family reunification).

Q.14.F. According to article 15(5), Member States shall decide in which Member State the reunification shall take place. Please indicate which authority possesses the competency to take such decisions?

Name and function of the Authority: Under section 65 subsection 1 of the Act Granting International Protection to Aliens, the Citizenship and Migration Board determines whether family reunification is granted or not. Under section 65 subsection 3 of the Act Granting International Protection to Aliens the decision to refuse to reunite a family may be contested with an administrative court within ten days after the date of adoption of the decision.

Q.14.G. If there is a formal procedure foreseen for such decisions, please describe it briefly:

There is no procedure described under law, no administrative procedure or no regulation adopted to describe this procedure. According to Merit Sepp of the CMB refugees department there is also no internal procedure or norms to regulate this procedure. As there have also been no cases of family unification nor any recipients of temporary protection, there is no practise in this issue and the CMB only has ideas how the officials might proceed if such cases ever should arise. Generally it was stated by the CMB that they expect the recipient to

make a written application in his/her own handwriting that he/she wishes to reunite with his/her family member and the ad hoc procedure will start from there.

Q.14.H. Are reunited family members in your Member State granted residence permits under temporary protection?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 59 subsections 1 and 2 the CMB shall issue a residence permit to a family member of a recipient of temporary protection on the same basis and with the same period of validity as the residence permit of the recipient of temporary protection. The permit shall be extended also on the same basis and with the same period of validity as the residence permit of the recipient of temporary protection.

Q.14.I. Are documents or other equivalent evidence issued for persons who comes to your Member State and receives temporary protection under the provisions regarding family reunification?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 60 subsection 1 of the Act Granting International Protection to Aliens, the residence permit of a recipient of the temporary protection and his/her family member shall be formalized by entering information on their respective identity documents. The regulation about the issue of travel permits only states that the travel permit is issued to a recipient of temporary protection who is taken from Estonia to another member state of the European Union. Therefore, there is no certainty regarding whether documents shall be also issued to the family members. As there is no practise, we are unable to state how this will be done in practise.

Q.14.J. Does the national norms of transposition in your Member State comply with the provision in article 15(8) stating that a Member State shall at the request of another Member State, provide information on a person receiving temporary protection which is needed to process a matter of family reunification? See mandatory provision in article 15(8).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

The only clause that is related to the exchange of information and co-operation is section 76 of the Act Granting International Protection to Aliens, subsection 1 of which states that in resolving problems relating to recipients of international protection, the Ministry of Internal Affairs, the Ministry of Social Affairs and the CMB shall co-operate with the UNHCR and facilitate supervision of among others the legal acts of the European Union. Furthermore, subsection 4 states that The Ministry of Social Affairs, the CMB and the Border Guard Administration shall organize exchange of information and co-operation with other countries according to their competence to apply temporary protection.

Q.15. Questions regarding unaccompanied minors: *See article 16:*

Q.15.A. Explain how the representation of unaccompanied minors enjoying temporary protection in your Member State is arranged according to national law. *See mandatory provision in article 16(1).*

According to section 63 of the Act Granting International Protection to Aliens (AGIPA) an applicant who is an unaccompanied minor shall be placed in the reception center or a social welfare institution for the time of the temporary protection, and welfare services appropriate to the age of the applicant shall be guaranteed to him or her. Under the same section, an unaccompanied minor may also be placed to a social care family, with an adult relative or a person who took care of the minor during his/her resettlement, if the host is appropriate for taking care of the minor and host approves such care. Under section 17 of AGIPA "an applicant who is an unaccompanied person with restrictive active legal capacity shall be represented by the guardian, the guardianship authority, the head of the reception centre or a person authorized by the head". The rights and interests of the minor are also considered.

Q.15.B. Does your Member State provide for unaccompanied minors to be placed with: *See mandatory provision in article 16(2).*

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- Adult relatives ?**
- A foster-family ?**
- In reception centres with special provisions for minors, or in other accomodation suitable for minors ?**
- With the person who looked after the child when fleeing ?**

Explanation:

As described under Q15A.

Q.15.C. Do the national norms of transposition in your Member State meet the requirement that the views of the child shall be taken into account when arranging placement for the minor? *See mandatory provision in article 16(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Yes** **No**

Explanation:

Under section 63 subsection 3 of the Act Granting International Protection to Aliens.

Access to the asylum procedure in the context of temporary protection

Q.16. Questions regarding access to the asylum procedure. *See article 3 and 17-19:*

According to mandatory provision in article 3(1) temporary protection shall not prejudice recognition of refugee status under the Geneva Convention.

Q.16.A. Does temporary protection in any way prejudice recognition of refugee status under the Geneva Convention in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Under section 69 of the Act Granting International Protection to Aliens the recipient may at all times submit the application for asylum, but no prjudgement is given.

Q.16.B. Does your Member State allow persons enjoying temporary protection to apply for asylum at any time during the period of temporary protection? See mandatory provision in article 17(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Under section 69 subsection 1 of the Act Granting International Protection to Aliens.

Q.16.C. Does your Member State allow persons enjoying temporary protection to stay in the Member State during the examination of their asylum claim, even though the period of temporary protection has ended? See mandatory provision in article 17(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Under sections 32-34 of the Act Granting International Protection to Aliens the asylum seeker may stay in Estonia during the period his/her application for asylum is processed. Under section 71 subsection 2 of the Act Granting International Protection to Aliens the application for asylum or residence permit on any other ground must be launched three months before the term of temporary protection ends in order to remain in the country during the processing of your applications.

Q.16.D. What criteria are provided by the norms of transposition in your Member State to determine the responsibility amongst Member States for

examining an asylum application submitted by a person enjoying temporary protection in another Member State? See mandatory provision in article 18.

Under section 69 subsection 5 of the Act Granting International Protection to Aliens, the CMB "accepts and processes" the asylum applications submitted by the recipients of temporary protection staying in Estonia. However, under section 18 (1) of the same act it is stated that the CMB "shall review" an application for asylum, which it has to review under international treaty and regulation 343/2003/EC of the Council of European Union that establish the criteria and mechanisms for designating the member state that shall be responsible for the "process of reviewing" an application for asylum submitted. I do not know whether the difference of the verbs used in these two clauses provide for different interpretation of the content and whether it would be possible to state that the CMB may "accept and process", but refuse to "review" on the basis of section 18 of the same Act.

Q.16.E. Has your Member State decided that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration? See optional provision in article 19.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: If the answer is "yes", please provide details concerning differences between the reception conditions for asylum seekers and persons enjoying temporary protection in your Member State which might lead to withdrawal or reduction of rights for a temporary protected who lodges an application for asylum.

Under section 69 of the Act Granting International Protection to Aliens the asylum applications are accepted but not processed during the validity of the temporary protection. The applications are again processed three months prior to the end of the temporary protection period. Therefore, the lodging of the asylum application during the period of temporary protection will not result in any loss of the rights of the recipient.

Q.16.F. If refugee status or, where applicable, other kind of protection is not granted to a person who is eligible for or already enjoys temporary protection is that person allowed to enjoy or continue to enjoy temporary protection in your Member State? See mandatory provision in article 19(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

As stated under Q.16.E the applications are not processed during the validity of the period of temporary protection. Therefore, the enjoyment of the temporary protection status shall remain for the recipient even after any asylum application is submitted and not processed.

Return and measures after temporary protection has ended

Q.17. Questions regarding the voluntary return of persons enjoying temporary protection:

Q.17.A. According to mandatory provision in article 21(1) the Member States *shall* ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. How is that reflected in the national norms of transposition in your Member State?

Under section 75 (3) a recipient of international protection who returns to his/her country of origin or resettles to another country may be paid a one-time benefit from the state budget in an amount which partially or totally covers his/her travel expenses, if he/she is unable to cover the expenses. Also the Estonian Migration Foundation (a fund set up by the Government of the Republic) provided sponsorship of voluntary return upon certain conditions (long-term residence in Estonia). However, there is no such promise or obligation under the law for the Foundation to sponsor the returning alien. More information on this foundation available at http://www.migfond.ee/ee/pages_en.php?action=view&page_id=1

Q.17.B. Please explain how your Member State ensures that a decision of persons enjoying temporary protection, or whose temporary protection has ended, to return voluntarily is taken in full knowledge of the facts. *See mandatory provision in article 21(1).*

There is no such reflection in the national norms of transposition.

Q.17.C. Is it possible for the temporary protected in your Member State to make exploratory visits to the home country? *See optional provision in article 21(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Not under the Act Granting International Protection to Aliens. However, self-sponsored visits are possible.

Q.17.D. Please explain if and how your Member State has transposed article 21(2) stating that Member States shall, for such time as the temporary protection has not ended and on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the host Member State from persons who have enjoyed temporary protection and exercised their right to a voluntary return?

There is no such reflection in the national norms of transposition.

Q.17.E. Is it possible, under the national norms of transposition in your Member State, for persons enjoying temporary protection to continue receive their benefits as temporary protected after the period of temporary protection has ended, if they benefit from a voluntary return programme?

See optional provision in article 21. (Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: (If the answer is “yes”, for how long is that possible).

Q.18. Questions concerning enforced return of persons who have enjoyed temporary protection. *See articles 22:*

Q.18.A. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(1), obliging Member States to ensure that the enforced return of persons whose temporary protection has ended and who are not eligible for admission shall be conducted with due respect for human dignity.

There is no such reflection or obligation in the national law of transposition, however this stems from constitutional norms and the international human rights conventions. Under section 17 of the Constitution no one's honor or good name may be disgraced. However, no "measures necessary" have been taken to "ensure ... due respect for human dignity" in conducting the enforced return. This of course raises the issue what can be considered as "necessary" in order to comply with the Directive requirements. That is a tricky road to take for the Council and for any specific MS, as as soon as you define it in law with the common minimum criteria then it would be a restriction of the general meaning of human dignity and would not lead us to a better situation than now. Therefore, I consider these general constitutional and international protection clauses are enough and the provision is transposed.

Q.18.B. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(2) obliging Member States to consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.

Under section 72 subsection 1 point 1 of the Act Granting International Protection to Aliens the return of the alien will be postponed after the end of the temporary protection period in case there are humanitarian reasons for such postponing.

Q.18.C. In the national law of your Member State, are there any other grounds (except for the one referred to in Q.18.B) for allowing persons who have enjoyed temporary protection to stay in your Member State?

Under section 72 subsection 1 point 1 of the Act Granting International Protection to Aliens, the other ground is the health of the alien, which would postpone his/her return.

Q.19. Questions concerning forcible return of persons who have enjoyed temporary protection. *See article 23:*

Q.19.A. Does the national law and practice of your Member State comply with the mandatory provision in article 23, providing that persons who have enjoyed temporary protection and who cannot, in view of their state of health reasonably be expected to travel, are not expelled as long as that situation continues? The provision exemplifies with persons who would suffer serious negative effects if their treatment was interrupted.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 72 subsection 1 point 2 of the Act Granting International Protection to Aliens the return of the persons whose health would seriously suffer and their health conditions do not allow them to travel is postponed.

Q.19.B. Does your Member State allow families whose children attend school in a Member State, to benefit from residence conditions allowing the children concerned to complete the current school period before return? See optional provision in article 23.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 72 subsection 2 of the Act Granting International Protection to Aliens the return of the aliens whose temporary protection period has ended may be allowed to stay until the end of the schoolyear in case they have minor children.

Solidarity

Q.20. Please describe how your Member State ensures that persons eligible for temporary protection defined in a Council Decision under article 5 and who have not arrived in the Community have expressed their will to be received on their territory? See mandatory provision in article 25(2).

Section 76 subsections 3 and 4 of the Act Granting International Protection to Aliens provides that the Government of the Republic of Estonia shall inform the Council of the European Union of the capability to receive the aliens in need of temporary protection and the relevant authorities in Estonia shall organize the exchange of information and co-operate with other countries according to their competence to apply temporary protection. Furthermore under section 52 subsection 2 of the Act Granting International Protection to Aliens the government of the Republic of Estonia shall decide the reception of resettled aliens from danger zone to Estonia or shall base on the suggestions of competent governmental institutions of the members states of the European Union. No other stipulation exists regarding transfer of information or expressing of the will to be received.

Q.21. Questions concerning the transferral between Member States of persons enjoying temporary protection. See article 26:

Q.21.A. According to mandatory provision in article 26(1) the Member States shall cooperate with each other with regard to transferral of the residence of persons enjoying temporary protection from one Member State to another, subject to the *consent* of the persons concerned to such transferral.

Does the national law of your Member State comply with article 26(1) regarding the *consent* of the person who are about to be transferred?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

The Act Granting International Protection to Aliens does not discuss the issue of transfer of the recipient and therefore does not discuss consent issue. Under section 70 subsection 2 of the Act Granting International Protection to Aliens it is merely stated that the transfer of recipient of the temporary protection to another member state of the European Union shall terminate the duties of Estonia regarding temporary protection with regard to the alien. As Understood under law there is no involuntary transfer from one member state to another even as an option, other than in case of family reunification or in case the alien him/herself wishes to leave.

Q.21.B. Do the national norms of transposition in your Member State comply with article 26(2) stating that a Member State shall communicate requests for transfers to the other Member States and notify the Commission and UNHCR?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

Under section 76 of the Act Granting International Protection to Aliens there is a general cooperation requirement with UNHCR in relation to problems with recipients and the general exchange of information and cooperation clause with other countries.

Q.21.C. According to the national norms of transposition, is your Member State obliged to, at the request of another Member State, provide information as set out in Annex II of the Directive, on a person enjoying temporary protection, which is needed to process a matter of transferral? (See mandatory provision in article 26(3)).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

As said there is a general norm of cooperation and exchange of information (section 76), however, there is no clause enlisting the information set out in Annex II.

Q.21.D. According to the national law in your Member State, will the residence permit of a person who is transferred, from your Member State to another Member State, expire? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

Under section 66 the transfer of an alien to another country shall revoke the residence permit and terminate the duties of Estonia regarding temporary protection with regard to the alien. However, under section 70 subsection 2 in case of transfer of an alien to another member state of the European Union the duties of Estonia shall be terminated but no specific regulation is available for the residence permit to end. As there has been no practise in implementing these clauses, we are unable to state whether these clauses will be cumulatively applied to recipients who are transferring to another Member State of the European Union.

Q.21.E. When a person, who has been enjoying temporary protection in your Member State is transferred to another Member State, will the obligations relating to temporary protection in your Member State come to an end upon the transferral? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:As stated under Q.21.D.

Q.21.F. If a person, who previously has enjoyed temporary protection in another Member State, is transferred to your Member State, will your Member State grant temporary protection to that person? See mandatory provision in article 26(4), last sentence.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 52 subsection 2 the Government of the Republic of Estonia shall decide the reception of resettled aliens from danger zone or shall base on the suggestions of competent governmental institutions of the member states of the European Union. It is not automatic.

Q.21.G. Will the ‘model pass’ set out in annex I of the Directive be used in a foreseen transferral procedure?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 67 subsection 2 of the Act Granting International Protection to Aliens. According to Regulation 48 on the form of the travel permit and the data to be submitted on it, the model pass is the travel permit granted under national laws.

Q.22. What authority in your Member State is appointed as national contact point according to the mandatory provision in article 27?

The name and function of the authority is: The Act Granting International Protection to Aliens and other norms of transposition do not provide for a national contact point. Article 76 subsection 4 states that the Ministry of Social Affairs, CMB and Border Guard Administration all have responsibilities in relation to the exchange of information.

Q.23. Questions regarding exclusion from temporary protection:

Q.23.A. Are there any criteria for exclusion from temporary protection in your Member State? See optional provision in article 28.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If yes, specify the criteria).

Under section 57 of the Act Granting International Protection to Aliens.

Q.23.B. If the answer to A. is “yes”, please indicate whether they in any way exceed the exhaustive list of criteria in article 28(1)(a) and (b).

Yes **No**

Explanation:

Q.23.C. Do the national norms of transposition in your Member State meet the terms in article 28(2) stating that the grounds for exclusion shall be based solely on the personal conduct of the person concerned?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Under section 57 subsection 2 the CMB is obliged to consider the acts of performance of a specific alien.

Q.23.D. Do the national norms of transposition in your Member State meet the terms of article 28(2) stating that exclusion decisions or measures shall be based on the principle of proportionality?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is a principle under our constitution section 11 and under section 57 subsection 2 there is a rule of proportionality in the Act Granting International Protection to Aliens.

Q.24. Questions concerning the right to legal challenge:

Q.24.A. Do the laws of your Member State allow a person to mount a legal challenge if he/she has been: *See mandatory provision in article 29.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

excluded from the benefit of temporary protection **Yes** **No**

denied family reunification **Yes** **No**

Explanation:

Under section 57 subsection 5 of the Act Granting International Protection to Aliens and section 65 subsection 3 of the Act Granting International Protection to Aliens the appeal may be submitted to the administrative court in 10 days from the date of publishing the decision.

Q.24.B. If the answer on any of the questions in Q.24.A is “yes”, please describe the applicable legal procedures for challenging the decision, in your Member State.

As referred to in Q.24.A an appeal has to be made to the administrative court. In Estonia administrative courts hear administrative matters as courts of first instance. The authority of an administrative court, the procedure for having recourse to the court and the administrative procedure has been set out in the Code of Administrative Court Procedure. There are two administrative courts in Estonia with altogether 27 judges working in them.

Q.25. Questions regarding penalties applicable to infringements of the national provisions.

Q.25.A. Are there penalties applicable to infringements of the national provisions in your Member State? *See mandatory provision in article 30.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If yes, specify the penalties).

Liability to disciplinary action of officials under section 84 of the Public Service Act foresees liability only if a disciplinary offence has been committed, e.g.:

- 1) the wrongful non-performance or unsatisfactory performance of duties, including intoxication while in the service;
- 2) the wrongful causing of damage to the property of an administrative agency or the wrongful causing of danger of such damage;
- 3) an indecent act, that is, a wrongful act which is in conflict with generally recognised moral standards or ethic standards set for officials, or which discredits an official or administrative agency, regardless of whether the act is committed in or out of service.

**Q.25.B. Explain if the penalties, according to your opinion, comply with the Directive concerning them being effective, proportionate and dissuasive?
See mandatory provision in article 30.**

Final questions

Q.26. Can you refer us to any study, report or research by any source on the practice of granting temporary protection in the event of a mass influx in your Member State?

There is a study on return compiled by the Estonian Migration Fund as of September 2006, available in the Estonian language at the website
http://www.migfond.ee/ee/files/Return%20Study%20eesti%20keeles_EMF.doc.

Q.27. Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate

No debate of impact to be considered as political or public debate.

Q.28. Are there any problems of legislation or practice in your Member State which relate to temporary protection and have not been covered in preceding questions?

No practical experience exists, therefore no comparison can be made.

THIRD PART

IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.29 Question regarding the evolution of national law: **Did the transposition of the Directive make the rules related to the protection of third country nationals in cases of a mass influx become, from the point of view of the third-country national concerned, more favourable or less favourable. Please make also a comparison with the standard of the directive in the last column of the table below**

OBJECTIVE <i>To enhance the protection of displaced persons in cases of a mass influx</i>		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation <u>before</u> transposition</p> <p>There were no norms regarding temporary protection.</p>	<p>Explain the situation <u>after</u> transposition</p> <p>Act Granting International Protection to Aliens was amended according to the Directive.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input checked="" type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q. 30. **From your point of view, did the transposition of the directive imply other interesting changes for the third country national concerned regarding other elements than the ones mentioned in the previous question? Please make also a comparison with the standard of the directive in the last column of the table below**

When answering this question, please use one or more of the tables below. If the 3 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE (to be indicated by the national rapporteur) To enhance to return means and options of the third country nationals upon the end of the need for temporary protection		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Explain the situation before transposition No legal norms	Explain the situation after transposition Still no legal norms on the issue	<input type="checkbox"/> <i>Less favourable than previous national rules</i> <input checked="" type="checkbox"/> <i>Status quo</i> <input type="checkbox"/> <i>More favourable than previous national rules</i>	<input checked="" type="checkbox"/> <i>Less favourable than the Directive</i> <input type="checkbox"/> <i>In line with the directive</i> <input type="checkbox"/> <i>More favourable than the directive</i>

Table 2

OBJECTIVE (to be indicated by the national rapporteur) The social rights of the temporary protection recipients		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Explain the situation before transposition No legal norms	Explain the situation after transposition Act Granting International Protection to Aliens was amended according to the Directive.	<input type="checkbox"/> <i>Less favourable than previous national rules</i> <input type="checkbox"/> <i>Status quo</i> <input checked="" type="checkbox"/> <i>More favourable than previous national rules</i>	<input type="checkbox"/> <i>Less favourable than the Directive</i> <input checked="" type="checkbox"/> <i>In line with the directive</i> <input type="checkbox"/> <i>More favourable than the directive</i>

Q.31. A. Question regarding the method of transposition: **Did your Member State copy the provisions of the directive into national legislation without any redrafting or adaptation to national circumstances.**

YES NO

Q.31.B. **If yes, did this method of transposition create any problems (for example difficulties of implementation, risk that a provision remain unapplied).**

YES NO

Q.31.C. **If yes, give some of examples:**

Q.31.D. **If only some provisions of the directive have been copied and if this may create any problem, please quote them and explain the problem.**

Q.32. **Quote interesting decisions of jurisprudence related to the directive, its transposition or implementation (this question concerns in principle decisions after the national norms of transposition entered into force, but decisions prior to that may be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.**

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

DECISION OF SUPREME COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION OF APPEAL COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION(S) IN FIRST RESORT	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>

ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:

Q.33. Are there any **problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.**

There are no problems with the translation of the directive.

There are some problems with the translation of the directive.

Explanation: (If there are such problems, please specify the most problematic provisions in the Directive when it comes to translation).

1. In section one of the preambula in stead of area of justice the Estonian language text talks about an area of law (the two words in Estonian or almost alike "õigus"= law and "õiglus" = justice);
2. In section seven of the preambula the European Council is incorrectly translated;
3. In Article 2 section d) instead of Community the Estonian text talks about a member state;
4. In Article 13 subsection 2 the text talks about means of subsistence, the Estonian text refers to social benefits, which is more limited;
5. In Article 19 there is "the Member States shall", while in the Estonian language text there is "the Member States may".
6. In Article 25 "eligible for temporary protection" is translated as "recipients of temporary protection".
7. In Article 28 subsection 1 b) "final judgement" and "there are reasonable grounds for regarding him or her as" is missing.

Explain the difficulties that this could create:

ANY OTHER INTERESTING ELEMENT

Q.34. **Following your personal point of view, mention from the point of view of third country nationals and/or from the Member State any interesting or innovative practice in your Member State**

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE OF THE PRACTICE	EXPLANATION
As said there is no practise in relation to this Directive.	

Q.35. **Please add here any other interesting element in your Member State which you did not have the opportunity to mention in your previous answers.**

None such detected.