



## **Ad-Hoc Query on Syrian child brides in the asylum procedure**

**Requested by NL EMN NCP on 6 February 2015**

**Compilation for closed dissemination produced on 31 March 2015**

**Responses from Belgium, Croatia, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom plus Norway (21 in Total)**

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### **1. Background Information**

Since July 2014 the Netherlands sees itself confronted with a significant increase of Syrian child marriage cases: currently 55 cases (in July 2014 there were only 2 cases). These cases involve young girls -13 to 17 years old- who got married with parental consent. There is a significant age gap between spouses: the adult males are usually 10 to 20 years older than their underage wives. Most marriages took place outside Syria in refugee shelters in for instance Jordan, Lebanon or Turkey. The living conditions in these camps are tough and many fathers come to believe that their daughters will be better protected and provided for if they are married off. In two cases the Dutch authorities had to protect young brides due to blood feud threats. In the Netherlands these marriages can be in violation of Dutch legislation.



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1. Does your country receive asylum applications involving Syrian child brides (meaning a formal marriage or informal union entered into by a girl before reaching the age of 18)? If so, what are the numbers involved (2012-2014)?
2. How do you deal with child bride cases? Do you have special regulations and procedures regarding these cases?
3. How do you shelter this vulnerable group of children? In special facilities? Do you separate these girls from their spouses?
4. Are these couples in possession of marriage documents/certificates?
5. Have you identified unwanted side effects associated with child marriage, such as rape, domestic violence and blood feud?
6. If the girl is lawfully wed in her homeland can husbands of underage girls be prosecuted under your laws?




We would highly appreciate receiving your information. The Netherlands authorities would welcome this information in order to learn if child bride cases occur in other MS as well as how various EU countries deal with these cases. Information received from MS will also be of great assistance to the Dutch authorities to develop a common Dutch policy with regard to child brides. Perhaps it could eventually contribute to a common EU policy regarding marriages of underage girls.

We would very much appreciate your responses by **Friday 6 March 2015**.



## **2. Responses**

|   |                | <b>Wider Dissemination?</b> |   |
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|  | <b>Belgium</b> | <b>Yes</b>                  | Up till now, the Office of the Commissioner General for Refugees and Stateless Persons has not been confronted with this phenomenon, not for Syria, nor for other countries of origin. As a consequence there are no policy or guidelines. Recently there was an asylum case of a 14-year-old Iraqi girl who came to Belgium to be with her 28-year-old boyfriend, who she had met on Facebook. A guardian has been appointed to represent and support the minor. |
|  | <b>Croatia</b> | <b>Yes</b>                  | 1. Croatia so far did not receive any asylum applications involving Syrian child brides.  |





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|   |                       |            | <p>2.N/A</p> <p>3.N/A</p> <p>4.N/A</p> <p>5.N/A</p> <p>6. According to the Croatian Asylum Act family member of the asylum seeker, refugee or person eligible for subsidiary protection is deemed to be a spouse or common law partner as defined by the valid regulations of the Republic of Croatia, provided that the family already existed in the country of origin.</p> <p>Croatian Family Act stipulates that only in exceptional cases person before reaching the age of 18 may enter marriage if found to be mentally and physically mature for marriage and there is justified reason for entering marriage. Person under the age of 16 years may enter marriage if it is determined that a person is able to understand the meaning of marriage and the obligations that derive from it and that marriage is clearly in their interest.</p> <p>If the marriage has not been concluded in accordance with aforementioned conditions, such a marriage would not be valid in the Republic of Croatia. In such cases, provisions of the Croatian Criminal Code may be relevant in situations where minors are victims of a criminal offense against freedom and sexual morality. These are crimes of rape, sexual intercourse by abuse of position and sexual intercourse with a child, but can also be victims and other crimes. The provisions Criminal law provisions also apply when the minor is the victim of a crime committed against sexual freedom and sexual morality.</p> |
|    | <b>Czech Republic</b> | <b>No</b>  | This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.  |
|   | <b>Estonia</b>        | <b>Yes</b> | There is no experiences with Syrian child brides. In recent years we have been 2 female minor asylum seekers from Syria (of whom 1 minor was unaccompanied).   |
|  | <b>Finland</b>        | <b>Yes</b> | <p>1. Finnish Immigration Service is not aware of Syrian child brides in the asylum procedure. There have been no asylum claims based specifically on this. Neither has it come to the knowledge of immigration authorities that there would be child brides among the Syrian asylum seekers.</p> <p>2. There is no guidance concerning child brides specifically. However, the guidance that concerns all minors apply also in the case of child brides. The Legal Service of the Finnish Immigration Service is currently preparing guidelines about minors. In the draft guidelines there is a section on how to handle a situation, where an asylum seeker, who seems to be clearly underage claims to be an adult, especially if there are elements of child protection involved (e.g. marriage or pregnancy). In such a situation, it has to be evaluated, whether there is a need to appoint a legal guardian for the child or a need for child protection actions. A statement from a social worker is usually required in such a situation before a decision can be made. Special attention has to be paid to the age and level of maturity of the person in question. If the age of a person is unclear (suspicion that the person is underage), a good advice is usually to contact a social worker of the reception centre,</p>  |



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|   |                |            | <p>where the suspected minor is registered. Because there is often a clear child protection aspect, it is also possible to contact child protection authorities and ask for their suggestions on how to proceed.</p> <p>3. Vulnerable groups of children are accommodated depending on the specific characters of the case. If there is concern for the child, child protection is contacted and they will decide on protection measures under the Child Welfare Act and can arrange emergency placement. In cases that do not require immediate action from child protection, the reception centre social worker makes a service plan in co-operation with the couple considering the opinion, best interest, needs, and rights of the child. If the child is close to 18 years old, it is a question of a married couple, and concern does not rise, the couple can be accommodated together in a family room.</p> <p>4. There have been no such cases.</p> <p>5. There have been no such cases.</p> <p>6. Marrying a minor is not criminalized in the Finnish criminal law. Therefore is not possible to prosecute for this. However, sexual offences involving minors are criminalized, so this can come to question.</p> |
|    | <b>France</b>  | <b>Yes</b> | <p>1. No.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p> <p>6. N/A</p>   |
|  | <b>Germany</b> | <b>Yes</b> | <p>1. It is not possible to provide any information on this matter, as no statistics are kept on individual grounds for asylum. Only the characteristic relevant to this context of gender-specific persecution is recorded. This category includes a large number of possible grounds for filing an asylum application, however, which are not specified in any further detail.</p> <p>2. So-called special officers may be involved in these cases. The Federal Office's special officers are specially trained decision-makers for sensitive cases who, when appropriate, hear and decide on cases involving gender-specific persecution, unaccompanied minors, torture victims and victims of human trafficking. When there are indications of grounds for persecution such as forced marriage in the case of unaccompanied minors, the official instructions on asylum recommend in particular establishing contact with the guardian and involving</p>  |







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|   |                  |            | <p>the latter in the hearing. In cases specifically concerning child trafficking for the purpose of marriage, the official instructions on human trafficking additionally apply. It is also possible for female asylum applicants to request female decision-makers and interpreters.</p> <p>3. Unaccompanied minor refugees are accommodated in special facilities in Germany. In Germany they are entitled to be taken into the care of the youth welfare service and to be allocated a personal guardian. They are usually placed in interim accommodation in facilities of the youth welfare services. A so-called clearing process is carried out in the federal states. Accommodation for asylum applications is generally the responsibility of the federal states rather than the Federal Office, however, which means that differences may apply here. In extreme exceptional cases (e.g. when a substantial difference in age applies), separate accommodation for the spouses may be considered.</p> <p>4. No information is available on this matter.</p> <p>5. No specific data is available on this matter (cf. answer to question 1).</p> <p>6. Forced marriage is regulated in Section 237 of the penal code, which stipulates that coercion into marriage is a punishable offence, as is taking a person out of Germany in order to commit such an offence. German penal law applies to some offences committed abroad, irrespective of the law as it applies at the place where the offence is committed; forced marriage constitutes one such offence. This only applies in cases covered by Section 237, however, when the offender is a German citizen at the time of the offence or when the offence is committed against a person whose place of residence is in Germany or who is ordinarily resident in Germany. These provisions do not preclude criminal prosecution under other provisions pertaining to offences, however.</p> |
|    | <b>Hungary</b>   | <b>Yes</b> | Hungary has no experience in Syrian child marriage cases.   |
|   | <b>Ireland</b>   | <b>No</b>  | This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.   |
|  | <b>Latvia</b>    | <b>Yes</b> | <p>1. From the total amount of Syrian asylum seekers in LV only 19% are women. There were not detected cases of child brides among them so far.</p> <p>2.-6. N/A</p>  |
|  | <b>Lithuania</b> | <b>Yes</b> | <p>1. No</p> <p>2. We haven't had such experience so far, there are no particular procedures foreseen for such type of asylum seekers.</p> <p>3. n/a</p> <p>4. n/a</p>  |


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|   |                   |            | <p>5. n/a</p> <p>6. This situation is not explicitly foreseen by our laws, but, according to our Criminal law, grownups are persecuted for the following crimes: satisfaction of sexual desires by violating a minor's freedom of sexual self-determination and/or inviolability, sexual molestation of a child.</p>   |
|    | <b>Luxembourg</b> | <b>Yes</b> | <p>1. No. Luxembourg has not yet been confronted with Syrian child marriage cases.</p> <p>2. There are no specific regulations for dealing with these cases. The norms of the Civil Code apply. In Luxembourg, no person (man or woman) aged less than 18 years is capable of contracting a valid marriage, and accordingly, a marriage so contracted is null, void and of no effect (article 144 of the Civil Code amended by the Law of 4 July 2014). The guardianship judge can lift the prohibition in case of weighty reasons taking into consideration the superior interest of the child (article 145). The main objective of these articles is to combat early and forced marriages.<br/>A civil registrar may refuse to recognize the validity of a foreign marriage, if according to the Luxemburgish law, at the time the marriage was celebrated, one of the contracting parties was aged less than 18 years (See answer to Q.2) : it can be considered null and void because of a lack of consent (articles 144, 146 and 146-1).</p> <p>3. N/A. Nevertheless, the Luxembourg Reception and Integration Agency (OLAI) and the Luxemburgish Red Cross may turn to the 'National Authority for Children' (ONE - Office national de l'enfance) when searching for available accommodation for a bride child under the age of 16. In principle, UAMs are accommodated in the reception facilities supervised by Caritas Luxembourg and the Luxemburgish Red Cross (for minors above 16 years) or in traditional children's homes (for minors under 16 years). In principle, the minor girl will be separated from her spouse, because the marriage is void under Luxemburgish law.</p> <p>4. N/A.</p> <p>5. N/A.</p> <p>6. This will depend on whether the Public Prosecutor office decides to prosecute or not. In the case of prosecution, there are two possibilities:<br/>a) In accordance with article 375 (2) of the Penal Code, having sexual intercourse with a minor under the age of 16 will be considered statutory rape and the "husband" can be prosecuted and sentenced to 10 years up to 15 years of imprisonment; b) if the minor has at least 16 years the husband can be prosecuted for sexual abuse in accordance with article 372 (3) of the Penal Code (as amended by the Law of 21 February 2013) and could be sentenced to 1 year up to 5 years of imprisonment and a fine of 251 to 50.000</p> |
|  | <b>Malta</b>      | <b>Yes</b> | 'The Office of the Refugee Commissioner has not received applications for international protection from Syrian nationals based on such claims'.  |

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|    | <b>Netherlands</b>     | <b>Yes</b> | <p>1. Since July 2014 the Netherlands sees itself confronted with a significant increase of Syrian child marriage cases: currently 55 cases (in July 2014 there were only 2 cases).</p> <p>2. In the Netherlands there are neither special regulations, nor procedures regarding these cases. There is currently a lack of a common policy in the Netherlands on how to handle Syrian child bride cases. Therefore, various partner organisations in the Netherlands, both governmental and non-governmental, are cooperating to identify the root causes and the extent of the problem.</p> <p>3. As stated under 2, there is currently no Dutch common policy on how to deal with these cases, including ways to shelter these minors. Some girls were sheltered together with their spouses whereas others were separated from them.</p> <p>4. Some couples are in possession of documents/certificates others are not.</p> <p>5. In two cases the Dutch authorities had to protect young brides due to blood feud threats.</p> <p>6. In the Netherlands we are examining if such marriages are a criminal offence under Dutch national law.</p> |
|    | <b>Poland</b>          | <b>Yes</b> | The Office for Foreigners, the institution examining asylum applications in Poland, has not received any application involving married underage Syrian citizens.  |
|    | <b>Portugal</b>        | <b>Yes</b> | PT has not experienced this kind of situation to date.  |
|    | <b>Slovak Republic</b> | <b>Yes</b> | Slovak Republic does not have any experience with these cases.  |
|  | <b>Slovenia</b>        | <b>Yes</b> | <p>1. We do not have many such cases neither any asylum application involving Syrian child brides under age 18.</p> <p>2. – 5. According to the national International Protection Act so called vulnerable groups (unaccompanied minors, child brides, elders, pregnant women, disable, etc) are treated based on special procedure where their psychological, material and health conditions are examine in order to provide specific treatment based on their individual needs.</p> <p>6. At the moment we do not examine such option.</p>  |
|  | <b>Sweden</b>          | <b>Yes</b> | <p>1. Yes, we have had a few during 2014, the exact number is not known, but probably between 5 and 10. However, no indications that the marriages usually have taken place outside of Syria.</p> <p>2. There are no special regulations or procedures entirely concerning Syrian child brides. However, if a female under the age of 18 comes with an adult husband, Sweden recognizes the girl as an unaccompanied minor. Thus, the Migration Board reports this to the social</p>  |

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|   |                       |            | <p>authorities who are responsible for proper housing etc. The minor also gets a legal guardian. If the Migration Board notices anything that could lead us to believe that the minor is mistreated in any way or is or has been the victim of a crime, the case officer must report this to the social authorities or the police.</p> <p>3. The social authorities in Sweden are responsible for the housing of the minor in the process in Sweden. If a case officer at the Migration Board suspects that that the minor is not safe in any way, the case officer has to report this to the social authorities.</p> <p>4. In some cases yes, in a few cases no.</p> <p>5. No, as of yet this has not been identified or reported.</p> <p>6. A marriage registered in another country under the laws of that country is usually accepted in Sweden. However, if circumstances in the individual case leads to suspicion that the marriage is contrary to <i>ordre public</i>, for example on the basis that one of the spouses is very young or suspicions arise that one spouse has been forced into marriage, than recognition of the marriage will be refused under Swedish law. A forced marriage in Sweden is punishable under Swedish law. A forced marriage abroad concerning non-Swedish citizens, is on the outset not punishable under Swedish law; however it would depend on the circumstances in the individual case; eg. what crimes have been committed.</p> |
|  | <b>United Kingdom</b> | <b>Yes</b> | <p>1. The UK does not have statistics on Syrian child brides</p> <p>2. The UK would not recognise a child as a married partner for asylum purposes if the traditional or customary marriage was contracted when one or both partners was aged under 16, unless the marriage was valid in the country in which it took place; and, both parties to the marriage had the legal capacity under the law of their domicile to marry each other.</p> <p>3. The UK wouldn't accommodate a "couple" where the bride was under age. The Child would be referred to the local authority for Children Act procedures.</p> <p>4. No information</p> <p>5. No information</p> <p>6. The law of a number of countries permits children under the age of 16 to contract a valid marriage. A marriage which was contracted when one or both partners was aged under 16 is recognised under English law if:<br/> * the marriage was valid in the country in which it took place; and<br/> * both parties to the marriage had the legal capacity under the law of their domicile to marry each other.</p>  |



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|  | <p><b>Norway</b></p> | <p><b>Yes</b></p> | <p>1. Though we do not have a complete and systematic overview, several of our caseworkers have reported that they have handled cases involving a married Syrian girl under the age of 18. There is thus far no information that implied that the marriages had come about as a result of the war as enquired about in the AHQ. That is to say, they had not lived in a refugee camp. When questioned about age gaps as well as the young age of the wife, applicants referred to traditional practices. There are a couple of cases that we know of where the wife was under 16 at the time of the marriage. In both cases, the actual marriage was not recognized in Norway, but was <u>not</u> reported to the authorities since the relationships appeared to be genuine: the couples had spent many years together and had children (partnership relationship with children can be recognized). We have another case where verification has indicated that the wife was actually only 15 at the time of the application and therefor only 12 when she married. In that particular case, the husband is a Norwegian citizen and his actions are considered a crime. It is an asylum case. We have yet another case where we assume the wife is not even 15 years old now. She is living in a reception center and we are in the process of verifying her age.</p> <p>2. In some cases we write a letter of concern to the child welfare services (Norwegian Directorate for Children, Youth and Family Affairs). If the immigration authorities discover cases where one of the parties in a marriage is <i>either a Norwegian citizen, or someone with any kind of formal connections</i> to Norway (such as a residence permit) and they have entered into a marriage with someone under the age of 16, they will consider reporting the matter to the Police. It is considered a crime by Norwegian law and the husband can be prosecuted. We have one such case that we processing at the moment.<br/>We have regulations and procedures regarding vulnerable groups and we are working on developing written guidelines in regards to cases where there is violence in close relationships. How to handle cases concerning child brides will be included in these guidelines under the heading of forced marriages.</p> <p>3. It depends. The usual practice is to send a report indicating our concern to Child Welfare Services (Norwegian Directorate for Children, Youth and Family Affairs) and leave it up to them to respond. If we are concerned about possible threats we would also send a report to the Police so they could follow-up. Together these agencies would decide if a child should be relocated if there were danger of threats.</p> <p>4. Sometimes. Applicants are not always in possession of marriage documents, and sometimes these documents are false. In one case, we actually had received a marriage contract because the wife first applied through family reunification, but before that case was handled she entered Norway and applied for asylum. During the handling of the asylum application it became evident that this document falsely stated that the wife was older than 20. We have reason to believe the applicant is not even 15 and we are in the process of getting her age verified. Since she applied for family reunification, she must, per definition, have a husband with ties to Norway. Should we be able to prove that she was not even 15 when married, then we will consider reporting her husband to the Police.</p> <p>5. The immigration authorities have not investigated these matters since it is the Ministry of Children, Equality and Social Inclusion (Norwegian Directorate for Children, Youth and Family Affairs) as well as the Police authorities which are the agencies that investigate these matters.</p> <p>6. Yes, in some cases. Here it is important to differentiate between whether one or both of the parties had ties to /were residing in Norway at the time the marriage was formalized; or not. If one or both of the parties had ties to Norway when they entered into marriage, and one</p> |
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|  |  |  | <p>of the parties was under-aged (younger than 16) the situation would be reported to the police. If neither of the parties had ever had any connection with Norway at the time of the marriage this would be viewed in another light.</p> <p>According to Norwegian law, (which would apply to anyone living in Norway) the parties must both be at least 18 years old at the time of the marriage for the marriage to be recognized in Norway. If this criterion is not met, then the concerned parties can apply to the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) for a special waiver to recognize the marriage. This may or may not be granted. We do not know of any cases in Norway where an applicant has been reported to the Police, tried and actually convicted; but the immigration authorities would not be the government agency that monitored this. <i>As a rule, according to Norwegian law, a marriage that is entered into outside Norway by two parties that have no previous association with Norway, will be recognised in Norway if the marriage has been contracted in a valid manner in the country in which it took place.</i> That is to say, if the parties were not younger than 15 when actually married. If the immigration authorities conclude that the marriage is not valid, for instance because one of the parties was under the age of 15 when the marriage was entered into, the application for family reunification in Norway will, as a rule, not be granted. In cases where the parties have been married for many years and have had children together, consideration can be given to viewing the relationship as a partnership with children. It is important to be aware that it is the person's age at the time the marriage is entered into that is the decisive factor, which means that it makes no difference if an application for family reunification is put forward after both parties have reached the age of 15.</p> <p>Generally, immigration case workers will report anyone to the authorities (Norwegian Directorate for Children, Youth and Family Affairs), who has applied for asylum in Norway and has married someone under the age of 15. In cases of family reunification, where one party has connections to Norway and the marriage involves an under-aged party, case workers will always consider reporting the matter to the Police authorities. The rules and regulations are complex and punishment would be based on an evaluation of the total situation, including whether rape and or violence were associated with the relationship of an under-aged child.</p> |
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