EMN Ad-Hoc Query on Forced returns to Afghanistan

Requested by Bernd PARUSEL on 15th September 2017

Return

Responses from Austria, Belgium, Croatia, Cyprus, Czech Republic, Estonia, France, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovak Republic, Sweden, United Kingdom, Norway (18 in total)

Background information:

Forced returns of rejected asylum seekers to Afghanistan are currently a much debated topic in Sweden. For example, a group of young Afghan asylum seekers has been staging a protest against returns in the centre of Stockholm, and the Swedish Migration Agency's decision-making practice concerning Afghanistan as well as forced returns by the Police Authority have been under scrutiny by the media, human rights groups and civil society. The Swedish government has been confronted with demands to take legal action to change the existing practices, which has so far been ruled out, however.
As there is a great interest on many sides (policy-makers, government agencies and the general public) regarding forced returns to Afghanistan from other EU Member States and Norway, the Swedish EMN NCP hereby requests answers to the following questions.

Questions

1. Is your (Member) State currently carrying out forced returns to Afghanistan, in principle but also in practice?
2. If the answer to question 1) is no, please briefly explain why.
3. Among rejected asylum seekers from Afghanistan in your (Member) State, are specific groups of persons or persons with certain profiles (e.g. unaccompanied minors, families with minor children, women, etc.) exempted from forced returns to Afghanistan, or are forced returns restricted to certain groups or profiles (e.g. criminals, persons that pose security risks, etc.)?
4. How many forced returns to Afghanistan has your Member State carried out recently? Please provide numbers for a recent period of time, e.g. first half of the year 2017.
5. Regarding decisions on asylum applications by Afghan nationals – what is the share of positive decisions (out of all decisions) in your (Member) State? Please provide a protection rate for a recent period of time, e.g. first half of the year 2017.

Responses

	Country	Wider Dissemination	Response
	Austria	Yes	**1.** Austria is carrying out forced returns to Afghanistan in principle as well as in practice. Source: Federal Ministry of the Interior. **2.** N/A.

			3. Forced returns of vulnerable persons to Afghanistan are carried out strictly according to the conditions established in the cooperation agreement "Joint Way Forward". So far, vulnerable persons have only returned voluntarily. Source: Federal Ministry of the Interior. **4.** This question cannot be answered. Overall, 493 Afghan nationals returned between 1 January and 1 August 2017. Source: Federal Ministry of the Interior. **5.** In 2017, so far 40.9 % of final asylum decisions were positive (as of 31 August 2017). Source: Federal Ministry of the Interior.
	Belgium	Yes	**1.** Yes, both. **2.** / **3.** Theoretically, there is no restriction to conduct forced returns for women or families but those entail more precaution and groundwork. Due to that, Belgium has to prioritise and currently only single men are effectively returned. In case of vulnerability (illness, psychological issues…), Belgium assesses the opportunities of support or treatment in the country of destination (case by case) before deciding to conduct forced returns. There is a possibility to foresee “special needs” support prior, during and after the return (always in kind support) up to one year after arrival in the third country. But practically, Belgium rarely organised “special needs” for Afghan nationals because of the difficulty to arrange it. Belgium never conducts forced returns of unaccompanied minors whatsoever the third country. **4.** So far (as of August 2017), 156 forced returns of Afghan nationals have been conducted. 24 were returned to Afghanistan. 68 were returned according to Dublin regulation. 64 were returned to third countries (mainly EU Member States) according to bilateral agreements. **5.** So far (as of September 2017), 60% of Afghan nationals were granted international protection of which 24% were refugee status and 36% subsidiary protection.

	Croatia	Yes	**1.** 1. No. **2.** 2. The process to establish an identity of Afghani is difficult as well as obtaining of travel documents. **3.** 3. No. Each case is assessed separately. **4.** 4. N/a. **5.** 5. Out of 341 persons with granted international protection in 2017, 39 are from Afghanistan.
	Cyprus	Yes	**1.** Cyprus carries out forced returns to Afghanistan in principle but not in practice, due to the many difficulties encountered in cooperating with the Afghani authorities and the generally positive attitude of Afghan nationals detected to reside illegally, who choose to return voluntarily. **2.** n/a **3.** Cyprus does not carry out forced returns of unaccompanied minors or families with minors. **4.** None in 2017 **5.** The positive decisions for Afghan nationals in 2016 were 0 (zero), and for 2017 below 5 (five). Therefore the share of positive decisions out of all decisions is negligible (given the very small number).
	Czech Republic	Yes	**1.** The Czech Republic does currently organize neither forced nor voluntary returns to Afghanistan. Frontex is currently organizing returns to Afghanistan, however due to the zero number of Afghan nationals, who should be returned to the country of origin from the Czech Republic, the Czech Republic will not joint the return action.

			2. Currently, there are no Afghan nationals, who should be returned as a rejected asylum seekers to their country of origin, not even under the voluntary returns. For more information, see point 4. **3.** No, see other answers. Currently, there are no Afghan nationals who should be forcibly returned to their country of origin. **4.** In 2016 only one state national of Afghanistan was returned to the country of origin. It was with an escort on the air route Prague – Istanbul – Kabul. It was neither a rejected asylum seeker nor a foreigner who could be included in the group „vulnerable persons“, as it is stated in the point number 3. In the first half of the year 2017 there was no state citizen of Afghanistan, who should be either voluntary or forcibly returned. **5.** In the first half of the year, no Afghan national was granted international protection. Furthermore, 17 negative decisions were issued and 7 proceedings were ceased. During first half of the year 2017, 8 new applications for international protection were submitted. As of 1 January 2017 there were 16 applications in the proceedings.
	Estonia	Yes	**1.** No **2.** Forced returns to Afghanistan are not carried out at this point based on the situation in the country of origin. **3.** N/A **4.** N/A **5.** There have been no decisions on asylum applications by Afghan nationals in recent period of time.
	France	No	

	Hungary	Yes	**1.** Within the framework of the "Joint Way Forward on migration issues between Afghanistan and the EU" agreement Hungary carries out forced returns to Afghanistan – to Kabul airport. **2.** - **3.** There are no exemptions or restriction based on profiles, however currently Hungary only has young, single male Afghan nationals under immigration procedure who are to be returned to their home country. Special rules apply to vulnerable groups (e.g. unaccompanied minors, single women and women who are head of their families, elderly and seriously sick people) which ensure that such groups receive adequate protection, assistance and care throughout the whole asylum and immigration procedures. According to Hungarian law unaccompanied minors may be expelled only if adequate protection is ensured in their country of origin by means of reuniting them with other members of their family or by state or other institutional care. **4.** Hungary has carried out a total of 2 forced returns to Afghanistan (Kabul airport) in 2017. **5.** In the first half of 2017, the share of the positive decisions (out of all decisions, which has been made regarding asylum applications lodged by Afghan nationals): 6 %.
	Latvia	Yes	**1.** During the last 4 years Latvia does not carry out forced returns to Afghanistan. **2.** Citizens of Afghanistan detected in Latvia are applying for international protection and get the subsidiary or refugee status, but some of them abscond before the final decision in asylum procedure is taken. **3.** There are no exemptions from or restrictions to forced returns to Afghanistan for any specific groups of persons with certain profiles. **4.** State Border Guard of Latvia as authority responsible for forced returns carried out removal of 1 citizen of Afghanistan to the country of his origin in 2013. Since 2013 until now there have been no forced returns carried out by the State Border Guard to Afghanistan.

			5. During the first half of 2017 we have received 4 applications from Afghan nationals and international protection have been granted to 9 persons in a form of refugee status. The discrepancy is related to the fact that in 2016 the total amount of asylum applications from nationals of Afghanistan was 35. In 2016 5 persons have been granted refugee status and 8 persons received subsidiary protection. Thus the recognition rate was 56,4% in two year's frame.
	Lithuania	Yes	**1.** Yes. Whilst Lithuania does not have readmission agreement with Afghanistan, Foreigners' Registration Center had experience in working with the Afghanistan embassy regarding issuance of return documents and establishing identity. **2.** n/a **3.** No. There were no such practice in the recent years. **4.** There were no forced returns from Lithuania to Afghanistan carried out in the past 3 years. **5.** In 2016, there were 195 positive decisions on asylum applications - 6 out of those 195 were from Afghan nationals (3,1 per cent). In the first half of 2017 there were 190 positive decisions on asylum applications - 1 from Afghan national (0,5 per cent).
	Luxembourg	Yes	**1.** No. **2.** For political reasons, Luxembourg does not carry out forced returns to Afghanistan. **3.** N/A. **4.** None. During 2016 there was no forced or voluntary return carried out to Afghanistan. **5.** During 2016 there were 8 refugee status granted (1%) to Afghan nationals of 764 positive decisions and 3 (11,5%) subsidiary protection status out of 26 were granted. In total from 790 positive decisions on international protection only 11 (1,4%) were granted to Afghan nationals. In 2017 since January to August, there has been 99 (13,3%) refugee status and 3 (21,4%) subsidiary

			protection status granted to Afghan nationals from a total of 742 refugee status granted to all nationalities and 14 subsidiary protection. This represents 13,5% of all positive decisions granting international protection.
	Malta	Yes	**1.** We have no experience with forced returns to Afghanistan. The main reason is that we do not have significant numbers of Afghan nationals waiting to be removed from Malta. **2.** We have no experience with forced returns to Afghanistan. The main reason is that we do not have significant numbers of Afghan nationals waiting to be removed from Malta. **3.** As per replies to questions 1 and 2. **4.** NIL **5.** The Office of the Refugee Commissioner is unable to provide the exact share of positive decisions in relation to Afghan nationals since this comprises a very limited part of the Maltese caseload (around 0.11% of the total caseload registered between 2001 and 2017). However, out of a total of 26 applications lodged by Afghan nationals between 2001 and 2017, only 5 applicants were granted international protection.
	Netherlands	Yes	**1.** Yes **2.** N/A **3.** The Netherlands has no specific exceptions from forced returns to Afghanistan. The possibility for forced return is based on a tripartite Memorandum of Understanding (MoU) (March 18 2003) between the Afghan authority, the UN High Commissioner for Refugees and The Netherlands. **4.** There have been about 35 forced returns of Afghans to Afghanistan in the period of 01-01-2017 until 30-06-2017.

			5. Out of 1360 decisions, 510 (37.5%) were positive in the first half of the year 2017.
	Portugal	Yes	**1.** No, mostly because there are very few cases. **2.** The very few cases PT has had so far all resulted in asylum applications. **3.** The very few cases mentioned above are still in the application stage. **4.** N/a **5.** Inadmissibility decisions are the great majority for Portugal, since processes are managed within the scope of the Dublin Regulation.
	Slovak Republic	Yes	**1.** Yes. **2.** N/A **3.** Only minors up to 18 years old are not returned as they are generally exempted from the AE according to the Slovak legislation. No other specific restrictions are in place for returns to Afghanistan. **4.** During the first eight months of 2017 no forced returns were carried out despite the fact that in this period 3 decisions on AE were issued to Afghan nationals. **5.** Based on the publicly available statistics at the website of Ministry of Interior of the SR for the period 1.1.2017- 30.6.2017, first-instance decisions on 8 applications for asylum of Afghani nationals were issued, two of which were granted asylum (one due to persecution according the Convention Relating to the Status of Refugees, the other one was based on humanitarian grounds) and one was granted subsidiary protection. In two cases applications were rejected as inadmissible, in one cases asylum was not granted and in two cases the procedure was

			discontinued. The success rate of applicants for asylum and subsidiary protection from Afghanistan based on these statistics makes 3 out of 8, i.e. 37,5%.
	Sweden	Yes	**1.** Yes, forced returns to Afghanistan are carried out. Voluntary return is however the preferred option. **2.** Not applicable. **3.** In principle, there are no such exemptions or restrictions in Sweden. However, unaccompanied minors can only be returned if there is a reception in the country of return, i.e. if a minor can be returned to a member of his or her family, a nominated guardian or adequate reception facilities. **4.** During the first half of the year 2017, 34 rejected asylum seekers have been returned to Afghanistan by the Policy Authority. (In comparison, 227 individuals have returned to Afghanistan voluntarily, i.e. assisted by the Swedish Migration Agency). **5.** During the first half of the year 2017, the Swedish Migration Agency took 7,751 first-instance decisions on asylum applications by nationals of Afghanistan, 3,652 of which were positive (refugee status, subsidiary protection, or – to a more limited extent – national protection, protection on humanitarian grounds or impediments to return). With Dublin cases and applications that were written off excluded, the overall protection rate for Afghan nationals was 51% during this period.
	United Kingdom	Yes	**1.** Yes, the UK operates its returns process, which is a bilateral arrangement, under the terms of our 2002 Returns MoU. **2.** N/A **3.** The UK do not enforce the return of unaccompanied minors and single females to Afghanistan. **4.** 2016 is the most recent data we have. There were 284 forced returns to Afghanistan in 2016.

			5. 2016 is the most recent data we have. Of the 2,329 application from Afghanistan, 1,712 were positive, 1,109 were refused.
	Norway	Yes	**1.** Yes. As of Oct. 1st Norway still was carrying out forced returns to Afghanistan. **2.** N/A **3.** Currently Norway does not forcibly return unaccompanied minors or women without access to their network in Afghanistan. Unaccompanied minors without safe home situations are protected from forced returns with a temporary permit until they reach the age of 18 when they will be returned. Women without a network of male family members in the area of return are also protected from return. Norway views returns in relation to the province where the applicant will be returned. The security situation in some provinces is considered so serious that no one will be returned to these areas. In cases where applicants could suffer persecution in their home province, Norway always considers the possibility of internal flight or relocation alternatives. This option is a possibility for many applicants. Norway complies with UNHCR's recommendations, however, does not consider the security situation in most areas of Afghanistan to be so serious that there are not good options for internal flight. **4.** 142 persons have been returned to Afghanistan the first six months of 2017. **5.** January – August 2017 Number of positive decisions percentage of all applicants in this group 1. Convention refugees 118 9% 2. Other refugee status 45 3% 3. Humanitarian grounds. 189 14% 4. UM (limited until 18 years old) 347 51% (according to Eurostat figure; in NO these decisions are negative =25%) 5. Negative decisions 678 23% (according to Eurostat figures: in NO this would be 49%) Total number of applicants 1377 100%