EMN Ad-Hoc Query on NO EMN AHQ on Turkish asylum seekers

Requested by Kathleen CHAPMAN on 1st November 2017

Protection

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom, Norway (24 in total)

Background information:

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.

Summary

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'etat 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.

Questions

1. 1. Does your MS grant refugee status (or other forms of protection) to Alevi applicants solely due to their religious identity? Yes/No
2. 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. 3. Does your MS grant refugee status (or other forms of protection) to Kurdish applicants solely due to their ethnic identity? Yes/No
4. 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. 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.

Responses

	Country	Wider Dissemination	Response
	Austria	Yes	**1.** The refugee status is only granted if the conditions of para. 3 Asylum Act (with reference to the Geneva Refugee Convention) apply. Here the Federal Office for Immigration and Asylum examines on a case-by-case basis whether an individual persecution for a reason stated in the Geneva Refugee Convention, such as religion, exists. **2.** Again, in such a case, a case-by-case examination is carried out to evaluate whether the applicant is threatened with persecution because of religion due to this feature or position. **3.** Here, too, a case-by-case examination is carried out. **4.** Here, too it is examined on a case-by-case basis whether there is a threat of persecution due to the political opinion. Only if the authority concludes in a case-by-case examination that the

			applicant would face individual persecution for a reason stated in the Geneva Refugee Convention (e.g. because of race, nationality, or political opinion), a refugee status can be granted. **5.** In principle, it is not assumed that the conditions of detention contradict art. 3 ECHR. In the course of the case decision, current country reports on the conditions of detention are used – where relevant in the specific case – and it is assessed on a case-by-case basis whether there is any violation of art. 3 ECHR. --- Source: Ministry of the Interior
	Belgium	Yes	**1.** All cases lodged by Turkish asylum applicants are assessed on individual grounds. 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 of b of the Asylum Qualification Directive (AQD). 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. Therefore 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. **2.** All cases lodged by Turkish asylum applicants are assessed on individual grounds. 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 of b of the Asylum Qualification Directive (AQD). 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. Therefore 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. **3.** All cases lodged by Turkish asylum applicants are assessed on individual grounds. 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 of b of the Asylum Qualification Directive (AQD). 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.

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	Bulgaria	Yes	**1.** Refugee status is granted if the grounds and requirements laid down in the law are met. Each application for international protection is examined individually, fairly and objectively. **2.** Again, a case-by-case examination will be carried out. **3.** Refugee status is granted if the grounds and requirements laid down in the law are met. Each application for international protection is examined individually, fairly and objectively. **4.** A case-by-case examination will be carried out. **5.** The decision would be taken again on a case-by-case basis, taking into account all the facts and circumstances.
	Croatia	Yes	**1.** No **2.** In Croatia, each case is individually assessed on the basis of all established facts and circumstances. During the determination procedure, we take into consideration general situation

			in the country of origin. Assessment of the application for international protection includes all relevant facts and circumstances, individual grounds, facts about country of origin, applicant activities etc. **3.** No **4.** As per answer to question 2, assessment of the application for international protection includes all relevant facts and circumstances, individual grounds, facts about country of origin, applicant activities etc. **5.** During the determination procedure, we take into consideration general situation in the country of origin, perceived from the employee of the COI unit.
	Cyprus	Yes	**1.** No **2.** Every case is examined on its own merits, depending on the type of activities that each person is involved in and the subsequent' interest' of the Turkish State towards this person. Having solely a high-profile position in the Alevi community is not enough of a reason to grant international protection status to an applicant. **3.** No **4.** Again it depends to the type of political involvement, whether the applicant has a high political profile and the subsequent 'interest' of the Turkish State towards this person (has he been imprisoned, is there a court procedure pending, is there a high risk that he will be imprisoned in case of return etc.) **5.** This is currently being assessed based on post-coup COI sources.
	Czech Republic	No	

	Estonia	Yes	**1.** Since Estonia haven't had any Alevi applicants from Turkey, we cannot answer this question. **2.** N/A **3.** No, merely being a Kurd, is not enough for receiving the International protection. **4.** Since Estonia haven´t had applicants with such profile, we cannot answer the question. **5.** Since Estonia haven't had cases where we must evaluate the prison conditions in Turkey, we are not in a position to answer this question or to give an evaluation.
	Finland	No	
	France	Yes	**1.** The French Office for the Protection of Refugees and Stateless Persons (OFPRA) examines every application for international protection on a case-by-case basis and assesses whether the applicant's fear of being persecuted is with regard to the criteria outlined in article 1A2 of the Geneva Convention (definition of refugee) and with regard to serious harm as defined in article 15 of the 2011 Qualification Directive (qualification for subsidiary protection) well-founded. The examination of applications of Turkish nationals - whether they're Alevis or Kurds - is carried out under the same conditions. **2.** See Q1. **3.** See Q1. **4.** See Q1. **5.** n/a
	Germany	Yes	**1.** No.

			2. No. Generally speaking, protection is not granted to Alevis – or high-ranking Alevis. However, the situation may differ for Alevis associated with political activities. **3.** No. **4.** As yet, the HDP is in line with the law meaning that as a rule, membership of or support for the party alone do not lead to prosecution. No protection is derived from the waiver of immunity, the criminal prosecution of MPs belonging to the HDP party or the dismissal of the mayors of the DBP. However, 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, they may be granted refugee status in certain cases. **5.** According to Turkey's Minister for Justice, the basic facilities at Turkish prisons meet EU standards. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) also confirmed in 2011 that, on the whole, the material conditions in prisons are adequate (CPT/Inf (2011) 13). However, the conditions in some prisons have since become alarming 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.
	Hungary	Yes	**1.** No, Hungary does not grant protection solely due to the fact that the asylum-seeker belongs to the Alevis.

			2. Please note that in the past few years no Turkish citizen having a high profile in the Alevi community lodged an asylum application in Hungary. **3.** No, the Country of Origin Information data do not justify this necessity. **4.** Not automatically. The decision is based on the circumstances of the case assessed on a case by case basis. **5.** No. We noted that the prison conditions in Turkey are not satisfactory, and there are often occurrences of violation, however, these sorts of treatment do not mean a violation of Article 3 of the ECHR. There were also judicial verdicts reviewing asylum decisions confirming the above mentioned point of view.
	Ireland	No	
	Latvia	No	
	Lithuania	Yes	**1.** There were no practice in granting refugee status to Alevi applicants, therefore it is not possible to answer this question. The decision would be taken on a case-by-case basis, taking into account all the circumstances relevant to the particular case. **2.** N/A **3.** There were no practice in granting refugee status to Kurdish applicants solely due to their ethnic identity. Therefore it is not possible to answer to this question. The decision would be taken on a case-by-case basis, taking into account all the circumstances relevant to the particular case. **4.** N/A

			5. There were no practice in these particular cases. Therefore, it is not possible to answer to this question. The decision would be taken on a case-by-case basis, taking into account all the circumstances relevant to the particular case.
	Luxembourg	Yes	**1.** No. Affiliation to the Alevi religious identity is solely not a sufficient reason for being granted international protection (refugee status or subsidiary protection). **2.** No. See answer to Q.1. Luxembourg treats every international protection application on a case by case basis, analyzing the facts described by the applicant and the particular situation in the country of origin. **3.** No. See answer to Q.2. It should be noted that currently, approximately 14 million Kurds are living in Turkey without any problems, of which approximately 3 million Kurds solely in Istanbul. **4.** No. See answer to Q.2. Luxembourg considers the sole membership of any political party as an insufficient reason for being granted international protection. Only applicants who are persecuted because of their membership in a political party may be granted international protection, if necessary and after a case by case analysis. **5.** No. First of all, it should be noted that Luxembourg does not grant international protection for the sole reason of a risk of imprisonment in Turkey: the procedure of international protection should not be used as a possibility for criminals to flee their country in order not to be punished for their law violations in their country of origin. Then, Luxembourg considers that the detention conditions in Turkey of prisoners who committed ordinary crimes like fraud and theft are not that severe to be considered as torture or inhumane treatment under article 3 of the ECHR. This approach also applies for applicants pleading a risk of imprisonment because of their refusal to fulfil the Turkish military service. Regarding the detention conditions of prisoners who committed or are suspected of political crimes, a more detailed post-coup d'état research needs to be done.

	Malta	Yes	**1.** The Office of the Refugee Commissioner did not receive any applications for international protection from Turkish applicants claiming to belong to the Alevi community. **2.** N/A – refer to answer provided for Question 1.1 **3.** In the past 7 years the Office of the Refugee Commissioner did not receive any applications from Turkish applicants claiming to be of Kurdish ethnicity. Therefore, currently the Office does not have any updated country of origin information in relation to the situation of Kurds in Turkey. **4.** The Office of the Refugee Commissioner did not receive any applications for international protection from Turkish applicants claiming to belong to the Peoples' Democratic Party (HDP). **5.** The Office of the Refugee Commissioner did not receive any applications from Turkish applicants who were at risk of being imprisoned upon return to Turkey for having committed crimes like fraud or theft.
	Netherlands	Yes	**1.** The Netherlands does not have a specific policy or guidelines for assessing applications of asylum seekers from Turkey with the profiles mentioned under questions 1-4 or for assessing risks of violation of article 3 ECHR in case of detention (question 5). Each application will be assessed on an individual basis. **2.** The Netherlands does not have a specific policy or guidelines for assessing applications of asylum seekers from Turkey with the profiles mentioned under questions 1-4 or for assessing risks of violation of article 3 ECHR in case of detention (question 5). Each application will be assessed on an individual basis. **3.** The Netherlands does not have a specific policy or guidelines for assessing applications of asylum seekers from Turkey with the profiles mentioned under questions 1-4 or for assessing risks of violation of article 3 ECHR in case of detention (question 5). Each application will be assessed on an individual basis.

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	Poland	Yes	**1.** No. **2.** We have not yet had such a case. **3.** No. **4.** No. Protection can be granted only to high ranking officials actively involved in HDP. **5.** No.
	Portugal	Yes	**1.** No **2.** No. All applications for asylum are analyzed on a case-by-case basis and not on the basis of religious or other groups. **3.** No. **4.** No. All applications for asylum are analyzed on a case-by-case basis and not on the basis of religious or other groups. **5.** As above written all asylum applications are analized per se. We do not have this type of data

	Slovak Republic	Yes	**1.** The Slovak Republic has not had such applicants yet. **2.** The Slovak Republic has not had such applicants yet. **3.** In 2016 – 2017, the Slovak Republic did not have applicants from Turkey who would apply for international protection because of their Kurdish ethnicity. Currently, there has been an asylum procedure where the applicant claims to be Kurdish. However, due to the fact that the procedure has not been finished yet, it is not possible to answer this question. **4.** The Slovak Republic has not had such applicants yet. **5.** The Slovak Republic has not had such cases yet and due to this fact it has not dealt with this issue.
	Slovenia	Yes	**1.** We have not yet had an applicant from Turkey who would be Alevi and would invoke this as a reason for persecution. If we would have such a case, his individual reasons would be assessed. **2.** We have not yet had such a case. **3.** No. We always assess individual reasons for persecution. **4.** We have not yet had such a case. **5.** We have not yet had a case of applicant who would claim such reasons for persecution. Therefore we did not explore COI in connection with the mentioned.
	Sweden	Yes	**1.** No **2.** No established practise as of yet **3.** No

			4. Not solely due to a person being active in HDP. However, an individual assessment is always made. Personal circumstances along with being active in HDP might lead to the conclusion that the person is in need of protection. Examples of circumstances taken into certain consideration is if the person is in support of/promotes Kurdish autonomy, how prominent the person's role/activity is, if the person is criticizing the president and the government on questions regarding Kurdish rights, 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 if the person is, or has been, of interest for Turkish authorities (the list of examples is not exhaustive). **5.** In general no, however an individual assessment is made in each case.
	United Kingdom	Yes	**1.** No **2.** Refugee status is decided on a case by case basis. A member of the Alevi community must be able to demonstrate they are unable to live safely in their country of Origin. **3.** No. **4.** Please see the answer to Q2. **5.** The United Kingdom's Country Policy Teams are currently reviewing these issues.
	Norway	Yes	**1.** Norway is in the process of developing a practice. **2.** Norway is in the process of developing a practice. **3.** Norway is in the process of developing a practice. **4.** Norway is in the process of developing a practice.

			5. Norway is in the process of developing a practice.