



EMN Ad-Hoc Query on Return of nationals from safe countries of origin for AT, BE, BG, DE, ES, HR, CZ, FI, FR, HU, IE, LU, MT, NL, RO, SK, SI, UK, NO

Requested by Laura SEIFFERT on 6th October 2017

Return

Responses from Austria, Belgium, Bulgaria, Croatia, Czech Republic, Finland, France, Germany, Hungary, Ireland, Luxembourg, Netherlands, Slovak Republic, Slovenia, United Kingdom, Norway (16 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:

In your answer to AHQ no. 2016.1118 on safe countries of origin you stated that your country has a list of safe countries of origin, or in the case of Norway and Finland, that you have a national practice similar to this (link to previous ad-hoc query: <https://webgate.ec.europa.eu/emn-ies/survey/20161118-ee-and-nl-joint-ad-hoc-query-safe-countries-origin>)

With this ad-hoc query we would like to obtain more information on the return of nationals of safe countries of origin. The replies to this ad-hoc query and other AHQs will be used as input for the EMN Inform on Safe Countries of Origin.

Questions

1. Does your country grant a period for voluntary departure to nationals from safe countries of origin after receiving a negative decision on their asylum claim in first instance? Yes/No
2. If yes to question 1, how long is this period? Does this period differ from the period granted to nationals of other countries? Please elaborate.
3. Do you allow nationals from safe countries to remain in your country while they await an appeal decision on their rejected asylum application? (Yes/No) Does this practice concerning nationals of safe countries of origin differ from nationals of other countries?
4. Do you offer less return and/or reintegration support to nationals of safe countries of origin compared to nationals of other countries (Yes/No)? If yes, please describe the differences.
5. Have you reduced the return and/or reintegration support for nationals of safe countries of origin in the last two years (Yes/No)? If yes, please elaborate for which nationalities the support has been reduced and why.
6. Does your policy for issuing entry bans to rejected asylum seekers differ between nationals of safe countries of origin and nationals of other countries (Yes/No)? If yes, what are the differences?

Responses

	Country	Wider Dissemination	Response
	Austria	Yes	1. Yes. However, whether a period for voluntary departure is granted to nationals from safe countries depends on the case and is an individual decision by the Federal Office for Immigration and Asylum. Generally, the law says that if an asylum application of a national from a safe

			<p>country of origin has been rejected as unfounded, the suspensive effect of a complaint may be lifted, depending on the circumstances of the case (see Art. 18 para 1 subpara 1 Federal Office for Immigration and Asylum Procedures Act). If the suspensive effect of a complaint is lifted, then no period for voluntary departure is granted (see Art. 55 para 1a Aliens Police Act). Source: AT EMN NCP in cooperation with the Federal Ministry of the Interior.</p> <p>2. If a period for voluntary departure is granted, this period is in general 14 days as for other nationals (Art. 55 Aliens Police Act); this period may be prolonged in special cases or waived entirely. Source: AT EMN NCP in cooperation with the Federal Ministry of the Interior.</p> <p>3. Yes. As outlined under Question 1 there is the possibility to give suspensive effect to a complaint if a national is from a safe country. If no suspensive effect is granted, the third country national is no longer allowed to remain on the territory. In case a national is from a country that is not considered safe, the appeal automatically has suspensive effect. Source: AT EMN NCP in cooperation with the Federal Ministry of the Interior.</p> <p>4. Austria started the initiative 1000 EUR für 1000 voluntary returnees (the initiative has recently been extended to 1500 returnees). Reintegration aid under this initiative is not available to persons from the Western Balkan states. Source: Federal Ministry of the Interior.</p> <p>5. No. Source: Federal Ministry of the Interior.</p> <p>6. No (see Art. 53 Aliens Police Act). Source: AT EMN NCP.</p>
	Belgium	Yes	<p>1. Yes, nationals from safe countries of origin are granted with a period for voluntary return once the negative decision notified.</p> <p>2. The standard period for voluntary return is 30 days once the negative decision notified. It's possible to give a period for voluntary departure between 6 days and 0 days (so no period) in certain cases, for example when the TCN poses a threat to public order or national security, or if</p>

			<p>he already received a period for voluntary departure but didn't oblige. The period for voluntary return of nationals from safe countries of origin is the same as for other countries.</p> <p>3. Yes, in accordance with Article 39/70 of the Immigration Act asylum applicants from safe countries of origin who received a negative first instance decision are allowed to stay in the country and cannot be returned during the appeal procedure at the Council for Aliens Law Litigation (CALL). This practice does not differ for other nationalities. The asylum applicant (from safe countries of origin or other countries) can only be returned during the appeal procedure in case it concerns a second subsequent asylum application (third asylum application) or if the asylum application was lodged within 48 hours before the removal (merely to hamper the return procedure).</p> <p>4. Belgium has no specific policy for the return of nationals from safe countries of origin. In practice however, nationals from safe countries of origin are considered as nationals from countries with visa free access to Belgium. Therefore, nationals from safe countries of origin don't benefit from reintegration support. Only the ticket to return is foreseen. Whatsoever, provisions are foreseen for specific categories (pregnant women, elderly people, medical cases) and for family with children. This support is provided on a case by case basis and has to be motivated.</p> <p>5. No.</p> <p>6. Entry bans issuing for nationals from safe countries of origin does not differ for nationals from other countries. As for other nationals, entry bans are issued on a case by case basis.</p>
	Bulgaria	Yes	<p>1. Yes</p> <p>2. 1. A period of 7 to 30 days is stipulated in which the alien must voluntarily fulfill the obligation to return. 2. No</p>

			<p>3. Citizens of secure countries remain in the country while awaiting a decision to appeal against the rejected asylum application. The practice with regard to citizens of safe countries of origin is no different from the practice with regard to nationals of other countries.</p> <p>4. No</p> <p>5. No</p> <p>6. No</p>
	Croatia	Yes	<p>1. 1. Yes. A Decision rejecting the asylum application stipulates the deadline for the voluntary return.</p> <p>2. 2. The period is usually determined between 7 and 30 days. However, the period can be determined for shorter and longer duration, and may be extended. When setting the time period for return, personal circumstances and the time period within which a foreigner can return shall be taken into account. This period does not differ from the period granted to nationals of other countries.</p> <p>3. 3. Yes. If any applicant brings a claim which contains a request for suspensive effect he/she shall have the right of residence until the service of the judgment on suspensive effect.</p> <p>4. 4. No. Republic of Croatia does not have AVRR programme in place yet.</p> <p>5. 5. No. Republic of Croatia does not have AVRR programme in place yet.</p> <p>6. 6. No.</p>
	Czech Republic	Yes	<p>1. Introductory remark: CZ does not face problems with high numbers of applicants coming from SCOs, so there has been no need to tackle this issue in national legislation so far. Yes.</p>

			<p>2. It depends on the individual situation, usually max 30 days. No.</p> <p>3. Yes, there is a general automatic suspensive effect of the appeal for actions against asylum decision applying SCO concept. The non/existence of suspensive effect does not rely on nationality but rather on type of asylum decision and is laid down by law.</p> <p>4. No. CZ does not provide any substantial reintegration support even for other categories of foreigners.</p> <p>5. No</p> <p>6. No</p>
	Finland	Yes	<p>1. No. If the application has been rejected as manifestly unfounded and using the accelerated procedure, the period for voluntary departure is not granted. One reason, inter alia, to consider the application as manifestly unfounded is that the country of origin is considered safe.</p> <p>2. n/a</p> <p>3. No, as a rule. A decision on refusal of entry concerning an alien whose asylum application is considered manifestly unfounded, may be enforced at the earliest on the eighth day from service of the decision on the applicant, unless otherwise ordered by an administrative court.(Aliens Act, Section 201)</p> <p>4. Yes, as a rule. According to the decree of the Ministry of Interior (648/2017), there are four (4) categories of countries. Each category has different amount of support. The category with the highest support includes Afghanistan, Iraq, Somalia, etc. The category with the lowest support includes Albania, Bosnia and Herzegovina, FYR Macedonia, Israel, Kosovo, Montenegro, Serbia, Russia and the EU member states. However, the country of return is not the only factor. According to the aforementioned ministerial decree, the returnee's individual circumstances can be considered either to increase or to decrease the amount of support.</p>

			<p>5. No, but the highest category of support has been increased. Therefore the difference between the highest category and the lower categories (“safer countries”) has in-creased. The latest ministerial decree, including the revised highest amount of support, was given in September 2017. So far, there is no data available on the effects of the change.</p> <p>6. No. The country of origin is not a decisive factor when considering issuing an entry ban.</p>
	France	Yes	<p>1. Yes. In France, the foreign national subject to a removal order has a 30-day time period from the notification to leave the territory (article L.511-1-II of the Code on Entry and Residence of Foreign nationals and Right of Asylum (CESEDA)). The procedure is the same for nationals from safe countries of origin or from other third countries.</p> <p>2. In accordance with article L.511-1-II of the CESEDA, the foreign national subject to a removal order has a 30-day time period from the notification to leave the territory. This period does not differ from the period granted to nationals of other countries.</p> <p>3. Yes. The procedure is the same for nationals of safe countries of origin and of other countries.</p> <p>4. No. There is no distinction between nationals of safe countries of origin and nationals of other countries. Only the amount of support is different, depending on whether the country benefit from the visa free regime (and not on whether it is a safe country of origin).</p> <p>5. No.</p> <p>6. No.</p>
	Germany	Yes	<p>1. Yes.</p> <p>2. If nationals from safe countries of origin receive a negative decision they are granted a period of seven days to leave the Federal Republic voluntarily. This period of seven days is shorter for the aforementioned group than for persons from other countries of origin who receive a negative decision on their asylum claim. Asylum applications from nationals from a safe country of origin</p>

			<p>are usually considered as “offensichtlich unbegründet” (manifestly unfounded). A person whose asylum application has been declined as manifestly unfounded will also be subjected to an entry ban for at least one year.</p> <p>3. No. Nationals from safe countries of origin can appeal a negative asylum decision during their period for voluntary departure. In contrast to nationals from other countries of origin, an appeal does not suspend the process of being forcibly removed. In order to remain in the country until the appeal has been completed, nationals from safe countries of origin have to file separate emergency appeal (“Eilantrag”) for the process of being returned forcibly to be suspended.</p> <p>4. Yes. Nationals from safe countries of origin are excluded from some reintegration programmes like ERIN and will only get a limited extend of support from most AVR programmes. In some cases, they will only get their travel costs covered (REAG/GARP) in other cases, they will receive only half the amount of money other nationals will be able to attain (StarthilfePlus). However there are exceptions from this being the case. Some AVR and reintegration programmes specifically target nationals from safe countries of origin in order to make an effort to assure a long term reintegration of its recipients. An example for this is the reintegration project URA which exclusively target nationals of the Kosovo. More information on German return and reintegration programmes can be found in the attached brochures for the aforementioned programmes or on https://www.returningfromgermany.de/.</p> <p>5. No.</p> <p>6. Yes. Every third country national can potentially be subjected to an entry ban if he or she has to be forcibly removed from German territory or returns to his/her country of origin voluntarily after the deadline for voluntary return has passed. Nationals from safe countries in contrast will always receive an entry ban of at least one year’s length, even if they choose to return to their country of origin voluntarily during the given time frame.</p>
	Hungary	Yes	1. No.

			<p>2. -</p> <p>3. No.</p> <p>4. The IOM runs assisted voluntary return programme and it has a reintegration component and the organisation decides on the eligibility on the reintegration. This reintegration component aims at assisting vulnerable returnees and returnees with chronic medical condition by offering – based on a needs assessment – reintegration counselling and a reintegration grant from which the beneficiary can finance the various activities of a pre-defined reintegration plan. This project aims at assisting up to 60 vulnerable returnees or returnees with medical chronic condition. The maximum assistance a beneficiary can receive is up to 650 EUR and it will be provided through in-kind contribution to mitigate the vulnerability and their reintegration into the country of origin.</p> <p>5. See above.</p> <p>6. No.</p>
	Ireland	Yes	<p>1. The legal framework for return of nationals from safe countries of origin is no different to that applied to return of nationals from other third countries. The provisions of the Immigration Act 1999 and International Protection Act 2015 (in respect of rejected asylum seekers) in relation to return apply. Voluntary return, including AVR, is possible up to the point of issuing a deportation order.</p> <p>2. N/A</p> <p>3. Yes. There is no difference from the practice regarding nationals of other countries.</p> <p>4. No.</p> <p>5. No.</p>

			<p>6. Ireland does not participate in the Return Directive 2008/115/EC. In Irish law, the entry ban is an integral part of the deportation order which requires the person to leave the State and thereafter remain outside the State. As with the answer to 1 above, there is no distinction in the legal framework on return between nationals of safe countries of origin or other nationals.</p>
	Luxembourg	Yes	<p>1. Yes. In principle, rejected third-country national international protection applicants are granted a period of voluntary departure, irrespective of whether they are from a safe country of origin or not</p> <p>2. a) Article 34 (2) of the Law of 18 December 2015 on international protection and temporary protection (Asylum Law) establishes that the rejected international protection who has been granted a return decision disposes a deadline of 30 days since the notification of the decision to leave the territory. If necessary, the period for voluntary departure may be extended by an appropriate period, taking into account the specific circumstances of the individual case, such as the length of stay, the existence of children attending school and the existence of other family and social links. Article 34(2) of the Asylum Law establishes that the person must leave the territory without any delay if his/her conduct constitutes a threat to public policy, public security or national security. Also Article 111 (3) c) of the amended Law of 29 August 2008 on free movement of persons and immigration establishes that the person must leave the territory without any delay if there exists a risk that the alien may abscond. b) No.</p> <p>3. a) Yes. Article 36 (1) of the Asylum Law establishes that in case of a negative decision of the international protection claim, the appeal has suspensive effects. b) No.</p> <p>4. In principle no. However, are excluded from the assisted voluntary return and reintegration programme (AVRR-L) the nationals from Macedonia, Albania, Montenegro, Kosovo, Serbia and Bosnia-Herzegovina (which are safe country of origin and benefit from the visa free regime). These nationals are only entitled to return aid that consists in the transport by bus to their country of origin. This programme is handled by the Returns Department of the Directorate of Immigration.</p>

			<p>5. No.</p> <p>6. NO.</p>
	Netherlands	Yes	<p>1. No, nationals of safe country of origin are normally not granted a period of voluntary departure after their asylum claim has been rejected. Asylum applications of nationals of safe country of origin are mostly rejected as “manifestly unfounded” (kennelijk ongegrond). Applicants that have been rejected on this ground usually are not granted a period of voluntary departure.</p> <p>2. Not applicable.</p> <p>3. No, nationals of safe country of origin are normally not allowed to await an appeal decision on their rejected asylum application in the Netherlands.</p> <p>4. The Netherlands has no specific policy for the return and/or reintegration support to nationals of safe countries. In practice however, nationals of several safe countries of origin receive less return and/or reintegration support than nationals of other countries. Nationals of the following safe countries of origin are excluded from all return and reintegration support because they have visa free access to the Netherlands: Albania, Andorra, Australia, EU28, Bosnia and Herzegovina, Canada, Georgia, Iceland, Japan, Kosovo, Liechtenstein, Macedonia, Monaco, Montenegro, New-Zealand, Norway, San Marino, Serbia, Switzerland, Ukraine, Vatican City, United States. Nationals of several other safe countries of origin (with visa requirement) are excluded from reintegration support because they are in the immediate vicinity of the European Union and therefore their nationals have relatively easy access to the EU: Algeria, Morocco, Tunisia, Belarus, Russia and Mongolia. Nationals of those countries do not receive cash payments for returning. However, they still do qualify for an airplane ticket and support with acquiring (replacing) travel documents via the IOM. There are also safe countries of origin whose nationals are not excluded from return and/or reintegration support, namely: Ghana, India, Jamaica, Senegal and Togo. It should be noted that even if persons from a certain country are in principle excluded from return and/or reintegration support, the Dutch authorities can still decide to offer support in individual cases.</p>

			<p>5. Yes, in the last two years the Netherlands has reduced the return and/or reintegration support for nationals of some safe countries of origin. In the last two years the Dutch government has abolished the return and reintegration support for nationals with visa free access to the Netherlands and has excluded nationals from countries (with visa requirement) immediately surrounding the EU from reintegration support. The Netherlands has no specific policy for the return and/or reintegration support to nationals of safe countries, however the measures mentioned above have affected the entitlements of nationals from safe countries, as described above. Return and reintegration support was reduced for the following nationalities in the last two years: Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Mongolia, Georgia, Russia and Belarus, Montenegro, Serbia, Ukraine, Algeria, Morocco, Tunisia.</p> <p>6. Yes, the Dutch policy for issuing entry bans to rejected asylum seekers differs between nationals of safe countries of origin and nationals of other countries. Persons that have not been granted a period of voluntary departure, automatically receive a two-year entry ban for the entire Schengen area after their application has been rejected. As nationals of safe countries of origin are usually not granted a period of voluntary departure, they also receive an entry ban in most cases.</p>
	Slovak Republic	Yes	<p>1. Yes, provided that the third-country national is not detained.</p> <p>2. No, it does not differ. The period for voluntary departure is granted for minimum 7 to maximum 30 days since the enforceability of the decision while various circumstances are taken into account such as cooperation with responsible authorities concerning the return, probability of the success of return, the need to settle obligations of the TCN in the territory of the SR, or their current health state. In specific cases (e. g. personal or family reasons, health, length of stay), the period can be prolonged.</p> <p>3. No.</p> <p>4. No. The Slovak Republic does not provide return assistance. However, third-country nationals can apply for AVR R through IOM which does not take into account list of safe countries of origin (there is only a list of countries for which there are restrictions regarding return).</p>

			<p>5. No, see the answer above.</p> <p>6. No.</p>
	Slovenia	Yes	<p>1. Yes.</p> <p>2. The period is from five to thirty days. The period is not relying on the nationality but on individual circumstances according to legal provisions.</p> <p>3. Yes, the procedure is no different as for the other countries.</p> <p>4. no</p> <p>5. no</p> <p>6. no</p>
	United Kingdom	Yes	<p>1. Refused applicants are expected to leave the UK within 21 days of their asylum application being refused, otherwise the Home Office will seek to enforce their removal. If arrangements for voluntary return are being made with the assistance of the Home Office via the Voluntary Return Service (VRS) programme, the period allowable for voluntary return is usually 3 calendar months from the date of approval onto the (VRS) programme (although this may be extended in exceptional cases).</p> <p>2. There is no difference.</p> <p>3. No, applicants from safe countries are not allowed to remain in the UK while they await an appeal decision on their asylum application judgement. Yes, this differs from applicants of other nationalities who are permitted to remain in the UK until all appeals have been exhausted.</p> <p>4. No. Return/reintegration support is not dependant upon nationality.</p>

			<p>5. No, there have been no changes in return/reintegration support provided for people from safe countries of origin in the last 2 years.</p> <p>6. No. The issuing (and length of) an entry ban is dependent upon whether the refused applicant has been compliant and has left the UK voluntarily or whether their return was enforced. It is not related to nationality.</p>
	<p>Norway</p>	<p>Yes</p>	<p>1. Please note: Norway has previously reported that we do not have a list of safe countries of origin as such. However, in addition to the Dublin procedure we have an accelerated procedure (dealing with an application within 48 hours) for some citizens of countries. These are countries for which the Norwegian Directorate of Immigration (UDI) has sufficient information on the general security and human rights situation, and from which the majority of applications have been found to be manifestly unfounded. An asylum-seeker from one of these countries will initially have his/her application processed on its individual merits within 48-hours. Following an examination of the claim, those applications that are found to be manifestly unfounded will be rejected, and the rest are transferred to the normal procedure. The list of countries to which the 48-hour procedure applies is reviewed and updated on a regular basis. 1. Asylum seekers that fall into the 48 hour accelerated procedure do not get a deadline for voluntary return if their application is rejected as manifestly unfounded. The decision will specify that the applicant will be required to leave Norway immediately (Norwegian Immigration Act, § 90 6 b). Denying a return deadline is a consequence of the denial of an application that is manifestly unfounded and not directly related to the applicant's country of origin. The same applies to asylum seekers who do not fall into the 48 hour accelerated procedure. In practice, very few of the cases that are rejected are categorized as manifestly unfounded.</p> <p>2. N/A</p> <p>3. No. Norway does not allow this category of applicant to stay. Yes, the practices vary depending on country of origin. Applicants who fall into the 48-hour accelerated procedure will generally as a rule, not be allowed to postpone the implementation of the rejection decision should they apply for an appeal. For other asylum seekers, the general rule is that the application goes through two</p>

case processing agencies. That means that the decision made in the first instance, can be put on hold until it is processed by the Immigration Appeals Board. Cases that fall into the 48-hour accelerated procedure are more frequently determined to be manifestly unfounded, than cases that are handled in the normal case procedures. The effect of the law is that when an asylum application is viewed as manifestly unfounded it also results in a denial for requests to postpone the implementation of the decision. When a request for postponement of a decision is denied, the consequence is that the asylum seeker is not allowed to remain in the country while waiting for their appeal to be processed by the Immigration Appeals Board.

4. Norway generally does not provide any support to nationals on the 48-hour accelerated procedure list. The Ministry of Justice and Public Security has provided guidelines for assisted return (GI-02/2016). These guidelines stipulate that neither travel nor reintegration stipends are granted to citizens from the following categories: • Citizens from countries that do not require a visa to Norway • Citizens of countries included in the 48-hour accelerated procedure list • Persons in the Dublin Procedure who fall into the above two categories Only support for a plane ticket and no reintegration support is provided to citizens from: • Bangladesh and Belarus

5. No. Not applicable; no one in the 48-hour accelerated procedure category whose application is denied receives any support.

6. Any asylum seeker over 18 y.o. whose application is viewed as manifestly unfounded (and rejected) and who is not granted a return deadline, will be expelled from Norway and Schengen for a period of one year (Norwegian Immigration Act § 66 2 b). However, this does not apply to EU/EEA citizens.