



Ad-Hoc Query on administrative proceeding preceding voluntary return

Requested by PL NCP on 10th October 2014

Compilation produced on 3rd December 2014

Responses from Austria, Belgium, Bulgaria, Croatia, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Sweden, United Kingdom and Norway (20 in Total)

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1. Background Information

In Poland an average time of waiting for a voluntary return for a person who withdraws his application for a refugee status lasts 3-4 weeks. It is the shortest but necessary time for closing all the administrative proceedings so that a beneficiary could return to his country of origin. Poland would like to make easier administrative procedures preceding voluntary return in order to shorten the time of waiting and meet the beneficiaries' expectations.

We would like to ask the following questions:



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1. How long do the administrative procedures preceding organization of voluntary return last? How many days does it take from the moment of lodging the application for voluntary return by a beneficiary until the moment of his departure?
2. Does the refugee proceeding have to be closed before a voluntary return is organized? Or maybe is it closed after the departure of a beneficiary of voluntary return scheme?
3. Is the closing of a refugee proceeding the necessary condition to give the passport of a beneficiary to the organizer of a voluntary return?



We would very much appreciate your responses by **6th November 2014**.

2. Responses

		Wider Dissemination?	
	Austria	Yes	<p>1. In principle voluntary departure is possible at all stages of the procedure. Voluntary departure can take place autonomously (with own car, own financial means etc.). One alternative is that an application for defrayal of expenses is submitted through an NGO to the Federal Office for Immigration and Asylum. This is a project in the framework of AMIF. If the criteria are met (e.g. indigence, sustainability), the application will be approved and the further procedure of departure is organized by the competent NGO. The period between lodging the application and departure varies greatly and depends on different factors, e.g. availability of a valid travel document or must a new one be applied for, to which destination the departure takes place and how fast can a flight be booked, etc. As the case may be, the departure can take place within one week after lodging the application or also only after three months.</p> <p>2. No. Voluntary return has a high priority for Austria and is possible at each stage of the asylum procedure. An application for international protection shall be closed as no longer relevant, if the alien voluntarily departs to the country of origin, upon his exit. The voluntary departure occurs mostly in the framework of a return project and in this regard a confirmation of departure is submitted to the Federal Office for Immigration and Asylum.</p> <p>3. No.</p>
	Belgium	Yes	<p>1. The duration of the file handling for proceeding the organization of a voluntary return takes about 5 working days and depends on the availability of travel documents and whether a person applies for additional reintegration assistance via our service providers IOM/ Caritas International Belgium or not. In case it consists of the organization of a return of a person belonging to a vulnerable group (e.g. severe</p>




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			<p>medical problems or UAM), the process to prepare the return might take more time.</p> <p>For persons with valid travel documents, Fedasil has recently implemented a ‘fast track’ procedure in which they organize – in cooperation with IOM – a voluntary return within maximum one day after the application of the person. In this case, the returnee cannot benefit from any additional assistance besides the practical organization of the return travel itself.</p> <p>2. The applicant has to sign a return form in order to lodge an application for voluntary return in which he also declares to voluntarily renounce to start or continue any procedure for obtaining a refugee or any other status in Belgium. After departure, IOM informs the Immigration Office about the migrant’s departure so the Immigration Office can close all the pending procedures introduced by the applicant for obtaining a legal status in Belgium.</p> <p>3. No, the applicant itself is in charge of taking the necessary steps for obtaining travel documents in view of his return to the country of return.</p>
	Bulgaria	Yes	<p>Usually the time for organising assisted voluntary return in Bulgaria lasts about 2 weeks. It depends mainly on the country of origin of the migrant concerned and the possible flight connections to the country of origin. Of course if the returnee has no valid travel document the time for organising the return travel depends also on the time necessary to be issued a laissez-passer by the embassy of the respective country of origin.</p> <p>In case the third country national who apply for voluntary return assistance has applied for international protection he/she shall withdraw his/her application for international protection. In such a case the Bulgarian legislation stipulates an accelerated procedure for closure the international protection proceeding. According to Art.70 of the Law on Asylum and Refugees, the competent authority is obliged to terminate the international protection procedure in 3 days from the date of the withdrawal application. Therefore this administrative step does not prolong the voluntary return travel.</p>
	Croatia	Yes	<p>The Republic of Croatia does not have on-going activities in the field of voluntary return, such as programs/project promoting voluntary departure and reintegration, but we have implemented the Return Directive in our Law on foreigners (OJ130/2011 & 74/2013).</p> <p>In the Migration Policy of the Republic of Croatia for the period 2013-2015 (OG 85/2010), in chapter 6 “Irregular migration”, measure 6.3., encouraging of voluntary return of irregular migrants has been foreseen.</p> <p>The objective is to encourage voluntary return of foreigners and provide assistance of non-governmental and other international organizations through implementation of reintegration programs in their country of origin. This will be achieved through co-operation with non-governmental or international organizations which will prepare necessary programs regarding voluntary return and reintegration of third country nationals.</p> <p>Providing of voluntary return has been foreseen in SOLID, through European Return Fund (Croatian annual programme for 2013) and through Multi annual program AMF.</p>


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	Estonia	Yes	<p>1. In Estonia there are no special administrative procedures preceding the organization of voluntary return. If the person has decided to return to his/her country of origin and is in possession of valid travel document then the voluntary return of the person can be organized within few days. It is common that on those conditions the voluntary return of the person can be organized within 48 hours if the person wishes to have a swift return.</p> <p>2. One of the prerequisites for joining the voluntary return program is a return decision. Therefore the ongoing refugee proceedings have to be finalized and closed before the voluntary return of the person can be organized.</p> <p>3. As stated previously the finalization of the refugee proceedings and the issuance of return decision are the prerequisites for joining the voluntary return program therefore it is also not possible to hand over the relevant documents before the closure of the previous proceedings as the voluntary return proceedings have not started.</p>
	Finland	Yes	<p>The responsibility for voluntary returns currently lies with the International Organization for Migration (IOM).</p> <p>1. IOM calculates the average processing time as both mean and median average: The median duration in the current AVRR project is 22 days (from lodging the application to departure), while the mean is 60 days.</p> <p>2. All asylum processes must be closed before the AVRR departure. This includes the asylum application itself (=negative decision or withdrawal by applicant) as well as any other legal processes (e.g. all appeals must be withdrawn). Asylum processes may thus not remain open until after the departure. NB: applying for AVRR does not require that all processes have been closed. In practice, IOM often first checks the returnee's eligibility and the feasibility of return and only then advises the returnee to withdraw/cancel any ongoing processes in order to proceed with the travel arrangements.</p> <p>3. No. Once IOM has confirmed with Finnish authorities that an AVRR applicant is eligible to participate in the programme (see #2 above), the police/border guards/immigration service can hand passports (and other returnees' documents) over to IOM. IOM often requires such documents for travel arrangements, issuance of valid travel documents by embassies etc. IOM hands the passports/documents to returnees only upon departure at the airport – in case a voluntary assisted return cannot be arranged after all, IOM will return all documents to the Finnish authorities.</p>
	France	Yes	<p>1. The examination of a request for voluntary return is a fast process. The beneficiary, who has presented him/herself at the reception of the French Office for Immigration and Integration (<i>Office français de l'Immigration et de l'Intégration</i> – OFII), is immediately welcomed by an adviser of the Return department of the OFII. Further to the review of his/her situation and if this person meets the conditions for eligibility set by the regulations, his/her file is registered at once. People eligible to benefit from a voluntary return assistance are third country nationals who received an obligation to leave the French Territory (<i>obligation de quitter le territoire français</i> – OQTF) and failed/rejected asylum seekers. If the person does not have a valid passport, the OFII assists him/her to get a consular laissez-passer. The</p>

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			<p>time necessary to issue a consular laissez-passer, from the registration of the request in the consulate to the issue of the travel document, is of 20 days on average. The average timeframe from the moment of lodging the application for voluntary return by a beneficiary until the moment of his/her effective departure is of 43 days.</p> <p>2. An asylum seeker who has lodged an application for asylum at the French Office for the Protection of Refugees and Stateless Persons (<i>Office français de protection des réfugiés et apatrides – OFPRA</i>) has to withdraw his/her asylum application, prior to applying for voluntary return at the OFII. In the case of failed/rejected asylum seekers who have lodged an appeal to the National Court on the Right of Asylum (<i>Cour nationale du droit d’asile – CNDA</i>), they have to wait until they receive a notice of rejection of their claim before requesting a voluntary return assistance to the OFII. Any third-country national cannot qualify for return assistance as long as he/she is in the process of regularisation.</p> <p>3. During the organisation of the departure, the OFII can help third-country nationals to get a consular laissez-passer if they do not have a valid passport.</p>															
	<p>Germany</p>	<p>Yes</p>	<p>1. The departure of voluntary returns will be implemented and organized by IOM when the claimant has signed the application form. The application will then be directly submitted to IOM by non-governmental counseling agencies (like Caritas, Deaconry, Red Cross etc.) or by the respective foreigners` office. At this stage the travel documents have already been obtained to organize the actual departure (e.g. flight booking). IOM scrutinize the individual prerequisites of every application regarding the donors` provisions (based on agreed annual regulation among the Federal Government and the 16 Federal States).</p> <p>Based on the German AVRR program REAG/GARP (Reintegration and Emigration Program for Asylum seekers in Germany + Government Assisted Repatriation Program), for instance within the period of January 2014 until September 2014 it can be stated that:</p> <ul style="list-style-type: none"> <u>the duration of the procedure from the time of the applying entity`s submission of an application to IOM until IOM`s granting an approval took:</u> <table border="0"> <tr> <td>0-1 day</td> <td>in case of</td> <td>41.6% of the applications</td> </tr> <tr> <td>2-7 days</td> <td>in case of</td> <td>43.8% of the applications</td> </tr> <tr> <td>> 7 days</td> <td>in case of</td> <td>14.6% of the applications (source: IOM Germany)</td> </tr> </table> <p>However, no statement* can be made by IOM on the length of the administrative procedure before an application is lodged with IOM.</p> <ul style="list-style-type: none"> <u>the duration of the procedure from the time of the applying entity`s submission of an application to IOM until the actual departure of the returnee by plane (approx. 41% of the total number of persons) took</u> <table border="0"> <tr> <td>up to 10 days</td> <td>in case of</td> <td>20.3% of the applications</td> </tr> <tr> <td>up to 2 weeks</td> <td>in case of</td> <td>25.6% of the applications</td> </tr> </table>	0-1 day	in case of	41.6% of the applications	2-7 days	in case of	43.8% of the applications	> 7 days	in case of	14.6% of the applications (source: IOM Germany)	up to 10 days	in case of	20.3% of the applications	up to 2 weeks	in case of	25.6% of the applications
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			<p>up to 3 weeks in case of 25.2% of the applications > 3 weeks in case of 28.9% of the applications (source: IOM Germany)</p> <p>Factors influencing the departure date include inter alia: destination country, nationality (in case of e.g. Russian Federation, Iran, Georgia, China, Afghanistan in connection with missing travel documents), individual circumstances (e.g. medical case, UAM), availability of flights, preferred date of departure.</p> <p>The average length of the procedure for IOM's processing departures by bus/train/car (approx. 59% of the total number of persons, mostly return to visa free Western Balkan states) is less than 4 days and the average actual departure is between 1 week and 10 days after the approval of application. As the availability of a valid passport is the only prerequisite for ground transport, the waiting period regarding the issuance and receipt of travel documents is not applicable. Thus, it is possible for the returnees to depart within a short period of time (source: IOM Germany).</p> <p>*BAMF comment: It is estimated following statements of counseling agencies that in most cases within a few weeks after the first contact the processing of counseling, obtaining travel documents and clarification of any other individual issues might be finalized. In cases of non-cooperating with issuing travel documents by Embassies or Consulates the departure processing takes significantly more time.</p> <p>2. Closing of refugee proceeding: No necessary condition. The basic program REAG/GARP provides assistance for - persons that are eligible under § 1 "German asylum seekers' benefit act" (Asylbewerberleistungsgesetz; principal target group: asylum seekers) - recognized refugees - other foreigners who have been granted a right to sojourn for humanitarian or political reasons, or on grounds of public international law - victims of trafficking or forced prostitution (<i>EU nationals are entitled as well</i>) - no own financial means to cover his travel costs.</p> <p>A claimant may return voluntarily at any stage of an asylum procedure (included also any appeals) or as long as he is not ordered to leave the (host) country. After issuing the deportation order by the respective foreigners' authority he is still granted by the AVRR program if he opts for a voluntary departure before the expiration's date. For forced returnees (removal carried out by Federal Police or Federal States) the REAG/GARP grants are refused.</p> <p>3. Closing of refugee proceeding: No necessary condition. After applying for asylum the identity documents (e.g. passport) will be kept by the foreigners' authority (respective by the Federal Office for Migration and Refugees - BAMF). The applicant gets during his asylum procedure (incl. appeals) a passport substitute (temporary residence permit) as a valid identity document. After (legal) termination of the asylum procedure the foreigners' authority issues the</p>
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	Hungary	Yes	<ol style="list-style-type: none"> 1. The overall procedure of organizing the voluntary return of a beneficiary from the moment of lodging the application for voluntary return until the moment of their departure depends on the individual case, which depends on the Hungarian Office of Immigration and Nationality (approving the application), the issue of travel documents and getting in touch with the consulate/embassy of the country of return and any special needs, approximately amounting to a month. 2. The refugee proceedings (both preliminary and the substantial assessment procedures) are terminated by the refugee authority once the application is withdrawn. At the same time the refugee authority must decide upon the withdrawal of the residence permit on humanitarian basis the applicant holds. It is only afterwards that a voluntary return may be organized. 3. N/A
	Latvia	Yes	<ol style="list-style-type: none"> 1. Usually it takes a few days or a week. In case of lack of travel document or a far-away destination country it may take a longer time, for example 10 days to one month. 2. Asylum case is closed before departure. 3. Yes, the closing of an asylum case is compulsory condition to give passport to the person or an organizer of voluntary return.
	Lithuania	Yes	<ol style="list-style-type: none"> 1. The return decision is issued only when all necessary documentation and travel arrangements are made therefore the administrative procedure for voluntary departure lasts only several days. 2. Yes. In such cases the return decision indicating time for voluntary departure is issued only after the examination of the asylum application is terminated by the written request of the applicant. 3. Yes.
	Luxembourg	Yes	<ol style="list-style-type: none"> 1. In Luxembourg it is impossible to establish an average length of time for the administrative proceedings preceding the organization of the voluntary return. It will depend if the person has travel documents or not and on the country of destination. The termination of the



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			<p>administrative procedure is not long from the moment that the applicant withdraws its application for international protection. The organization of the voluntary return can begin at the moment of the withdrawal of the application. If all the documents are in order, the voluntary return can be organised very quickly from the filing of the application for voluntary return.</p> <p>2. No. Once the withdrawal of the international application is done the voluntary return can be organized. The file can be closed at a later date.</p> <p>3. Yes.</p>																														
	Malta	Yes	<p>1. The period between the expressed interest to return voluntarily to the actual departure varies from one case to another, mostly in relation to delays experienced in the procurement of travel documents from the country of origin. In the case of minors, procedural delays are also experienced – this is mostly taken up by checks to ensure the well-being of the minor on return.</p> <p>2. On expressing interest to return and initial counselling, an asylum seeker is asked to withdraw his/her application for asylum. However should the return not take place, the asylum procedure may be re-considered.</p> <p>3. No such particular condition is applicable.</p>																														
	Netherlands	Yes	<p>1. The Dutch exercise has focused on the period between the application for participating in a programme/ project by the foreign national and his/her actual departure from the Netherlands. Both the Dutch government and IOM Netherlands registrate the requested information, but for different programme/ projects. Therefore, two tables containing the requested information have been included below.</p> <p>IOM Netherlands implements the national AVR programme REAN (Return and Emigration of Aliens from the Netherlands) and the processing time of the REAN programme is as follows:</p> <table border="1" data-bbox="607 1082 2085 1209"> <thead> <tr> <th colspan="6">REAN</th> </tr> <tr> <th></th> <th>% 0 – 2 weeks</th> <th>% 2 – 4 weeks</th> <th>% 4 – 8 weeks</th> <th>% 8 – 16 weeks</th> <th>% > 16 weeks</th> </tr> </thead> <tbody> <tr> <td>2013</td> <td>37%</td> <td>51%</td> <td>11%</td> <td>1%</td> <td>0%</td> </tr> <tr> <td>1st semester 2014</td> <td>44%</td> <td>46%</td> <td>9%</td> <td>1%</td> <td>0%</td> </tr> </tbody> </table> <p>The Dutch Repatriation and Departure Service (R&DS) is the governmental body which is responsible for the relations (including REAN) with the civil society organisations (CSOs) and awards funding (national budget) for the implementation of voluntary reintegration projects by the CSOs. The processing time of the projects falling under the national frameworks (Grants Regulation for Voluntary Return (SVT) and Ministerial Decree for the support of Voluntary Return (OZV) is as follows:</p> <table border="1" data-bbox="607 1394 2085 1428"> <tr> <td align="center" colspan="6">SVT and OZV (national frameworks)</td> </tr> </table>	REAN							% 0 – 2 weeks	% 2 – 4 weeks	% 4 – 8 weeks	% 8 – 16 weeks	% > 16 weeks	2013	37%	51%	11%	1%	0%	1 st semester 2014	44%	46%	9%	1%	0%	SVT and OZV (national frameworks)					
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2013	Ca. 40 days								
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			<p>2. An asylum application and the corresponding and pending procedures do not need to be closed before a voluntary return can take place. But should a foreign national make use of the voluntary return and reintegration assistance under the REAN scheme, all pending procedures (irrespective of asylum or non-asylum) shall be revoked after departure. The foreign national enters this engagement once s/he has signed the REAN application form.</p> <p>3. No. As the majority of the foreign nationals return voluntarily under the REAN scheme, the validity of the REAN application lasts 30 days. This means that the actual departure must have taken place within this period of time and consequently, a valid travel document (e.g. laissez-passer, passport) must be presented before the validity of the application has expired.</p>						
	Poland	Yes	<p>An average time of waiting for a voluntary return in Poland lasts 3-4 weeks. It concerns beneficiaries who fulfil the following conditions:</p> <ol style="list-style-type: none"> 1) decide to go back to their countries of origin during the lasting refugee procedure, 2) withdraw their application for refugee status, 3) their travel documents are valid, 4) there is no need to provide the special conditions of travel (f. i. because of health problems of a beneficiary) and 5) there are no problems with organising a travel. <p>In other words it is the easiest case of organising the voluntary return.</p> <p>The period of a month from the moment of submitting the application for a voluntary return until the day of departure is a consequence of an administrative procedures that must be finalised before the travel.</p> <p>Altogether with an application for granting the assistance in voluntary return, a person also submits an application for discontinuation of the refugee procedure. The necessary condition to organise a travel is issuing the decision about discontinuance of a refugee case that must be received by an addressee and become final (which takes 14 days within which a person can make an appeal). After then the passport of a foreigner can be received by the organizer of a travel. In this moment the organization of a return can begin.</p>						
	Slovak Republic	Yes	<p><i>Note: The only subject in the Slovak Republic implementing program of voluntary returns is International Organization for Migration (IOM).</i></p> <p>1. The average time of waiting for a voluntary return in Slovakia in 2013 was 3-4 weeks. Overall the duration of return preparation largely depends on the type of an applicant, e.g. whether it is an asylum seeker or illegal migrant who was already issued with a return decision or an illegal migrant who was not issued with a return decision. The duration of return arrangements also depends on the fact whether the returnee has a valid travel document. In cases when migrant was already issued with a return decision and there is no problem with travel arrangements, the return can be organised within 10 days or less depending on the availability of travel connections/ flights.</p>						


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			<p>2. Yes, the refugee proceeding needs to be finalised and in cases when migrants are already residing in Slovakia illegally, they need to be issued with a return decision. In all instances, a negative decision on asylum application needs to have entered into force in order to carry out the voluntary return.</p> <p>3. No. The passport or substitute travel document is handed over to iom even during the course of the asylum proceedings, i.e. Before the decision on international protection was issued. Also in order to speed up the return preparations, in case of supporting documents (e.g. Driving license and national id), these documents are transferred to iom upon iom 's request even during the course of the asylum proceedings.</p>
	Slovenia	Yes	<p>Directive 2008/115/EC has been transposed into our national legislation. In accordance with legislation in this regard an alien subject to voluntary return shall be given a voluntary return decision. Return deadline shall not be shorter than five days and longer than thirty days.</p> <p>Refugee procedure shall be closed prior to return procedure. This means that no procedure related to return shall not start before the refugee procedure is over. This stands for document acquisition as well.</p>
	Sweden	Yes	<p>In cases where asylum claimants wish to withdraw their asylum claim and leave Sweden, a formal decision needs to be made without delay. Such a decision should be prioritised by the asylum units but generally takes 1-2 weeks to be processed. The responsible reception unit at the Swedish Migration Board (SMB) will have to await the formal decision before starting procedures to organise the return travel. Once the decision is made the reception unit have to notify the returnees of the decision to which they in most cases declare their acceptance in writing, whereupon the decision takes effect directly. Given that the returnees' travel documents are valid and that there are no complications or special conditions of travel, the return travel arrangements will then proceed. The average time of the process from withdrawing an asylum application to the start of the return arrangements is approximately 2 weeks (1 week in urgent cases). Thereafter approx. another week for actual return arrangements and before the actual return will take place (a few days in urgent cases).</p>
	United Kingdom	Yes	<p>1. When an individual makes an application for a permanent return to his country of origin the application is processed by the Choices Section of Refugee Action who are the Home Office partners for the delivery of the Assisted Voluntary Returns programmes. The application is then sent to the Assisted Voluntary Returns section in the Home Office who decide on eligibility. Once the application has been approved the individual has three months to make the necessary arrangements. He has flexibility within this time frame to decide when he wishes to return although in reality the departure will normally take place within a four week period.</p> <p>2. Where the individual has made an application for asylum this does not have to be withdrawn immediately the Assisted Voluntary Return application is made. The returnee will however have to sign a disclaimer at the airport, prior to departure.</p> <p>3. If the individual has made an application for asylum and has a valid passport this will be provided to our delivery partners prior to departure. Withdrawing his asylum application will not be necessary at the initial stage. He will however have to sign a disclaimer at the airport, prior to departure as already mentioned.</p>

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	Norway	Yes	<p>Average time of waiting for an assisted return in Norway is 68 days in 2014. Depending mainly on: availability of TD, no special needs/ conditions to be addressed (health etc.), and whether the applicant really cooperates finalizing the application and departure procedures.</p> <p>The refugee proceeding will be closed upon the point (date of) departure.</p> <p>Yes, it is a necessary condition that the refugee proceeding is closed upon departure. Then the passport can be released upon departure at airport when leaving Norway.</p>
