



EMN Ad-Hoc Query on AHQ on Palestinians from Gaza and west Union territories

Requested by ELENA DE LA ORDEN RODRIGUEZ on 19th April 2017

Protection

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

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.




Background information:





AHQ on Palestinians from Gaza and west Union territories








Questions



1. What kind of protection does your Member State grant to Palestinians from Gaza and west Bank who apply for international protection? In case of no granting International Protection, do you issue return decisions to nationals of Palestinians from Gaza and west Bank to their country of origin? Do you enforce the return decisions?

Responses







	Country	Wider Dissemination	Response
	Austria	Yes	1. Austria examines every application for international protection individually with regard to the question whether criteria for granting international protection are met or not. If these criteria are met, Palestinians from Gaza and West Bank are granted international protection in the form of either asylum or subsidiary protection. Currently, no forced returns are carried out to these areas. Source: Federal Ministry of the Interior.
	Belgium	No	
	Croatia	Yes	1. 1. Subsidiary protection or asylum status will be granted to the applicant if the required conditions are met. Applications for the international protection, including the ones from Palestinians from Gaza and West Bank are considered individually taking into account the circumstances of the particular case. In case the foreigner does not meet the requirements for the recognition of the international protection the application will be rejected. Simultaneously with the Decision on the rejection, the measures for the return insurance are also to be issued with preference to the voluntary return according to the Article 37 of the Act on International and


			<p>Temporary Protection. If the foreigner does not leave the European Economic Area voluntarily after the expiry of the deadline, he/she will be force returned in accordance with the provisions of the Aliens Act (Official Gazette 130/11 and 74/13). The non-refoulement principle will be carried out during the forced return procedure. According to the available data, Croatia had only one case in which a Palestinian from Gaza applied for the international protection. His request has been rejected because no factual evidence for the recognition of international protection was found during the proceedings. Pursuant to the aforementioned provisions of the Act on International and Temporary Protection, the applicant also received a deadline for voluntary departure from the European Economic Area. The decision hasn't been enforced yet.</p>
	Cyprus	Yes	<p>1. Although each case is examined on its own merits, in general, Palestinians from Gaza and west Union territories, are granted international protection status (refugee status or subsidiary protection status). Furthermore, no returns of this category of applicants are taking place.</p>
	Czech Republic	No	
	Estonia	Yes	<p>1. Estonia examines every applications for international protection on a case by case basis taking into account the specific facts of the case, provided evidence and individual circumstances of the person. There have been very few Palestinian applicants in Estonia in recent years – 2 in year 2016 who received refugee statuses and none in year 2017 – and therefore Estonia does not have a general policy in that matter. Also when issuing a return decision individual circumstances are taken into account. If the alien lacks the possibility of getting the residence permit in Estonia on another basis and it has become evident that the obligation to leave would be clearly unduly burdensome to him or her and the alien does not constitute a threat to public order and national security, the Police and Border Guard Board may issue a residence permit in exceptional circumstances.</p>
	Finland	No	


	France	No	
	Germany	Yes	1. In Germany we have no specific policy towards asylum applicants from Palestinians from Gaza or West Bank. Every case (of the very few cases) is assessed on its own merits taking into account the individual circumstances of an applicant and country information from all available sources.
	Hungary	Yes	1. The decisions of the Immigration and Asylum Office (IAO) are based on a case-by-case basis taking into account the specific facts of the case (evidence provided, individual circumstances, etc). Also when issuing a return decision individual circumstances are taken into account. There have been no enforced return decisions according to the IAO.
	Italy	Yes	1. a) If the applicant is registered refugees covered by UNRWA mandate, we grant automatically refugee status. b) Otherwise, we evaluate case by case the story and the situation in the area of origin of the applicant. If the story doesn't meet the Geneva grounds, we recognize subsidiary protection to Palestinians from Gaza. To Palestinians from West Bank we take in account the instability of the area but we don't recognize to all of them the international protection. According to the single position we give humanitarian or subsidiary protection. c) No
	Latvia	Yes	1. There are very few cases regarding Palestinians in Latvia. In recent years 4 Palestinians were granted international protection. There have been no return decisions issued to Palestinians.
	Lithuania	Yes	1. There was only one application for asylum from Palestinian citizen. Therefore, there data is not sufficient to support any representative conclusions and detailed answer. Every decision is made after detailed consideration of each element of the case. There were no return decisions to Gaza and west Bank in the previous years.
	Luxembourg	Yes	1. What kind of protection does your Member State grant to Palestinians from Gaza and west Bank who apply for international protection? Luxembourg has very few applicants coming from Gaza and the West Bank. Every application for international protection is analysed on a case by

			<p>case basis, assessing the facts described by the applicant as well as the evidence provided and taking into consideration the general situation of the country of origin. Since January 2014, Luxembourg granted 4 refugee statuses to Palestinians coming from Gaza and the West Bank. Nevertheless, 4 applications have been rejected using the normal procedure. In 8 other cases, Luxembourg was not the responsible Member State for examining the application according to the Dublin III Regulation. 2. In case of no granting International Protection, do you issue return decisions to nationals of Palestinians from Gaza and west Bank to their country of origin? When an international protection application is refused a return decision is issued at the same time. 3. Do you enforce the return decisions? Luxembourg does not carry out forced return to Palestine (Gaza Strip and the West Bank).</p>
	Malta	Yes	<p>1. The Office of the refugee Commissioner assesses each application on its own merits to determine whether or not an applicant qualifies for international protection (i.e. refugee status or subsidiary protection status). Being a Palestinian from Gaza or the West Bank on its own is not considered as a ground to be granted international protection.</p>
	Netherlands	Yes	<p>1. 1. What kind of protection does your Member State grant to Palestinians from Gaza and West Bank who apply for international protection? According to paragraph C2/3 of the Dutch Implementation Guidelines (Vreemdelingencirculaire) The Dutch Immigration and Naturalisation Service (IND) does not provide a temporary asylum residence permit to the Third Country National (TCN) in accordance with article 29, first paragraph, opening words and under a of the Aliens Law in case the person is categorized under article 1D of the Convention on Refugees. Article 1D of the Convention on Refugees applies to receiving protection or assistance from other organs or institutions of the UN other than the UNHCR. Article 1D of the Convention on Refugees is currently applicable on the stateless Palestinian people whom are subjected to the mandate of the United Nations Relief and Works Agency (UNRWA) This article does not limit itself to the situation of stateless Palestinians. There are other similar situations thinkable. The IND does provide a TCN a temporary asylum residence permit in accordance with article 29, first paragraph, opening words and under a of the Aliens Law: - If the protection or assistance of a TCN by other organs or institutions of the UN other than the UNHCR is stopped for any reason; and - The position of the TCN not definitively is been set in accordance with the related</p>

		<p>resolutions of the General Assembly of the United Nations. The IND concludes that the protection or assistance has not ended: - based on the single fact that the TCN resides outside the operational area of the UNRWA; or - in the case of voluntary departure of the TCN from this area. In these cases, the IND will apply the ground for exclusion in article 1D. The protection or assistance of the UNRWA of the stateless Palestinians is ended in case one of the following situations has taken place: a. In the case that the organ or institution that provided the protection or assistance ceased to exist; b. In the case of impossibility for this organ or institution to fulfil its duty; c. In the case that the stateless Palestinian is not able to request the protection or assistance for reasons that go beyond his or her own possibilities, that are independent of his or his will and is forced to leave this area forced by circumstances, hence preventing him or her from receiving the protection or assistance offered by the UNRWA. To assess whether a situation as described under c is applicable, the IND checks whether the stateless Palestinian was forced to leave the concerning area. This is the case if one of the following conditions is met: - The stateless Palestinian was personally involved in a situation of serious danger so that the condition regarding protection is met - It is impossible for the UNRWA to provide living conditions to the stateless Palestinian that are consistent with the task of the UNWRA so that the condition regarding assistance is met In the context of the first of the conditions mentioned above, the IND will look at the individual basis if: - the stateless Palestinian has grounded fear of persecution or acts as stated in article 29, first paragraph under b of the Aliens Law within the operating area of the UNRWA and if this is the case, - (s)he can call upon or still receives the protection of the UNRWA against the actor(s) of these acts. If the grounds for exclusion as mentioned in article 1D are not or no longer applicable and the TCN has not committed any actions as mentioned in the grounds of exclusion article 1F of the Convention on Refugees, the provisions of the Convention on Refugees will be applicable. The IND will provide a temporary asylum residence permit in that case, based on article 29, first paragraph, opening words and under a of the Aliens Law to the stateless Palestinian. In other circumstances than the circumstances mentioned above common provisions of asylum policy and law will be applicable. 2. In case of not granting International Protection, do you issue return decisions to nationals of Palestinians from Gaza and west Bank to their country of origin? Yes, if the application is rejected, a return decision follows. 3. Do you enforce the return decisions? Yes</p>
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	Poland	Yes	1. Statistics show that the refugee status applications were placed in 2015 - 6 persons, in 2016 - 3 persons, in 2017 - 2 persons. Refugee status has been granted: in 2015 - 2 persons, in 2016 - 2 persons, 2017 - 2 persons. Additional protection has been granted: in 2015 - 1 person. Dismissed case: in 2015 - 2 persons, 2016 - 1 person. As a rule, Poland does not make a decision obliging Palestinians to return. If there are no premises to grant refugee status, they are granted subsidiary protection.
	Portugal	Yes	1. Portugal has not registered Palestinians from Gaza or west Bank.
	Slovak Republic	Yes	1. The Migration Office of the Ministry of Interior of the Slovak Republic has not have any applicants for international protection from these regions. According to the Bureau of Border and Alien Police of PFP, the return decision in such cases would be issued with the determined country of origin being Palestine. However, in recent years there was no such case of returning persons directly to Palestine. There was one assisted voluntary return carried out by IOM; in this case however, the person was returned to Jordan and transferred by land route to Palestine.
	Slovenia	Yes	1. We only granted international protection to Palestinians from Syria. We didn't have any return case from Palestinian from Gaza and West Bank yet.
	Spain	Yes	1. Spain always grant International Protection to Palestinians from Gaza and West Bank (and depending on the case Asylum or Subsidiary Protection). They are not returned. To the Palestinians from other countries if there are not reasons to grant them protection they are rejected.
	Sweden	Yes	1. West Bank The Swedish Migration Agency does not find that a civilian, returned to the West Bank would solely on account of his or her presence face a real risk of being subject to such treatment as stated in article 3 of the European convention on human rights and article 15 b of Council Directive 2011/95/EU. The Swedish Migration Agency does not find that there is an internal armed conflict in the West Bank (C 285/12 Diakit�). The Swedish Migration Agency however finds that there, based on national law, are other severe conflicts in the West Bank meaning that there in the individual assessment of the asylum case has to be shown that there is a

			<p>causality between the abuse that the asylum seeker risks and the severe conflict in the West Bank . There are no impediments to enforcement to the West Bank. An individual assessment of the asylum claim is done in every asylum case and the return decisions are enforced. Gaza The Swedish Migration Agency does not find that a civilian, returned to Gaza would solely on account of his or her presence face a real risk of being subject to such treatment as stated in article 3 of the European convention on human rights and article 15 b of Council Directive 2011/95/EU, nor does the Swedish Migration Agency find that there is an internal armed conflict in Gaza (C-285/12 Diakité). The Swedish Migration Agency however finds that there, in accordance with national law, are other severe conflicts in Gaza meaning that there in the individual assessment of the asylum case has to be shown that there is a causality between the abuse that the asylum seeker risks and the severe conflict in Gaza in order to be granted protection on this ground. If a child from Gaza seeks asylum in Sweden and does not fulfil the criteria for refugee status, subsidiary protection or other severe conflicts it is possible to grant the child a residence permit due to particularly distressing circumstances (in national law) because of the severe humanitarian situation in Gaza. At the moment there is an impediment to enforcement to Gaza because of the difficulties in returning to Gaza. The impediment is not considered to be of a lasting nature, whereas the Migration Agency grants a temporary residence permit or order the suspension of the removal order. Note: During the period of 20 July 2016- 19 July 2019 Sweden applies a temporary law according to which there are limited possibilities of obtaining residence permits. The Temporary Law might affect the examination in some cases/parts.</p>
	<p>United Kingdom</p>	<p>Yes</p>	<p>1. Claims for asylum from Palestinians from Gaza and the West Bank are considered in line with existing international protection policies (see ‘assessing credibility and refugee status - https://www.gov.uk/government/publications/considering-asylum-claims-and-assessing-credibility-instruction and humanitarian protection - https://www.gov.uk/government/publications/humanitarian-protection-instruction . Unless they are excluded from the Refugee Convention under Article 1D (see https://www.gov.uk/government/publications/article-1d-of-the-refugee-convention-palestinian-refugees), if they are recognised as refugees they will be granted refugee status and five years limited leave to remain (‘refugee leave’), see refugee leave - https://www.gov.uk/government/publications/asylum-under-immigration-rule-334-process).</p>

			<p>Palestinians who have had a protection claim refused and have not been granted any other form of leave may apply for leave to remain on the basis of statelessness (see stateless guidance - https://www.gov.uk/government/publications/stateless-guidance). We will seek to return Palestinians to either the Occupied Palestinian Territories or their place of habitual residence if their claim for international protection is refused and they do not qualify for any other form of leave. Those who have not established a need for protection and do qualify to stay on any other basis are expected to leave the UK voluntarily but if they do not, we seek to enforce return.</p>
	Norway	Yes	<p>1. Norway does not have a large enough number of applicants from Gaza/ the West Bank/ Israel to be able to protect their privacy and can thus not comment on these questions. We can however return applicants to these areas. See link: https://www.udi.no/en/return1/apply-for-assisted-return/accompanied-return-to-gaza/</p>