



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

Requested by NO EMN NCP on 26.06.15

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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.

Questions


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

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1. Do you impose an entry ban on applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, as a matter of standard practice?
2. Do you alert the Schengen Information System (SIS) about applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, as a matter of standard practice?
3. Can you think of any concrete cases/examples/applicant profiles, where it would be useful if information were available to you about an individual who has been excluded in another European country?
 - a. Yes
 - i. Please briefly explain.
 - b. No
4. Who is the contact point within the immigration authority in your country in relation to Article 1F exclusion cases? Please provide contact details. (these will not be made public, nor published in the research report)

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	1. Do you impose an entry ban on applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u> ? Yes, after the exclusion from international protection without granting a residence permit a return







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>decision is issued (Sect. 52 Aliens Police Act 2005) that may be combined with an entry ban of maximum 10 years or unlimited duration (Sect. 53 par. 3 Aliens Police Act 2005), if, for instance, the applicant was sentenced to more than 5 years imprisonment due to criminal activities or if he is likely to belong to a terrorist or organized crime network.</p> <p>2. Do you alert the Schengen Information System (SIS) about applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>? Yes.</p> <p>3. Can you think of any concrete cases/examples/applicant profiles, where it would be useful if information were available to you about an individual who has been excluded in another European country? a. Yes. It would be useful to obtain information on profiles as mentioned under 1, notably court sentences for crimes beyond 5 years, substantial hints at terrorist or organized crime activities or related network memberships.</p> <p>Source: Federal Ministry of the Interior</p>
	Belgium	Yes	<p>1. Do you impose an entry ban on applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>? Each department examines its own applications -on a case by case basis- on the basis of individual data (if these are available). For reasons of public order and national security, applications can be denied. This is based on article 3, 1st paragraph, 7° of the Immigration Act of 15 December 1980, which states that an application can be denied 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. If the person can be returned/expelled (“refoulé”), a removal decision may be accompanied by an entry ban, which can be issued on different grounds.</p> <p>2. Do you alert the Schengen Information System (SIS) about applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>?</p>




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			<p>The SIS is not alerted about applicants who are excluded from international protection on the basis of article 1F as a matter of standard practice. Only Ministerial Decrees of return, Royal Decrees of expulsion or entry bans are reported – after notification - to the SIS.</p> <p>3. Can you think of any concrete cases/examples/applicant profiles, where it would be useful if information were available to you about an individual who has been excluded in another European country? Yes. It would be useful in all cases when a person applies for a residence permit, in order to avoid that a residence permit is granted without taking into account all the possible elements.</p>
	Bulgaria	Yes	
	Cyprus	Yes	
	Czech Republic	Yes	<ol style="list-style-type: none"> 1. The exclusion from international protection on the basis of Article 1F of Geneva Convention is not a legal reason to impose an entry ban. 2. No. This situation does not have a legal basis in the Czech Republic. 3. Such information could be useful for international protection procedure in the Czech Republic.
	Denmark	Yes	
	Estonia	Yes	<ol style="list-style-type: none"> 1) No. 2) No. 3) Yes. In order to avoid situations where a person withholds information concerning committed crime and tries to obtain legal status in the EU by any possible means.
	Finland	Yes	<ol style="list-style-type: none"> 1. Do you impose an entry ban on applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>? No, as a residence permit is issued. 2. Do you alert the Schengen Information System (SIS) about applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard</u>


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			<p>practice? No.</p> <p>3. Can you think of any concrete cases/examples/applicant profiles, where it would be useful if information were available to you about an individual who has been excluded in another European country?</p> <p>a. Yes</p> <p>b. Please briefly explain. If the person is considered a danger to public order and security in another European country because of the crime s/he has committed and for that reason has been excluded from international protection.</p>
	France	Yes	<p>1. No, 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>2. No, the French Office for the Protection of Refugees and Stateless Persons (OFPRA) does not conduct such an alert in the SIS. The pronounced exclusions do not appear as such in the database consulted by the prefectures, but are reported as decisions of refusal.</p> <p>3. It happened once where the fact that a Rwandan asylum seeker had been subject to exclusion in Germany for acts of genocide reinforced a similar decision taken in France by the French Office for the Protection of Refugees and Stateless Persons (OFPRA). However, it is uncommon that France becomes responsible for examining an asylum application already examined in another European country and leading to an exclusion.</p>
	Germany	Yes	<p>1. No standardized proceeding.</p> <p>2. No standardized proceeding.</p> <p>3. b. No. Such inquiries only would have informative character.</p>
	Greece	Yes	<p>1. Greek legislation provides for the possibility to impose entry ban, through the procedure of registering in the national record of undesirable foreigners (for which the competent authority is the Ministry of Citizen Protection).</p> <p>2. The entry of alerts in the Schengen Information System (SIS) and the implementation of the measures provided by legislation is under the competency of the Ministry of Citizen Protection</p> <p>3. No. However the Asylum Service may be informed for any individual cases excluded by other member states,</p>









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			through the Dublin Unit.
	Hungary	Yes	<p>1. No, not automatically because of 1F.</p> <ul style="list-style-type: none"> ▪ The immigration authority shall independently order the entry ban of a third-country national whose whereabouts are unknown or who resides outside the territory of Hungary, and: <ul style="list-style-type: none"> – who may not be allowed to enter the territory of Hungary under an international commitment; or – whose entry is prohibited by a decision of the Council of the European Union; – whose entry and residence is a threat to national security, public security or public policy; – who has failed to repay financial aid received from the State of Hungary; – who has failed to pay a fine or a fine imposed in conclusion of a misdemeanour proceeding within the prescribed deadline, and there is no possibility to enforce it. ▪ The entry ban can also be ordered within the framework of an expulsion order. <p>2. No, not automatically because of 1F. SIS alerts — in case Article 24, paragraph (2) of the 1987/2006 SIS II regulation is not applicable — are issued based on the quality and seriousness of the breach of law, on the personal circumstances of the third-country national, and the effect of his or her future entry on the public order, public safety or national security.</p> <p>3. —</p>
	Ireland	Yes/NO	IE participated, but reserved their response from the general public.
	Italy	Yes	<p>1. Yes. Law No. 39/1990 establishes that “the entry in the territory of the State is not allowed of foreigners who intend to apply for refugee status if objective checks carried out by border police indicate that the applicants are in the conditions provided for Article 1F of the Geneva Convention (Article1(4c)). Under Legislative Decree No. 25/2008 — implementing Directive 2005/85/EC on Minimum standards on procedures in Member States for granting and withdrawing refugee status — a foreigner is not granted refugee status if there are well-grounded reasons to believe that he/she:</p> <p>(a) is responsible of a crime against peace, a war crime or a crime against humanity; or</p>



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			<p>(b) has committed a serious crime outside Italian territory ; or (c) has been guilty of acts against the aims and the principles of the United Nations. This Decree also provides for the detention of these persons in the Centres for Identification and Deportation (Article 21).</p> <p>2. There is no specific practice in Italy. Under Article 13(14-bis) of the Consolidated Act on Immigration, a foreigner who has received a deportation order is entered in the Schengen Information System by Police Authorities.</p> <p>3. Not in particular.</p>
	Latvia	Yes	<p>1. Do you impose an entry ban on applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>?</p> <p>Latvia has not had such cases.</p> <p>2. Do you alert the Schengen Information System (SIS) about applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>?</p> <p>Latvia has not had such cases.</p> <p>3. Can you think of any concrete cases/examples/applicant profiles, where it would be useful if information were available to you about an individual who has been excluded in another European country?</p> <p>a. Yes</p> <p>i. Please briefly explain.</p> <p>b. No, we cannot think of any concrete cases or examples. In general, however, such information might be useful while assessing asylum applications.</p>




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	Lithuania	NO	Lithuania participated, but reserved their response from the general public.
	Luxembourg	Yes	<ol style="list-style-type: none"> 1. In Luxembourg, if the refusal of the international protection application is based on article 34 (2) of the amended law of 5 May 2006 and the applicant is considered a threat to public policy or public security an expulsion decision will be issued in accordance with article 116 (1) of the amended law of 29 August 2008 on free movement of persons and immigration and an entry ban will be issued (article 116 (3)) simultaneously or by a subsequent separate decision. In case of a serious threat to public policy, public security or national security, the duration of the entry ban can exceed 5 years. 2. Yes. All entry bans are signaled in the SIS if an expulsion decision is issued. 3. Yes.
	Malta	Yes	
	Netherlands	Yes	<ol style="list-style-type: none"> 1. Yes, in case of exclusion on the basis of Article 1(F) an entry ban will be imposed on the applicant. 2. Yes 3. Yes. In case a person who is excluded in another EU country (and not alerted in SIS) would try to obtain legal residency in the NL, be it through family unification, EU free movement regulations or otherwise. The NL considers it important to at least be able to make an informed decision.
	Poland	Yes	
	Portugal	Yes	
	Romania	Yes	
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. Imposition of an entry ban is specifically regulated by the Slovak legislation and according to the law, exclusion from international protection on the basis of the Article 1F of the Geneva Convention is not among the reasons for the imposition of an entry ban. However, if a person applies for international protection and is not granted it on the basis of 1F of the Geneva Convention, this failed asylum seeker may be consequently granted administrative expulsion and be imposed an entry ban based on the fact that this person committed a crime and thus pose a threat to the national security of the Slovak Republic. An entry ban may be imposed even for the period of 10 years, if it is proved that this person poses a serious threat to the national security. 2. If an entry ban is imposed, Schengen Information System (SIS) is alerted as a matter of standard practice.


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			<p>3. No. Migration Office of the Ministry of Interior of the Slovak Republic examines each application for international protection separately while there is no database of applicants' profiles with persons excluded from international protection on the basis of the Article 1F of the Genève Convention. (Note: It should be re-considered if creation of such a database centrally, e.g. within EASO, would be of an advantage as its usage would obviously be limited. Proving that a person has committed a serious crime against humanity is always considered on a case-by-case basis. Each country has its own Criminal Code and a specific crime could be examined in each state differently and thus the criteria for exclusion from international protection would not always be met in each state.)</p>
	Slovenia	Yes	<p>Q 1: Entry ban is not a standard practice. Entry ban may be imposed against third country nationals who are given return decision in accordance with Return Directive and national legislation. Each case is conducted individually and grounds are verified in each case separately. There is no general approach.</p> <p>Q2: If entry ban is set, it is entered into SIS. Please refer to previous reply.</p> <p>Q3: It may be useful if an entry ban is imposed. Nevertheless each such case should be entered into SIS.</p>
	Spain	Yes	<p>1. Do you impose an entry ban on applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>?</p> <p>No. Applicants excluded from international protection are given 15 days to leave the country. If they don't comply, a return procedure can be started. Together with the return decision, an entry ban is imposed.</p> <p>2. Do you alert the Schengen Information System (SIS) about applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>?</p> <p>No. However, the entry ban (see above) is registered in the SIS.</p> <p>3. Can you think of any concrete cases/examples/applicant profiles, where it would be useful if information were available to you about an individual who has been excluded in another European country?</p>

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			<p>a. Yes</p> <p>i. Please briefly explain.</p> <p>b. No <input checked="" type="checkbox"/></p>
	Sweden	Yes	<p>1. No.</p> <p>2. No.</p> <p>3. a. Yes.</p> <p>i. Nowadays people often change their place of residence. Since the borders between Member States are open it is fairly easy to move from one Member State to another Member State. Individuals who are excluded in one Member State can easily try to move to another Member State in order to avoid the results of an exclusion. In such cases it would be appreciated if information regarding the exclusion could be easily found.</p>
	United Kingdom	Yes	<p>1. Do you impose an entry ban on applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>? No, but refusal of asylum and removal to the country of origin mean that a visa to return would not be granted.</p> <p>2. Do you alert the Schengen Information System (SIS) about applicants who are excluded from international protection on the basis of Article 1F Refugee Convention in your country, <u>as a matter of standard practice</u>? No.</p> <p>3. Can you think of any concrete cases/examples/applicant profiles, where it would be useful if information were available to you about an individual who has been excluded in another European country? No. No special measures are needed, since information about asylum claims made elsewhere in Europe would come to light as a result of Eurodac checks.</p>
	Croatia	Yes	<p>1. Entry ban and residence is not obligatory.</p> <p>2. Republic of Croatia does not have access to the Schengen Information System.</p> <p>3. We don't have such examples.</p>

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	<p>Norway</p>	<p>Yes</p>	<p>1: No. 2: No. 3: It will be a great advantage for us to know whether a person who comes to Norway and applies for any kind of permit is excluded in another country. This will enable us to know more about the person who applies for (any kind of) permit and gives us the chance to obtain information from the country where the person has been excluded (about why they are excluded).</p> <p>This information could be significant for their application, it will be of interest for Norway to have knowledge of people who have committed criminal acts as they may pose a security risk and we will be able to follow up other countries' exclusion decisions.</p>
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