



Ad-Hoc Query (1 of 2) related to study on exchange of information regarding persons excluded from international protection

Requested by NO EMN NCP on 26.06.15

Compilation produced on []

Responses from Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Croatia, Norway (22 in Total)

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1. Background Information

The Norwegian Directorate of Immigration has funded a research and development project which is being carried out by the Faculty of Law, VU University of Amsterdam with Dr. Joris van Wijk. This project is entitled “ A Study on the Exchange of Information Between European Countries Regarding Persons Excluded from Refugee Status.” Norway is sending out two related AHQs and will use the information collected from these queries in this research project. When the project is completed, Norway NCP will notify the EMN network and send a link to the project report.

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Questions


Based on this background, the Norwegian Directorate of Immigration (UDI) would like you to respond to the following questions:

1. If an applicant is excluded from international protection on the basis of Article 1F Refugee Convention and applies for a residence permit on other grounds, for instance in order to be reunited with family members who have obtained citizenship; does the exclusion (pose a) bar (to) granting such a permit?
 - a. Yes
 - i. If “yes”, please elaborate a little on *what legal basis* the exclusion bars granting such a permit?
 - b. No
2. If you have knowledge that an applicant is excluded from international protection on the basis of Article 1F Refugee Convention in another European country and if he applies for a residence permit on *other* grounds in your own country, for instance to be reunited with family members who have obtained citizenship, does the exclusion (pose a) bar (to) granting such a permit?
 - a. Yes
 - i. If “yes”, please elaborate a little on *what legal basis* the exclusion bars granting such a permit?
 - b. No
3. Are applicants who are excluded from international protection on the basis of Article 1F, and who cannot be refouled, granted some form of leave-to-stay, or residence permit in your country?
 - a. Yes
 - i. What is the legal basis for this status?
 - ii. Are any conditions attached to this status or can any conditions be imposed on individuals with this status?
 - iii. Are these individuals allowed to work or receive education?
 - iv. What is the duration of this status?
 - v. Is this status renewable?
 - vi. Can these individuals receive a permanent residence permit after a certain period of time?
 - b. No
 - i. Are there other policy measures that deal with these individuals (individuals in this situation)?

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The responses that we receive no later than Monday, August 3rd, 2015 are the ones most likely to be useful. (please advise us in advance if there will be a delay due to holidays)


2. Responses¹

		Wider Dissemination? ²	
	Austria	Yes	<p>1. If an applicant is excluded from international protection on the basis of Article 1F Refugee Convention and applies for a residence permit on other grounds, for instance in order to be reunited with family members who have obtained citizenship; does the exclusion (pose a) bar (to) granting such a permit?</p> <p>a. Yes, If "yes", please elaborate a little on what legal basis the exclusion bars granting such a permit?</p> <p>According to sect. 60 Asylum Act 2005 a general requirement for any residence permit, even on humanitarian grounds e.g. in consideration of Art. 8 ECHR, is having no association with extremist or terrorist groups and possible related activities. Further, sect. 11 the Settlement and Residence Act 2005 (NAG) stipulates similarly that no residence permit may be issued if the residence of an alien violates public interest, notably public order and security or association with extremist or terrorist groups and possible related activities.</p> <p>2. If you have knowledge that an applicant is excluded from international protection on the basis of Article 1F Refugee Convention <u>in another European country</u> and if he applies for a residence permit on other grounds in your own country, for instance to be reunited with family members who have obtained citizenship, does the exclusion (pose a) bar (to) granting such a permit?</p> <p>a. Yes</p>



¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."




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			<p>If “yes”, please elaborate a little on what legal basis the exclusion bars granting such a permit?</p> <p>As above, because these stipulations do not differentiate whether facts were established in Austria or abroad.</p> <p>3. Are applicants who are excluded from international protection on the basis of Article 1F, and who cannot be refouled, granted some form of leave-to-stay, or residence permit in your country?</p> <p>a. Yes</p> <ul style="list-style-type: none"> ii. What is the legal basis for this status? Sect. 46a Aliens` Police Act 2005 (FPG) iii. Are any conditions attached to this status or can any conditions be imposed on individuals with this status? This “tolerated stay” (“Duldung”) is applied if the expulsion is not possible due to a refoulement situation or due to factual reasons that the alien is not responsible for. Conditions may be imposed by the Federal Office for Immigration and Asylum so that this person remains easily reachable. iv. Are these individuals allowed to work or receive education? No. v. What is the duration of this status? One year. vi. Is this status renewable? Yes, by another year. vii. Can these individuals receive a permanent residence permit after a certain period of time? After one year these individuals may apply for a humanitarian residence permit (sect. 57 Asylum Act), but the requirements include a continued hindrance to expulsion and no public security risk to Austria, e.g. indicated by a penal court verdict. <p>Source: Federal Ministry of the Interior</p>
	Belgium	Yes	<p>1. If an applicant is excluded from international protection on the basis of Article 1F Refugee Convention and applies for a residence permit on other grounds, for instance in order to be reunited with family members who have obtained citizenship; does the exclusion (pose a) bar (to) granting such a permit?</p> <p>Each residence permit application is examined on a case-by-case basis. All known elements contained in the file of the foreigner in question are taken into account in the decision-making process. The Immigration Act of 15 December 1980 stipulates that each residence permit application can be denied</p>

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			<p>when the Minister or his authorized representative considers that the person in question might harm the public tranquility, public order or the security of the country. A reference is always made to Article 3/ Paragraph 1/ 5° to 8° of the Immigration Act (7° refers to public tranquility, public order and national security).</p> <p>Regarding family reunification, negative decisions are based on Article 43 of the Immigration Act. The family reunification is denied for reasons of public order and following an analysis of the threat that the applicant represents as well as a fair balance test (examination of articles 8 and 3 of the European Convention on Human Rights). Naturally, the elements which led to the exclusion on the basis of article 1F, will also be important and decisive in this consideration and balance test.</p> <p>2. If you have knowledge that an applicant is excluded from international protection on the basis of Article 1F Refugee Convention <u>in another European country</u> and if he applies for a residence permit on other grounds in your own country, for instance to be reunited with family members who have obtained citizenship, does the exclusion (pose a) bar (to) granting such a permit? See answer to question 1.</p> <p>3. Are applicants who are excluded from international protection on the basis of Article 1F, and who cannot be refouled, granted some form of leave-to-stay, or residence permit in your country? No. An order to leave the territory is issued following a negative decision by the Office of the Commissioner General for Refugees and Stateless Persons (CGRS). Although this is in theory (legally) possible, in practice authorities are not very keen to grant a residence permit on other grounds to someone excluded on the basis of article 1F of the Refugee Convention. The Asylum Department of the Immigration Office does not issue entry bans itself, but if the person in question is found on the Belgian territory after the expiration of his/her order to leave the territory, and is apprehended to be expelled, an entry ban could be issued.</p>
	Bulgaria	Yes	
	Cyprus	Yes	


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	Czech Republic	Yes	<ol style="list-style-type: none"> 1. b) Not expressly. However, the Aliens Act enables not to grant any kind of residence permit due to a public order or security reasons or committing an intentional offense. 2. b) Please see the clarification mentioned above. 3. a) <ol style="list-style-type: none"> i. Kind of a national visa on the basis of non-refoulement principle. ii. The third-country national in question is obliged to find a reception in other country within 60 days. The third- country national is entitled to ask for a visa mentioned in 3 i. in the case of non-acceptance of the national by the other country. iii. The permission to work is required. The access to education in elementary schools and secondary schools is possible, but in practice the holder of visa mentioned in 3 i. mostly does not require access to the education system due to his/her age above 18 years. iv. The duration of this status is 6 months maximum. v. Yes. vi. Yes, provided these individuals fulfill other conditions defined by law.
	Denmark	Yes	
	Estonia	Yes	<ol style="list-style-type: none"> 1) No. The exclusion itself shall not pose a bar to granting residence permit however in this case a paragraph of the Alien's Act shall be applied, which puts out reasons for the refusal to issue temporary residence permit for considerations of ensuring public order and national security and protection of public health. 2) No. The exclusion itself shall not pose a bar to granting residence permit however in this case a paragraph of the Alien's Act shall be applied, which puts out reasons for the refusal to issue temporary residence permit for considerations of ensuring public order and national security and protection of public health. 3) No. Upon refusal to issue a temporary residence permit a person shall be issued a precept to leave. In case he/she does not fulfill the conditions to leave stated in the precept he/she shall be allocated to the Detention Centre and the expulsion procedure shall be applied until expulsion is possible to the country of origin or any other relevant third country or until a person decides to leave voluntarily.



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+	Finland	Yes	<p>1. If an applicant is excluded from international protection on the basis of Article 1F Refugee Convention and applies for a residence permit on other grounds, for instance in order to be reunited with family members who have obtained citizenship; does the exclusion (pose a) bar (to) granting such a permit?</p> <p>b. No. In most cases exclusion does not pose a bar to granting a residence permit on other grounds. In some cases it might be considered that because of the reason that led to exclusion the person is considered a danger to public order and security and for that reason the residence permit may be refused.</p> <p>2. If you have knowledge that an applicant is excluded from international protection on the basis of Article 1F Refugee Convention <u>in another European country</u> and if he applies for a residence permit on other grounds in your own country, for instance to be reunited with family members who have obtained citizenship, does the exclusion (pose a) bar (to) granting such a permit?</p> <p>b. No. Same as in question 1.</p> <p>3. Are applicants who are excluded from international protection on the basis of Article 1F, and who cannot be refouled, granted some form of leave-to-stay, or residence permit in your country?</p> <p>c. Yes</p> <p>i. What is the legal basis for this status? Section 89 of the Finnish Aliens Act: “Aliens residing in Finland who are not granted asylum or a residence permit on the basis of subsidiary protection or humanitarian protection because they have committed, or there are reasonable grounds to suspect that they have committed, an act referred to in section 87(2), 88(2) or 88a(2) are issued with a temporary residence permit for a maximum of one year at a time if they cannot be removed from the country because they are under the threat of the death penalty, torture, persecution or other treatment violating human dignity.”</p> <p>ii. Are any conditions attached to this status or can any conditions be imposed on individuals with this status? No conditions</p> <p>iii. Are these individuals allowed to work or receive education? They are not allowed to work but they are allowed to receive education.</p> <p>iv. What is the duration of this status? Maximum of one year at a time.</p> <p>v. Is this status renewable? Yes.</p> <p>vi. Can these individuals receive a permanent residence permit after a certain period</p>
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			<p>of time?</p> <p>According to section 113 of the Finnish Aliens Act a person is issued with a continuous residence permit after three years of continuous residence in the country if the grounds for issuing a residence permit still exist.</p>
	France	Yes	<ol style="list-style-type: none"> 1. According to the Code for Entry and Residence of Foreign Persons and the Right of Asylum (article L 314-3), the administrative authority can refuse the first issuance of a temporary residence permit, a 10 year residence card or a permanent residence card on the ground of threat to public order. This consideration of public order is no longer opposable during the renewal of the residence card. In that case, if the administrative authority refuses to renew the residence card on the ground of public order, it will have to take first an expulsion measure against the foreign national. 2. No provision prevents the French administration from taking into account foreign convictions when appreciating the threat to public order of a foreign national in France. Furthermore, some foreign convictions can appear in the French criminal record under a convention or international agreement. The Council of State upheld several decisions refusing the issuance or renewal of a residence permit or expulsion decisions for acts committed outside France (breaking the law on foreigners in Belgium, belonging to an organization which committed attacks abroad, etc.) <p>Moreover, the Code for Entry and Residence of Foreign Persons and the Right of Asylum provides in its article R 531-6 that the administrative authority may withdraw a residence permit issued by France or another Member State to a third-country national against whom a Member State has taken a removal measure.</p> <p>The authorities must assess on a case-by-case basis the existence and severity of the threat and determine if it is a threat to public order. Threat to public order is assessed in the light of the threat itself, then in the light of the protection that the foreign national can benefit from and finally in respect of his private and family life.</p> <p>The mere fact of having a criminal record stating offenses is not sufficient, it is appropriate to characterize the threat and give the motivations for the refusal.</p>


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			<p>3. If the foreign national is given protections that prevent him from being expelled, the Code for Entry and Residence of Foreign Persons and the Right of Asylum provides in its Article L 314-6-1 that the residence card may be withdrawn if the foreign national is subject to a final conviction for crimes committed against the Nation, the State and public peace (e.g. insulting a person in charge of a public service mission in the performance of his duties, insulting the flag or the national anthem, rebellion towards a person holding public authority). In this case, the residence card is replaced by a temporary residence card.</p>
	Germany	Yes	<p>1.b. No. The refusal of international protection on the basis of Art. 1F Geneva Convention does not automatically lead to a lock for a residence permit for other reasons. However § 5 para. 1 point 2 of the Residence Act (AufenthG) is a prerequisite for the grant of a residence permit, as a rule no grounds for expulsion should exist. The grounds for expulsion are regulated in §§ 53, 54 and 55 of the Residence Act. In the cases of §§ 53 and 54 no. 5 to 5b in conjunction with § 5 para. 4 sentence 1 of the Residence Act the expulsion is mandatory. This includes convictions for intentional criminal offences totaling over 3 years.</p> <p>2.b.No. See above 1.b.</p> <p>3.b. No.</p>
	Greece	Yes	<p>1. Not as standard procedure implemented automatically. However, the existence of reasons that may pose a threat to public order and public security of the country are examined by the authorities that competent for the issuance of the residence permit.</p> <p>2. Not as a standard procedure implemented automatically (as above).</p> <p>3. The case files of these persons are directed to the Ministry of Interior and Administration Reform, for granting a residence permit on the basis of humanitarian reasons (article 19A, par. 1(f), of the Immigration and Social Integration Code), within 90 days from the date that the person concerned receives the written information note by the competent authorities.</p> <p>i. Immigration and Social Integration Code: Article 19A par. 1(f) of Law 4251/2014 (Official Gazette no 80/1.4.2014), as amended by article 8, par.25 of Law 4332/2015 (Official Gazette no 76/9.7/2015)</p> <p>ii. In order for these individuals to be granted with a residence permit for humanitarian reasons, the</p>

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			<p>following are taken into account: objective reasons not allowing their refoulement for reasons of force majeure (serious health reasons for them or a member of their family, imposed international embargo of his country, the existence of a non-refoulement clause).</p> <p>iii. Yes, according to article 19A of the above-mentioned legislation, those that have been granted with a residence permit for humanitarian reasons have access to paid employment and to education.</p> <p>iv. The status is granted for 1 year and can be renewed for two years, as long as the above-mentioned conditions still exist.</p>
	Hungary	Yes	<p>1./b. No: it does not generate automatically a bar granting a residence permit, but the reasons for applying 1F will be considered.</p> <p>2./b No: it does not generate automatically a bar granting a residence permit, but the reasons for applying 1F will be considered.</p> <p>3./a Yes: 'tolerated status'</p> <p>i.) Under the Act LXXX of 2007 on Asylum and the Act on the Entry and Stay of Third-Country Nationals if a person may not be recognized due to the exclusion grounds but the principle of non-refoulement has to be applied, the person is provided a 'tolerated status' and a humanitarian residence permit is issued.</p> <p>ii) No, if the situation described in response i) (non-refoulement) exists, there are no further conditions attached.</p> <p>iii) Yes, under conditions applicable to third-country nationals.</p> <p>iv) The duration of the status is one year.</p> <p>v) Yes, the status is renewable.</p> <p>vi) Yes and no.</p> <ul style="list-style-type: none"> ▪ The 'person authorized to stay' (person holding the 'tolerated status') may apply for the national long-term residence permit if he/she resided legally in Hungary continuously for at least three years and verifies that he/she is able to provide for accommodation and subsistence, and has a health insurance in respect of all risks or has the financial means to cover for his/her healthcare, and does not pose a risk to the national security and public order of Hungary, his/her entry and stay is not prohibited or no SIS alert has been issued against him/her.


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			A person holding the 'tolerated status' may not apply for an EC long-term residence permit.
	Ireland	Yes	<p>1. If an applicant is excluded from international protection on the basis of Article 1F Refugee Convention and applies for a residence permit on other grounds, for instance in order to be reunited with family members who have obtained citizenship; does the exclusion (pose a) bar (to) granting such a permit?</p> <p>a. Yes</p> <p>i. If "yes", please elaborate a little on what legal basis the exclusion bars granting such a permit?</p> <p>b. No</p> <p>Each case is dealt with on its own merits. Should any of the exclusion criteria apply, clearly the applicant does not warrant a "Protection" declaration. However, issues of re foulment must also be taken into account and depending on the individual circumstance, the applicant may be granted temporary leave to remain in the State. If there are issues of danger to the State or issues of national security or public order, criminal investigations may be instigated.</p> <p>2. If you have knowledge that an applicant is excluded from international protection on the basis of Article 1F Refugee Convention in another European country and if he applies for a residence permit on other grounds in your own country, for instance to be reunited with family members who have obtained citizenship, does the exclusion (pose a) bar (to) granting such a permit?</p> <p>a. Yes</p> <p>i. If "yes", please elaborate a little on what legal</p>


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			<p>basis the exclusion bars granting such a permit?</p> <p>b. No</p> <p>No. We could not accept an application for protection as the person has been excluded by another member State but depending on the individual circumstances, the person MAY be granted limited / temporary leave to remain and could also be subject to Garda enquiries, depending on the nature of the case, reason for exclusion etc.</p> <p>3. Are applicants who are excluded from international protection on the basis of Article 1F, and who cannot be refouled, granted some form of leave-to-stay, or residence permit in your country?</p> <p>a. Yes</p> <p>i. What is the legal basis for this status?</p> <p>ii. Are any conditions attached to this status or can any conditions be imposed on individuals with this status?</p> <p>iii. Are these individuals allowed to work or receive education?</p> <p>iv. What is the duration of this status?</p> <p>v. Is this status renewable?</p> <p>vi. Can these individuals receive a permanent residence permit after a certain period of time?</p> <p>b. No</p> <p>i. Are there other policy measures that deal with these individuals (individuals in this situation)?</p> <p>Yes / NO. If the person has committed crimes in the State or may have committed such serious crimes as to warrant Court</p>
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			<p>proceedings in National or (under Article 1F) International Courts, those would take precedence.</p> <p>If allowed temporary leave to remain, there are several conditions that can be made depending on the individual case. Applicants may have access to various types of education/training but depending on the case, they may or may not be permitted to work or operate a business.</p> <p>The duration of the status again depends on the individual circumstances and can be renewed or refused if the person does or does not comply with the conditions specified in the temporary permission given.</p> <p>After 5 years LEGAL residence, a person can apply for naturalisation however this is not automatic and given a person's background Naturalisation can be refused.</p>
	Italy	Yes	<p>1. Yes. In Italy, under Article 10(2) of Legislative Decree No 251/2007 — adopted to implement Directive 2004/83/EC on Minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection, in compliance with the provision of Article 1F of the Convention related to the Status of Refugees — refugee status cannot be granted if the applicant: (a) is considered to be responsible of a crime against peace, a war crime or a crime against humanity; or (b) has committed a serious crime outside Italian territory, before being granted a residence permit on refugee grounds; or (c) has been guilty of acts against the aims and the principles of the United Nations. Moreover, under the same Decree, no residence permits can be granted to the persons referred to above (a-c), including permits for the purposes of family reunification (Article 22(5)).</p> <p>2. Yes. Under Article 4(4) of the Consolidated Act on Immigration, a foreigner who is considered to be a</p>


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			<p>tangible and present threat for public order, or for the security of the State, or of the security of one of the countries with which Italy signed agreements on the abolition of internal border controls and the free movement of persons, is not admitted in Italy.</p> <p>3. No.</p>
	Latvia	Yes	<p>1. If an applicant is excluded from international protection on the basis of Article 1F Refugee Convention and applies for a residence permit on other grounds, for instance in order to be reunited with family members who have obtained citizenship; does the exclusion (pose a) bar (to) granting such a permit?</p> <p>a. Yes</p> <p>i. If “yes”, please elaborate a little on what legal basis the exclusion bars granting such a permit?</p> <p>b. No, it does not happen per se and automatically. Formally these two are different processes, however the same reasons (Article 1F Refugee Convention) for exclusion from international protection are of relevance in the assessment of application for a residence permit. According to the Immigration Law a foreigner who has been included in the list of those foreigners for whom entry in the Republic of Latvia is prohibited, or regarding whom a notification has been included in the Schengen information system in order to refuse entry and residence in the territory of the Schengen Agreement Member States, is not entitled to enter and reside in the Republic of Latvia. The Immigration law prescribes the provisions on the inclusion of foreigners in the aforementioned list, namely, the Minister for the Interior shall take a decision to include a foreigner in the list, if any of the defined circumstances exist. These circumstances inter alia include a situation when a foreigner has committed a crime against humanity, an international or war crime or has participated in mass repression if such has been determined by a court judgement; and a situation when competent State institutions have a reason to believe that a foreigner has committed or is planning to commit a serious or extremely serious crime.</p> <p>During the procedure of approval of sponsorship (necessary for a foreigner willing to receive a residence permit), sponsorship is refused or an approved sponsorship is revoked inter alia if the invited foreigner has been included in the aforementioned list; competent State (security)</p>







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			<p>institutions have provided information which gives the grounds to refuse the entry for the foreigner; or it has been determined that the invited foreigner is prohibited from entering the Schengen territory.</p> <p>2. If you have knowledge that an applicant is excluded from international protection on the basis of Article 1F Refugee Convention <u>in another European country</u> and if he applies for a residence permit on other grounds in your own country, for instance to be reunited with family members who have obtained citizenship, does the exclusion (pose a) bar (to) granting such a permit?</p> <p>a. Yes</p> <p>i. If “yes”, please elaborate a little on what legal basis the exclusion bars granting such a permit?</p> <p>b. No. Please see answer to Q1.</p> <p>3. Are applicants who are excluded from international protection on the basis of Article 1F, and who cannot be refouled, granted some form of leave-to-stay, or residence permit in your country?</p> <p>a. Yes</p> <p>i. What is the legal basis for this status?</p> <p>ii. Are any conditions attached to this status or can any conditions be imposed on individuals with this status?</p> <p>iii. Are these individuals allowed to work or receive education?</p> <p>iv. What is the duration of this status?</p> <p>v. Is this status renewable?</p> <p>vi. Can these individuals receive a permanent residence permit after a certain period of time?</p> <p>b. No</p> <p>i. Are there other policy measures that deal with these individuals (individuals in this situation)?</p> <p>Latvia has not had such cases.</p>
	Lithuania	NO	LT responded, but did not want to publicize their response.


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	Luxembourg	Yes	<p>1.</p> <ul style="list-style-type: none"> a. Yes. <ul style="list-style-type: none"> i. In Luxembourg, article 1 F of the convention is transposed by article 34 (2) of the amended law of 5 May 2006 (Asylum Law). If the third-country national who has been excluded from refugee status applies for another type of residence permit, in principle his/her application will be refused based on grounds of public policy or public security (i.e. article 42 (1) in accordance with article 34 (2) paragraph 4 of the amended law of 29 August 2008 on free movement of persons and immigration. In the case of family reunification with an EU citizen, the family reunification can be refused based on article 27 of the amended law of 29 August 2008. b. N/A. <p>2. See answer to question 1.</p> <p>3.</p> <ul style="list-style-type: none"> a. Yes. <ul style="list-style-type: none"> i. For a third-country national who has been refused international protection in Luxembourg and who cannot be refouled to his/her country of origin for reasons that are not of his/her making, the Minister in charge of immigration may postpone the removal of the rejected applicant for international protection (article 125bis(1) and article 129 of the amended law of 29 August 2008). ii. The third-country national may remain on the territory on a temporary basis, without being authorised to reside. The decision to postpone the removal may be accompanied by an order for house arrest pursuant to article 125 bis (1) of the amended law of 29 August 2008. iii. No. In principle they are not allowed to work and to receive education. Article 125bis (3) establishes that the Minister may grant a beneficiary of a postponement decision who so requests, an authorisation to engage in temporary work for the duration of the period of postponement of the removal. However, this article also establishes that the granting of such an authorisation shall be subject to the conditions laid down in article 42; so in case there is a threat to public policy or public security such an authorisation cannot be granted (See answer to question 1). iv. The duration of the postponement is for a period determined in accordance with the
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			<p>circumstances peculiar to each case and until such time as there exists a reasonable prospect of performance of his/her removal (article 125bis (1)).</p> <p>v. See answer to question 3.a iv).</p> <p>vi. No. N/A.</p>
	Malta	Yes	
	Netherlands	Yes	<ol style="list-style-type: none"> 1. Yes, exclusion on the grounds of article 1F is also applicable in the case of family reunification. Article 1(F) is one of the categories in our policy on public order. 2. Yes, the information of the other European country will be included in the determination process of this specific case by the Dutch Immigration Service (IND) whether article 1F is applicable or not. 3. No, in principle not. They are obliged to make an effort to leave the country. The impediment for forced return on the basis of article 3 ECHR is regularly re-assessed, for example in case of new information on the excluded person or the country of origin. In specific cases where the impediment for forced return on the basis of article 3 ECHR is assessed to be durable (after a minimum of ten years) and the circumstances of the individual case are distressing in a way that would make ongoing refusal of legal residency disproportional, an excluded person is granted a temporary permit. Every year the permit will be assessed and prolonged if necessary. The temporary permit cannot become permanent and the excluded person cannot obtain Dutch citizenship.
	Poland	Yes	
	Portugal	Yes	
	Romania	Yes	
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. b. No. Exclusion from international protection on the basis of 1F of the Geneva Convention per se is not a reason not to be granted a residence permit – Slovak legislation does not regulate this. The obstacle is the fact that this person has committed a crime as stated in the Article 1F. 2. b. No. 3. a. Yes.

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			<ul style="list-style-type: none"> vi. If a person cannot be administratively expelled, this fact poses an obstacle to administrative expulsion and thus this person may be granted a tolerated stay. vii. Yes, this is specifically regulated by the Slovak legislation: this person cannot be subject of the asylum procedure, cannot be detained at the time of the submission of an application, cannot be subject of administrative expulsion, etc. viii. Yes, these persons are allowed to work and for a limited period of time (up to 90 days) they are also allowed to study. ix. 180 days maximum. x. Yes. <p>No.</p>
	Slovenia	Yes	<p>Q.1.; There is not automatic exclusion and foreigner is allowed to apply for another legal status on different purposes as well family reunification. Base on the Alien Act issuing residence permit (no matter of purposes) is refused when applicant do not fulfils all required conditions among others if there exists also well-founded grounds that the foreigner might pose a threat to the public order and safety or the international relations of the Republic of Slovenia or if there is a suspicion that the foreigner's residence in the country is related to the commission of terrorist or other violent acts, illegal intelligence, drug trafficking or the commission of other criminal acts or if there are reasons to assume that the foreigner will not abide by the legal order of the Republic of Slovenia, etc.</p> <p>Q.2.; In general (no mater of the purposes and legal grounds) those applicants who do not fulfill all required conditions (also these mentioned in Q.1.) residence permit could not be issued. Alien Act provides different procedures and conditions to fulfil in order to issuing residence permit based on following: a.) if family members already had any legal status and live together as family with TCN who have valid residence permit issued in another Member States before they move together to Slovenia and b.) TCN with valid residence permit in another Member States move to Slovenia and apply for family reunification for family members who didn't live with him in another Member States;</p> <p>Q.3.; Yes according to the Alien Act TCNs who cannot be refouled, deported are entitled to apply for special status which gave him/her permission to stay in Slovenia for temporary duration:</p>


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			<p>a.i) Article 73 of Alien Act;</p> <p>a.ii) Yes they are several conditions such as if the deportation of the foreigner is not permitted, if the foreigner does not possess, and is unable to acquire, a valid travel document of the country of his nationality;</p> <p>a.iii.) They are allowed to receive social and health care, educations and financial social assistance;</p> <p>a. iv) base on TC application the Police issue special card alias "permission to stay" for duration 6 months;</p> <p>a.v.) Permission may be renewed at the foreigner's request or ex officio for as long as the reasons exist;</p> <p>a.vi) yes if he/she fulfills all conditions required by the law.</p>
	Spain	Yes	<ol style="list-style-type: none"> 1. No, as far as the applicant could meet the requirements to obtain a residence permit (he will have to provide a certificate of criminal records), according to the Organic Law 4/2000, on the rights and freedoms of aliens in Spain and their social integration. Otherwise, residence authorisation will not be granted and the applicant must leave the country. 2. No, see question 1. 3. No.
	Sweden	Yes	<ol style="list-style-type: none"> 1. In Sweden, exclusion in itself is not considered sufficient to turn down an application for family reunion in accordance with the EU family reunification directive, unless there is evidence of personal conduct constituting a present threat. Exclusion from protection requires that certain events have taken place in the past, but does not require that the person is considered a present threat. Thus, in order to reject an application for family reunification of the kind mentioned above, a genuine and sufficient, i.e. a present, threat has to be established. As pointed out, what the person has done previously is relevant only if it leads to the conclusion that he/she can be considered a genuine and sufficient threat. Sweden also has national provisions for family re/unification. These provisions make it possible to reject an application on both said grounds. 2. Same as above. 3. a) Yes <ol style="list-style-type: none"> i. In order to avoid a violation of the principle of non-refoulement, they are granted temporary or permanent residence permits due to impediments to enforcement. ii. There are no conditions attached to the status and there aren't any conditions imposed on individuals with this status. iii. Yes, they are allowed to work and receive education.


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			<ul style="list-style-type: none"> iv. The duration of the residence permit is determined after an assessment of the individual circumstances in the case. The first time-limited residence permit is usually valid for one year. v. Yes, it is. vi. Yes, they can.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. If an applicant is excluded from international protection on the basis of Article 1F Refugee Convention and applies for a residence permit on other grounds, for instance in order to be reunited with family members who have obtained citizenship; does the exclusion (pose a) bar (to) granting such a permit? Yes, it does. It is UK policy not to allow those who have committed international crimes which exclude them from refugee status, to find a safe haven in the UK, and an application to enter or remain in the UK would be refused, under the Immigration Rules, on grounds that the person's presence is not conducive to the public good, subject to the UK's international obligations under the ECHR. 2. If you have knowledge that an applicant is excluded from international protection on the basis of Article 1F Refugee Convention <u>in another European country</u> and if he applies for a residence permit on other grounds in your own country, for instance to be reunited with family members who have obtained citizenship, does the exclusion (pose a) bar (to) granting such a permit? Yes, for the same reasons as given in answer to Q4. 3. Are applicants who are excluded from international protection on the basis of Article 1F, and who cannot be refouled, granted some form of leave-to-stay, or residence permit in your country? Yes <ul style="list-style-type: none"> i. What is the legal basis for this status? They are given short periods of leave to remain under the <u>Restricted Leave</u> policy, published on Gov.UK. ii. Are any conditions attached to this status or can any conditions be imposed on individuals with this status? Yes, a variety of restrictions depending on individual circumstances, including restrictions on

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			<p>changes of address, work, study, as provided under the Restricted Leave policy.</p> <p>iii. Are these individuals allowed to work or receive education? They must ask the Home Office for permission; if this is granted, they are limited to the Shortage Occupation List and must notify the Home Office of any change in employment situation. They also have to seek permission to study. Generally applications to study will be refused but each case considered on case by case basis.</p> <p>iv. What is the duration of this status? Generally no more than 6 months at a time to reinforce the temporary nature of the leave, but each case is considered on its own circumstances.</p> <p>v. Is this status renewable? Yes on the expiry of the limited leave the applicant submits a further leave application.</p> <p>vi. Can these individuals receive a permanent residence permit after a certain period of time? No</p> <p>vii. Are there other policy measures that deal with these individuals (individuals in this situation)? No</p>
	Croatia	Yes	<p>1. The Aliens Act (Official Gazette, No. 130/11 and 74/13) prescribes that the alien shall be granted temporary residence, provided that his entry and residence in the Republic of Croatia is not prohibited and does not pose a danger for public order, national security or public health.</p> <p>A security check on an alien for the purpose of determining reasons of national security shall be carried out by the Security Intelligence Agency.</p> <p>2. The exclusion in another European country shall pose a bar to granting temporary permit in the Republic of Croatia only if the abovementioned conditions in point 1 are met (entry and residence in the Republic of Croatia is prohibited and the alien is a danger for public order, national security or public health.)</p>

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			<p>3. If the Aliens Act prescribes that an alien cannot be forcibly refouled (for the reasons of the Refugee Convention or the reasons of the European Convention on Human Rights) then expulsion may be temporarily postponed. During temporary postponement, an alien will receive decision which is valid for 6 months and may be extended. An alien on temporary postponement continues to reside illegally and is bound to leave the European Economic Area. Such alien has the right to health care and primary education, but doesn't have the right to work.</p>
	Norway	Yes	<p>Q1: Exclusion does not automatically bar being granted a residence permit. We also have to consider whether the actions, which an applicant has been excluded for, also may lead to expulsion. This will be the case when while abroad, a foreign national has, within the past 5 years, served or received a penalty for an offence which under Norwegian law is punishable by imprisonment for a term exceeding three months, or if the foreign national has been found to pose a threat to public order or fundamental national interests.</p> <p>Q2: Exclusion does not automatically bar being granted a residence permit. We also have to consider whether the actions, which an applicant has been excluded for, also may lead to expulsion. This will be the case when while abroad, a foreign national has, within the past 5 years, served or received a penalty for an offence which under Norwegian law is punishable by imprisonment for a term exceeding three months, or if the foreign national has been found to pose a threat to public order or fundamental national interests.</p> <p>Q3:</p> <p>a) Yes, such persons are granted some form of leave-to-stay</p> <p>i: Legal basis: Immigration Act § 74/ Norwegian Immigration act § 74</p> <p>ii: conditions</p> <ul style="list-style-type: none"> - The status does not give grounds for a permanent residence permit - The status gives no right to apply for family reunification (this means that the person cannot apply for family members residing outside Norway to be granted residence in Norway on the basis of the person's status/temporary permission / Immigration Act § 74) - The status does not give grounds for issuing travel documents

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			<ul style="list-style-type: none"> - The status does not give the right to participate in the introductory program in Norway - The status does not give grounds for issuing a permanent residence permit <p>iii: Can the person work/ get education Yes. Normally they get permission to work. It is up to each educational institution to determine whether the person can study or not, the person is free to apply</p> <p>iv: duration Seven months (six months before, we recently changed this to seven months)</p> <p>v: renewable? Yes</p> <p>vi: Eligible for permanent residence permit after a period of time? No</p>
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