EMN- EASO JOINT INFORM 2020

Mapping the application of the principle of non-refoulement in the asylum and return procedures

1 KEY FINDINGS

- In the majority of EU Member States plus Norway and Switzerland, **the principle of non-refoulement is incorporated in the national asylum law**, without being detailed in **specific procedural steps**.
- **Several challenges are thus noted to translate legislation into practices**, especially concerning inter-agencies competences and cooperation, and structured procedures for assessing the risk of refoulement for vulnerable groups.
- Following the Return Directive (2008/115/EC), which provides protection against refoulement at all stages of return procedures, **all Member States plus Norway have included provisions protecting from refoulement** in their national legislation. This protection is in most cases defined explicitly in their return legislation, although a few Member States chose to include a more implicit protection, even while still upholding the same protection standard.
- Several Member States plus Norway and Switzerland have specific legal provisions and practical procedures **related to protection from refoulement for vulnerable groups**. A few Member States only provide additional specific provisions for minors.
- When return decisions are halted or postponed due to non-refoulement considerations, the individual would be granted **leave to remain on humanitarian grounds or another type of temporary authorisation to stay** in most Member States plus Norway and Switzerland.
- The **assessment on the non-refoulement principle is done by the asylum authorities**, whereas the return authorities in principle follow the assessment done in the decision on international protection.
- A **robust asylum decision** with explicit legal reasoning and justification on non-refoulement assessment **ensures the procedural safeguards and allows for effective return procedures,** as return authorities focus in their assessment on possible changes in the situation of the application or the situation in their country of origin rather than performing the assessment from scratch.
- Therefore, the **cooperation between asylum and return** authorities is fundamental, unless the same authority issues both decisions. Digital communication between authorities, updated country of origin information and timely assessment are key to ensure institutional and procedural efficiency.

- Because of a lack of national statistics, it is not possible to appraise the number of non-refoulement assessments and outcomes in asylum and return procedures.

2 INTRODUCTION

Building on existing synergies, the European Asylum Support Office (EASO) and the EMN Return Experts Group (EMN REG) took forward an initiative to collect information on the application of the principle of non-refoulement. This initiative aimed to provide a comprehensive overview of the legal basis of the principle of non-refoulement and how it is applied in practice across EU Member States plus Norway and Switzerland.

To this end, EASO and the REG collected data through the launch of two ad-hoc queries and the organisation of an experts' workshop. The EMN REG launched the "*Ad Hoc Query on the implementation of non-refoulement principle in return procedures in EU Member States plus Norway and Switzerland*" on 23 October 2019 and collected responses from 20 EMN National Contact Points.[1] EASO launched the "*Ad Hoc Query on The implementation of non-refoulement principle in asylum procedures in EU Member States plus Norway and Switzerland*" to which 21 EU Member States and Norway replied.[2] The experts' workshop took place on the 04 March 2020 and brought together practitioners responsible for the assessment of the non-refoulement principle in the asylum or return procedures from 20 countries.[3]

This Inform synthesises the main findings from the two Ad-Hoc Queries (AHQs) and the discussions from the experts' workshop.

3 Overview of the International and EU Acquis on Non-Refoulement

The non-refoulement principle is the cornerstone of international protection as envisaged in the 1951 Refugee Convention and of EU asylum law establishing standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection. It is a part of customary international law and is therefore binding on all States, whether they were parties to the 1951 Refugee Convention.

EU Member States are bound by four layers of obligations relating to non-refoulement. The first is Customary International Law according to which no person should be sent (back) to any country or territory where their life, integrity and liberty would be threatened.

The second obligation is the 1951 Convention relating to the Status of Refugees (hereafter the 1951 Refugee Convention) which enshrined in its art. 33 that:

'*No contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion*'.

As such the protection from refoulement as established in customary law was extended to persecution – a concept broader than the direct threat to life, integrity and liberty – but limited to persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion. All Member States of the EU are bound by the Geneva convention.

Additionally, in international law, the prohibition on refoulement was developed in various global legal instruments such as in Art. 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),[4] and in Art. 7 of the International Covenant on Civil and Political Rights (ICCPR).[5]

[1] AT, BE, BG, HR, CY, CZ, DE, EE, FI, FR, HU, IE, IT, LV, LU, NL, PL, SE, SI, SK, plus CH and NO.
[2] AT, BE, BG, CY, CZ, DE, DK, EE, HR, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI plus NO.
[3] AT, BE, CY, CZ, DE, DK, EE, FI, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SI plus NO. Frontex also participated to the Workshop as observers.
[4] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, available here: https://www.ohchr.org/en/professionalinterest/pages/cat.aspx, last consulted on 17/07/2020
[5] International Covenant on Civil and Political Rights, 1966, available here: https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx, last consulted on 17/07/2020

The third layer is the human rights system of the Council of Europe, which is silent on refugees, but excluded exposure to torture, inhuman or degrading treatment or punishment, through the provisions of Art. 3 of the European Convention of Human Rights (ECHR).[6] Under Art. 3, a refoulement prohibition is developed by the case law of the European Court on Human Rights (ECtHR). Through its jurisprudence, the ECtHR determined that Art. 3 ECHR also prohibited indirect refoulement, the removal to a third - intermediary - country from which the individual may then be removed to the country in which they faced a real risk of cruel, degrading or inhuman treatment. Here, the protection was independent from the reason of the serious threat of harm; it might even be a measure fully compliant with the law of the country.

The fourth layer is composed of the EU Charter of Fundamental Rights and rules under the *EU migration and asylum acquis*, primarily the Qualification Directive (2011/95/EU)[7], the recast Asylum Procedures Directive (2013/32/EU)[8] and the Return Directive (2008/115/EC).[9] The EU Charter of Fundamental Rights protects against removal, expulsion or extradition of third-country nationals to a State where there is a serious risk that they would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.[10] Additionally, the international protection envisaged in the Qualification Directive (2011/95/EU) means that the EU Member State replaces the State of origin in terms of guaranteeing a minimum of rights, and functions as a surrogate of the State of the beneficiary in the state-citizen relationship. Removing a person to a situation where they would face exposure to torture, inhuman or degrading treatment or punishment would thus be an act incompatible with the values of the State. The principle of non-refoulement is explicitly included in six different articles of the EU Asylum Procedures Directive (APD) recast (2013/32/EU)[11], which was then transposed into national legislation and protects individuals from refoulement throughout the asylum procedure. Finally, the Return Directive (2008/115/EC) further provides protection against refoulement at all stages of the procedure, for instance by requiring an assessment of the principle during the procedure and by including non-refoulement as a mandatory ground for postponement of removal. Member States can also decide to grant a permit to stay based on national law.

This Inform specifically considers how the principle of non-refoulement has been applied in the context of procedures for international protection (note that only procedures for EU-harmonised asylum and subsidiary protection as defined in the EU *acquis are* considered) and return.

[6] European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, available here: https://www.echr.coe.int/Documents/Convention_ENG.pdf, last consulted on 17/07/2020

[7] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095, last consulted on 17/07/2020

[8] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, available here: https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032, last consulted on 17/07/2020. Denmark and Ireland are not taking part in the adoption of the Directive

[9] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, available here: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF, last consulted on 17/07/2020

[10] Charter of Fundamental Rights of the European Union available here: http://data.europa.eu/eli/treaty/char_2012/oj last consulted on 17/07/2020

[11] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, available here: https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032, last consulted on 17/07/2020. Denmark and Ireland are not taking part in the adoption of the Directive

4 TRANSPOSITION OF INTERNATIONAL AND EU ACQUIS OBLIGATIONS ON NON-REFOULEMENT IN NATIONAL LEGISLATION RELATING TO ASYLUM AND RETURN PROCEDURES

This section reviews how the international obligations and the EU *acquis* outlined in section 3 were transposed in national legislation and what legislative provisions specifically treated vulnerabilities.

4.1 LEGISLATIVE PROVISIONS

All Member States plus Norway and Switzerland have enshrined provisions which protect individuals from refoulement, specifically during **asylum and return procedures**.

4.1.1 LEGISLATIVE PROVISION RELATED TO ASYLUM

The principle of non-refoulement constituted an essential and crucial safeguard throughout the asylum process.

The EU Asylum Procedures Directive (APD) recast (2013/32/EU) included an explicit reference to the principle of non-refoulement in relation to the **right to remain** in the Member State pending the examination of the application (Article 9 APD recast), the **implicit withdrawal of an application** (Article 28 APD recast), the concept of **first country of asylum** (Article 35 APD recast), the **concept of safe third country** (Article 38 APD recast), the concept of the **European safe third country** (Article 39 APD recast), and the **subsequent applications** (Article 41 the APD recast). In addition, the Qualification Directive (2011/95/EU)[12] referred to the protection of non-refoulement (Article 21) transposed also in the national legislation.

While all Member States plus Norway and Switzerland uphold the same protection standard against refoulement, the way this is translated into their national legislation changes across Member States. Indeed, the **principle of non-refoulement was either explicitly[13] or implicitly[14] enshrined in the national legislation of Member States plus Norway and Switzerland.** In Cyprus and Portugal, multiple provisions of the Asylum Law refer explicitly to the principle defining it in accordance with the Geneva Convention, as well as in relation to the safe third country and first country of asylum, etc. In some EU countries, a definition was included in the Law on Asylum (e.g. Romania Article 6; Latvia Article 3), whereas in others as in Slovenia, the International Protection act referred to the principle of non-refoulement only in relation to specific provisions (e.g. safe third country in Article 54).

Regarding **Dublin procedures and the likelihood of 'chain refoulement' in the event of return to a third country upon a Dublin transfer back to the responsible EU Member State**,[15] the Dublin III Regulation has direct binding force but does not explicitly cover these cases.

In practice, however, Member States' approaches differed. **Austria** noted "*that it shall be assumed that the asylum seeker can find protection against persecution in a country responsible for examining the application pursuant to the Dublin Regulation, unless specific reasons relating to the person of the asylum seeker and indicating a real risk of absence of protection against persecution are made credible or are evident to the Federal Office for Immigration and Asylum or the*

[12] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095, last consulted on 17/07/2020. Denmark and Ireland are not taking part in the adoption of the Directive

[13] AT, BE, BG, CY, CZ, DK, FI, FR, HR, IE, IT, LT, LU, MT, PT, RO, SE, SI.

[14] DE, NL, PL, (Art. 348, 351, 386 of Act on Foreigners), SK.

[15] Chain refoulement refers to when one country returns an asylum-seeker to an allegedly 'safe' third country, which then returns the asylum-seeker to an unsafe country. Definition included in the European Parliament website: https://epthinktank.eu/2015/05/13/non-refoulement-push-backs-and-the-eu-response-to-irregular-migration/#:~:text=Non%2Drefoulement%20is%20a%20core%20principle%20of%20international%20refugee%20law.&text=It%20should%20be%20noted%20that,both%20countries%20may%20bear%20responsibility.

Federal Administrative Court." Likewise, Denmark explained that "*as a starting point, Denmark does not ask for guarantees from other Member States when sending requests for take back or take charge, as the Dublin-cooperation is based on mutual trust. If specific information suggests that a Member State violates the principle of non-refoulement the issue will be addressed and, if relevant, a transfer will be avoided*". Similarly, **Belgium** mentioned that the authorities may assess it on a case by case basis. On the other hand, **Germany** underlined that the Federal Office was obliged to respect the applicant's rights according to the ECHR, especially Art. 3 and 8 of the ECHR, thus no transfer was possible that would result in refoulement.

Further, Member States referred to relevant human rights law provisions. In particular, emphasis was given to the European Convention on Human Rights (ECHR, article 3). as the European Court of Human Rights (ECtHR) has ruled on non-refoulement under specific provisions. Although, the principle was not laid down in the ECHR, the failure to observe it amounted to a violation of rights guaranteed by the Convention.[16] Consequently, human rights law provided additional, non-derogable, guarantees in the context of asylum and return procedures, as reported by Member States.

4.1.2 LEGISLATIVE PROVISION RELATED TO RETURN

All Member States plus Norway and Switzerland protect against refoulement through their legislation relating to return, although this is achieved in different ways.

Most of the Member States who contributed to this inform plus Norway and Switzerland **explicitly defined non-refoulement in their national legislation relating to return** according to the 1951 Refugee Convention[17] or to Art .3 ECHR.[18] Several Member States have also defined non-refoulement according to the grounds laid down by both the 1951 Refugee Convention and Art. 3 ECHR.[19]

Germany was the exception, as the provisions protecting against refoulement were found in the legislation regulating asylum at Federal level, but the return authorities at local level were bound to these provisions too.

In several other Member States, the principle of non-refoulement was **not explicitly defined in return legislation**,[20] although provisions protecting from the effects of refoulement are included in legislation relating to return procedures. In **Belgium** for example, the substance of non-refoulement was not directly defined or provided for in legislation relating to asylum or return. However, the return authority was obligated to assess the principle of non-refoulement in cases dealing with the refusal, exclusion or withdrawal of refugee status for national security reasons, exclusion or withdrawal of subsidiary protection status or inadmissibility of subsequent claims, which may lead to the individual being subjected to a return decision.

Member States reported that the main legal source protecting from non-refoulement during the return procedure was the Return Directive, which was transposed into national legislation.

Other legal sources of protection were referenced by Member States, including European jurisprudence from the European Court of Human Rights and the Court of Justice of the European Union[21] and the 1951 Refugee Convention and other instruments of International Human Rights Law.

4.2 SPECIFIC LEGISLATIVE PROVISIONS FOR VULNERABLE GROUPS

Vulnerable groups require specific legal provisions to address their increased protection needs and/or to allow them to benefit from the rights and comply with the obligations linked to asylum and return procedures, including protection from refoulement. This section outlines which provisions specifically sought to apply the principle of non-refoulement to vulnerable individuals or groups.

[16] Read more EASO, Judicial Analysis. Asylum procedures and the principle of non-refoulement, 2018.
[17] CY, HU, FI, IE, IT, PL, SI, SK.
[18] AT, CZ, EE, FI, FR, LU, SE, SK plus CH.
[19] PL, SI plus NO.
[20] BE, BG, LV, NL.
[21] CZ.

4.2.1 ASYLUM

According to the Asylum Procedures Directive (APD) Member States shall assess whether the applicant is in need of special procedural guarantees to benefit from the rights and comply with the obligations provided for in the APD.[22] Consequently, when performing an assessment of non-refoulement, Member States should abide by the general rules for applicants in need of special procedural guarantees.

In addition, **special guarantees were envisaged for unaccompanied minors**, while the best interests of the child was a primary consideration for Member States when applying the APD, in accordance with the Charter of Fundamental Rights of the European Union (the Charter)[23] and the 1989 United Nations Convention on the Rights of the Child.[24]

In this regard, some Member States[25] underlined the importance of the principle of the **best interest of the child in the assessment of non-refoulement**. More specifically, **in Belgium**, the Immigration Act envisaged that prior to any decision regarding an unaccompanied minor, the Immigration Department should take into consideration any proposal of sustainable solutions based on the best interests of the child, formulated by their guardian. **In Sweden**, the legislation explicitly referred to the prohibition of removal when referring to minors unless there were additional guarantees.[26] The **Netherlands** indicated that in order to assess an asylum application, including the assessment of the principle of non-refoulement, the individual situation and the circumstances of the applicant, including their background, gender and age should be taken into consideration. The Netherlands also added that, in case the minor, who applied at first with their parents and received a negative decision, applied for international protection again but based on their own merits, a new assessment of the principle of non-refoulement would be undertaken.

4.2.2 RETURN

All Member States but Malta[27] plus Norway and Switzerland provided **legal safeguards when assessing the risk of refoulement in vulnerable cases, including minors.**[28]

In most Member States plus Switzerland and Norway, these **provisions were explicitly addressed in specific legislation protecting minors and/or other vulnerable groups**.[29] Of these countries, six Member States plus Norway and Switzerland included legal provisions only protecting minors.[30] In Sweden, this protection applied only to unaccompanied minors.

In several Member States, there are no specific provisions in relation to non-refoulement protecting minors and/or other vulnerable groups, but the protection is ensured **through other provisions**.[31] For example, in **Luxembourg**, if a return decision was postponed where a minor or member of a vulnerable group was concerned, their specific needs would be taken into consideration. In the **Netherlands**, there were no specific provisions for minors/ vulnerable groups, but the legislation mandated that all individual circumstances would be taken into account in

[22] Similarly, according the Reception Directive (recast) Member States considering the specific situation of vulnerable persons shall assess whether the applicant has 'special reception needs' (article 22).
[23] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT
[24] https://www.ohchr.org/en/professionalinterest/pages/crc.aspx
[25] BE, EE, LU, NL, PL, SI.
Vulnerable persons whose removal has been suspended on a non-refoulement basis may be entitled to additional guarantees.
[26] Swedish Aliens Act, Chapter 12, Section 3 a) states that a minor shall not be removed if the responsible authority has not ensured that the minor will be received by a parent, a guardian or an authority that take care of minors.
[27] MT implemented safeguards throughout its administrative procedure, but they are not enshrined in the legislation.
[28] For LV, SK and CH, there are general safeguards in place for all individuals that are not specific to vulnerable groups. LV has additional safeguards for vulnerable groups that are not specific to the assessment of refoulement.
[29] BE, BG, CY, DE, EE, FR, HR, IT, PL, SI, SE, CH. In EE, these provisions concern protection of vulnerable persons in general, they are not linked specifically to the assessment of the principle of non-refoulement.
[30] BE, BG, HR (for forced return), CY, SE, SI.
[31] CZ, FI, IE, HU, LV, LU, PL, SK plus NO – IE, MT and SK do not return UAMs.

the non-refoulement assessment in return procedures.

In practice, during the non-refoulement assessment, special consideration may be given for **medical cases** where return would interrupt medical treatment,[32] or if the profile of the applicant resembled that of a victim of human trafficking[33] or torture.[34] Additionally, **in Italy**, women who were over 6 months pregnant could not be returned by law based on the principle of non-refoulement.

Concerning **special non-refoulement guarantees for minors** in return procedures, these provisions were specific to each Member State. For instance, Slovenia did not return minors at all. In **Belgium**, a specific commission was created to assess the best interests of the child, also considering the risk of refoulement. The Norwegian Immigration Act stated that forced removal of an unaccompanied minor may only occur if the minor was returned to a family member, an appointed guardian or another appropriate caretaker. In many cases, these issues were considered in connection with the assessment of an asylum application and therefore linked to non-refoulement before they arrived to the return decision.[35]

5 PROCESS FOR THE ASSESSMENT OF NON-REFOULEMENT IN ASYLUM PROCEDURES

Most of the countries participating in the research pointed out that there were **no separate procedural steps related to the assessment of the principle of non-refoulement**. The examination of the risk of violation of this principle (including article 3 ECHR) was an element to consider when examining the applicant's needs for international protection and was therefore an integral part of the same assessment.

With regards to the **interview phase**, some countries[36] pointed out the existence of pre-defined questions during the interview aimed to evaluate the possible treatment the applicant would face if returned to their country of origin.

When referring to the **outcome of the asylum procedure**, several countries[37] indicated that the non-refoulement principle was specifically referenced in the decision issued by the competent authorities.[38] In **Norway**, there would be a new assessment also in case of appeal of a negative asylum claim or if a new asylum application was introduced.

Germany and **Denmark** also noted that a full non -refoulement assessment was performed in the context of withdrawal of international protection.

Further, in cases of applicants with medical issues, the assessment also focused on the availability and accessibility of adequate medical care and medication in the country of return.[39]

6 ASSESSMENT OF THE PRINCIPLE OF NON-REFOULEMENT DURING THE RETURN PROCEDURE

The process for assessing the principle of non-refoulement during the return procedure differed according to each Member State. The following section details how the assessment was conducted at the different stages of the return procedure, including the first return decision, the (potential) appeal procedure and the (potential) removal.

6.1 FIRST ASSESSMENT OF NON-REFOULEMENT IN THE RETURN PROCEDURE

Table 1 below presents the different phasis during which non-refoulement is assessed by Member States. There were two observable trends: Member States either assessed non-refoulement once during both asylum and

[32] AT, BE, FR.
[33] IT (for example young women from Nigeria or working men from Bangladesh)
[34] PT.
[35] Articles 90 (return) and 73 (def. of non-refoulement) of the Immigration Act are linked to article 28 of the Norwegian Immigration Act (refugee status 1951 Refugee Convention + art 3 ECHR). Article 28 third paragraph, says "In the assessment pursuant to the first paragraph, account shall be taken of whether the applicant is a child."
[36] AT, DE, DK, EE, LU, LV, LT, PT.
[37] BE, HR, EE, IE.
[38] AT, DE, DK, HR, FI, PL, PT.
[39] AT, BE.

return procedures, or they assessed it twice, once during each procedure.

Table 1: Different phases during which non-refoulement is assessed by Member States

Phase	Countries
Non-refoulement assessed only once, during procedure for international protection	AT, BE, DE, DK, EE, FI, LT, LU, NL, PT, SE, plus CH and NO
Non-refoulement assessed again following a negative decision on the request for international protection or prior to removal.	BG, CY, CZ, FI, FR, HR, HU, IE, LU, LV, NL, PL, RO, SE, SI, SK and NO

In several Member States, Norway and Switzerland,[40] the non-refoulement assessment **took place only once for both the international protection and return procedures**, as a failed asylum decision may automatically lead to a return decision. This practice implied a close working relationship between the asylum and return authorities. There were variations from State to State, for instance **Denmark** reported that they would readmit an assessment of the principle of non-refoulement to the asylum authority if necessary, and in **Austria, Estonia, Portugal plus Norway** and **Switzerland**, non-refoulement could be re-assessed prior to removal in special circumstances, including if the situation in the country of origin had changed. In **Belgium**, the assessment done by the return authorities was based on the asylum decision, and only if new elements emerged was a full non-refoulement assessment done again.

The **remaining Member States assessed the principle of non-refoulement twice**,[41] once during the asylum procedure and once during the return procedure.[42] In these cases, although the assessments were separate, the return authority could rely on the assessment previously carried out by the asylum authority, in order to maximise efficiency.[43] Indeed, **Lithuania** and **the Czech Republic** [44] reported that the authorities responsible for both assessments relied on the same Country of Origin information (COI). In Poland, the authorities also had access to the same COI database, but could make use of information from different sources as well. In **Romania**, the return authorities heavily relied on the asylum authorities' assessment, as they did not have access to the COI database. In **Ireland**, the return authorities were able to refer the decision back to the asylum authorities, and several Member States reported that they only re-examined the situation of non-refoulement if new elements emerged.[45]

6.2 ASSESSING NON-REFOULEMENT PRIOR TO REMOVAL

Over half of the Member States stated that there would be a **reassessment of the principle of non-refoulement prior to the removal** of an individual.[46]

Conversely, there was **no routine pre-removal assessment of the non-refoulement principle** in the Slovak Republic, where the principle of non-refoulement was reassessed during the entire return procedure, even before the actual execution of return, as well as Norway and Switzerland [47]. In **Norway** the re-assessment of non-refoulement was linked to the time-lapse between the return decision and the actual removal: no pre-removal assessment was done if the removal was implemented shortly after the return decision or, in the case of Norway, immediately after a negative asylum decision, and if there were no developments in the country of origin. Similarly, in Estonia, non-refoulement would

[40] AT, BE, DE, DK, EE, FI, LT, LU, NL, PT, SE, plus CH and NO. In LT, the assessment is done only once, but it can be done during the asylum procedure (in the same decision as return) or separately.
[41] BG, CY, CZ, FI, FR, HR, HU, IE, LT, LU, LV, NL, PL, RO, SE, SI.
[42] This may vary from State to State, as some States will reassess refoulement if the individuals raise impediments to return after the return decision is issued, as was the case in Sweden.
[43] Be, IE, LT, PL, RO
[44] In PL, all authorities have access to the same CoI database, but return authorities can make use of information from different sources as well
[45] BE, LU, LV, PT, SE.
[46] AT, BE, CY, DE, FR, FI, HR, HU, IE, CZ, EE, LU, LV, NL, PL, SE, SI, SK.
[47] However, in Norway, if there is a late removal, there is a great chance of a need for a new assessment due to added case information or changes in country of return. In Switzerland, a new assessment could take place if new elements emerged or if the situation in the country of return changed.

be reassessed only if the circumstances on which the administrative act was based had changed.

In many Member States plus Norway, the assessment included asking the individual if there were new elements or if they had concerns regarding their return, in which case the authorities would investigate further.[48] In both the **Netherlands** and **Sweden**, the re-assessment only took place upon the request of the individual or if new conditions emerged.

6.3 NON-REFOULEMENT IN THE RETURN APPEAL PROCEDURES

In 17 Member States, plus Norway and Switzerland , it was **possible to appeal a return decision based on non-refoulement considerations**.[49] In the **Netherlands**, it was not possible to appeal a return decision directly on the grounds of non-refoulement, however, the individual could introduce a new asylum application or appeal a negative asylum decision based on new facts relevant to non-refoulement. In **Sweden**, it was only possible to appeal a negative asylum decision referencing non-refoulement considerations. Conversely, in **Ireland**, there was no appeal procedure on the grounds of non-refoulement; lodging an application to revoke a deportation order was the only way to challenge the return decision on those grounds. There would be no suspensive effects.

In the Member States where an appeal of a return decision was based on non-refoulement considerations, the appeal would mainly need to be grounded in the legality and the facts of the return decision,[50] or in the procedure itself.[51] Examples of other grounds included, for example, in Belgium the infringement of substantial norms, abuse or exceedance of power, and in Slovenia, the incorrect application of regulation, incomplete facts, or violation of procedural decisions.

The organisation acting as the appeal authority varied across the Member States; this could be for example, the Administrative Court[52] or the Immigration Authority (or national equivalent).[53]

Most Member States' appeals processes had **suspensive effects**,[54] except in Estonia and Italy. In six Member States, appeals with automatic suspensive effect were provided.[55] Five other Member States plus Switzerland and Norway did not have an automatic suspensive effect.[56] Special circumstances could stay the enforcement of the return decision in **Belgium, Finland** and **Ireland**. In **Poland**, an appeal against a return decision which was submitted to the immigration authority would have an automatic suspensive effect, unless the decision was immediate (with an indicated date of return). Otherwise, only a new asylum application with the immigration authorities would suspend the return decision.

A few particularities were noted including in **Croatia**, where there was only a suspensive effect to the appeal if the return decision was made in conjunction with the asylum decision. In **Germany,** the suspensive effect only occurred upon the request of the individual, and in the **Slovak Republic**, the suspensive effect would only take place if the appeal was lodged in time. In **Finland**, after an asylum application failed, the first appeal only had an automatic suspensive effect while the case was pending. However, if the application was rejected as manifestly unfounded, there would not be a suspensive effect and the applicant would then need to apply for a stay of the enforcement of the return decision.

6.4 ASSESSING NON-REFOULEMENT IN RETURN AFTER DUBLIN TRANSFER TO THE RESPONSIBLE MEMBER STATE

The majority of Member States **would not re-assess non-refoulement in cases of Dublin transfers**,[57] or **would only do so if new claims**

[48] BE, FI LU, LV, MT, NL, PT, SE, SI.
[49] BE, BG, HR, CY, CZ, DE, EE, FI, FR, HU, IT, LV, LU, NL, PL, SK plus NO.
[50] CY, DE,HR.
[51] FI, FR.
[52] BE, CY, HR, CZ, DE, EE, FI, FR, HU, LU, NL (only for the second instance or if there was a formal judicial review), SK (only for the second instance), plus CH.
[53] CZ (only at first instance), LV (it the same authority who examines the return decision and the appeal but different officials will examine appeal), LU (if there is an informal appeal), NL (only for the first instance), PL (an appeal in front of the Administrative Court is possible but it will not be examined on merit), SE, SI, SK (only for the first instance).
[54] BE, HR, CY, CZ, DE, FI, FR, HU, LV, LU, PL, SE, SI, SK.
[55] CY, CZ, FR, LV, SI, SK.
[56] BE, HR, EE, FI, HU, IE, IT plus NO and CH.
[57] CY, DE, EE, FI, FR, LV, NL, PL, SE.

were brought forward,[58] a **new asylum application was lodged,**[59] or if the return decision was **appealed** and the principle of non-refoulement was invoked.[60]

Several other Member States plus Switzerland would re-assess non-refoulement during the Dublin procedure.[61] In Slovenia, this would only take place if the individual presented new claims.

In Norway and Ireland, the re-assessment depended entirely on the case in question.

Finally, a few Member States identified some challenges particularly related to the need to request guarantees before transferring applicants to specific Member States.[62] For example, Slovenia pointed out that they had to request special guarantees before proceeding with the transfer of applicants to Italy, Bulgaria and Croatia.

7 CHALLENGES TO TRANSLATE LAW INTO PRACTICE

Several challenges were raised by Member States plus Norway and Switzerland concerning the translation of the legal provisions protecting individuals from refoulement into practice, both during the asylum and return procedures.

In the majority of Member States, the assessment on the non-refoulement principle was performed by the asylum authorities within the decision on international protection, whereas the return authorities followed the assessment contained in the decision on international protection. In this context, the assessment of the non-refoulement principle did not generate significant challenges, as only one decision was taken (granting of international protection or rejecting the claim, and consequently ordering return).[63]

Procedural challenges were emphasised by some Member States where there were two separate procedures in place, with different authorities involved.

The main challenges identified by the participating Member States included the following:

Insufficient country of origin (COI) information available or, if information was available, access to it may be restricted. Several countries[64] highlighted the importance of using comprehensive and up to-date COI to assess the situation in the applicant's country of origin or previous habitual residence and assess if their return would constitute a breach of non-refoulement. For this reason, insufficient or insufficiently up-to-date information may constitute a challenge.

Difficulties in the non-refoulement assessment of vulnerable people.[65] As previously indicated, most of the countries indicated that there were no specific guarantees related to the assessment of the non-refoulement principle in cases of applicants with special needs. The assessment, when referring to these groups, was made based on case law, when available, or practice. In addition, **Lithuania** also highlighted that one of their main challenges was the lack of effective communication between the child protection service and the asylum authority. Belgian noted that assessing the needs of vulnerable groups was challenging, because return officials were not necessarily familiar with assessing the principle of non-refoulement.

Security issues when an exclusion clause may apply.[66] In Lithuania, for instance, a recent change in national case law brought a change in practice. A third country national who could not be returned to their country of origin based on a non-refoulement assessment, must be granted a residence permit, even where the person was considered to be a threat to the security of the State. The Netherlands also highlighted a similar situation of third-country

[58] EE, PL.
[59] DE, EE, FI, FR, NL, SE.
[60] FR.
[61] BE, HU, LU, SK, SI, plus CH.
[62] AT, BE, CZ, PT, SI.
[63] An example of this system is Norway where the assessment is done at once covering the need of international protection and possibility of return.
[64] AT, CZ, EE, LU.
[65] AT, MT, LT, PT.
[66] DE, LT, NL.

nationals representing a risk to Dutch national security, not being allowed to stay in the Netherlands but at the same time not being able to be returned to their country of origin.

Time lapse between the submission of an application for international protection and the issuance of a return decision[67] If there were delays in the issuing of a decision, the specific circumstances upon which the non-refoulement assessment was previously carried out might have changed for specific circumstances (e.g. change in the country of origin situation or in the health condition of the applicant). For this reason, it was important for Member States to make timely decisions on the most appropriate stage at which the non-refoulement assessment must be done. This situation also emerged in the submission of last-minute applications, explicitly highlighted by the Netherlands.[68]

8 COMPETENT AUTHORITIES AND COOPERATION

In most of the countries, the assessment of the non-refoulement principle within the **asylum procedure** was mainly done by the Asylum or Immigration Authorities in each country as indicated in the Table 2 below:

Table 2: Competent authorities assessing non-refoulement during the asylum procedure

Responsible Authority	Member States
Asylum/Immigration authority	AT, BE, BG, CY, DE, DK, EE, FI, FR, IE, LTLV, LU, NL[69], PL, PT, RO, SE, SK plus CH and NO
Ministry of Interior	HR, CZ[70], IT, MT, SI
Police/Border authorities	CY, EE, SK
Appeal bodies	EE, NL, PL and NO

However, there were a few countries where other authorities were also involved in the procedure as part of an established cooperation between national authorities. This was the case of the Refugee Board in Poland, the Immigration Appeals Board in Norway or the Police and Border Guard Board in Estonia.

The detail of each competent authority can be found in the annex of this document.

Several Member States had more than one competent authority for the assessment of the non-refoulement during **return procedures** as set out in Table 3 below:

Table 3: Competent authorities assessing non-refoulement in the return procedure

Responsible Authority	Member States
Asylum/Immigration authority	AT, BE, CY, EE, FR, HR, HU, LV, LU, NL, SE plus CH and NO
Ministry of Interior	CZ, DE, HR, HU, IT
Police/Border authorities	EE, FI, FR, IT, PL, LV, SE, SI, SK
Administrative or Asylum Court	FR, EE, HU
Department of Justice	IE

A little less than half of the Member States had only one competent authority,[71] while the other half had two or more.[72] This could be explained by the different levels of state governance, including between federal, regional and local authorities, especially in **Germany** and **Switzerland**. In **France, Hungary** and **Norway** several intervening bodies must cooperate to assess refoulement prior to return; in Norway the national police would also be involved in assessing non-refoulement alongside the asylum authorities. Another

Met opmerkingen [PJ1]: To include table on appeal bodies for return

[67] BE, IE, LT, PL, SI.

[68] The TCN can at all stages of the return procedure make a subsequent application for international protection, even on the day a return flight to the country of origin is scheduled. A special team of the IND stands ready for just such an occasion to assess whether the subsequent application is made because of new elements or findings.

[69] The Immigration and Naturalisation Service under the Ministry of Justice and Security.

[70] In CZ, the competent authority regarding asylum (i.e. asylum authority here) is a part of Ministry of Interior.

[71] AT, BE, CZ, LU, IE, LU, NL, SI, SK.

[72] CY, DE, EE, FI, FR, HR, HU, LV, PL, SE plus NO and CH.

explanation would be that different authorities were involved when issuing the return decision and enforcing it.[73] For example, in **Denmark** until 2020, the migration authorities would issue the return decision, but the police would enforce the removal of the individual. This was also the case in **Ireland**.

8.1 COOPERATION BETWEEN RETURN AND ASYLUM AUTHORITIES

Cooperation between asylum and return authorities could take many shapes, as Member States reported.

Examples included **sharing Country of Origin Information**[74] or relying on **legal reasoning and motivation** included in the asylum decision.[75] For example, in **Belgium** there was a legal obligation to assess non-refoulement during both the asylum and the return procedures (as well as prior to removal). During the return procedure, the Belgian return authorities would ask for an opinion on non-refoulement from the asylum authorities during their assessment. Similarly, in **Luxembourg** and in **Malta**, the asylum authority would share a copy of the decision on asylum with the Police and the Immigration Police. In **Latvia** asylum and return authorities carried out consultations, exchanged information and shared their assessment experiences regularly.

9 NON-REFOULEMENT CONSIDERATIONS IN POSTPONING OR STAYING RETURN DECISIONS

Twelve Member States plus Switzerland and Norway provided **postponing the return on the basis of non-refoulement considerations**.[76]

In such cases three main types of permits were issued:

First, eight Member States plus Switzerland stated that individuals could be granted **permission to stay on humanitarian grounds based on non-refoulement considerations**, effectively staying a return decision.[77]

Second, four Member States issued **"tolerated stay" permits**, whereby an individual did not qualify for international protection but could not be returned for non-refoulement reasons.[78] In **Poland and Slovenia**, tolerated stay was examined every two years and could create pathways to apply for residence permits.

Within tolerated stay, **Denmark** was an exception as tolerated stay could be granted to an individual **who fulfilled the conditions for international protection but also fell within the exclusion clause.** Such an individual could not be returned to their country of origin due to the non-refoulement principle and would be referred for tolerated stay. The permit would be re-examined every six months to assess whether return was possible.

In **Finland, Norway**, and **Sweden** in cases where the person fell within the conditions set in the **exclusion clause** but could not be returned for non-refoulement reasons, the authorities would issue a **temporary residence permit**, which would be valid until protection against refoulement was no longer necessary.[79]

Six Member States had practices which allowed the return authority to postpone or stay a return decision specifically in the case of a vulnerable person.[80] Here also, return could be postponed or the individual could be **granted temporary leave to remain** based on humanitarian grounds. **Luxembourg** provided both pathways to vulnerable groups; there was either a postponement of removal or protection granted on humanitarian grounds, which provided a work permit and encouraged independence.

In several cases, the decision to postpone return for vulnerable migrants was an administrative decision, decided at the discretion of the return authority, usually the police.[81] In Luxembourg and the Netherlands, if the protection status was provided on health

[73] CY, DK, IE, LV, FI, NL, SE.
[74] LT, PL, SI.
[75] BE, IE, RO, SI.
[76] BG, HR, DE, EE, FR, FI, HU, IE, LU, NL, SE, SI, plus NO, CH.
[77] AT, HR, IE, LT, LU, NL, PL, PT, plus CH.
[78] AT, DK, PL, SI
[79] EMN Synthesis Report, 2019, Comparative Overview of National Protection Statuses in the EU and Norway.
[80] AT, MT, LV, LU, PL, SI.
[81] MT, PL, SI.

grounds, the duration of the stay was set at the discretion of the national authorities. France permitted postponement, especially for medical reasons, but did not provide a duration for the stay as it varied depending on the individual circumstances.

In other Member States, the duration of the permit depended on the case itself and the type of permission to stay that was granted.[82] Conversely, **Bulgaria** provided individuals leave to remain under special circumstances related to non-refoulement, but would not grant an authorisation to stay.

In Member States where return decisions could not be stayed or postponed based on non-refoulement grounds,[83] some exceptions were listed, including in cases where a new asylum application was lodged; this would immediately suspend the return decision while the new application was examined.[84]

9.1 AUTHORITIES RESPONSIBLE FOR STAYING THE RETURN DECISION

Table 4 below presents the different authorities responsible for staying a return decision based on non-refoulement considerations.

Table 4: Authorities responsible for staying a return procedure due to non-refoulement considerations

Responsible Authority	Member States
Migration Authorities	AT, BE, HR, DE, FR, LU, SE
Administrative Courts	FI plus NO
Department of Justice/Law enforcement authorities/Foreign Police Unit	CZ, IE, SI, SK

In **France**, the competent authority for deciding on the postponement of a return decision was always the administrative authority competent to first issue the return decision, without prejudice to the jurisdiction of the administrative judge, who, if referred to, could order the suspension of the effects of that decision.

In several instances, the authorities responsible for staying a return decision differed from the authorities issuing the return decision.[85] In **Finland**, for example, the police was in charge of enforcing the return decision and could decide to stay the removal on the same day as the removal was planned, due to the principle of non-refoulement.

10 AVAILABLE NATIONAL STATISTICS

10.1 ASYLUM

No data was available in the national statistics on the number of non-refoulement assessments and outcomes. Decisions on applications for international protection granting humanitarian status could be used as a proxy for non-refoulement cases. As the authorisation to stay for humanitarian reasons is regulated by national law, Eurostat data[86] on positive decisions based on humanitarian grounds may serve as an indicative base of relevant practice. In this regard, in 2019, 72 660 out of 295 785 positive decisions were issued on humanitarian reasons in 15 Member States, while similar practice was noted in Iceland, Norway, Switzerland and Lichtenstein.[87]

10.2 DATA ON THE NUMBER OF STAYED/POSTPONED RETURN FOR NON-REFOULEMENT REASONS

No data was available in the national statistics on the number of non-refoulement assessments and outcomes in return procedures.

11 RELEVANT CASE-LAW

The implementation of asylum and return procedures in line with the non-refoulement principle has been assessed by both CJEU and ECHR as well as national courts. In numerous

[82] DE, FI, FR, IE, IT, LU, plus CH.
[83] AT, BE, CY, FR, PL, SI.
[84] AT, BE, CY, FR, LV, PL, plus CH. For PL, this would depend on the type of subsequent application.
[85] BE, DK, FI, IE plus NO.

[86] https://ec.europa.eu/eurostat/documents/2995521/10774018/3-27042020-AP-EN.pdf/b8a85589-ab49-fdef-c8c0-b06c0f3db5e6
[87] Ibid.

important decisions[88], the Courts have challenged the lawfulness of existing practices in relation to access to the territory and asylum procedures, Dublin procedures and return for example.

Given the extensive jurisprudence on the principle of non-refoulement, EASO has creat professional development materials in cooperation with members of courts and tribunals providing judicial analysis *inter alia* on the principle of non-refoulement. [89] Relevant developments and recent jurisprudence from national courts, CJEU and ECHR are also available on EASO Case Law Database which serves as a point of reference for European and national case law related to the Common European Asylum System (CEAS).

An indicative collection on main issues addressed in 2019-2020 as well as cases reported by the Member States are set out below:

- On the assessment of individual circumstances, the ECHR noted in the case *A.A. vs Switzerland* that while the authenticity of the applicant's conversion to Christianity in Switzerland had been accepted by the Federal Administrative Court, it had not carried out a sufficient assessment of the risks that could be personally faced by the applicant if he were returned to Afghanistan. The Court found in particular that the file did not contain any evidence that the applicant had been questioned about the everyday practice of his Christian faith since his baptism in Switzerland and how he could, if returned, continue to practise it in Afghanistan, in particular in Kabul, where he had never lived and where he said that he would be unable to rebuild his future life. Thus, it ruled unanimously on violation of article 3 of the ECHR.
- In relation of safe third country concept, in the long awaited *Ilias and Ahmed (Bangladesh) vs Hungary*, the Grand Chamber in Hungary found that there had been a violation of Article 3 owing to the applicants being returned to Serbia without a proper examination of their reception there. The Grand Chamber carried out a fuller analysis of this aspect of the case, making several points on the duties of States when they decide not to examine asylum-seekers' applications but refer instead to the notion of a safe third country to remove them.
- On collective expulsions, the ECHR found no violation regarding the administrative expulsion of applicants based on individual decisions in the case *Asady and Others vs Slovakia*, as the Court was not persuaded that the applicants' expulsion had been collective nor had they an arguable claim under the Convention. Similarly, in the case *of N.D. and N.T. vs Spain* the Court ruled that there was no violation on the prohibition of collective expulsion despite the lack of an individualised procedure for their removal as this had been the consequence of the applicants' own conduct.

- Recently, the CJEU ruled on related issues in the Joined Cases **C-924/19 and C-925/19** regarding the readmission of Afghan asylum seekers temporarily staying in the Röszke transit zone from Hungary to Serbia in application of the safe third-country principle. Following Serbia's refusal to readmit the persons concerned into its territory, on the ground that the conditions set out in the Agreement on readmission concluded with the EU were not met, the Hungarian authorities did not examine the substance of the applications referred to above, but amended the country of destination mentioned in the initial return decisions, replacing it with the respective country of origin of the persons concerned. The CJEU

[88] Analytically see EASO, Judicial analysis: Asylum procedures and the principle of non-refoulement, 2018; EASO, Compilation of Jurisprudence: Asylum procedures and the principle of non-refoulement, 2018.

[89] For an extensive list of cases, please check EASO Case Law Database available at: https://caselaw.easo.europa.eu/

confirmed the right to effective judicial protection guaranteed under the Charter.

- Regarding voluntary return to the country of origin, the ECHR found in *the N.A. vs Finland* case that the Finnish authorities had not carried out a thorough enough assessment of the individual risks in Iraq faced by the applicant's father although they had accepted his account of having faced two near deadly attacks in a context of tensions between Shia and Sunni Muslim groups, the father belonging to the latter. The Finnish authorities' decision to expel the father, who had had a conflict with a Shia colleague in his place of work as an investigator for the Interior Ministry, had ultimately forced him to agree to return voluntarily to Iraq, where he had been shot and killed soon after arrival, resulting in violation of articles 2 and 3 of the ECHR.
- At the national level, Courts address similar issues. Indicatively, in implementing the non-refoulement principle in relation to exclusion grounds, the Supreme Administrative Court in Lithuania, ruled that 'the decision of the Migration Department not to issue a residence permit according to Article 40 Part 1(8) of the Law is not legitimate. Refusal to grant refugee status does not affect the applicant being a refugee. Therefore, the Law provisions that regulate granting the refugee, who cannot be returned to his country of origin, the rights that the Member State is obliged to fulfil according to the Charter, inter alia freedom to choose profession and the right to work, cannot be interpreted in a way that the ability to enjoy those rights would be subject to the same condition which already stipulated refusal to grant refugee status (threat to state security). Otherwise, the relevant provisions of the Charter and the Directive 2011/95/EU (which must be safeguarded by the Law) would be deemed to be infringed.'
- Regarding Search and Rescue operations at sea, the Italian Civil Court ruled *inter alia* that Libya did not meet the requirements listed in UNHCR Guidelines on the Treatment of Persons Rescued at Sea regarding a place of disembarkation and based on UNHCR reports, described the dangerous condition of migrants in Libya. The Court also declared void the bilateral agreement between Italy and Libya since the agreement was made without prior authorisation from the Parliament and had for this reason no legal effect. Regarding the principle of non-refoulement, the Court cited Article 3 of the European Convention on Human Rights, which states that countries cannot return individuals where there is a real and concrete risk of being subject to inhuman or degrading treatment. The Court also mentioned the Charter of Fundamental Rights of the EU, which prohibits the return to a country where the individual faces a risk of torture.

The issue of chain refoulement in implementation of a Dublin transfer to Greece was addressed by the Administrative Court of Munich.[90] More concretely, the Court suspended the transfer of a Syrian applicant to Greece, as his application made on the Turkish island of Kos island was previously deemed inadmissible as Turkey was considered the 'First Country of Asylum'.

[90] Read analytically EDAL.

Annex 1- Competent Asylum Authorities

Table A1.1: Overview of the authorities involved in the asylum assessment per country.

Met opmerkingen [PJ2]: To include a competent return authorities table

COUNTRY	Competent authorities to review the PNR in asylum procedure
Austria	Federal Office for Immigration and Asylum (*Bundesamt für Fremdenwesen und Asyl – BFA*)
Belgium	Office of the Commissioner General for Refugees and Stateless Persons (*Sommissariaat-generaal voor de vluchtelingen en de staatlozen / Commissariat général aux réfugiés et aux apatrides - CGRS*)
Bulgaria	State Agency for Refugees (*Държавна агенция за бежанците*)
Croatia	Ministry of the Interior and the International Protection Procedure Section (*Ministarstvo unutarnjih poslova*)
Cyprus	Asylum Servicein cooperation with the Police (*Υπηρεσία Ασύλου*)
Czech Republic	Ministry of the Interior / Asylum and Migration Policy Department (*Ministerstvo vnitra/Odbor azylové a migrační politiky*)
Germany	Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge - BAMF*)
Denmark	The Danish Immigration Service (*Udlændingestyrelsen*) within Ministry of Immigration and Integration (*Integrationsministeriet*)
Estonia	Citizenship and International Protection Division of the Northern Prefecture´s Information Office of the Police and Border Guard Board (*Politsei- ja Piirivalveamet – PBGB*)
France	The French Office for the protection of refugees and stateless persons (OFPRA)
Finland	Finnish Immigration Service (*Maahanmuuttovirasto*]
Ireland	International Protection Office (IPO) within the Irish Naturalisation and Immigration Service (INIS)
Italy	Territorial Commissions for the recognition of international protection within the Ministry of Interior (*Commissione territoriale per il riconoscimento della protezione internazionale*)
Latvia	Asylum Affairs Division within the Office of Citizenship and Migration Affairs – OCMA (*Pilsonības un migrācijas lietu pārvalde – PMLP*) of the Ministry of Interior.
Lithuania	The Migration Department under the Ministry of the Interior of the Republic of Lithuania (*Migracijos departamentas*)
Luxembourg	Refugee Unit under the Directorate of Immigration, Ministry of Foreign and European Affairs (*Service des réfugiés, Direction de l'immigration*)
Netherlands	The Immigration and Naturalisation Service (*Immigratie-en Naturalisatiedienst – IND)* within the Ministry of Justice and Security and the Immigration Appeal Board
Malta	Office of the Refugee Commissioner within the Ministry of Home Affairs
Norway	Immigration Directorate (*Utlendingsdirektoratet - UDI*) and the Immigration Appeals Board (*Utlendingsnemnda - UNE*)

COUNTRY	Competent authorities to review the PNR in asylum procedure
Poland	Office for Foreigners (*Urząd do Spraw Cudzoziemców*), the Refugee Board when appeal procedure (*Rada do Spraw Uchodźców)*
Portugal	Asylum and Refugee Office (*Gabinete de Asilo e Refugiados -GAR*) within the Ministry of Internal Affairs, Immigration and Border Service (*Serviço de Estrangeiros e Fronteiras - SEF*)
Romania	General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări – IGI*)
Slovakia	Migration Office of the Ministry of Interior of the Slovak Republic
Slovenia	Migration Office, International Protection Procedures Division (*Urad za migracije, Sektor za postopke mednarodne zaščite*) within the Ministry of the Interior.
Sweden	Swedish Migration Agency (*Migrationsverket*)
Switzerland	State Secretariat for Migration (SEM)

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