



Ad-Hoc Query on the voluntary return on non EEA foreign national prisoners (FNPs)

Requested by UK EMN NCP on 11th June 2009

Compilation produced on 28th August 2009

Responses from: Austria, Belgium, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, UK (18 replies)

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

1. Background Information

In the UK, a foreign national prisoner will be deported at the end of his/her sentence¹. The Facilitated Return Scheme (FRS) provides assistance to non EEA foreign national prisoners who *volunteer* to return home.

¹ From the 1/8/08 foreign national prisoners sentenced to 12 months or more are subject to automatic deportation and are prevented from re-entering the UK for 10 years. Foreign national prisoners who receive a sentence of 12 months or less are excluded from the UK for three years. There are some statutory exemptions. UK Border Act 2007.

The UK Border Agency (UKBA) would like to see whether targeting specific nationalities with information campaigns would be an effective way of increasing the take up of the FRS and therefore increasing the number of voluntary returns.

UK definitions:

- foreign national prisoners - foreign nationals who have committed a criminal offence in the UK and reside in UK prisons.
 - deportation – physical removal to the country of origin and prevention of re-entry into the UK.
- Whilst deportation is not the preferred EMN term, it is used here to distinguish between this and other forms of removal (e.g. voluntary). The EMN definition of deportation is: *the act of a state in the exercise of its sovereignty in removing an alien from its territory to a certain place after refusal of admission or termination of permission to remain.* See EMN glossary for further details.

It would be very useful if you would answer the following questions.

2. Responses²

		Wider Dissemination? ³	<p>Do you have a scheme(s) to enable foreign national prisoners to <i>voluntarily</i> return to their home country?</p> <p>Please answer ‘yes’ or ‘no’</p> <p>If yes: Please give a brief description of the scheme(s). Do you target specific nationalities with different information campaigns to promote the scheme(s)? Please give a brief description of these information campaigns (by nationality if appropriate). Have they been effective?</p>
	Austria	No	Reply received - ‘no’ to wider dissemination.
	Belgium	Yes	Belgium has 3 schemes to enable foreign prisoners to voluntarily return to their home country..

² If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

³ A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

			<p>Firstly, Migrations Accompanists, which are working for Ministry of Internal Affairs, have as important part of their job to meet each foreign prisoner (in his prison). The purpose is to identify the foreign prisoner and to persuade him to voluntarily return to his home country. If he agrees, the prisoner will sign a “statement of departure volunteer”. At the end of his condemnation, he will be transferred to Brussels National Airport to be transported to his home country.</p> <p>Secondly, Belgium introduced into its legislation the “Courts of Application of Condemnations” since February 2007. The foreign prisoners can be provisionally liberated in the third (if it’s the first condemnation) or in the middle of their condemnation if they agree to voluntarily return to their home country. To be free, the foreign prisoners have to return to their home country, they won’t be provisionally liberated on Belgian territory.</p> <p>Thirdly, Belgian Ministry of Internal Affairs offers to committed prisoners (who are declared not responsible for their acts) a program to be re-insert in their home country. The committed prisoner will benefit of a financial and psychiatric help during one year in his home country. The committed prisoner will be liberated only if such a re-integration is possible and if he agrees to voluntarily return.</p> <p>Do you target specific nationalities with different information campaigns to promote the scheme(s)? No</p>
	Bulgaria	Yes	
	Cyprus	Yes	
	Czech Republic	Yes	
	Denmark	Yes	
	Estonia	Yes	<p>No, there are no special schemes for foreign national prisoners’ voluntary return in Estonia. Estonia follows the Convention on the Transfer of Sentenced Persons.</p> <p>There are specific officials in Estonian prisons (co-ordinators for foreign nationals) who are responsible for providing information about possibility to carry out the sentence in home country as well as information about voluntary return after the sentence is carried out.</p> <p>Estonia does not target any specific nationalities; all foreign prisoners receive the same information about possible return.</p>
	Finland	Yes	Finland does not have any such schemes.

	France	Yes	
	Germany	Yes	<p>1. No, there are no special policies in place for the facilitation of returns of foreign prisoners. After serving their sentence they may use following possibilities: Generally persons who do not have a right to permanent residency in Germany and who wish to leave Germany on a voluntary basis may be eligible for a sponsored return. Information and consulting services have been made available by various charities and charitable organisations. In close co-operation with the International Organisation for Migration (IOM) and especially with the project „ZIRF-Counselling“ , the Federal Office for Migration and Refugees and the German Federal Länder have compiled a comprehensive list of information about returns to the country of origin where answers to individual questions put by returnees will be answered. Apart from such counselling and information services, the German Federation and the German Federal Länder also grant financial basic aid, which comprises payments for travelling costs and a start-up aid. Such basic aid can be supplemented by funds from the German Federal Länder or also by municipalities and organisations.</p> <p>2. Prisoners may be released early from prison if, due to a different criminal act, the convict is to be turned over to a foreign government, to an international criminal division or if he/she is to be expelled from the area of the Federal Republic. The possibility of a voluntary return generally will not be given in those cases.</p>
	Greece	Yes	
	Hungary	Yes	<p>The answer to the question is “no”. The clarification is the following: Hungary does have voluntary return programmes, however it is laid down in national legislation that a return or expulsion measure ordered by the court or the immigration authority shall be enforced by way of transporting the third-country national affected under official escort (deportation) if the third-country national:</p> <p>a) is released from imprisonment as sentenced for a deliberate crime; b) is under detention; c) makes it necessary to supervise his/her exit for national security reasons, if so required by commitment under international treaty, or for the protection of public security or public policy. Therefore, foreign national prisoners cannot take part in voluntary return programmes.</p>
	Ireland	Yes	
	Italy	Yes	Currently there is no possibility for non-national prisoners to benefit of Assisted Voluntary Return (AVR) programmes. In

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			past years there was a proposal to extend also to prisoners the access to AVR programmes, but it was not implemented. On the other side, it's foreseen the forced return as substitution of penalty of detention (art.16 of the Consolidated Text on Immigration - Lgs. Decree no. 286/1998).
	Latvia	Yes	Latvia has no scheme(s) to enable foreign national prisoners to <i>voluntarily</i> return to their home country. If after serving a sentence for criminal offences committed in the Republic of Latvia an alien does not have a lawful basis to reside in the Republic of Latvia, for instance the residence permit is withdrawn, the head of the Office of Citizenship and migration affairs shall take a decision regarding the forcible expulsion of the alien and determine an entry prohibition.
	Lithuania	Yes	No.
	Luxembourg	Yes	
	Malta	No	Reply received – ‘no’ to wider dissemination.
	Netherlands	No	Reply received – ‘no’ to wider dissemination.
	Poland	Yes	There is no special scheme for foreign national prisoners in Poland.
	Portugal	Yes	The removal accessory penalty can be applied to the foreign citizen condemned for a malicious crime with a penalty for a period higher than 6 months in prison (for non residents) or higher than 1 year (for residents) – Art. 151 of Act 23/2007, 4th July (Immigration Law). Removal accessory penalty is a judicial decision and has a coercive nature. Under PT legal framework voluntary return programmes are addressed to foreign citizens who decide to leave the country on a free and voluntary basis. If they were not condemned in a removal accessory penalty (after serving the prison penalty) they may use voluntary returns schemes, as any other foreign citizen. Currently there's no specific campaign on voluntary return addressed to prisoners.
	Romania	Yes	
	Slovak Republic	Yes	Slovakia does not have any specific scheme as for the voluntary return of foreign national prisoners. If the situation occurs the issue is dealt by on an ad-hoc basis.
	Slovenia	Yes	No.
	Spain	Yes	In Spain, a foreigner who has been imprisoned may seek /apply for general voluntary return programmes, but certain offences sentenced with imprisonment also imply obligatory deportation from Spanish territory upon completion of the prison sentencia. In cases when deportation is a penalty measure, the foreigner has no less than 72 hours to abandon national

			<p>territory, therefore the return is considered voluntary when it occurs within these 72 hours.</p> <p>Do you have a scheme(s) to enable foreign national prisoners to <i>voluntarily</i> return to their home country?</p> <p>No specific voluntary return programme exists for foreign prisoners; however, there are general voluntary return programmes for foreigners to which those who have served a prison sentence may be entitled.</p>
	Sweden	Yes	Likely to be 'no' – but to be confirmed.
	United Kingdom	Yes	<p>Do you have a scheme(s) to enable foreign national prisoners to <i>voluntarily</i> return to their home country?</p> <p>Yes.</p> <p>Please give a brief description of the scheme(s).</p> <p>The UK has two mechanisms to enable the removal of foreign national prisoners who agree to return home voluntarily: the Early Removal Scheme (ERS) and the Prisoner Transfer Agreements (PTA). The ERS allows for the early release of foreign prisoners for the purpose of removal from the UK, the decision to release early is made by the Prison Governor. The PTA enables the repatriation of foreign prisoners to serve the remainder of their sentence in their home country.</p> <p>Whilst the two mechanisms described above may provide enough incentive to encourage the voluntary return of the foreign national prisoner, the Facilitated Return Scheme provides an additional incentive for non EEA nationals. The scheme is designed to help non EEA foreign national prisoners return home either at their Early Removal Scheme date or at the end of their sentence. Foreign national prisoners who agree to go on the FRS scheme are provided with a package of reintegration assistance through the International Organization for Migration (IOM).</p> <p>The current package of reintegration assistance is £5,000 for prisoners who are still serving a sentence and £3,000 for those who have completed their sentence. The assistance is provided 'in kind' for help with setting up businesses, undertaking training and further education, finding accommodation and employment and accessing medical provisions. All prisoners are entitled to receive £46 in cash on their removal from the UK as part of the reintegration assistance.</p> <p>Do you target specific nationalities with different information campaigns? Please give a brief description of these strategies/campaigns by nationality.</p> <p>At present we do not produce nationality specific information campaigns about the FRS (although information is translated into different languages). The UK Border Agency staff work closely with Prison Officers to market and promote the benefits of the scheme through surgeries and one to one interviews with FNPs within prisons. A telephone hotline within the UK</p>

		<p>Border Agency is available between the hours of 9 – 5pm (Monday to Friday) for foreign national prisoners and Prison Service staff to obtain further details of the scheme and check progress of their cases and also provides the opportunity for foreign national prisoners to make applications.</p> <p>To try and increase uptake of the FRS, we would like to target the scheme at specific nationalities. For example, there are indications that Jamaican foreign national prisoners do not take the threat of deportation seriously and therefore are less likely to participate in the FRS. The information campaign aimed at Jamaican prisoners would therefore need to make clear that deportation is the most likely option following a prison sentence. On the other hand, a story line about deportation presented in a popular TV show in East Africa, might prove a more influential lever for East African prisoners as families share information from the show with other family members (see http://www.makutano.org/ for more information).</p>
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