
The possibility for a Member State to provide by law for an obligation to hold or carry papers and documents pursuant to Article 21(c)

(2008/C 18/03)

BELGIUM

This obligation is set out in section 38 of the Royal Decree of 8 October 1981 on access to the territory, residence, establishment and deportation of non-nationals:

‘Any non-national over 15 years old must carry a residence permit or establishment permit or other residence document at all times and produce this document when requested to do so by any official of the competent authority.’

BULGARIA

The obligation to be in possession of particular documents or to carry them on one’s person is governed by the Law on Bulgarian identity documents and the Law on entry into, residence in and departure from the Republic of Bulgaria for EU nationals and members of their families:

1. Law on Bulgarian identity documents

Article 6: ‘Citizens shall present proof of their identity when summoned to do so by officials duly authorised by law.’

Article 29(1): ‘Any Bulgarian national living in Bulgaria shall apply for an identity card within 30 days after reaching the age of 14 years’.

Article 55(1): ‘Any foreign national who has reached the age of 14 years and has been granted the right to reside in the Republic of Bulgaria for a period of three months or more shall be issued a Bulgarian identity document for foreign residents’.

Article 57(1): ‘Bulgarian identity documents for foreign nationals shall be valid within the territory of the Republic of Bulgaria in conjunction with the foreign national’s international travel document’.

Article 57(2): ‘Stateless persons and foreign nationals applying for or having been granted protection under the Law on asylum and refugees may prove their identity only by means of a Bulgarian identity document’.

Article 58: Foreign nationals residing within the territory of the Republic of Bulgaria for a period of 3 months or less shall prove their identity by means of the international travel document with which they entered the country, with the exception of foreign nationals who hold a temporary refugee certificate.

2. Law on entry into, residence in and departure from the Republic of Bulgaria for European Union nationals and members of their families:

Article 4(1): ‘European Union nationals shall enter and leave the territory of the Republic of Bulgaria with their identity card or their passport’.

CZECH REPUBLIC

The obligation for foreigners to present a travel document (proof of identity) upon request of a Police person is stipulated by § 103 lit. d) Act No 326/1999 Coll., on the Stay of Aliens in the Territory of the Czech Republic. According to the Act the foreigner is obliged to present a travel document upon request of a Police officer.

DENMARK

Under Section 39(1) of the Aliens Act, an alien is required when entering, remaining in and leaving the country to be in possession of a passport or travel document, and under Section 39(3), point 1, the passport or travel document must, upon request, be presented to the public authorities while the alien remains in the country.

Under Section 39(4), point 1, nationals of a Nordic country are exempt from these obligations, and under point 2 of the same Section, the Minister for Integration may exempt other aliens from the obligation to carry their passport or other travel document (see Section 5(2) of the Aliens Order). The provisions adopted under Section 5(2) of the Aliens Order are published once a year in the Danish Official Gazette (Statistidende).
GERMANY

Sections 3(1), 13(1), second sentence, 48 and 82 Aufenthaltsrecht (Residence Act):

Section 3 — Passport requirement

1. Non-nationals may enter or stay in Germany only if they are in possession of a recognised and valid passport or travel document issued in lieu of a passport, unless they are exempted from the passport requirement by law.

2. In justified individual cases, the Federal Ministry of the Interior or the body designated by it may, before a non-national enters the country, allow exemptions from the passport requirement in respect of the crossing of the border and a subsequent stay of up to six months.

Section 13 — Crossing the border

1. Unless other legislation or international agreements provide otherwise, entry into and departure from Federal territory may take place only at authorised border crossing points and within the fixed opening hours. On entry and on departure, non-nationals shall carry a recognised and valid passport or travel document issued in lieu of a passport in accordance with Section 3(1) and shall submit to police checks of cross-border traffic.

2. A non-national shall not be deemed to have entered the country at an authorised crossing point until he has crossed the border and passed the border crossing point. Where the authorities conducting the police checks on cross-border traffic allow a non-national to pass the border crossing point for a specific temporary purpose before a decision is taken to refuse entry (Section 15 of this Act, Sections 18 and 18a of the Asylum Procedures Act) or during the preparation, establishment or implementation of this measure, the non-national shall not be deemed to have entered the country within the meaning of the first sentence as long as the authorities are able to monitor his stay. For the rest, a non-national shall be deemed to have entered the country when he crosses the border.

Section 48 — Obligation to prove identity

1. At the request of the authorities responsible for implementing this Act, non-nationals shall be required to produce, hand over and temporarily give up their passports, travel documents issued in lieu of passports, residence certificates or certificates confirming that deportation has been suspended, provided that these documents contain the person’s details and a photograph and are denoted as documents issued in lieu of an identity document.

2. Non-nationals who do not possess a passport or who cannot reasonably be expected to obtain one may identity themselves by means of a residence permit or a certificate confirming that deportation has been suspended, provided that these documents contain the person’s details and a photograph and are denoted as documents issued in lieu of an identity document.

3. If so requested, non-nationals without a valid passport or travel document issued in lieu of a passport shall cooperate with a view to procuring identity papers and shall produce, hand over and temporarily give up to the authorities responsible for implementing this Act all other documents and papers that may be useful for the purposes of establishing their identity and nationality and for establishing whether they may be deported to another country. Where non-nationals fail to meet their obligation under the first sentence and there are real grounds to believe that they are in possession of such documents, their persons and possessions may be searched. They are required to acquiesce in such searches.

Section 82 — Cooperation of non-nationals

1. Non-nationals shall make known without delay their interests and all circumstances favourable to them that are not evident or already known, providing without delay all demonstrable details as well as the necessary evidence of their personal situation, any other required certificates or permits and any other necessary evidence which they can produce.

The immigration authorities may grant non-nationals a reasonable period of time for this purpose. Circumstances disclosed and evidence produced after this time limit has expired may not be taken into account.

2. Subsection 1 applies mutatis mutandis in any appeal proceedings.

(3) Non-nationals are to be informed of their obligations under subsection 1 and their essential rights and obligations under this Act, particularly the obligations arising under Sections 44a, 48, 49 and 81 and the possibility of submitting applications under the third sentence of Section 11(1). The consequences of failure to observe the time limit set shall be explained.

4. Where necessary for the preparation and implementation of measures under this Act or under provisions on non-nationals’ rights contained in other legislation, non-nationals may be ordered to appear in person before the competent authority and to undergo a medical examination to determine whether they are fit to travel. Where non-nationals fail to comply with an order under the first sentence, the order may be
enforced. Sections 40(1), 40(2), 41 and the first and third sentences of Section 42(1) of the Federal Police Act shall apply mutatis mutandis.

ESTONIA

Identity document requirement, validity and verification of documents are stipulated by the Identity Document Act (published in the Riigi Teataja (State Gazette) I 1999, 25, 365; 2006, 29, 221), Articles 5-8 and 17-18 (1).

Identity document requirement upon crossing a State border is stipulated by State Borders Act (published in the Riigi Teataja (State Gazette) I 1994, 54, 902; 2006, 26, 191), Articles 11(1) to 11 (2).

Notification and verification concerning aliens is stipulated by Aliens Act (published in the Riigi Teataja (State Gazette) I 1993, 44, 637; 2007, 9, 44), Articles 15 to 15 (1).

GREECE

The obligation for foreigners who are third country nationals to hold or carry papers and documents is laid down in Articles 6 and 8 of Law 3386/2005, which regulates the entry and residence of foreigners in Greece. In particular, Article 6(1) and (2) provides that third country nationals who enter Greece must hold a passport and a visa, provided this is required by the international conventions in force, Community law and national provisions. Also, Article 8(2) of Law 3386/2005 prohibits third country nationals from entering Greece if they do not hold a passport or another travel document guaranteeing their return to their country of origin or country of transit, as well as the necessary documents justifying the aim of their trip.

SPAIN

The Spanish legal system does lay down an obligation, both for Spanish and for foreign nationals, to hold and show documents proving their identity. These two precepts are laid down in the following legislative texts:

a) for Spanish nationals:

Article 2 of Royal Decree 1553/2005 of 23 December 2005 regulating the issuance of the National Identity Document and its electronic signature certificates provides as follows:

1. ‘Spanish nationals aged 14 or above shall be obliged to obtain the National Identity Document’.
2. ‘All persons obliged to obtain the National Identity Document shall also be obliged to show it when required to do so by the Authority or its agents’.


Article 20 of the same Organic Law entitles agents of the security forces and security bodies to require persons to identify themselves in the street for the purpose of preventing and investigating criminal activities. In the event of resistance or refusal, the provisions of the Criminal Code and the Criminal Procedure Code shall apply.

b) for foreign nationals:


‘Foreign nationals on Spanish territory shall have the right and the obligation to keep documents accrediting their identity issued by the competent authorities of the country of origin or the country from which they arrived, and documents accrediting their situation in Spain.’

Article 100(2) of Royal Decree 2393/2004 of 30 December 2004 adopting the implementing Regulations of Organic Law 4/2000 of 11 January 2000 on the rights and freedoms of foreign nationals in Spain and their social integration states:

‘Foreign nationals shall be obliged to show documents accrediting their identity and legal situation in Spain when called upon to do so by the authorities or their agents’.


FRANCE

French legislation provides this obligation under Article L.611-1 of the Code on the entry and stay of the foreigners and on the asylum right (Code de l’entrée et du séjour des étrangers et du droit d’asile, CESEDA), which stipulates that exclusive of or following an identity check, persons with a foreign nationality should be able to present papers or documents with which they are authorised to travel or stay in the French territory at the request of officials from the judiciary policy and under the supervision of the latter, agents and deputy agents from the judiciary policy.
ITALY

The national legislation provides in Article 3 of ‘Testo Unico Leggi di Pubblica Sicurezza’ (T.U.L.P.S.) of 18 June 1931 No 773 the possibility to have an identity document. The abovementioned Article states that: ‘in compliance with the model established by the Ministry of the Interior, the Mayor shall issue an identity card to persons above the age of 15 having their residence in the municipality, when they make an application’.

As for the obligation to carry an identity document, Article 4 of the abovementioned T.U.L.P.S. provides that Police Authority, within his jurisdiction, can order to a dangerous person or suspect to provide himself with an identity card and exhibit it every time that Police Officers request it.

By the examination of these articles, we deduce that the obligation to carry the above mentioned document concerns only a dangerous person or suspect; the others (not dangerous and not suspect) have only the obligation, provided for by Article 651 of the Criminal Code, to give a public officer information about their own personal identity, condition or about personal qualities when the officer requires it.

As for an alien legally residing in the country, he has the right to be enrolled in the registry office of the municipality in which he resides and the right to have an identity card that is not valid for expatriation.

CYPRUS

Regulation (EC) No 562/2006 provides that the abolition of border control at internal borders shall not affect the possibility for a Member State to provide by law for an obligation to hold or carry papers and documents.

The Republic of Cyprus holds such a provision in its national legislation. By virtue of the Registration of Residents Law of 2006 (L.13(2)/2006) any member of the Police on duty, any member of a registry authority or any other person who is authorised in writing by the Director of Migration and Civil Registry Department, may require from any person to produce his/her personal identity card. If this person omits to produce it in a specified period of time, he/she shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand pounds or to both such imprisonment and fine. Also, according to the Police Law (L.73(1)/2004), section 28, any member of the Police can stop, detain and search any person, (i) whom he/she sees doing any act or thing (ii) whom he/she suspects of doing any act or thing or (iii) whom he/she sees in possession of anything for which a licence is required under the provisions of any law in force and may require such person to produce such licence.

LATVIA

Rules of Cabinet of the Ministers of the Republic of Latvia No 499 from November 4, 2002 ‘Rules of border area and borderland regime of the Republic of Latvia’ determines, that all persons of 15 years and above, must hold personal identification documents with them while staying within the frontier zone (which is not wider than 2 km from the State border line) along the land border of the Republic of Latvia. In other cases legislation of the Republic of Latvia does not require persons permanently to hold identification documents with them.

LITHUANIA

According to the Lithuanian legislation there is no obligation for Lithuanian and EU citizens to carry personal papers and documents.

All Lithuanian citizens over the age of 16 must obtain and have a national ID card or passport. According to the Law on the Legal Status of Aliens all EU nationals must have ID documents and all third country nationals are obliged to have and carry ID documents.

LUXEMBOURG

Foreign nationals are obliged to carry at all times their residence permits.

HUNGARY

Article 61 (3) of Act XXXIX of 2001 on the entry and stay of Foreigners stipulates, that all foreigners — upon the request of the authorities — must be able to present his/her travel documents, residence permit or documentation suitable for the identification of the foreigner.

MALTA

It is pertinent to note that the Immigration Act (Cap. 217) currently provides for a requirement to produce a passport or other relevant documentation at the point of entry. However, there are no legal provisions specifying that such documents would have to be carried at all times.

In practice, however, the national authorities may request third country nationals to produce the relevant documents as necessary. They are, therefore, expected to hold such documents at all times during their stay in Malta.
THE NETHERLANDS

In the Netherlands, individuals of 14 years of age and above are obliged under the Identification Requirement Act (Wet op de identificatieplicht) to provide proof of identity for inspection on first request (identification requirement). The same applies to foreign nationals.

Article 4.21 of the Aliens Decree (Vreemdelingenbesluit, or 'Vb') specifies the documents that can be used for individuals identifying themselves in the Netherlands under section 50.1 of the Aliens Act. This article draws a distinction between the following groups:

— foreign nationals residing lawfully in terms of a residence permit for a specified or unspecified period,

— foreign nationals residing lawfully as Community citizens,

— persons who have lodged an application for grant of an asylum seeker's residence permit for a specified period,

— foreign nationals other than those specified above.

In specific terms, the following categories are involved:

(a) foreign nationals residing lawfully in terms of a temporary or permanent residence permit (section 8, a-d, Aliens Act) received as an identification document a separate residence document in accordance with Appendix 7a to 7d, Aliens Regulations;

(b) for citizens of the EU/EEA and Switzerland, residing lawfully as specified in section 8.e, Aliens Act, a valid national passport or valid identity card. For foreign nationals residing lawfully as defined in section 8.e, Aliens Act, as family members of a citizen of the EU/EEA or Switzerland, but who have a different nationality:

— a valid national passport with the required entry visa, if less than three months have expired since entry to the country,

— a valid national passport with an entry stamp, if no visa is required for entry and if less than three months have expired since entry to the country,

— a valid national passport with a statement issued by the competent authorities to the effect that a residence card has been applied for, if less than six months have expired since the issue of the statement,

— a residence card in accordance with Appendix 7e, Aliens Regulation

(c) foreign nationals who have lodged an application for an asylum seeker's residence permit for a specified period will be provided with an identity document in accordance with Appendix 7f, Aliens Regulation, at the reception centre;

(d) foreign nationals who are residing lawfully in terms of section 8j, Aliens Act, because there are obstacles to removal as defined in section 64, Aliens Act, and persons residing lawfully as a result of a moratorium on departures will obtain, as proof of identity, the residence document in accordance with Appendix 7f2, Aliens Regulation (W2 document), to the extent that they are not already in possession of a valid document for crossing borders;

(e) (suspected) victims of human trafficking with lawful residence as defined in section 8.k, Vw, will be provided with a residence document in accordance with appendix 7f2, Aliens Regulation (W2 document), to the extent that they are not already in possession of a valid document for crossing borders;

(f) unaccompanied minor foreign nationals, who are awaiting a decision on an application for the extension of validity or amendment to a residence permit issued at an earlier stage subject to those restrictions, will be provided with a residence document in accordance with Appendix 7f2, Aliens Regulation (W2 document), to the extent that they are not already in the possession of a valid document for crossing borders;

(g) other foreign nationals.

For other foreign nationals, the appropriate identity document is a valid document for crossing borders as required under the Vb for access to the Netherlands, or else a valid document for crossing borders which incorporates a valid visa. The border crossing documents required for gaining access to the Netherlands are designated in terms of Article 2.3, Vb. This provision applies not only to foreign nationals who are allowed residence for the free period, but also to foreign nationals residing illegally in our country. A W2 document may only be issued in very exceptional circumstances, bearing in mind particularly the fact that the party involved has already been exempted from the requirement for a passport.

The special rule under Article 2.4, Vb, applies to passengers in transit. The position as regards foreign nationals in possession of a residence document from another Schengen Member State is that they may move within the Schengen territory without a visa for a maximum of three months. In such cases they must be in possession of a valid travel document.

Section 50, Aliens Act

1. The officials responsible for border control and officials charged with supervision of foreign nationals are authorised to detain individuals in order to establish their identity, nationality and position in relation to entitlement to residence, either on the basis of facts and circumstances which, viewed objectively, provide a reasonable suspicion of illegal residence, or else to combat illegal residence following a border crossing. Whoever claims Dutch nationality, but cannot prove this may be subjected to the coercive measures specified in paragraphs 2 and 5. The documents that must be held by a foreign national in order to establish his identity, nationality and position under residence law will be designated in terms of an Order in Council.
2. If the identity of the detained individual cannot be immediately established, he may be taken to a designated interview location. He will be held there for no longer than six hours, provided that this does not include any time between midnight and 9 a.m.

3. If the identity of the detained individual can be established immediately, and if it appears that this individual is not entitled to lawful residence, or if it is not immediately apparent that he has lawful residence, he may be taken to a place intended for interview. He will be held there for no longer than six hours, provided that this does not include any time between midnight and 9 a.m.

4. If there are still grounds for suspecting that the detained individual does not enjoy lawful residence, the time limit specified in paragraphs 2 and 3 may be extended by a maximum of 48 hours, in the interests of the investigation, by the commanding officer of the Royal Marechaussee or the Commissioner of Police with authority over the place where the individual is situated.

5. The officials specified in paragraph 1 are authorised to search the clothing and person of the individual detained, as well as to search that individual's belongings.

6. More detailed regulations will be provided by Order in Council in relation to the application of the foregoing paragraphs in this Section.

Article 4.21, Aliens Decree 2000

1. The designated documents as defined in section 50.1, final sentence of the Act, are:

(a) for foreign nationals who are residing lawfully as defined in section 8.a to 8.d of the Act: a document issued by the competent authorities evidencing this, of which the model is determined by ministerial regulation;

(b) for foreign nationals who are residing lawfully as defined in section 8.e of the Act: a valid national passport or valid identity card, if they are nationals of a State as defined in section 8.7.1 or, if they do not possess such nationality:

1. a valid national passport with the required entry visa, if less than three months have expired since entry to the country;

2. a valid national passport with an entry stamp, if no visa is required for entry and if less than three months have expired since entry to the country;

3. a valid national passport with a statement issued by the competent authorities as specified in section 8.13, paragraph 4, if less than six months have expired since the issue of the statement;

4. a residence document issued by the competent authorities, as defined in section 8.13, paragraph 5 or section 8.20, paragraph 1;

(c) for foreign nationals who have lodged an application for grant of a temporary asylum seeker's residence permit, as defined in section 28 of the Act: a document issued by the competent authorities evidencing this, of which the model is determined by ministerial regulation;

(d) for foreign nationals other than those specified under c, who enjoy lawful residence as defined in section 8 at f, g, h, j or k of the Act and were not in the possession of a valid document in terms of the Act for crossing borders: a document issued by the competent authorities, of which the model is determined by ministerial regulation, supplied with a supplementary sheet as defined in section 4.29, paragraph 3, on which the position under residence law has been noted;

(e) for other foreign nationals, a valid border crossing document required for entry to the Netherlands in terms of the Act, or else a document for border crossing in which the required visa has been registered or in which a notification relating to the position under residence law has been placed.

2. No document other than those specified in paragraph 1(a) or (b) will be issued to children below the age of 12 years, unless in the opinion of the Minister they have a reasonable interest in being granted such a document.

3. The document mentioned in paragraph 1(a) to (d), will have a notification indicating whether the foreign national is permitted to work and also whether a work permit is required for such work in terms of the Labour Act for Aliens (Wet arbeid vreemdelingen).

4. If residence in the Netherlands for the foreign national specified in paragraph 1(a) or (b) is subject to any restriction as specified in section 3.4, paragraph 4, a notification will be placed on the document stating ‘reliance on public resources may have consequences for residence rights’ (beroep op de publieke middelen kan gevolgen hebben voor verblijfsrecht).

AUSTRIA


Entering and leaving the country

1. In the absence of a specification in intergovernmental agreements or of international practices to the contrary, Austrian citizens (citizens) require a valid travel document (passport or passport replacement) in order to enter or to leave the territory of the Federal Republic. Notwithstanding his/her responsibility in accordance with § 24(1), a citizen not in possession of a valid travel document but able to demonstrate his/her citizenship and his/her identity must not be refused entry.
2. If and to the extent that the Federal Government is authorised to conclude intergovernmental agreements as per Article 66(2) Federal Austrian Constitution (B-VG), it is entitled, in order to facilitate foreign travel, to conclude international agreements which entitle citizens to travel to other States and to enter the territory of the Federal Republic on the basis of documents other than those mentioned in paragraph 1. Provided they facilitate travel to border areas of neighbouring States of the Republic of Austria, agreements of this nature may include specifications to the effect that any such facilitation shall apply to citizens who have their place of residence or abode in border areas of the Republic only.

Agreements within the meaning of § 2(2) PassG:

— Agreement between the Republic of Austria and the Socialist Federal Republic of Yugoslavia on local border traffic (now the Republic of Slovenia), Federal Austrian Law Gazette No 379/1968 in the version of Federal Austrian Law Gazette No 143/1996 — see Articles 3, 4 and 7 (currently under revision)

— Agreement between the Republic of Austria and the Swiss Confederation governing passenger border crossings in local border traffic, Federal Austrian Law Gazette No 164/1974 — see Articles 2 to 4 and 7 to 9

§ 15 of the Federal Austrian Act on the deployment of alien police, the issue of documents for aliens and the issue of entry documents (Alien Police Act 2005 — FPG), Federal Austrian Law Gazette I No 100/2005

Condition for legitimate entry into the territory of the Federal Republic

1. In the absence of a provision to the contrary in federal law or in international agreements or of international practices to the contrary, aliens shall require a valid travel document for legitimate entry into the territory of the Federal Republic (passport obligation).

Other travel documents within the meaning of § 15 (1) FPG:

— Aliens’ passports (§ § 88 to 93 FPG)

— Convention travel documents (§ 94 FPG)

— Photographic identity cards for holders of privileges and immunities (§ 95 FPG)

— Emergency travel document for citizens of a Member State of the European Union (§ 96 FPG)

— Travel document for the repatriation of citizens of third-party States (§ 97 FPG)

§ 16 Alien Police Act 2005 (FPG), Federal Austrian Law Gazette I No 100/2005

General conditions on passport obligation

1. If the public interest, in particular in terms of passport and alien police and foreign policy, so requires, the Federal Minister for Internal Affairs is authorised, in consultation with the Federal Minister for Foreign Affairs, to issue a Regulation designating certain forms of travel documents issued by States other than those party to the Treaty as inappropriate for compliance with the passport obligation.

2. Aliens registered on shared travel documents may enter or leave the country in the company of the holder of that travel document on which they are registered only. This shall not apply in the case of measures taken by way of deportation or transport abroad in accordance with Chapters 5 to 10.

3. Aliens who have been issued with a collective passport satisfy the passport obligation, but they are permitted to enter or to leave the country together only. Each member of the party travelling requires a document issued by the authorities showing his/her identity. This shall not apply in the case of measures taken by way of deportation or transport abroad in accordance with Chapters 5 to 10.

§ 17 Alien Police Act 2005 (FPG), Federal Austrian Law Gazette I No 100/2005

Restriction of the passport obligation

1. If and to the extent that the Federal Government is authorised to conclude intergovernmental agreements as per Article 66(2) Federal Austrian Constitution (B-VG), it is entitled, subject to reciprocity, to agree that aliens subject to the passport obligation are entitled to enter the country, to reside temporarily in the territory of the Federal Republic and to leave the country on the basis of travel documents other than those mentioned in § § 15 (1) and 16 (3). Such aliens satisfy the passport obligation.

2. Agreements as per paragraph 1, which are intended to facilitate travel into border areas of the Republic of Austria, may specify that aliens who have entered the country on the basis of a travel document of this nature are permitted to remain in border areas of the Republic of Austria. In such cases, the international agreement may also specify that the document intended for entering the country, temporary residence in the country and leaving the country must be countersigned by an Austrian government authority.

3. If the public interest so requires, the Federal Minister for Internal Affairs is authorised, in consultation with the Federal Minister for Foreign Affairs, to issue a Regulation specifying that certain aliens subject to a passport obligation are permitted to enter the territory of the Federal Republic of Austria, to take up temporary residence there and to leave the country on the basis of other documents. Such aliens satisfy the passport obligation.
4. Citizens of the EEA and Swiss citizens may also fulfil the passport obligation with an identity card and may enter the country, take up temporary residence in the territory of the Federal Republic and leave the country on the basis of a travel document of this nature.

Agreements within the meaning of § 17(1) FPG:


Agreements within the meaning of § 17(2) FPG: (see agreements within the meaning of § 2(2) Austrian Passport Act (PassG))

§ 18 Alien Police Act 2005 (FPG), BGBl. I Nr. 100/2005

Exceptions from the passport obligation

1. Aliens shall not be subject to a passport obligation in the event of

1. an acceptance Statement (§ 19) being issued;

2. a right of temporary residence being issued in accordance with the Austrian Act governing the right of establishment and temporary residence, in cases where the alien does not have any travel documents or

3. through transport (§ 48).

2. Aliens recognised as having the right to asylum or as being entitled to subsidiary protection in Austria and who do not have any valid travel documents but are able to furnish prima facie evidence of their identity must not — irrespective of their responsibility pursuant to § §§ 120 and 121 — be refused entry to the country.

§ 19 FPG — acceptance statement

1. An acceptance statement shall be drawn up on request from a competent authority of another State for any alien who is subject to forced removal from the territory of said State into the territory of the Federal Republic of Austria and whom the Republic of Austria is required to accept under an international agreement (paragraph 4), under a European Community convention or by international practice.

2. The acceptance statement must be expressly designated as such; it must show the identity and nationality of the alien.

3. In the absence of a specification to the contrary in an international agreement or in a European Community convention, the acceptance statement’s period of validity must be set at a duration consistent with that required for return of the alien; a given border crossing point or a given location in a State party to the Treaty must be specified for entry into the country.

4. if and to the extent that the Government of the Federal Republic is authorised to conclude intergovernmental agreements as per Article 66(2) Federal Austrian Constitution (B-VG), it is entitled, subject to the condition of reciprocity, to agree that people who have entered the territory of another State illegitimately or who do not or no longer fulfil the conditions for entry into that country or for temporary residence there, are permitted to re-enter the Federal Republic (convention on reacceptance).

§ 23 Alien Police Act 2005 (FPG), Federal Austrian Law Gazette I No 100/2005

Medical certificate

1. In order to prevent public health being endangered, the Federal Austrian Minister for Health and Women’s Affairs is entitled to issue a Regulation designating certain States in which there is a significantly increased risk of infection with

1. a notifiable disease, easily communicable in normal social contact (serious illness) within the meaning of the Austrian Epidemic Act (Epidimiegesetz) 1950, Federal Austrian Law Gazette No 186/1950,

2. any other serious infectious disease not notifiable or reportable, or

3. notifiable tuberculosis within the meaning of § 3(a) of the Austrian Tuberculosis Act Federal Austrian Law Gazette No 127/1968,

and as a consequence thereof there is a risk of a large number of people being subjected to a sustained and serious hazard.

2. Aliens who have been temporarily resident in that State designated in a Regulation as per (1) during the six months immediately preceding their entry into the territory of the Federal Republic shall be entitled to the issue of a visa provided they furnish a medical certificate attesting that they are free of those diseases listed in the Regulation as per 1.

3. The Regulation must identify that disease which fulfils the conditions as per 1 and the contents and the period of validity of the medical certificate.

POLAND

Poland has not introduced any specific regulations regarding holding or carrying identity papers and documents.
PORTUGAL

Article 2(1) of Law No 5/95 of 21 February 1995 (Law making it obligatory to carry identity documents), which stipulates that ‘citizens older than 16 years of age must carry identity documents whenever they are in a public place, a place accessible to the public or a place subject to police surveillance’.

Article 2(2) of the same Law, which stipulates that ‘for the purposes of paragraph 1, the following are regarded as identity documents:

(a) an identity card or passport, for Portuguese citizens;

(b) a residence permit, identity card or passport, for nationals of the Member States of the European Community;

(c) a residence permit, alien’s identity card or passport, for nationals of non-EU countries’.

SLOVENIA

Aliens must prove their identity by means of a foreign travel document, personal identity card or other suitable document prescribed in the alien’s country and which proves the identity of the alien, a travel document for aliens, a personal identity card for aliens, a cross-border identity card, or another public document issued by a State authority which includes a photograph and on the basis of which it is possible to ascertain the identity of the alien. At the request of a police officer, aliens must prove their identity by means of the abovementioned documents and must also produce a permit demonstrating that they have entered and are residing in the Republic of Slovenia legally (Article 75 Ztuj-1-UPB3, Ur. l. RS (Slovenian Official Gazette) No 107/2006).

Aliens are liable to a fine of SIT 20 000 (EUR 83,46) for failing to produce, at the request of a police officer, a document which proves that they are legally entitled to enter and stay in the country or failing to produce, at the request of a police officer, proof of their identity (Article 97(3) and (4) Ztuj).

SLOVAKIA

In the case of the abolition of border control at internal borders, the Member States may, pursuant to Article 21(c) and (d) of the Schengen Borders Code, provide by law for an obligation to hold or carry papers and documents and for an obligation for third-country nationals to report their presence in the territory of any Member State pursuant to Article 22 of the Schengen Convention. Following the abolition of border control, the obligation for third-country nationals (analogous to the obligation for Slovak nationals) to hold a valid travel document including, if required, a visa, an identity card or a residence permit during a stay in the territory of the Slovak Republic will probably be maintained. The obligation of registration of aliens within the meaning of Section 49(2) of Act No 48/2002 Coll. will also be maintained.

FINLAND

Aliens Act (301/2004) Section 13 — Passports

When entering and staying in Finland, aliens shall hold a valid passport issued by the authorities of their home country or country of residence, which shall be presented to border check authorities or the police upon request.

Obligation to carry papers and documents during the visit in the country doesn’t exist in national legislation.

SWEDEN

National provisions relating to Article 21(c) are provided for in Chapter 9, paragraph 9 of the Aliens Act

Paragraph 9.

An alien living in Sweden is obliged at the request of a police officer to produce a passport or other document showing that he/she has the right to reside in Sweden. The alien is also obliged, in response to a summons from the Migration Board or the police authorities, to present him/herself to the Board or police authorities and provide information concerning his/her presence in Sweden. If the alien fails to do so, he or she may be collected by the police authorities. If, in the light of an alien’s personal circumstances or for some other reason, it can be assumed that the alien would not respond to the summons, he or she may be collected without any previous summons.

The coastguard is obliged to cooperate in the control activities of the police primarily through the controls it carries out on and in connection with maritime traffic. If the control is carried out by the coastguard, a passport or other document must be shown to the coastguard official.

Controls carried out under the first and second subparagraphs may be performed only if there are reasonable grounds for assuming that the alien has no right to reside in Sweden or if there are other special reasons for a control.

ROMANIA

Article 104 of the Aliens Act No 194/2002 provides that:

1. The Residence permit proves the identity of the alien and the existence of his/her right to stay in Romania, as well as the duration and the purpose for which this right was given to him/her.
2. The owner of the residence permit has the obligation to have it permanently with him/her, not to give it away and to present it to the competent authorities every time he/she is requested to do so.

**ICELAND**

According to national legislation Icelandic citizens are not obliged by law to carry identification papers or documents. However, according to Article 15, Paragraph 5 of the Police Act, the police can request a person, (of Icelandic or foreign nationality) to state his/her name, personal id-number and address, and to present an identity document as proof thereof.

According to the Act on Foreigners No 96/2002, Article 5, Paragraph 1, a foreigner arriving in Iceland shall, unless other arrangement is provided for in rules issued by the Minister of Justice, possess a passport or other identity document recognised as a travel document. According to Article 53 of the same Act any foreigner shall, when requested by police, show his identity documents and provide information, if necessary, in order that his identity and the lawfulness of his stay in Iceland may be ascertained.

The Minister of Justice may decide that foreigners, other than Danish, Finnish, Norwegian and Swedish nationals, shall carry passports or other personal identity documents at all times while staying in Iceland. The Minister may exempt other foreigners from this duty.

As mentioned above, Icelandic authorities have sufficient possibilities to oblige a foreigner to hold or carry papers and documents, both upon arrival in Iceland as well as during their stay in the country. The abolition of border control at internal borders does not affect the implementation of the above-mentioned provisions.

**NORWAY**

The Immigration Act (Act concerning the entry of foreign nationals into the Kingdom of Norway and their presences in the Realm of 24 June 1988 No 64) Section 44 first paragraph deals with this question. In this provision it is stated that:

When the police so require, any foreign national must show proof of identity and if necessary provide information to establish the foreign national's identity and the lawfulness of his presence in the realm.

Hence, according to this provision there is an obligation for foreign nationals to hold and carry identification documents. There is no equivalent obligation for nationals.