



EMN Ad-Hoc Query on Urgent ad-hoc query on Article 14 of the Qualification Directive (2011/95/EU)

Requested by Martina KAMENICKA on 21st April 2016

Protection

Responses from Austria, Belgium, Blocked / Unknown, Croatia, Cyprus, Czech Republic, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom, Norway (22 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:


The Chamber of Deputies of the Parliament of the Czech Republic is currently discussing the draft law proposed by the group of deputies. The draft law concerns the extension of the grounds for the exclusion from being a refugee under the Article 14 par. 4 and 5 of the Qualification Directive (2011/95/EU). These provisions allow including reasons for exclusion which are not foreseen in the Article 1F of the Geneva Convention. The Ministry of the Interior as well as the Government of the Czech Republic is concerned as regards the consistency of this draft law with the Geneva Convention. The deputies are interested in the legislation of other Member States related to the exclusion under the Article 1F of the Geneva Convention for the reasons of committing a crime. Therefore, the Czech Republic would appreciate information (if possible containing both the content as well as the reference to the law) related to the following questions.

Questions



1. Has your MS transposed the Article 14 paragraph 5 and 6 of the Qualification Directive (2011/95/EU)?
2. If yes (especially par. 5), how has your MS achieved the consistency with the Geneva Convention?
3. If the legislation of your MS allows excluding from the refugee status under the Article 14 paragraph 4 and 5 of the Qualification Directive (2011/95/EU), does the person excluded from the refugee status lose the right to remain on the territory of your MS?
4. Does your national legislation provide any kind of residence permit to the persons excluded from the refugee status?



Responses



	Country	Wider Dissemination	Response
	Austria	Yes	1. Yes. Art. 6 para 1 subpara 3 and 4 Asylum Act correspond to Art. 14 para 5 of the Qualification Directive (see the official translation of the Asylum Act by the Federal Chancellery, p. 14, available at www.ris.bka.gv.at/Dokumente/ErV/ERV_2005_1_100/ERV_2005_1_100.pdf ,



			<p>accessed on 26 April 2016). Further, the Austrian legislation in general complies with Art. 14 para 6 of the Qualification Directive.</p> <p>2. Art. 6 para 1 subpara 3 and 4 Asylum Act correspond to Art. 33 para 2 of the Geneva Convention and have to be interpreted accordingly.</p> <p>3. If there is a real risk of a violation of Art. 2 or Art. 3 ECHR, the person concerned may not be removed and the stay in Austria is tolerated (Art. 46a para 1 subpara 2 Aliens Police Act in conjunction with Art. 9 para 2 Asylum Act). This does not mean that the stay of the third-country national is legal (Art. 31 para 1a subpara 3 Aliens Police Act).</p> <p>4. No (see question 3).</p>
	Belgium	Yes	<p>1. Yes, on 3 September, the law of 10 August 2015 amending the Immigration Act came into force. This amendment is intended to take into account threats to society and national security in applications for international protection. The law was passed as part of the implementation of the Federal Coalition Agreement and in reaction to national and international developments. With this new law, the competence of the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) is extended and to some extent modified. The CGRS can now refuse to grant refugee status if the asylum applicant poses a threat to society when he has been definitively convicted for a particularly serious crime or when there are reasonable grounds to consider the asylum applicant as a threat to national security (Article 52/4 of the Immigration Act). Furthermore, according to Article 55/3/1 of the Immigration Act the CGRS is now also entitled to withdraw refugee status if the asylum applicant poses a threat to national security or a threat to society because he has been convicted. The subsidiary protection status can be withdrawn or the applicant can be excluded from subsidiary protection if the person poses a threat to society; but also if the person has committed a crime in his country of origin that is punishable in Belgium and fled his country of origin to escape punishment for this crime.</p> <p>2. The current legislation is considered to be in accordance with the Geneva Convention. For every decision made to withdraw refugee/ subsidiary protection status or to exclude someone from international protection, the CGRS has to give an advice on a possible removal from the Belgian</p>


			<p>territory. A removal order shall only be issued if there is no risk on persecution in the country issued as described in Article 1A of the Geneva Convention (reference to Article 48/3 and 48/4 of the Belgian Immigration Act). This advice is not required in case of fraud committed during the asylum procedure or if the person who received a protection status afterwards proves, through his acts, that his alleged fear never existed.</p> <p>3. The person excluded from refugee status on this ground will have no legal right to stay on the territory and can also be returned to his country of origin if there is no negative advice regarding a possible removal (see answer to question 2). When a refugee status was withdrawn, an additional decision is required by the Minister or his representative to also withdraw the residence permit. A recently approved law provides a proportionally test: “When the Minister or his representative is considering to terminate the right to stay on the territory after withdrawal of international protection status, he takes into account the nature and solidity of the family ties of the person concerned, the duration of his stay in Belgian, as well as the existence of family, cultural and social ties with his country of origin.”</p> <p>4. No. In theory the person could apply for regularization on humanitarian grounds, but it is unlikely that such a status will be granted to a person whose refugee status was withdrawn of who was excluded from the refugee status.</p>
	Blocked / Unknown	Yes	<p>1. Yes (under the article L711-6 of the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA)).</p> <p>2. This article is articulated with the article L513-2 of the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA) which prevents a foreigner from being returned to a country where her/his life and freedom would be threatened or where s/he would be exposed to treatments contrary to article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.</p> <p>3. Not necessarily.</p>


			<p>4. Not specifically. Article L 313-11 7° of the Code for Entry and Residence of Foreigners and Right of Asylum (CESEDA) concerns foreigners as a whole and does not compel the competent administrative authority to issue a residence permit to the persons excluded from the refugee status (under the article L 711-6 of the CESEDA).</p>
	Croatia	Yes	<p>1. The Republic of Croatia has transposed the Qualification Directive (2011/95/EU) on the 22nd November 2013, Official Gazette 143/13. The new legislation on international protection was adopted in 2015. The new Act on International and Temporary Protection (Official Gazette 70/15) includes Article 14 par. 5 and 6 of the Qualification Directive.</p> <p>2. The Act on International and Temporary Protection (2015) Art. 4 par. 6 states that an asylee means a refugee within the meaning of the Convention relating to the Status of Refugees of 1951 under which asylum is granted to applicants who are outside the country of their nationality or habitual residence and have a well-founded fear of persecution owing to their race, religion, nationality, affiliation to a certain social group or political opinion, as a result of which they are not able or do not wish to accept the protection of that country.</p> <p>3. Yes, the person loses the right to remain in the country but revocation of international protection in the Act on International and Temporary Protection Article 50 par. (5) prescribes that a third-country national or stateless person, whilst in the Republic of Croatia, shall enjoy rights pursuant to the 1951 Convention, especially in relation to the prohibition of discrimination, freedom of religion, access to courts, education, non-punishment of illegal entry or stay, expulsion and respect of the "non-refoulement" principle.</p> <p>4. There is no special residence permit in these situations, but the person cannot be expelled due to the principle of non-refoulement or for other humanitarian reasons.</p>
	Cyprus	Yes	<p>1. Yes</p> <p>2. Consistency is achieved especially taking into consideration article 33 of the Handbook and Guidelines on procedures and criteria for determining refugee status under the 1951 Convention</p>


			<p>and the 1967 Protocol relating to the Status of Refugees, which states the following: Prohibition of expulsion or return (“refoulement”) 1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. 2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.</p> <p>3. It will be examined whether a special permit (e.g. temporary residence on humanitarian grounds) can be provided to this person. Depending on the merits of each case, it will also be examined whether this person will be provided access to health, employment, education etc.</p> <p>4. See above</p>
	Czech Republic	Yes	<p>1. The Czech Republic hasn’t transposed the Article 14 par. 5 and 6 of the Qualification Directive (2011/95/EU).</p> <p>2. N/A</p> <p>3. If the person is excluded from the refugee status according to Article 14 par. 4 of the Qualification Directive and cannot be removed from the territory of the Czech Republic, this person is entitled to request the “tolerated stay” visa according to Article 33 of the Act No. 326/1999 Coll., on Residence of Foreign Nationals in the Czech Republic, as amended.</p> <p>4. Yes, “tolerated stay” visa as mentioned above.</p>
	Estonia	Yes	<p>1. Yes. According to the Act of Granting International Protection to Aliens § 49 (3) the Police and Border Guard Board may revoke refugee status, if: 1) there is good reason to believe that an alien poses a threat to national security; 2) a judgment of conviction in the first degree crime has entered</p>



			<p>into force with regard to an alien. Upon revocation of refugee status in these cases an alien shall be guaranteed the rights prescribed in Articles 3, 4, 16, 22 and 31-33 of the Geneva Convention.</p> <p>2. See previous answer.</p> <p>3. Yes. However, an alien may not be expelled to a state to which expulsion may result in consequences specified in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms or Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the application of death penalty. And the expulsion must comply with Articles 32 and 33 of the United Nations Convention relating to the Status of Refugees (together with the Protocol relating to the Status of Refugees of 31 January 1967).</p> <p>4. There is no special status for these people. They can apply a temporary residence permit on the same grounds as other migrants (work, study, family etc.).</p>
	Finland	Yes	<p>1. No</p> <p>2. N/a</p> <p>3. N/a</p> <p>4. A temporary residence permit (one year at a time) is granted, if the person is excluded on other grounds than those foreseen in the previous questions.</p>
	Germany	Yes	<p>1. Yes.</p> <p>2. German national law was already very consistent with the Geneva Convention; the law implementing the directive 2011/95/EU from August 28, 2013 added the missing regulations as required by the directive. Par. 5 was implemented in §3 Par. 2 Asylum Act (AsylG), which states that the refugee status can be disallowed, if serious circumstances justify it.</p>


			<p>3. The person keeps the right to remain in German territory, if there are obstacles for their removal. According to §60 Par. 5, 7 Residence Act (AufenthG), removal is forbidden or impossible if the person would face dangers of persecution or serious damage in their country of origin.</p> <p>4. Yes, the residence permit according to a “tolerated stay”, § 60a and § 25 Par. 3 German Residence Act (AufenthG). “Tolerated stay” means that the removal is suspended.</p>
	Hungary	Yes	<p>1. Yes, Hungary has already transposed Article 14 par. 5 and 6 of the Qualification Directive.</p> <p>2. According to Article 8 § of Act LXXX on Asylum a foreigner shall not be recognised as refugee in respect of whom any of the exclusion clauses stipulated in Article 1 D, E or F of the Geneva Convention prevails. In the course of the application of Article 1 F b) of the Geneva Convention, an act shall qualify as a serious non-political criminal act upon the commission of which, with regard to the totality of the circumstances, including the objective intended to be attained through the crime, the motivation of the crime, the method of commission and the means used or intended to be used, the ordinary legal aspect of the crime dominates over the political aspect and it is punishable by a term of five or more years imprisonment according to the relevant Hungarian rules of law. During the application of Article 1 F c) of the Geneva Convention, particularly, the following shall be contrary to the purposes and principles of the United Nations a) acts of terrorism, b) financing terrorism, and c) incitement to the acts in points a) and b). Refugee status cannot be granted to a foreigner whose stay in Hungary constitutes a risk to national security.</p> <p>3. Yes, in general. But if a person is excluded from the refugee status according to Article 14 par. 4 or 5 of the Qualification Directive and cannot be removed from the territory of Hungary/be returned, he/she is granted “tolerated status”.</p> <p>4. Humanitarian residence permit is issued for those third country nationals who cannot be returned based on the principle of non-refoulement.</p>
	Ireland	No	



	Italy	Yes	<p>1. Yes. In Italy the Qualification Directive was implemented by Legislative Decree No 251/2007. In particular, the provisions of Article 14, paragraphs 5 and 6 were transposed in Article 10 (grounds for exclusion from the qualification of refugee), Article 12 (refusal of refugee status) and Article 13 (grounds for withdrawing refugee status) include the commission of particularly serious offences or a presumed threat to the security of the State, in line with EU legislation.</p> <p>2. In compliance with Article 1-F (a) of the Geneva Convention, Article 10 (2) (a) of Legislative Decree 251/07 establishes that refugee status cannot be granted to any person with respect to whom there are grounds for considering that he has committed a crime against peace, a war crime or a crime against humanity, as defined in international legal instruments. Article 1-F(b) of the Geneva Convention establishes that refugee status cannot be granted to any person for whom there are serious reasons for considering that he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; Article 10 (2)(b) of Legislative Decree 251/07 provides that exclusion from refugee status is applicable to any asylum seeker for whom there are grounds to consider that he has committed serious crimes or particularly heinous actions, “outside Italian territory, prior to the issue of the residence permit as refugee”.</p> <p>3. Yes. When a TCN receives a decision of refusal, revocation or termination of refugee status, he is also notified a removal order, with the recommendation of leaving the territory of the State not later than seven/fifteen days. The decision about the number of days falls within the discretionary power of the provincial police authority, which assesses the time it takes the recipient of the removal order to leave the country on a case-by-case basis.</p> <p>4. Yes. If the conditions for the recognition of refugee status are not satisfied (or in case of revocation or termination of refugee status) and if there are serious reasons, in particular of humanitarian nature, or arising from constitutional or international obligations of the State, a residence permit for humanitarian reasons may be granted. Such a permit may be issued by the Questore (Provincial chief of police), following a recommendation by the same Commission that decided not to grant international protection (a residence permit for humanitarian reason may also be issued in other circumstances not linked to an international protection procedure). Moreover, if a TCN excluded from refugee status decides to contest the decision of revocation, termination or</p>
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			refusal, he is entitled to a refugee status for asylum seekers. This permit is valid throughout the procedure, that is to say, until a decision on the appeal is delivered.
	Latvia	Yes	<p>1. Yes, Latvia has transposed the Article 14 par.5 and 6 of the Qualification Directive (2011/95/EU).</p> <p>2. The grounds mentioned in Article 14 par. 4 of the Qualification Directive have been transposed to the national legislation as addition grounds for exclusion from being refugee. The Article 45 of the Asylum Law stipulates: (1) Refugee status shall not be granted if at least one of the following conditions exists: 1) the person is receiving protection or aid from other structures of the United Nations Organisation, except the United Nations High Commissioner for Refugees. If the abovementioned protection or aid to the person is suspended due to any reason and if the status thereof has not been specifically determined in resolutions of the General Assembly of the United Nations, the provisions of this Law shall apply thereto; 2) the competent authorities of the Republic of Latvia have acknowledged that the person has the rights and duties, which are applicable to citizens of Latvia, or rights or duties equivalent thereto; 3) the person has committed a crime against peace, a war crime or a crime against humanity, as defined in international documents; 4) prior to arrival in the Republic of Latvia the person has committed a crime, which is not of political nature and which in accordance with the law of the Republic of Latvia should be recognised as a particularly serious crime; 5) the person has performed activities, which are aimed against the objectives and principles of the United Nations Organisation; 6) there is reason to believe that the person poses a threat to national security or public order and safety; 7) the person, who has been recognised as guilty of committing a particularly serious crime by a court judgement of the Republic of Latvia, poses a threat to the society of Latvia. In order to ensure the compliance with requirements of Geneva Convention and others international obligations the Article 3 Principle of Non-refoulement and Other Principles Especially Applicable in the Field of Asylum of the Asylum Law stipulates: (4) An asylum seeker, refugee or person who has been granted alternative status* may be returned, if it is not in contradiction with the international liabilities of the Republic of Latvia and at least one of the following conditions exists: 1) there are grounds to consider that the asylum seeker, refugee or person who has been granted alternative status poses a threat to the national security; 2) the asylum seeker, refugee or person who has been granted</p>


			<p>alternative status has been recognised, by a court judgement which is legally in effect, as guilty of committing such criminal offence, which, in accordance with the laws and regulations of the Republic of Latvia, is recognised as an especially serious crime and poses a threat to the society of Latvia; 3) the asylum seeker has submitted a repeat application after administrative proceedings regarding the repeat application submitted for the first time have ended. * subsidiary form of protection according to the Qualification Directive</p> <p>3. Please see the answer on question 2.</p> <p>4. According to national legislation there is no special status for persons excluded from being refugee. It is possible to get a residence permit if a person has another ground to stay in the Republic of Latvia and he/she is able to fulfil all requirements of the Immigration Law for obtaining residence permit.</p>
	Lithuania	Yes	<p>1. Yes. The Qualification Directive is transposed in full.</p> <p>2. In the Qualification Directive it is mentioned that the Directive is based on the full and inclusive application of the Geneva Convention. Moreover, the Qualification Directive regulates administrative decision-making procedure on the status granted to a refugee whereas the Geneva convention defines for a refugee status in general.</p> <p>3. Yes. However, an alien shall not be expelled from the Republic of Lithuania or returned to a country where there are serious grounds for believing that in that country the alien will be tortured, subjected to cruel, inhuman or degrading treatment or punishment.</p> <p>4. No. However, in cases where there are serious grounds for believing that in that country the alien will be tortured, subjected to cruel, inhuman or degrading treatment or punishment a residence permit can be issued.</p>

	Luxembourg	Yes	<p>1. Yes. Luxembourg article 14 paragraph 5 and 6 of the Qualification Directive (2011/95/EU), is transposed by article 47 (5) and (6) of the Law of 18 December 2015 on international protection and temporary protection (Asylum Law).</p> <p>2. Luxembourg transposed literally the text of article 14 paragraph 5 of the Directive from the French version of the text. It is important to mention that against the decision to refuse the status the person can file a recourse of annulment against this decision before the administrative courts according with the normal administrative procedure.</p> <p>3. If the person is excluded from the refugee status according to Article 47(5) (6) of the Asylum Law and cannot be removed from the territory of Luxembourg (to his/her country of origin or any other country that will admit him/her) applying article 116 of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law) , for independent reasons to the will of the returnee, the Ministry in charge of immigration can grant a postponement for removal in accordance with article 125bis (1) of the Immigration Law for a period determined in accordance with the circumstances peculiar to each case and until such time as there exists a reasonable prospect of executing the removal. This decision can be accompanied with a decision of house arrest according to article 125 (1).</p> <p>4. No. The postponement of removal does not grant any type of residence status. It only allows the individual to remain on the territory in accordance with article 125bis (1) of the Immigration Law. During the period of postponement of the removal, the alien shall be given humanitarian assistance as defined in Article 27 of the Law of 18 December 2009 organising social assistance.</p>
	Poland	Yes	<p>1. No.</p> <p>2. n/i</p> <p>3. n/i</p>

			<p>4. Persons excluded from the refugee status may be granted tolerated stay or residence permit for humanitarian reasons.</p>
	Portugal	Yes	<p>1. Within a dedicated chapter of the asylum act and in the cases that the refugee was already been granted with a status, it is possible to revoke, cancel or refuse the renewal of that status, when an applicant might, for serious reasons, be considered a danger to national security/public order.</p> <p>2. N/A</p> <p>3. Yes. Nonetheless, when the loss of the right to international protection determines the return of the person, the principle of non-refoulement is observed.</p> <p>4. No, not under the Asylum Act. According to the Foreigners Act a residence permit can also be refused for national security/public order reasons.</p>
	Slovak Republic	Yes	<p>1. No, Art. 14 par. 5 and 6 of the qualification directive was not transposed into national legislation. With relation to the art. 14 par. 5 of the qualification directive, this provision is applied (and has been part of our legislation prior to the transposition of the above mentioned Directive) in case of asylum granted for the purpose of family reunification (it is a status based on the national legislation, it is beyond the asylum granting in case of persecution in the sense of qualification directive or Geneva Convention). Note: Neither has been transposed the Art. 14 (4). With relation to the art. 14 par. 4 of the qualification directive, such provision has been applied (and has been part of our legislation prior to the transposition of the above mentioned Directive) only in cases of asylum granted for the purpose of family reunification and asylum on humanitarian grounds (it is a status based on the national legislation, it is beyond the asylum granted in case of persecution in the sense of qualification directive or Geneva Convention).</p> <p>2. N/A</p> <p>3. Yes. For details see 1.</p>

			<p>4. Each third country national residing irregularly in the territory of the Slovak Republic including persons who were deprived of the refugee status may apply for tolerated stay in the territory of the Slovak Republic. However, they have to comply with the legal requirements. In this case, residence permit (tolerated stay) is issued for the period during which the legal conditions for its issuance last (i.e. the person cannot be expelled, there is an obstacle to administrative expulsion, there is a need to respect his/her private family life etc.).</p>
	Slovenia	Yes	<p>1. Yes. Slovenia transposed par. 5 and 6 of Article 14 into new Law on International Protection.</p> <p>2. International Protection Act defines reasonable grounds for regarding person as a danger for security of the MS in which he is present and conviction by a final judgment of a particularly serious crime as an exclusion reasons and also reasons for withdrawing international protection.</p> <p>3. Not necessary. The principle of non-refoulement still has to be explored.</p> <p>4. If this person cannot be removed from the country on the basis of principle of non-refoulement the police can allow the person to remain in the country.</p>
	Sweden	Yes	<p>1. Yes. SE has transposed Article 14 (5) in 4 Chapter, 3 para. 2 section of the Alien's Act. The rights of the Geneva Convention mentioned in Article 14 (6) QD are linked to the residence permit, not the refugee status.</p> <p>2. According to Art 33.2 of the Geneva Convention, a refugee who has been convicted of a particularly serious crime may be expelled. Such a decision for expulsion can, according to the Swedish Aliens Law, be combined with a temporary residence permit, if the expulsion may lead to the consequences stated in Art 33.1 of the Convention. Article 14.5 of the Directive has been integrated into the Swedish Aliens Law. This is also the case with Art 33 of the Convention and with Art 14.6 of the Directive, stating that Art 33 of the Convention applies to persons for which refugee status is revoked or not granted according to Art 14.4-5 of the Directive. Since it is</p>

			<p>possible to expel a refugee under conditions stated in Art 33.2 it is thus also possible to refuse that person refugee status.</p> <p>3. The person would normally be expelled, se Q2 above. However the cases stated in Art 14.4-5 are not cases of exclusion (which are dealt with in Art 12) but of not granting, revoking or not renewing refugee status.</p> <p>4. There is no special kind of residence permit in these situations, but there are national forms of residence permits if the person e.g. cannot be expelled due to the principle of non-refoulement or if there are humanitarian reasons. As stated above, a temporary residence permit may be granted if Art 33.1 of the Convention applies. There is also the possibility to grant residence permit for persons excluded if other grounds for permit is present, such as family reunification.</p>
	United Kingdom	Yes	<p>1. No. The UK opted out of the recast Qualification Directive but is bound by the 2004 Directive, which contains the same provisions.</p> <p>2. See Revocation of refugee status policy available on the Home Office website here - https://www.gov.uk/government/publications/canceling-ceasing-and-revoking-refugee-status-process which sets out how the provisions of the 2004 Qualification Directive and the Refugee Convention are applied in practice and the position taken by the UK where there is a tension between the QD and the Convention.</p> <p>3. The UK opted out of the 2011/95/EU Directive but we are bound by and apply the 2004/83/EC Directive. The provisions of Article 14(4) and Article 14(5) have been transposed into law in the UK through primary and secondary legislation and the Immigration Rules. Where Refugee Status is revoked under Article 14, any refugee leave granted will be brought to an end and we will seek to remove the person from the UK where they do not otherwise qualify under other provisions of the Immigration Rules. However, careful consideration is given as to whether or not removal would breach our obligations under the ECHR. Whilst every effort is made, consistent with our international obligations, to secure the removal of persons to whom Article 14 applies, where this</p>

			<p>is not possible, as doing so would breach the person's human rights, a grant of Restricted Leave may be appropriate.</p> <p>4. Yes. Those excluded from refugee status may be granted limited leave to remain. If leave is granted for 6 months or more, then they will be issued with a Biometric Residence Permit (BRP). The conditions attached to the grant of leave will depend on the circumstances of the case. See Restricted Leave policy.</p>
	Norway	Yes	<p>1. Norway is not party to the Qualification Directive.</p> <p>2. N/A</p> <p>3. The Norwegian Immigration Act, Section 31 "Exclusion from the right to recognition as a refugee pursuant to section 28 makes the following distinction between the two categories: "A foreign national shall not be entitled to recognition as a refugee pursuant to section 28, first paragraph, if he or she falls within the scope of Article 1D or E of the Geneva Convention relating to the Status of Refugees of 28 July 1951, or where there are serious reasons for considering that he or she (a) has committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes, (b) has committed a serious non-political crime outside Norway's borders, prior to his or her admission to Norway as a refugee, or (c) has been guilty of acts contrary to the purposes and principles of the United Nations. Nor shall a foreign national be entitled to recognition as a refugee pursuant to section 28, first paragraph (b), if there are grounds for expelling him or her based on fundamental national interests, or the foreign national, having been convicted by final judgment of a particularly serious crime, (and) thereby constituting a danger to Norwegian society." Norwegian legislation does not include provisions aimed at excluding or barring entry of foreign citizens applying for leave to stay on other basis such as family reunification, work or study, specifically on grounds similar to article 1 F. However, such rejection is mandated where "foreign policy interests" or "fundamental national interests" necessitate rejection, or where the facts of the case indicate grounds for rejecting the applicant ("bortvisning") or expulsion from the country. (Immigration Act section 7 and 59) Applicants who are excluded from refugee status</p>

			<p>are as a main rule considered to be protected under ECHR article 3, which is implemented in the Immigration Act Section 73. In such instances, temporary residence permits are granted on the basis of the immigration act Section 74, which stipulates the following: “A foreign national whose protection against refoulement under section 73 is his or her sole basis for residence in the realm may be granted a temporary residence permit until the impediment to his or her return no longer applies. It may also be stipulated that the permit shall not confer the right to take employment. Residence permits under this section shall not confer the right to visit other Schengen countries. The King may by regulations make further provisions, including the duration and renewal of permits under this section.” The Norwegian Immigration Regulations Section 15-2 stipulates that such a permit is “normally granted for a period of up to six months at a time, but may in special cases be granted for a period of up to one year”. Upon renewal, protection under ECHR article 3 is still the necessary requirement, which may or may not still be present. If the applicant leaves Norway, the permit is no longer valid. This approach is compatible with the Court of Justice of the European Union (CJEU) opinion on granting alternative forms of residence permits to exclude individuals: On the question of whether it would be compatible with Directive 2004 /83 for a Member State to recognize that a person excluded from refugee status pursuant to Article 12 (2) has a right to asylum or other kinds of protection under the domestic law of the Member State, the CJEU answered in the affirmative, “provided that that other kind of protection does not entail a risk of confusion with refugee status within the meaning of the directive (CJEU, 9 November 2010, paragraph 121)”</p> <p>4. For more information on the subject we refer to the (2013) comparative study EXCLUSION FROM REFUGEE STATUS Rules and practices in Norway, Canada, Great Britain, The Netherlands and Denmark, which you can find on this link: https://www.udi.no/globalassets/global/forskning-fou_i/beskyttelse/exclusion-from-refugee-status.pdf</p>
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