



EMN Ad-Hoc Query on Handing over of personal documents in the framework of the asylum and return procedure

Requested by Benedikt VULSTEKE on 10th March 2016

Return

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

Disclaimer:

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

Background information:

According to Council Directive 2013/32/EU, article 13 b) member states may require that documents relevant to the examination of the asylum application, such as passports, are handed over to the authorities during the time necessary for the processing of the application. Following this disposition, the documents should in principle be handed back to the applicant at the end of the asylum process since their withholding will no longer be required.

However, Belgium is currently examining the possibility to keep the identity and travel documents confiscated at the end of the asylum procedure so that, in case a return decision has been imposed immediately after a negative response to the asylum claim, the documents could be used to facilitate the return of the former applicant. In that case, the risk of documents being intentionally withheld in order to avoid a return procedure is reduced.



Because Council Directive 2008/115/EC stipulates that the third country national should be given the possibility of voluntarily returning to his country of origin (for which he or she will need his documents) and only foresees in the possibility to confiscate documents in case there is a risk of absconding (article 7, 3°), Belgium would like to know if the practice of keeping documents systematically confiscated even after the end of the asylum procedure already exists in other Member States and, if so, on what legal grounds?


For your information, Estonia launched in 2012 already a similar AHQ (see attachment)



Questions


1. 1. Are documents actually being confiscated at the beginning of the asylum procedure or is it merely a handing over in good trust? What are the consequences if the applicant does not want to hand over his personal documents?
2. 2. Which kind of documents are being confiscated/handed over (every kind of identity document or only the international travel documents, such as passports)?
3. 3. Are the documents, confiscated during the asylum procedure, systematically handed back to the former applicant at the end of the asylum procedure or are there situations where these documents are systematically being kept even after the end of the asylum procedure in order to facilitate a return?
4. 4. If so, what (international) legal base is used to motivate the prolongation of the confiscation?
5. 5. After the end of the asylum procedure, the rejected applicant should in principle be given the opportunity of voluntary return, for which he or she will need his identity and travel documents. Are documents still being confiscated during this period of voluntary return? If so, what is the procedure in your country regarding the return of these documents? Will the former applicant have to supply a proof of return intention (f.i. purchase of flight ticket) in order to get his documents back?



Responses


	Country	Wider Dissemination	Response
	Austria	No	
	Belgium	Yes	<p>1. At the moment, Belgium does not keep identity documents during the asylum procedure, unless: 1. The Commissioner General for Refugees and Stateless Persons (CGRS) considers that further investigation regarding these documents (authentication) is advisable (for the establishment of the nationality/identity). In this case, the documents can be kept during the period of time necessary to carry out the investigation. Afterwards, the documents are handed back to the asylum applicant as soon as possible (art. 23, §2 of the Royal Decree of 11 July 2003 determining the procedure and functioning of the CGRS) 2. There are suspicions that these documents are false or falsified (confiscation of the documents by the Federal Police following an investigation by the Immigration Office or the CGRS).</p> <p>2. See also question 1. It may concern every kind of ID-document (including passports).</p> <p>3. Not applicable (see also question 1)</p> <p>4. Not applicable</p> <p>5. Not applicable</p>
	Blocked / Unknown	Yes	<p>1. Due to the Hungarian Asylum Law handing over the documents is obligatory for an asylum seeker at the same time when the application is lodged. If however he or she does not want to hand over these documents, it can be noted as refusing co-operation with the authority, which could affect the decision on the asylum application.</p>



			<p>2. All kinds of documents have to be handed over which can prove one's identification or which can be counted as an evidence of the story told by the asylum seeker.</p> <p>3. Regarding asylum procedures, the documents are usually handed back to the applicant when the decision of the authority is announced except if invalid or false documents were submitted. If the asylum application is refused, and a return decision will be submitted, those documents, which can facilitate the implementation of the return decision are not returned to the TCN since they can be used to support an application for a travel document, or for direct removal.</p> <p>4. According to the Subsection 2 Section 48 of the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals in order to secure the enforcement of an expulsion measure the immigration authority shall be authorized to confiscate the travel document of the third-country national affected; this action cannot be contested.</p> <p>5. Where the applicant is willing to depart voluntarily the documents will be handed to the individual at the port of departure.</p>
	Croatia	Yes	<p>1. Croatia does not confiscate the documents. Croatia may temporary retain applicants' travel or other identification documents if this is necessary for the following reasons: 1. establishment or verification of identity; 2. protection of the national security or public order of the Republic of Croatia. Documents shall be retained for as long as there are reasons to retain them, and for which a receipt shall be issued. After document analysis is done, documents are permanently returned to the applicant. If the applicant consciously misled the Ministry by presenting false information or unreliable documents or refuses to submit his/her personal documents, submitted documents will be kept.</p> <p>2. All kinds of documents that prove the identity.</p> <p>3. Not applicable</p> <p>4. Not applicable</p>


			5. Not applicable. Croatia does not have established assisted voluntary return.
	Cyprus	Yes	<p>1. Documents are being confiscated. The CY Refugee Law, allows possibility of detention for the purpose of establishing a person's identity. Therefore, if a person refuses to hand over his/her personal documents, (s)he may be detained for the purpose of establishing identity.</p> <p>2. Mainly IDs and passports</p> <p>3. Depends on the case. There are situations where these documents are being kept in order to facilitate a return.</p> <p>4. This is more of a policy/practice applied by the CY authorities</p> <p>5. This is the common practice. The applicant should present a purchase of flight ticket in order to get his documents back. Also, IOM Cyprus who is currently implementing the Project "Assisted Voluntary Returns Information Centre" within the framework of the Asylum Migration Integration Fund, may come in contact with the Asylum Service concerning return of these documents, pending voluntary return of the concerned person.</p>
	Czech Republic	Yes	<p>1. The asylum seeker is required to hand in the travel document at the beginning of the asylum procedure to the determining authority (Ministry of the Interior) unless he or she is in possession of residence permit on the territory of the Czech Republic. Such an asylum seeker is required to submit the travel document and the Ministry of the Interior or the Police are entitled to make photocopies of the travel document. If there are reasons to believe that an applicant is in possession of travel document, the Police is entitled to realize personal check and to hand over the travel document to the Ministry of the Interior.</p> <p>2. Only passports are confiscated. The photocopies of other available identity documents are being made.</p> <p>3. The documents are handed back to former asylum seekers in almost all cases of negative decisions. Asylum Act stipulates the confiscation of the travel documents during the asylum</p>



			<p>procedure or in the case of recognised refugees or beneficiaries of subsidiary protection. Person with the international protection status is entitled to ask for travel document according to the Geneva Convention or for national travel document for foreigners according to the Foreigner Act in the case of beneficiaries of subsidiary protection.</p> <p>4. N/A</p> <p>5. N/A. The travel documents are returned to all unsuccessful asylum seekers.</p>
	Estonia	Yes	<p>1. According to the Act on Granting International Protection to Aliens at the request of the Police and Border Guard Board the asylum seeker is required to deposit his or her identity documents until the end of the asylum proceedings. The documents are maintained in the personal file of the asylum seeker. In case the applicant does not want to hand over his/her personal documents, the body conducting the asylum proceedings has the right to examine the person and his or her personal belongings.</p> <p>2. An asylum seeker is required to submit all of the following documents in his or her possession immediately after submission of an application for asylum: 1) identification documents and proof of nationality and other documents that may facilitate verification of identity and nationality; 2) visas, residence permits or other documents concerning the crossing of borders; 3) documents in evidence of the circumstances of arrival in Estonia and stay in other countries after departure from the country of origin (documents in evidence of travel, transportation, accommodation and other received services); 4) documents and other evidence to demonstrate that application for asylum is justified.</p> <p>3. All the documents are handed back to the former applicant in case the asylum procedure ended with a decision to grant international protection. As a general rule the identity and travel documents are not handed back to the former applicant in case of a negative decision with the aim to facilitate the return procedure of the former applicant. Also documents that are forged, are not handed back to the person.</p>



			<p>4. According to the national law (Obligation to Leave and Prohibition on Entry Act § 141) the travel document and identity document of a foreigner who is staying in Estonia without a basis for stay may be received for deposit by the Police and Border Guard Board or the Security Police in order to ensure the performance of the obligation to leave.</p> <p>5. Usually in case of voluntary return the documents will be returned to the person immediately before departure. Most of the voluntary returns are organized by IOM through Voluntary Assisted Return and Reintegration Programme (VARRE) and in that case the police may hand over the documents to the responsible person from the IOM who in turn hands the documents to the former applicant right before departure. In case there is no risk of absconding or avoiding the proceeding, the documents may be given back to the former applicant earlier.</p>
	Finland	Yes	<p>1. Documents are confiscated when the asylum application is submitted. If the applicant does not want to hand over his personal documents they are confiscated as a precautionary measure.</p> <p>2. All kinds of documents that prove the identity. For example citizenship certificates and birth certificates.</p> <p>3. The documents are usually handed back to the former applicant together with the service of decision. An alien may be obliged to hand over his or her travel document if it is necessary for preparing or ensuring the enforcement of a decision on removing the alien from the country (Aliens' Act, section 118-119).</p> <p>4. See the question no.3. Additionally, false documents are never returned.</p> <p>5. If the person is willing to return voluntary, the documents are handed back.</p>
	France	Yes	<p>1. The French code of entry and residence of foreigners and asylum right (article L.723-4 al.2) states that the applicant has to present as soon as possible all necessary documents to support its asylum application. These documents are related to its declarations as well as those proving its age, personal story, that of its family, identity, nationality (ies), travel documents, the countries</p>

			<p>where s/he used to live, its previous asylum applications, travel itinerary as well as reasons for this application. Consequently, the applicant has to hand over all identity documents h/she holds.</p> <p>2. The OFPRA (French Office for the Protection of Refugees and Stateless Persons) usually keeps all identity and travel documents during the instruction of the application. Indeed, they consider that the use of these documents by the asylum seeker during the instruction is incompatible with asking for a protection in France. The statement for asylum which is issued at the beginning of the procedure is used as an identity document for all processes to undertake in France.</p> <p>3. All identity and travel documents are handed back if the asylum application is rejected, even if the application was filed while in detention.</p> <p>4. Article R.723-22 of the code of entry and residence of foreigners and asylum right allows under certain conditions, to provide identity and travel documents of a rejected asylum seeker to agents specifically authorized, in order to facilitate its removal and provided this does not endanger its security or that of its family. Such agents are those in charge of asylum applications in the prefectures and agents from the Air and Border Police.</p> <p>5. Yes; usually the asylum seekers are provided with this information at the beginning of the asylum process and then in the reception centers (CADA). However they can also receive this information at the end of the process. All identity and travel documents are handed back as soon as the asylum application is rejected. So far, the OFII (French Office for Immigration and Integration) has not registered any issue regarding handing over such documents. The application for voluntary return is formalised through a statement signed by the applicant, valid for one month, to be shown in case of police controls.</p>
	Germany	Yes	<p>1. Every asylum applicant is legally obliged to hand over documents, which will confirm his identity, preferably passport or similar documents, if available. If the applicant is suspected to withhold relevant documents, he/she and his/her belongings can be searched. The documents will remain with the Federal Office for Migration and Refugees until the end of the asylum procedure.</p>

			<p>2. The asylum applicant is legally obliged to hand over his passport or his substitute papers. However, also other documents which can confirm or help confirming the identity, are accepted.</p> <p>3. After the end of the asylum procedure, regardless of its outcome, the further return procedure is handed over to the local immigration authorities, including the file and all obtained documents. In case of a return decision, passport and other travel documents (or copies of thereof) can be kept by the local immigration authorities until the return of the TCN (§ 50 section 5 of the German Aliens Act [§ 50 Abs. V Aufenthaltsgesetz]).</p> <p>4. § 50 section 5 of the German Aliens Act [§ 50 Abs. V Aufenthaltsgesetz]</p> <p>5. In principle, every TCN ordered to return is granted a specific amount of time, during which he has the opportunity of voluntary return. If the TCN claims his passport or travel documents in order to voluntarily return, the local immigration authorities will individually check his intention to do so. This can be done either by show of a purchased flight or other travel ticket, specific questions about the return route, granted assistance by AVR, etc.</p>
	Ireland	No	
	Italy	Yes	<p>1. Under Article 11 of Legislative Decree 25/2008, asylum seekers must hand over all personal documents, including their passports, which are confiscated by the Immigration Office where the asylum applications are lodged. If an applicant does not want to hand over his or her passport or another document, he or she is not allowed to access the international protection procedure, thus missing the opportunity to stay in Italy legally.</p> <p>2. See answer 1.</p> <p>3. No. Recognition of international protection entails that a TCN waives the protection of his or her country of origin for good. As a result, a beneficiary of international protection status can no longer have relationships with the diplomatic authorities of his or her country of origin that issue identity documents and passports for their nationals living in other States legally. Upon issuance</p>

			<p>of a residence permit for refugees or for beneficiaries of subsidiary protection, the local police authority also issues a “travel document for foreigners”, which is equivalent to a passport.</p> <p>4. Final confiscation is based on the fact that a third-country national claiming asylum renounces relations with his or her country of origin, especially after being granted refugee status or subsidiary protection.</p> <p>5. No. An applicant for international protection who has been rejected will be given his or her passport back upon notification of the rejection decision and of the removal order, so as to allow voluntary return.</p>
	Latvia	Yes	<p>1. According to the national legislation (Asylum Law), an asylum seeker shall hand in his or her personal identity and travel documents over to the State Border Guard until the time when the final decision is taken regarding granting or refusal to grant refugee or subsidiary protection status, except the case where the asylum seeker has another legal basis to reside in the Republic of Latvia.</p> <p>2. See above</p> <p>3. The documents are not handed back to the former applicant. According to the Immigration Law the documents are kept and used to facilitate the return procedure of the illegal migrant (also former applicant).</p> <p>4. See above</p> <p>5. In practice documents are still being kept and given back to the person right before the departure. This is done to be sure that person leaves the country and return procedure has gone successfully. Usually voluntary return is organised by IOM. Only in a few cases persons buy tickets by themselves, but also in these cases officials of the State Border Guard make sure that person leaves the country. Exceptions can be made when risk of absconding is low.</p>

	Lithuania	Yes	<ol style="list-style-type: none"> 1. When the asylum seeker submits an application for asylum his/her documents are taken from him/her and are kept in his/her personal file. If an asylum seeker does not hand over the documents they are taken during the inspection of his/her personal belongings. 2. All documents are taken (including personal documents and passports). Also tickets. Only documents issued by the Republic of Lithuania are left to the asylum seeker (e.g. foreigner's registration document). 3. All documents are kept in the personal file and are handed over to a person when he/she is transferred to an EU Member State responsible for assessment of his/her asylum application or when the final decision on his/her asylum claim was taken. 4. N/a 5. If a period for voluntary departure is given to the alien, his/her personal documents are being returned.
	Luxembourg	Yes	<ol style="list-style-type: none"> 1. Yes. According to article 12 (1) paragraph 1 of the Law of 18 December 2015 on international protection and temporary protection (Asylum Law), the applicant must render to the Directorate of Immigration its identity documents (i.e. Passport, ID card, etc.) and any other document that might be useful for the establishment of his/her identity and origin. These documents are retained against a receipt by the Directorate of Immigration. In case the applicant refuses to hand over the documents, article 12 (5) allows the Judicial Police to conduct a strip search on the applicant and to search his/her objects and any object considered useful for the examination of the application will be seized against a receipt. 2. All kinds of documents that prove the identity of the applicant. For example, passport, ID card, military card, citizenship certificates, birth certificates, etc. 3. The identity documents of the applicants are held until the end of the procedure in case that the applicant is granted international protection. In this case the documents will be returned to the

			<p>applicant. If the application is rejected, the documents will only be returned at the moment the return/expulsion is executed.</p> <p>4. Article 12 (1) paragraph 2 establishes that if the application is rejected, the documents will only be returned at the moment the return/expulsion is executed.</p> <p>5. Yes. In the case of voluntary return, the documents will be handed at the airport or when the individual boards the bus. If the person is admitted in the Assisted Voluntary Return and Reintegration Programme (AVRR Luxembourg) handled by IOM, the documents are handed by the Directorate of Immigration to the responsible person of the IOM in Luxembourg. This person will render the documents to the third-country national either when s/he has to go to the embassy of his/her country of origin to obtain a travel document, or if the third-country national already has a travel document, the documents will be handed at the airport when leaving the country.</p>
	Malta	Yes	<p>1. Please refer to attachment</p> <p>2. Please refer to attachment</p> <p>3. Please refer to attachment</p> <p>4. Please refer to attachment</p> <p>5. Please refer to attachment</p>
	Netherlands	Yes	<p>1. A person who applies for asylum in the Netherlands, is required to hand over for examination, all his documents to the foreign police and the Immigration and Naturalisation Service (IND). Identity- and travel documents are formally taken. The foreign police will verify the identity and register the personal data. Not wanting to hand over other personal documents can have a negative effect on the assessment of the application and may lead to refusal of the application for asylum as manifestly unfounded (article 31, paragraph 8 sub c and/or d of directive 2013/32/EU). Legal base: Article 5:18 General Administrative Law Act Article 5:20 General Administrative Law Act Article 31, paragraph 2 and 3, Aliens Act Article 52, paragraph 1, Aliens Act Article 54,</p>


paragraph 1 sub b and i, Aliens Act Article 3.109, paragraph 4, Aliens Decree Article 4.23 Aliens Decree Article 4:38 Aliens Decree


2. Identity and travel documents, such as passports, are handed over for examination to the foreign police/Royal Marechaussee for identification and registration. Every other kind of document (such as birth certificates, arrest warrants, military identity/registration) is being handed over for examination to the Immigration and Naturalisation Service (IND) for the purpose of the asylum application.



3. In case the IND granted the asylum, all the documents are handed back to the applicant. In case the IND rejected the asylum, the identity and travel documents are transferred to the Repatriation and Departure Service (RDS) and handed back to the applicant only when he leaves the country. Other documents – if not deemed false or falsified - are being handed back after the end of the asylum procedure, when no longer necessary for examination.


4. In case the asylum application is rejected, the legal base for handing back the identity and travel documents not sooner than when the alien is actually leaving the country can be found in article 52 of the Vw 2000 (Aliens Act) and article 4.23 Vb 2000 (Aliens Decree), and further explained in the Vreemdelingen-circulaire C1/2.2 (Aliens Act). If the identity or travel documents are needed beforehand by the person involved for, for example, a prolongation of the validity of the document, the Repatriation and Departure Service (RDS) can facilitate by showing this document to the INS or consulate. The documents will not be returned as they are still necessary for the return procedure.


5. As stated in response to the questions above, identity and travel documents are returned not sooner than when the alien is actually leaving the country. The Dutch RDS is responsible for expediting voluntary and forced departure. This does not detract from the opportunity of voluntary return. If the alien wishes to leave the Netherlands and needs his travel documents, he can ask the assistance of the Dutch RDS (Repatriation and Departure Service). The RDS can for instance accompany the alien to the airport and/or hand the alien copies of his travel documents if needed Article 7 of directive 2008/115/EU or article 13 of directive 2013/32/EU do not hold provisions that are not in accordance with this practice. We see no obligation in these provisions

			to return travel and identity documents at an earlier stage. Nor is the requirement of establishing a risk of absconding before confiscating documents read from article 7(3) of Council Directive 2008/115/EC or article 13 of Directive 2013/32/EU. Furthermore, as explained, this practice does not hinder voluntary return.
	Portugal	Yes	<ol style="list-style-type: none"> 1. N/A 2. N/A 3. N/A 4. N/A 5. N/A
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. Yes, according to the Act on Asylum, the travel documents or identification documents of an asylum seeker are confiscated. In case the asylum seeker is a third country national who has been granted a permanent or temporary residence in the territory of the Slovak Republic, his/her documents are not confiscated. Cases of asylum seekers not willing to hand over their personal documents occur rather rarely. In case of a risk that the asylum seeker might be hiding the documents necessary to ascertain the matters of fact or the facts that can jeopardize lives or health of persons, a police officer of a respective police department where the third country national has applied for asylum at, is entitled to conduct an inspection of the asylum seeker and his/her personal belongings. In case such a document is found, it is confiscated and the asylum seeker is issued a written confirmation of this. Concealment of a document as such does not have any consequences as to the process. On the other hand, submission of a falsified or counterfeited travel document may influence the application to be dismissed as manifestly unfounded. 2. In every case, international travel documents are confiscated. If such documents have not been confiscated, other identity documents such as national ID, military identification card, birth certificate and so on are withheld.

			<p>3. According to the Act on Asylum, after the asylum procedure is concluded, the police department shall return the confiscated documents to the third country national. In case the asylum procedure resulted in granting the asylum or subsidiary protection, the third country national can request in written the respective Foreign Police Department where his/her confiscated documents are deposited and ask for their return. In case the asylum procedure results in not granting the asylum or subsidiary protection, the third country national is taken over by a respective Foreign Police Department, which subsequently decides upon his/her further stay on the territory of Slovak Republic according to the Act on Residence of Aliens. In such cases, the documents remain at the disposal of the Foreign Police Department until the conclusion of the procedures according to the Act on Residence of Aliens (process of expulsion, process of granting the residence permit).</p> <p>4. No information available.</p> <p>5. No. During the process of assisted voluntary returns of rejected asylum seekers conducted in the Slovak Republic by IOM, no documents are confiscated. IOM cooperates with the respective Foreign Police Department. In this case also the documents are handed over to the third country national by police only when leaving the territory of the Slovak Republic, e.g. while boarding the plane.</p>
	Slovenia	Yes	<p>1. If the person has the documents, they are taken just to verify the authenticity of documents (forensically). After that procedure documents are given back to the applicant, except if the documents are not authentic - in that case the police undertakes the procedure. There are no special sanctions if applicant does not want to hand over this documents, but this fact can be taken as non-cooperation in the procedure.</p> <p>2. Every kind of identity document.</p> <p>3. NTR.</p> <p>4. NTR.</p>

			5. No proof or return intention is required.
	Spain	Yes	<p>1. Yes. Documents are retained at the beginning of the procedure.</p> <p>2. Only international travel documents are retained.</p> <p>3. The documentation is handed back when the asylum procedure is over and the international protection is denied. It is also handed back when subsidiary protection, not refugee status, is granted.</p> <p>4. The legal base is art. 25.1 and 25.2 of the directive 2011/95/ of the European Parliament and of the Council of 13 December 2011 Qualification Directive: 25.1 Member States shall issue to beneficiaries of refugee status travel documents, in the form set out in the Schedule to the Geneva Convention, for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require. 25.2 Member States shall issue to beneficiaries of subsidiary protection status who are unable to obtain a national passport, documents which enable them to travel outside their territory, unless compelling reasons of national security or public order otherwise require.</p> <p>5. No.</p>
	Sweden	Yes	<p>1. According to the Swedish Aliens act of 2005, (chapter 9, article 4) the Swedish Migration Agency (SMA) or the Swedish police may, when an alien applies for a residence permit upon arrival in Sweden or subsequently, retain the person's passport or other identity documents until the person receives permission to stay in Sweden or leaves the country. There are no special consequences if the person does not want to hand over his/her personal documents. However, a refusal to hand over the documents may have a negative impact when SMA assess if the applicant has a real need of international protection in Sweden.</p> <p>2. Passports and other identity documents.</p>

			<p>3. There exist situations where the documents are kept after the end of the asylum procedure in order to facilitate a coming return. If the SMA considers it necessary to keep a specific document to facilitate a coming forced return (carried out by the Swedish police). If the person is about to be returned, the passport will not be handed out to the person in question. If the person wants to have his/her national passport back, the SMA will provide him/her with a copy of the passport.</p> <p>4. In Sweden there is a special regulation in the Aliens act (chapter 9, article 5) that enables the SMA and the Swedish police to retain an alien's passport or other identification papers until the expulsion decision can be enforced. This regulation is deemed to be in line with Council Directive 2008/115/EC, article 7 paragraph 3 (Certain obligations aimed at avoiding the risk of absconding; submission of documents)</p> <p>5. All the travel documents are kept by the SMA during the entire asylum procedure (also during the voluntary return phase) until it is likely that a voluntary return actually will take place. Since the travel arrangements in connection with voluntary returns are handled entirely by the SMA, the travel documents are not handed over to the returnee until immediate before the beginning of the return journey.</p>
	United Kingdom	Yes	<p>1. The UK is not bound by Council Directive 2013/32/EU. However, the recast Directive is the same on this point as Article 11(2)(b) of Council Directive 2005/85/EC by which the UK is bound. Generally, whilst an application for international protection in the United Kingdom is being considered, the person remains legally liable to removal. Any genuine document proffered can strongly support the applicants claimed identity and nationality. All valuable documents are retained by the Home Office, the power to do so residing in Section 17 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. Applicants may also hand over documents voluntarily if they feel they will support their application.</p> <p>2. All identity documents that are used in the claim for asylum will be confiscated</p> <p>3. Where a decision is taken to grant protection, valuable documents for instance passports, ID cards and Birth/marriage certificates, are returned. However, where a decision is made to refuse to</p>

			<p>grant leave, valuable documents, particularly travel documents, are not returned since they can be used to support an application for a travel document, or for direct removal.</p> <p>4. Section 17 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. The primary legislation (Section 17) referred to is here - http://www.legislation.gov.uk/ukpga/2004/19/section/17. Published guidance, 'Drafting, implementing and serving asylum decisions' is available here - https://www.gov.uk/government/publications/drafting-implementing-and-serving-asylum-decisions .</p> <p>5. Where the applicant chooses to depart voluntarily documents will be retained until they are handed to the individual at the port of departure.</p>
	Norway	Yes	<p>1. Yes. According to the Norwegian immigration act art. 93 (1) the applicants are obligated to hand in their travel document and/or passport. Upon registration as an asylum seeker the police will sequester identity documents if there are any in the applicant's possession. According to our Immigration Act § 108 if an applicant does not cooperate/refuses to hand in these documents or assist in clarifying his/her identity whenever possible they can be confiscated by the police.</p> <p>2. The applicants have an obligation to contribute to clarifying their identity, including presenting id-documents or similar documents, according to the immigration act article 83. The article is interpreted as an obligation for the applicants to hand in documents that may contribute to clarifying their identity. Not only travel documents such as passports can be sequestered/confiscated, but also other documents that can contribute to clarifying the applicants' identity (like birth certificates, driver's licenses, or school certificates). There are two main purposes for this: to clarify the applicant's identity since most asylum seekers come to Norway without travel documents and to facilitate a return if the application for asylum is rejected.</p> <p>3. Documents will be kept by the Government for all persons with rejections. The documents that are handed in to the police are systematically being kept until the applicants are returned. If the application for asylum is rejected, the applicant shall leave Norway either voluntarily (assisted by IOM) or he/she will be subject to a forced return assisted by the police when necessary. Any</p>

confiscated documents that are needed to facilitate the return will be kept by the police upon registration until the return is carried out. The document(s) will then be returned to the applicant unless it has been determined that the documents have been falsified. If the applicant wishes to retrieve the documents after the application for asylum is denied, the immigration act art 104 (3) has a special regulation to confiscate documents in these situations. However, if the applicant is granted a residence permit, the documents will be handed back to the applicant.

4. As mentioned above, if an application for asylum has been rejected, the applicant is then supposed to leave the country. To enable the return either voluntarily or through a forced return, any valid travel documents in police possession must then be made available in order to carry out the return. The decision is based upon the Norwegian Immigration act and prolonged practice/customary law. The Immigration Act is assumed to comply with our international obligations, cf. the immigration act art 1.

5. When an applicant applies for assisted return via IOM, the documents are handed over to IOM, IOM then uses the documents to assist the applicant in getting travel doc from his/her COR. The documents will be handed over to the applicant at Oslo airport just before boarding. Voluntary assisted return guidelines are regulated in circular G-02/2016 which specifies responsibility between the Norwegian Directorate of Immigration (UDI), the National Police Immigration Service (NPIS), the National Criminal Investigation Service (NCIS) and the provider of voluntary return which is currently the International Organization for Migration through their Voluntary Assisted Return Program (VARP). IOM through VARP assists asylum seekers and other irregular immigrants who wish to return from Norway to their home countries. They offer assistance in all aspects of return including assistance in acquiring valid travel documents if needed. Asylum seekers can apply for voluntary return throughout the course of their asylum case, even before a decision on their asylum application has been made. When an application of voluntary return is submitted to IOM, IOM registers the application and forwards to UDI.UDI then processes the application and sends the request to the National Police Immigration Service (NPIS), for the applicant's ID document(s). If UDI grants the voluntary assisted return application, the ID document is forwarded to IOM. In case an applicant lacks a valid travel document, it is his/her obligation to obtain it on his/her own, or with the assistance from IOM. If an applicant withdraws, or does not travel with IOM, the travel document from the embassy is not given to NPIS nor UDI,

			<p>but returned back to the issuing embassy. Also when an applicant submits a document to IOM directly, it is given back to the applicant if they withdraw their application for voluntary return. This is because IOM has no authority in confiscating documents. IOM gives all the ID documents to the applicant upon departure at the airport/departure gate. If the applicant chooses not to travel with IOM, the documents are returned to NPIS through UDI. The applicant is never given back the document before departure in order to ensure safe-keeping. In some cases, IOM cannot assist with the return. This may occur in cases where the applicant is a former criminal and/or there are security reasons that imply a need for police escort, or if the IOM has no representation/cannot assist in the country of origin. In such cases, it is the responsibility of the National Police Immigration Service (NPIS) to facilitate the return. The documents are then normally kept with the police until departure or until arrival at the final destination, depending on the particular circumstances of the case. If the applicant submitted original ID documents to NPIS upon applying for asylum or in the course of their asylum case, NPIS is obligated to send the ID documents to the Directorate of Immigration (UDI). The ID documents are not sent directly to IOM because the police authorities do not have direct contact with IOM in voluntary return cases. It is UDIs responsibility to handle VARP applications and it is they who assume the responsibility for the ID documents as well in these cases.</p>
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