

Providing residencies for persecuted writers and artists in Europe – Immigration issues

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ICORN (The International Cities of Refuge Network)²²⁵ is an international membership organisation for cities and regions committed to freedom of expression. Each member provides temporary shelter, through the provision of residencies, for persecuted writers and artists. The residency is typically for two years, but some cities are only able to offer shelter for one year. These are all considered as long-term residencies. Our experience of applying for visas for our writers provides an example of the challenges faced by NGOs who are looking to provide refuge outside the asylum system for activists from the former Soviet Union and beyond.

ICORN receives applications directly from people in distress, and researches and assesses each application individually with the assistance of PEN International.²²⁶ Any persecuted writer can apply to become an ICORN guest writer.²²⁷ Once an application has been approved, ICORN's administration centre contacts member cities that are ready and willing to invite a writer for a residency.²²⁸ When the city has made a decision and invited a writer and the writer has accepted the offer, it is time to start the process of gaining access to the territory, i.e. getting a visa or a residency permit for the writer and family members, if relevant.

Most of the ICORN member cities are within the Schengen area, and the first step is usually to apply for a so-called Schengen visa.²²⁹ Many of our writers report that they have already tried to get such a visa before getting in touch with ICORN, often applying at a number of different countries' embassies, but with no luck. Local ICORN coordinators in the receiving cities use different strategies to assist the writers obtaining the visa, and often enter into direct contact with the issuing embassies, sometimes with the help of local authorities, NGOs or individuals with some leveraging power (like a Mayor or an MP). The applicant usually has to show proof of financial support, health insurance and no criminal record, in addition to an official invitation. The process can take from a few weeks to several months, depending on bureaucracy in both the receiving country and in the country where the writer is based. It is a time consuming process, and seems unnecessarily long as the cities all guarantee responsibility for living costs, etc. The long handling time could also be dangerous, as the writer becomes particularly vulnerable once invited to an ICORN city. In some instances, even preparations to leave a country can provoke reprisals. Persecution or threats are not grounds for obtaining a Schengen visa, quite the contrary, and the writers are often invited as part of a 'cultural exchange'. As one city coordinator states: 'Otherwise we may get in trouble, because the administration may guess, [that] he or she will ask for asylum, which [...] is something absolutely different...' Several of the cities report that it is more difficult, even with an invitation from the ICORN city, to obtain a visa if the writer comes from certain countries.²³⁰ It seems that if the visa issuing authority suspect (or fears!) that the person asking for a Schengen visa is persecuted, under threat or has fled his country, the authority is reluctant to let the person enter, even with all other documentation of economic responsibility, identity and so on provided.

²²⁵ ICORN www.icorn.org

²²⁶ Pen International <http://www.pen-international.org/>

²²⁷ ICORN's definition of writer includes, but is not limited to, fiction writers, poets, playwrights, journalists, bloggers, cartoonists, singer song-writers and academic writers. In addition, some of the ICORN member cities are now (spring 2014) getting ready to receive persecuted visual artists and/or musicians. The criteria of persecution and silencing are outlined in the ICORN Charter: http://www.icorn.org/editor/filemanager/files/founding_documents/Charter%20Nov2010.pdf

²²⁸ The process takes into account both the writer's needs, and the city's capabilities. The aim is to find the best match between writer and city, in order to make the residency useful and productive for both parties. Practicalities like family/flat size and medical needs are taken into account, as well as more intangible resources like useful networks and relevant peer communities in the city, and urgency/duration of need for protection. Both the city's resources (typically size of grant, access to schools/kindergarten, literary environment) and the writer's resources (typically literary genre, language, and passport/travel documents) also play a role when placing a writer.

²²⁹ The common travel area covering 22 EU members and 4 Associated States that have abolished internal border controls and share a common visa. See DG Home Affairs, Visa Policy, April 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm

²³⁰ They mention Iraq and Iran especially.

Another serious limitation to obtaining a Schengen visa is that you have to have a valid travel document (such as a passport) to be able to apply for it. Many of the writers approved by ICORN do not hold a valid passport, either because they have fled without it, the passport has run out, and/or it could be dangerous for them to approach the authorities in their own country to get hold of, or renew it. There have also been cases where the home country has refused to issue a new passport. This considerably limits where and how we can offer residencies to these writers.

Once arrived in the receiving country, the writer, together with the ICORN city coordinator, prepares an application for a longer term (one year or more) residency permit. This is issued based on national laws and regulations, and most cities report that they have both some leverage and fairly good communication with their national authorities about this. Some have held meetings with immigration and other authorities to inform them about the programme and gain trust. Some still do not mention refuge, persecution or threats, but ask for residencies based on cultural (literary) or academic exchange and residency programmes. The only country in Schengen where a local coordinator has reported serious problems obtaining a residency permit is Belgium. Here, the writer never received an answer from the national immigration authorities in response to his application for a limited (one year) residency permit once his Schengen visa had run out. There was not even a reply after a second request for a reply was sent from the local Mayor's office.

In some countries ICORN has, often together with national PEN centres, also been able to negotiate distinct national entry regulations for writers going to ICORN member cities in some countries. These are all in Scandinavia: Norway, Sweden and Denmark.

Denmark

There were no cities of refuge or ICORN members in Denmark when Danish PEN started working to find parties who could be interested in this work. The Danish Arts Council had, however, been positive towards supporting such an initiative. There were at least two serious obstacles to inviting persecuted writers to take up residencies in Danish municipalities. One was whether or not Danish municipalities were allowed to pay an individual foreign national to stay in the city. The other was that there was no opening in the immigration act to grant a two year residency permit to persecuted writers. Both these issues were solved by political lobbying and, finally, the passing of amendments to the national laws of immigration and of literature. The amendment to the immigration act now states that writers invited to cities that are members of an international organisation (like ICORN), can be granted a two year residency permit.²³¹ The permit can be extended, but does not give grounds for permanent residency. Close family members (partners/children) can also be given a residency permit, and the right to work, for the same time period. The writer is not given a work permit, but is free to work, and receive remuneration, if the work is related to the writer's profession. Before entry, the writer has to sign a declaration that s/he recognises fundamental Danish values and will leave the country after the residency. Creating and demanding the signing of such a document was a condition from Dansk Folkeparti (DF, or Danish People's Party) in order to agree to vote in favour of amending the laws in the Danish Parliament. DF is a right wing party. Both amendments came into force in the summer of 2008.

As soon as the laws were in place, the cities could plan to invite writers. The first ICORN writer came to Denmark in 2010. ICORN has until now (April 2014) placed six persecuted writers in five Danish cities of refuge. The law secures a residency permit, but it takes at least two months for the immigration authorities to process the application. This is of course a challenge for the individual writer in distress. ICORN is concerned about the processing time. So far, no writer has been denied entry. A positive experience with the Danish scheme is that writers without valid travel documents can also be granted residency. This has happened once and the writer was given a temporary travel

²³¹ An outline of the laws and regulation is given (in Danish only) at https://www.nyidanmark.dk/da-dk/ophold/friby_ordningen.htm

document from the Danish immigration authorities. Because the permit does not give grounds for permanent residency, the writer has to plan for what to do after the guest writer period is up. So far, one writer has asked for asylum in Denmark, one has returned home and one has had the residency prolonged. The remaining three are still within their two year residencies. So far, the applications for this type of residency permit have only come from writers living outside Denmark. A writer already in Denmark may also apply as long as he holds a legal status/residency permit in the country (and all other criteria are met).

Sweden

Sweden has had two cities of refuge since the end of the 1990's: Stockholm and Gothenburg. For many years they managed to secure residency permits to their guest writers much along the same way as will be described later for cities outside Scandinavia. However, over the last five years many new cities and regions in Sweden have joined ICORN and declared themselves cities of refuge. ICORN now has 10 members in Sweden. The Swedish Arts Council has actively supported the establishing of cities of refuge in Sweden, and has also suggested that the programme should be extended to include visual artists and musicians. Together with the cities' representatives and Swedish PEN, and with the support of the Swedish Arts Council, ICORN contacted the Swedish immigration authorities (Migrationsverket) to discuss solutions to the visa/residency challenges. Migrationsverket found that as long as the writer was provided for financially, s/he could enter on a residency permit for 'liberal professions' grounded on 'other means of income than employment'. They published their position in March 2011. It stated that Sweden could grant a temporary residence permit for two years to guest writers. Swedish immigration has developed an application form specifically for this type of residency permit.²³²

The writer can be granted a permit for another two years (after the initial two years) if s/he can show that s/he will be able to financially support him- or herself through her continued writing (13 000 SEK per month). This can in turn lead to a right to permanent residency. The practice is rather new, and the Swedish cities of refuge are lobbying for the writers to be able to stay on (get permanent residency) earlier, and without the financial demand. So far, only one writer has taken advantage of the possibility to stay on based on this regulation, but we expect many more to do so in the months and years to come. Migrationsverket points out that the residency permit is not granted based on protection needs. ICORN see this model as a best practice, and will work to see if it is possible to apply in other countries. In addition, Swedish immigration authorities need two months to grant the residency permit, and ICORN would like to work to speed the process up. The residency permit may be issued to writers who are already in the country, as long as all other criteria are met.

Norway

The first persecuted writer came to Norway (Stavanger) in 1996. At the time the pressure on immigration services and the general political climate was more favourable for finding practical solutions to immigration issues than it is now. The Norwegian Authors' Union, together with Norwegian PEN, initiated the persecuted writers' residency programme together with the cities. Norwegian PEN lobbied for and was later granted the right to suggest writers to the Norwegian Directorate of Immigration (UDI) – writers who could then enter the country as refugees under the Norwegian resettlement quota. Each year the Norwegian Parliament decides how many refugees can be resettled in Norway. The quota has been around 1,200 people in recent years. The yearly quota letter from the Parliament also states where the refugees can be resettled from. There are also some spaces not tied to a special country of origin, and some for emergency cases (handled in 48 hours). Norwegian PEN can suggest refugees to be resettled under the two latter categories.

²³² Swedish immigration authorities' page on residencies in Swedish cities of refuge: <http://www.migrationsverket.se/Andra-aktorer/Kommuner/Fristad-at-forfattare.html>

Since ICORN was established (2006) the selection and preparation of writer cases has been done by ICORN staff. In addition to the time spent preparing the case before submission, the handling time at UDI is generally less than three weeks. In addition, we can, with urgent cases, ask for emergency handling. If entry under the quota is granted, UDI organises and pays for the writer's travel to Norway. ICORN monitors this process, mainly handled by IOM (International Organisation for Migration). If the writer has his family with him at the time the suggestion is sent to UDI, they can enter the country together. If not, the family can apply for reunification, which is usually granted under Norwegian law. ICORN appreciates this opportunity to suggest writers for refugee status through Norwegian PEN. It adds flexibility to our programme and also makes us able to offer residencies to writers who need longer-term protection. We have a good working relationship with the section that handles resettlements at UDI. A limitation to the scheme is that PEN cannot suggest individuals who are already in Norway for refugee status. Another limitation is that the writer has to have an invitation from a Norwegian city of refuge to be eligible.

The UK

ICORN has two member cities outside Schengen, one in Mexico and one in the UK. Mexico falls outside this paper's scope. The entry, visa and residency regulations in the UK have made it exceptionally difficult to receive ICORN writers in the country, and consequently to recruit new member cities. Although there was a deregulatory change in 2012²³³ in the visa regulations for short-term entry for what was called 'permitted paid engagements' (including artists and authors), this did not benefit ICORN writers as they had to demonstrate they intended to leave the UK after one month, and otherwise had to prove 'exceptional talent' (not a criteria for ICORN). The inviting organisation has to register with the UK Home Office, and should a writer for one reason or another overstay his visa, or be rejected at the border, the inviting ICORN member fears their status as permitted to host artists and writers, would be revoked. This is too much of a chance to take as it would ruin their ability to run any other cultural programme with guests from third countries. The result is that our UK ICORN member is only able to invite guests who already hold legal entry to the UK, like a residency permit in Schengen or the US. So far, only two writers have been invited to the UK with ICORN, and then only for less than 6 months each.

ICORN is worried about the widespread reluctance authorities are showing when discussing inviting persecuted writers and artists to Europe for temporary shelter. We get the impression that this is built on some sort of fear, but it is not clear of what. Our experience is that the writers and artists are genuinely interested in only temporary residency, and would return to their home countries as soon as they could. Maybe because we invite only a small number of people, and they can all show proof of financial security through the programme, some concessions have been made to accommodate entry through ICORN in some national immigration schemes. We still find the entry processes far too time consuming. ICORN members also find it unsatisfying that they cannot be open about the fact that the writers and artists they invite are under threat when they apply for visa and residency permits.

²³³ Home Office, Immigration (Employment-related settlement, Overseas Domestic Workers, Tier 5 of the Points Based System and Visitors), February 2012, http://www.parliament.uk/documents/commons-vote-office/February_2012/29-02-12/6.Home-Immigration.pdf