



Summary of NO EMN AHQ on Turkish asylum seekers

08.12.17 prepared by NO NCP

EMN NCPs participating: Austria, Belgium, Croatia, Cyprus, Czech Republic, Estonia, Finland, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom, Norway (22 in total)

1. BACKGROUND

Most of the Turkish asylum seekers who come to Norway claim fear of persecution by the Turkish authorities because of (real or alleged) association with the Gülen movement. The Norwegian Ministry of Justice and Public Security has recently instructed the Directorate of Immigration (UDI) on the handling of these cases; essentially acknowledging the extensive political changes that have led to a precarious human rights situation for persons associated with the Fethullah Gülen movement and their network and the need to provide international protection for asylum seekers (and sometimes family members) who are at risk of persecution, arrest, imprisonment, torture, and sentences due to their activities associated with this group (full instructions here in Norwegian only:

<https://www.regjeringen.no/no/dokumenter/gi-152017--instruks-om-praktisering-av-utlendingsloven--28--asylsokere-som-anforer-risiko-for-forfolgelse-pa-grunn-av-tillagt-tilknytning-til-gulen-nettverket/id2575439/>). Most of the applicants up until now, have been able to produce ID documents as well as produce documents (real or otherwise) that indicate close ties to schools and universities associated with this movement.

We are now in the process of establishing new practice for claims from applicants of Kurdish and Alevi minorities. Some of the Alevi applicants have positions in the Alevi community, and some of the Kurds are active in HDP. We have not yet handled any of these cases, and we are therefore very much interested in learning how other MS, who have handled cases from Turkish and Kurdish applicants from the Alevi community, have assessed this religious group's need for protection. In addition, some Turkish asylum seekers face criminal charges and imprisonment upon return for having committed crimes like fraud and theft, and we need to consider whether prison conditions may involve treatment in violation of ECHR article 3 including torture and other inhumane treatment.

Questions

1. Does your MS grant refugee status (or other forms of protection) to Alevi applicants solely due to their religious identity? Yes/No
2. Does your MS grant refugee status (or other forms of protection) to Alevis who have high-profile positions in the Alevi community? Yes/No IF yes, please explain under what conditions protection can be granted.
3. Does your MS grant refugee status (or other forms of protection) to Kurdish

- applicants solely due to their ethnic identity? Yes/No
4. Does your MS grant refugee status (or other forms of protection) to Kurds who are active in HDP? Yes/ No
Please explain under what conditions protection can be granted.
 5. Some Turkish asylum seekers face criminal charges and imprisonment upon return, for having committed crimes like fraud and theft. As part of the case analysis, we need to consider whether prison conditions involve treatment in violation of ECHR article 3 or not; including torture and inhumane treatment. Does your MS have reason to believe that prison conditions are so severe that prisoners suffer treatment contrary to Article 3 ECHR? Yes/No. If your MS has reason to believe that general prison conditions for ordinary criminals in Turkey are in violation of ECHR article 3, please briefly describe how you have reached this conclusion.

2. MAIN FINDINGS/CONCLUSIONS

22 MS responded; of these, 8 responding MS had too few applicants to make further comment. None of the remaining 14 responding MS who have had applicants from Turkey grant refugee status (or other forms of protection) to Alevi applicants solely due to their religious identity OR to Kurdish applicants solely due to their ethnic identity. Most of the 14 MS who have processed asylum applicants from Turkey would normally not grant international protection to high-profile HDP activists either. None of these 14 responding MS grant asylum to Alevis due to their high profile status.

However, BE, CY, DE and SE indicated that there might be some circumstances where highly political figures in The Peoples' Democratic Party (HDP) could possibly be granted international protection. One MS remarked that despite the many actions taken against HDP and its members, even high-level members can live and function relatively freely in Turkey. The majority of the MS consider Turkey a safe place to live even for this group.

The general opinion is that there is currently no situation in Turkey posing a serious and individual threat to a civilian's life by reason of indiscriminate violence as described under Article 15 c of AQD.

The 14 MS commenting on this query would not consider granting international protection to ordinary criminals for the sole reason of risk of imprisonment in Turkey (due to conditions in the Turkish prisons).

However, DE reported that *in especially justified cases, protection from deportation might be considered (for ordinary criminals) due to potential for violence/ inhumane treatment in Turkish prisons. In addition to DE, LU and SE also voiced some concern about the severity of the conditions in Turkish prisons and there is some agreement that the post-coup d'état detention conditions of prisoners who committed or are suspected of political crimes needs to be further researched. The UK and one other MS reported that they are in the process of reviewing this issue.*

3. SPECIFIC COMMENTS

BE states "A specific profile, ethnic background or religious conviction in itself is not sufficient to be granted refugee status or subsidiary protection in accordance with Article 15 a and b of the Asylum Qualification Directive (AQD). To be granted an international protection status, applicants must provide evidence of an individual fear in accordance with the Geneva Convention or the AQD substantiated by credible declarations and the applicant must submit all relevant documents at his disposal."

DE commented "Generally speaking, protection is not granted to Alevis – or high-ranking Alevis. However, the situation may differ for Alevis associated with political activities."

One MS (wishing to remain anonymous) had not had any concrete cases of high-profile applicants but stated "...in such cases, it is unlikely that a person would be granted international protection solely due to having a high-profile position within the Alevi community."

LU noted that currently, approximately 14 million Kurds are living in Turkey of which approximately 3 million Kurds in Istanbul; apparently without distress.

CY specified that the nature of political involvement would determine whether they might grant asylum to a high-profile activist in HDP.

DE stipulated that in certain cases if the criminal prosecution of members of the HDP and MPs belonging to the HDP involves severe repressive measures by a state agency (such as unlawful arrest) or if they are likely to face any such repressive measures upon their return, the applicant might be granted refugee status.

SE reported that there might be cases where a person is in need of protection. Examples of this would be: (i) if the person is in support of/promotes Kurdish autonomy, (ii) how prominent the person's role/activity is, (iii) if the person criticizes the president and the government on questions regarding Kurdish rights, (iv) if the person has expressed oneself or is perceived or accused of expressing oneself in a way that can be perceived as insulting/offensive towards the president and the government and (v) if the person is, or has been, of interest for Turkish authorities (the list of examples is not exhaustive).

DE is somewhat alarmed about conditions in some prisons due to overcrowding. This applies in particular to medical care. Inhumane prison conditions can represent a violation of Article 3 of the European Convention on Human Rights (ECHR) if they pose a general threat that applies to all persons in a similar situation. *In specially justified cases, protection from deportation may therefore be considered.* According to reports by Amnesty International and Human Rights Watch, there is a risk of prisoners being attacked in violation of their human rights in individual cases within the framework of initial police measures and in exceptional cases. If they present credible grounds, subsidiary protection may be granted in these cases unless refugee protection has already been granted on the

grounds of political opposition. UK currently reviewing.