



EMN Ad-Hoc Query on Asylum seekers from Libya

Requested by Rafael BÄRLUND on 26th April 2016

Protection

Responses from Austria, Belgium, Blocked / Unknown, Croatia, Cyprus, Czech Republic, Estonia, Finland, Germany, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom, Norway (21 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:

Legislation in Finland is currently being reviewed, and a likely result will be the omission of the national category of international protection, humanitarian protection. For this reason, decision making regarding humanitarian protection is halted at the moment. Until present, Finland has granted humanitarian protection to asylum seekers from Libya based on the general security situation in the country, if the applicant has not had individual grounds for protection. The country guidelines for Libya are being reviewed in conjunction with the legislative amendment. The Finnish Immigration Service would like to ask the following questions:



Questions



1. 1. Does Your Member State grant international protection to asylum seekers from Libya on the basis of the general security situation in the country (subsidiary protection or other), if the applicant does not have individual grounds that give right to international protection (convention status or subsidiary protection on individual grounds)?
2. 2. If Your Member State has assessed Libya or some parts of the country (which?) as an area from where all applicants are granted a residence permit, which category of protection do you use? Have you assessed some parts of the country as safe areas?
3. 3. Do you implement the internal flight alternative inside Libya, and if yes, in which types of cases?
4. 4. Do you, at the moment, issue return decisions to nationals of Libya to their country of origin? Do you enforce the return decisions?
5. 5. In how many cases have you issued convention status, subsidiary protection, other residence permits or return decisions to nationals of Libya?




Please provide statistics for 2015 and January-March 2016 if possible.



Responses


	Country	Wider Dissemination	Response
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	Austria	Yes	<p>1. In general, always a case-by-case examination is conducted with regard to the allegations of the applicant. It is determined whether there is a need for protection within the meaning of the Geneva Refugee Convention. Source: Federal Ministry of the Interior.</p> <p>2. No, such an assessment for certain areas of Libya does not exist in Austria. Source: Federal Ministry of the Interior.</p> <p>3. Also in this respect a case-by-case examination is conducted. With respect to Libya, currently no respective decisions are known. Source: Federal Ministry of the Interior.</p> <p>4. 4. Currently, no removals of Libyan citizens directly to Libya are known. However, transfers in the framework of the Dublin-III-regulation may play a certain role. Source: Federal Ministry of the Interior. 5. In 2015, 13 Libyan citizens were granted asylum. In 5 cases, asylum has been refused (including inadmissibility according to Dublin). In 3 cases, subsidiary protection has been granted. Source: Federal Ministry of the Interior.</p>
	Belgium	No	
	Blocked / Unknown	Yes	<p>1. OFPRA current position is not to use subsidiary protection based on the general security situation in Libya when an asylum seeker does not meet the conditions to be granted refugee status or subsidiary protection on individual grounds. However, thought is being given to this subject. This position will be reviewed and might be revised. The National Court of Asylum (CNDA) grants subsidiary protection on the basis of the general security situation to any civilian asylum seekers who have fled from Libya and do not meet the conditions to be granted refugee status or subsidiary protection on individual grounds. The judge considers that in the whole country there is a situation of widespread generalized and indiscriminate violence resulting from a situation of internal armed conflict.</p>



			<p>2. The National Court of Asylum (CNDA) considers that the situation of widespread violence in Libya concerns the whole country, especially Tripoli and Benghazi, which are access points from abroad. The judge hasn't assessed some parts of the country as safe areas.</p> <p>3. We are still waiting for an answer from the competent services. We will let you know as soon as we receive their answer.</p> <p>4. 4. 46 return decisions have been enforced in 2015. 5. In 2015, OFPRA registered 501 asylum requests from Libya. We issued 57 convention status and 6 subsidiary protections. No data available for January-March 2016.</p>
	Croatia	Yes	<p>1. No. Croatia assess every international protection application on an individual basis considering the facts described by the applicant as well as the evidence provided and taking into consideration the general situation of the country.</p> <p>2. No, in Croatia there is no any specific assessment for Libya and safe areas.</p> <p>3. No. Q. 4 No.</p> <p>4. In the period of 2015 and 2016 it was no applications for an international protection from Libya.</p>
	Cyprus	Yes	<p>1. There were no applications for international protection submitted in CY from Libyan nationals.</p> <p>2. n/a</p> <p>3. n/a</p> <p>4. No applications submitted from Libyan nationals in 2015 to March 2016.</p>


	Czech Republic	Yes	<p>1. Applications for international protection are assessed on an individual basis. However, the general security situation cannot serve as the only and sufficient ground for granting international protection status. It is important to note that the number of asylum seekers coming from Libya to the Czech Republic is very low.</p> <p>2. No. All cases are assessed individually. An individual application and concerned person is what matters, not the part of the country.</p> <p>3. Depends on individual circumstances.</p> <p>4. 4. Also assessed individually. 5. 2015 Asylum – 0 Subsidiary protection – 1 (prolongation of subsidiary protection in 5 cases) New issuance of residence permits – 18 Return decisions – 0 2016 (January-March) Asylum – 0 Subsidiary protection – 1 (prolongation of subsidiary protection in 0 cases) New issuance of residence permits – 4 Return decisions – 0</p>
	Estonia	Yes	<p>1. No, every international protection application is examined on a case by case basis taking into account the individual grounds of the person and the general security situation of the country of origin.</p> <p>2. No, Estonia has not made an assessment about Libya.</p> <p>3. N/A.</p> <p>4. 4. Currently Estonia has no policy regarding returns to Libya (every case is assessed taking into account the individual circumstances), but recently there have been no forced returns from Estonia to Libya. 5. During that period Estonia has not issued convention status, subsidiary protection, nor return decisions to nationals of Libya.</p>
	Finland	Yes	<p>1. Finland has granted humanitarian protection to persons from Libya, unless the criteria for granting subsidiary protection or convention status have been met.</p>



			<p>2. Libya as a whole has been assessed as an area for granting humanitarian protection.</p> <p>3. No</p> <p>4. 4. No 5. In 2015, 10 decisions were made, of which two were granted convention status and 8 received a residence permit based on humanitarian protection (in addition there were 9 Dublin-decisions and 6 annulments). Decisions Jan 1st - 21st of April 2016: Granted 11 (7 convention statuses, 4 humanitarian protection). 1 negative (manifestly unfounded); 3 Dublin-decisions and 4 annulments.</p>
	Germany	Yes	<p>1. International protection is granted according to the general criteria. A specific policy is not in place. Because of the few applicants we have no decision making practice and no guiding principles. Every case is assessed on its own merits. In some cases the applicants were granted international protection or a prohibition of deportation / removal. Subsidiary protection was not granted.</p> <p>2. See answer question 1.</p> <p>3. As a rule there are no internal flight alternatives inside Libya, individual case assessment.</p> <p>4. No information about return decisions in 2016. In 2015 there have been 40 applicants forcibly returned to Libya. Other statistics you will find in the additional document</p>
	Hungary	Yes	<p>1. No, the asylum authority does not grant international protection to asylum seekers from Libya if the applicant does not have individual grounds that give right to international protection.</p> <p>2. We do not consider any part of Libya as an area from where all applicants should be granted international protection. We consider certain parts of the country safe.</p> <p>3. We examine in every case whether the applicant can actually reach the safe part of the country (internal flight).</p>


			<p>4. 4. Due to the geographic attributes of Hungary, irregular migrants cross the border on the southern part of the country, mainly from Serbia. Therefore to migrants apprehended at the border – because of the readmission agreement with Serbia in force – the immigration authority issues a return decision firstly to Serbia. If the Serbian authorities refuse to take back the expelled migrant, the immigration authority requests the expert opinion whether a person can be expelled to their country of origin (or to another country that is obliged to take them back) or not. The Office of Immigration and Nationality of Hungary (OIN) currently issues return decisions to nationals of Libya to their country of origin, however in the years 2015 and 2016 none of these return decisions was enforced, and no Libyan citizen was returned to their country of origin. 5. In 2015 0 Libyan citizen granted refugee status, 1 Libyan citizen granted subsidiary protection in administrative procedure and 10 Libyan citizens were expelled from the territory of the EU (7 of them by the aliens policing authorities of the OIN, 2 of them by the Court, 1 of them by the asylum units of the OIN). In 2016 from January to March 1 Libyan citizen granted refugee status, 0 Libyan citizen granted subsidiary protection and 9 Libyan citizens were expelled from the territory of the EU by the asylum units of the OIN.</p>
	Latvia	Yes	<p>1. 1.-3., 5. Asylum requests from Libyan asylum seekers were received only in 2010.-1 and in 2011.-5 (where 4 of them turned out to be Algerians). As during the last five years there are no asylum requests from Libyans, we do not have updated information on current situation and we are not in position to give reasoned opinion on current security situation, internal flight alternatives or possible international protection statuses.</p> <p>2. See above</p> <p>3. See above</p> <p>4. 4. In 2015 we had one case when person claimed he is a Libyan citizen, we issued the return decision to this person, but decision wasn't enforced, because Libya didn't recognize this person as Libyan citizen. At the moment this person has claimed that he is a citizen of another country.</p>

	Lithuania	Yes	<p>1. In recent years, Lithuania has only received 1 request for asylum from citizen of Libya, however, the examination of application for asylum was terminated, so Lithuania has no relevant experience in this area.</p> <p>2. N/A.</p> <p>3. N/A.</p> <p>4. 4. N/A. 5. In 2015, 12 temporary residence permits were issued to citizens of Libya, on education basis, and 1 citizen of Libya was issued a Residence card of a family member of a Union citizen.</p>
	Luxembourg	Yes	<p>1. No. Luxembourg treats every international protection application on a case by case basis analysing the facts described by the applicant as well as the evidence provided and taking into consideration the general situation of the country of origin.</p> <p>2. No. Luxembourg has not make that kind of assessment.</p> <p>3. No.</p> <p>4. 4. No. 5. International protection granted to nationals of Libya: 2015: 1 Refugee status; 1 Subsidiary protection) 2016 (01.01-30.03): 0</p>
	Netherlands	Yes	<p>1. No.</p> <p>2. Not applicable, see response under 1.</p> <p>3. In general it is possible to apply the internal flight alternative. There is no specific type of cases in which this is applied. It can be applied, however, in individual cases.</p>

			<p>4. Return decisions are issued to nationals of Libya for return to their country of origin. Both voluntary and forced return to Libya are possible. Statistics are requested and will follow.</p>
	Poland	Yes	<p>1. In cases where there is no reason to grant a refugee status to asylum seekers from Libya, the subsidiary protection is granted based on the current general security situation in the country.</p> <p>2. At the moment Polish government grants one of two categories of protection to the Libyan citizens: refuge status – in cases where there are some individual reasons or subsidiary protection – based on the current general security situation in the country in cases where there are no individual reasons to grant a refugee status. According to the latest available information about security and human rights situation in Libya, Poland states that at the moment there is no part in Libya free from violence and armed struggle where civilian’s life would not be threatened.</p> <p>3. According to the UNHCR recommendation Poland doesn’t recognize Libya as a safe country in which there is a possibility of an internal flight, therefore suspends forced returns to Libya until the security and human rights situation in the country will significantly have improved.</p> <p>4. There are no formal obstacles to issue and execute such a decision to nationals of Libya. However, there were no return decisions enforced to Libya form the beginning of 2015 to March 2016.</p>
	Portugal	Yes	<p>1. No. Portugal analyses every international protection application on an individual basis considering the facts described by the applicant as well as the evidence provided and taking into consideration the general situation of the country.</p> <p>2. No, Portugal doesn’t make such assessment for certain areas of Libya.</p> <p>3. No.</p> <p>4. -</p>

	Slovak Republic	Yes	<p>1. Slovakia does not have much experience with asylum seekers from Libya. According to the statistics from 2010 until now, there have been only 9 cases of international protection procedure which concerned asylum seekers from Libya.</p> <p>2. N/A See above</p> <p>3. N/A See above</p> <p>4. Yes, return decisions are issued to Libyan nationals. Each case is assessed individually. In 2015 – 2016, the return decisions have not been enforced, the persons in question were issued the obligation to leave the territory of the Slovak Republic within the time limit for departure. No return was enforced in practice during the period 2015 - 2016. International protection: • 2015: 1 person granted asylum (on humanitarian grounds) 4 persons granted subsidiary protection (individual reasons and 1 person granted SP due to the general security situation in the country) • January – March 2016: 0 Obligation to leave: • 2015: 4 persons were issued the obligation to leave: - 2 persons issued an administrative expulsion to the territory of Libya - 1 person issued an administrative expulsion to the territory of Egypt (upon his/her decision as the country of return) - 1 person issued an administrative expulsion to a non-specified country - 2 persons issued tolerated stay • January – March 2016: - 1 person issued an administrative expulsion to the territory of Libya with an entry ban to the territory of the Slovak Republic - no tolerated stay issued to Libyan nationals</p>
	Slovenia	Yes	<p>1. No</p> <p>2. /</p> <p>3. No</p> <p>4. Q.4. Yes we issue return decision to nationals of Libya. Only voluntary returns are possible. Q.5. In 2015 14 temporary residence permits were issued to the Libyan citizens and in January - March 2016 6 temporary residence permits.</p>

	Sweden	Yes	<p>1. No, we do not. The SMA considers that there is an internal armed conflict in all of Libya but that there has to exist an, although low, individual risk for a person to be granted protection. An individual examination is made in every case.</p> <p>2. See question 1. The SMA does not, at the moment, consider any part of Libya as safe.</p> <p>3. 3. No 4. If a person is not granted protection or residence permit on any other ground he/she will be expelled. The Police authority does not, to my knowledge, use forced returns on Libyan citizens at the moment.</p> <p>4. In 2015 decisions were made in 379 asylum cases concerning nationals from Libya. Of these 29 were granted residence permit and 46 were denied (125 cases were dismissed and 167 were Dublin). Of those that were granted residence permit 14 were issued convention status, 6 were issued subsidiary protection and 2 were issued residence permit based on humanitarian grounds (4 were given residence permit based on family reunification). Up until 18 April 2016 decisions were made in 105 asylum cases concerning nationals from Libya. Of these 19 were granted residence permit and 41 were denied (35 cases were dismissed and 7 were Dublin). Of those that were granted residence permit 11 were issued convention status, 6 were issued subsidiary protection (2 were given residence permit based on family reunification).</p>
	United Kingdom	Yes	<p>1. We do not consider that levels of violence across Libya are in general such that a person would, solely by being present there, face a real risk which threatens his or her life or person in breach of 15c of the EU Qualification Directive. However, in some parts of the south and east of the country, including Surt, Benghazi and Darnah, conditions are likely to breach Article 15c. However each case will need to be considered on its individual facts, taking into account the latest country information. N.B. We expect to publish a country information and guidance product on the security and humanitarian situation in Libya in June which will address the question above. The product will be available on the gov.uk website: https://www.gov.uk/government/publications/libya-country-information-and-guidance</p> <p>2. See above.</p>

			<p>3. Yes. Each case would be considered on its specific facts.</p> <p>4. Please see attached document. 2016 data is not yet available.</p>
	Norway	Yes	<p>1. Reply: Each case for international protection is considered individually. Therefore every case is considered by the applicant's merits. However, a few cases have been granted due to the general security situation in Benghazi. These are among others, families with small children, and single women. Also stateless Palestinians with a former residence in Libya have been granted protection. However, the number of applicants Norway receives from Libya is very small.</p> <p>2. Reply: Norway does not consider every part of Libya so unstable that a return is impossible, in reference to the Non-Refoulement principle. We have refused applications from applicants deriving from Tripoli, whose individual asylum claims have not been deemed sufficiently credible.</p> <p>3. Reply: The internal flight alternative is considered in every case. In reality, what we consider is whether internal flight to Tripoli is "reasonable". However, as of today, we have not refused any application on the basis of the internal flight alternative, due to the criteria of "reasonability".</p> <p>4. 4. Reply: Yes. Libya (suspension of returns to other parts of Libya than Tripoli) The suspension of the duty to return for persons from Tripoli in Libya was reversed on 15 September 2015; read the statement here. This means that all persons who have previously received, or who from now on receive a final decision requiring them to return to Libya are obliged to leave Norway. The police can resume the implementation of forced returns to Libya. "UNE reverses suspension of returns to Tripoli, Libya UNE has collected updated country of origin information on the situation of asylum seekers who return to Tripoli, Libya. On these grounds UNE has decided to reverse the temporary suspension of the duty to return to the area. In a statement published on our website on 5 January 2015, UNE informed that a decision had been made to temporarily suspend the duty to return for individuals with a final decision to return to Libya, due to the longstanding unrest and armed conflict in the country. The decision to reverse the suspension means that all individuals that have already received, or will receive a final decision to return to Tripoli, Libya, are obliged to leave Norway. The police can resume forced returns to</p>

			<p>Tripoli, Libya. Individuals who are granted suspensive effect can still reside lawfully in Norway until UNE has considered their case. UNE is monitoring the situation in Libya, and individual assessments concerning return to the country will be made in each case. This means that some individuals might get residence permits in Norway, based on individual needs for protection or on humanitarian grounds, while others are obliged to return to Tripoli, Libya.” Statement published on une.no 17.09.2015 5. See attached table.</p>
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