



## **Ad-Hoc Query on “the application of article 1F of the Refugee convention in Syrian asylum cases”**

**Requested by NL EMN NCP on 28<sup>th</sup> November 2014**

**Reply requested by 24<sup>th</sup> December 2014**

**Responses from Belgium, Bulgaria, Croatia, Czech Republic, Finland, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Slovak Republic, Sweden plus Norway (17 in Total)**

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### **1. Background Information**

Currently there is a high influx of Syrian asylum applicants in most EU member states, due to the ongoing conflict in Syria. It is possible that not only victims of the conflict seek refugee in an EU country, but that amongst the influx there can also be perpetrators. It is likely that they too leave Syria at a certain moment. Article 1F of the Refugee Convention states that it is possible to exclude an applicant from refugee protection, in cases where there are serious reasons for considering that the applicant has committed very serious crimes. In the Netherlands these cases - where article 1F might be applicable - are dealt with by a special unit. This questionnaire is circulated in order to get an impression about the findings of other EU member states with regard to the applicability of article 1F Refugee Convention in Syrian cases.

1. Does your country have an active approach to detect article 1F indications in Syrian cases?



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2. In how many Syrian cases did your country exclude the applicant from refugee protection, due to article 1F Refugee Convention in:
  - a. 2013
  - b. 2014 so far
  
3. Can you give a short overview of the kind of article 1F cases in relation to the Syrian influx in your country?
  
4. Would you welcome some sort of information exchange between EU Member States of general information with regard to Syria where it concerns (indications to further investigate) the applicability of article 1F Refugee Convention?




We would very much appreciate your responses by **Wednesday 24<sup>th</sup> December 2014**.

**2. Responses**

		<b>Wider Dissemination?</b>	
	<b>Belgium</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Bulgaria</b>	<b>Yes</b>	<p>1. The provisions of Art. 1 F are transposed into art. 12, para. 1 of the Law on Asylum and Refugees /LAR/ - Refugee status shall not be granted with respect to a foreigner:</p> <ol style="list-style-type: none"> <li>a. For whom there are serious grounds to assume that he/she has committed an offence defined as a war crime or crime against peace and humanity under Bulgarian legislation and under the international treaties to which the Republic of Bulgaria is a signatory;</li> <li>b. For whom there are serious grounds to assume that he/she has committed a serious non-political crime outside the territory of the Republic of Bulgaria;</li> <li>c. For whom there are serious grounds to suspect that he/she may be committing, or inciting towards, acts contrary to the goals and principles of the United Nations Organisation.</li> </ol> <p>In Bulgaria for each application for international protection there is required a written statement from the State Agency "National Security" if the person is a threat to national security.</p> <p>According to Art. 58, para. 7 of the Law on Asylum and Refugees / LAR /: "Upon receipt of a request for special protection from the competent authorities shall require a written statement from the State Agency" National Security ". This provision is included in the amendments to the LAR in 2007 and in force since 01.01.2008.</p> <p>When receiving a response from the State Agency "National Security" with an objection to the granting of international</p>







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			<p>protection to a given person by the Republic of Bulgaria, the competent officials develop well-grounded draft decisions on the refusal to grant protection, which are presented to the president of the State Agency for Refugees.</p> <ol style="list-style-type: none"> <li>2. From the beginning of 2014 until now, only one applicant for international protection coming from Syria has been excluded from the asylum procedure on the basis of Art. 1F of the Geneva Convention.</li> <li>3. The applicant coming from Syria has stated during the interview that he/she has been sentenced to a five-year imprisonment in 2006, of which he/she has served 1 year and 6 months. In accordance with Art. 17, item 1 of the Qualification Directive, the Member States can exclude a person from the asylum procedure if there are serious grounds to consider the person to pose a threat to their national security. In this particular case, the foreigner committed a crime against another person and under the Bulgarian national legislation, this crime is punishable by 1 to 6 years imprisonment, i.e. it is considered a serious crime. For this exact reason and after a written statement by the State Agency “National Security”, the person was refused international protection.</li> <li>4. Information exchange between Member States in relation to Syria, which gives indications of further investigation for the applicability of Art. 1F of the Geneva Convention, would be useful in harmonizing national policies of the Member States and in the establishment of a Common European Asylum System.</li> </ol>
	<b>Croatia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1.Until now, Croatia did not recorded application of article 1F in Syrian cases</li> <li>2.N/A</li> <li>3.N/A</li> <li>4. Yes, Croatia welcomes exchange of information with regard to applicability of article 1F in Syria cases.</li> </ol>
	<b>Czech Republic</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Finland</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes</li> <li>2. a. 0 b. 0</li> <li>3. So far we haven't encountered any 1F cases in relation to the Syrian influx. However it must be noted that compared to some other member states our figures for the Syrian influx are fairly limited. Last year we received 149 applications from Syrians. This year between 1.1.-30.11. we have received only 135 applications from Syrians.</li> </ol>





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			4. We would be delighted to share information about our practices and receive information from the other member states.
	<b>Germany</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes, we have.</li> <li>2. 0 in 2013 and in 2014 so far.</li> <li>3. 3. – (see 2)</li> <li>4. Currently, an additional information exchange is not assumed as necessary due to a lack of respective cases in Germany.</li> </ol>
	<b>Greece</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes. Our case workers are on the alert for suspected cases of exclusion from refugee status among Syrian asylum seekers. In addition, a considerable number of case workers (38) have done the EASO training in Exclusion.</li> <li>2. There has not been a single case of exclusion from refugee status (article 1F of the Geneva Convention) of a Syrian national since 7 June 2013, when the Greek Asylum Service commenced operations.</li> <li>3. N/A since we have not had a single exclusion case among our Syrian refugees.</li> <li>4. Yes, exchange of information would be most useful. We agree with our NL colleagues as to the content of such exchanges.</li> </ol>
	<b>Hungary</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Ireland</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Latvia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes, but particular attention to this problem is given starting from the end of 2013/ beginning of 2014;</li> <li>2. a) 0 b) 2 cases are under consideration at the moment;</li> <li>3. It was discovered that some asylum seekers had connections with militant subgroups in Syria, therefore deeper examination is needed;</li> <li>4. Yes, exchange of information on Syrian asylum claims linked with article 1F cases would be very helpful (especially - information regarding activities of different militant groups: war crimes, crimes against humanity, human rights abuses, etc.).</li> </ol>
	<b>Lithuania</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. No.</li> <li>2. a. 0</li> </ol>



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			<p>b. 0</p> <p>3. n/a</p> <p>4. Yes.</p>
	<b>Luxembourg</b>	<b>Yes</b>	<p>1. In Luxembourg, the Ministry for Foreign and European Affairs, through the Directorate of Immigration, Refugee Service is the competent authority to deal with article 1F of the Refugee Convention, according to articles 34 (2) a), b) in accordance with article 36 (4) of the amended Law of Asylum of 5 May 2006. The application of this article in case of appeal will be handled by the administrative courts and not by the criminal courts. Furthermore it should be mentioned that in Luxembourg, all Syrian applications are examined on a case-by-case basis. Any encounter of article 1F (trigger word or situation) will lead to the consultation of our COI (Country of Origin Information) unit in order to carry out a more profound examination.</p> <p>2. a. 0. b. 0.</p> <p>3. N/A. At the moment the Directorate of Immigration has not been confronted with a case in regard to article 1 F of the Geneva Convention.</p> <p>4. Yes.</p>
	<b>Netherlands</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Portugal</b>	<b>Yes</b>	<p>1. Like other nationalities during the refugee status determination a special attention is given to article 1F.</p> <p>2. 2013: 0 and 2014: 0</p> <p>3. Not applicable</p> <p>4. Yes, it would be very useful that kind of information.</p>
	<b>Slovak Republic</b>	<b>Yes</b>	<p>1. Yes, Slovak Republic has an active approach to detect article 1F indications in Syrian cases. In the Slovak Republic, applicants shall be excluded from the refugee protection if they:</p> <p>a. committed a crime against peace, humanity or a war crime</p> <p>b. committed a serious non-political crime outside their country of origin</p>

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			<p>c. are guilty from offences against UN objectives and principles</p> <p>2.</p> <p>a. 0</p> <p>b. 0</p> <p>3. See 2.</p> <p>4. Yes, this kind of information exchange between EU Member States would be beneficial and Slovak Republic would welcome it</p>
	<b>Sweden</b>	<b>Yes</b>	<p>1. Yes. Resources are being put down to educate case officers regarding the applicability of article 1 F Refugee Convention. This to improve the skills of detecting and investigating these cases.</p> <p>2. a. 5 b. 10</p> <p>3. Most cases concern more or less high-ranked military personnel. Also a few cases concerning staff from Syrian intelligence and high-ranked officials. Moreover some cases regarding persons involved in battles/fighting opposing the government forces, e.g. Kurdish forces. We have also encountered medical staff from military hospitals.</p> <p>4. Yes, concerning all the above profiles of “typical” exclusion cases, it would be very useful if information can be shared.</p>
	<b>Norway</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. a) 0 b) 2</p> <p>3. We have not as yet seen an influx of conflict related exclusion cases as such. There are a number of potential exclusion cases but the majority of applicants deny any sort of involvement in the conflict, and particularly in any involvement in abuse of any kind. Most of the potential cases are related to Syrian military/police. Of the identified exclusion cases most has been related to common criminal activity such as rape of murder. We have one case pending for a former government official related to Crimes against Humanity. We have also considered as possible 1F case when people have participated in opposition groups, Examples are Kurdish applicants who have belonged to the military (air force), deserted from the military, worked in the oil sector, telecom sector or IT sector or who have been health workers. In these cases we have not yet excluded anyone.</p> <p>4. Yes, we would appreciate information exchange. It would be nice with information sharing when it comes to all kinds of available</p>

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			sources. Good sources of high-profile persons and/or lists of wanted persons and parties involved in the conflict will be appreciated.
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