



## **Ad-Hoc Query on Expulsions to Libya**

**Requested by NL EMN NCP on 11 February 2011**

**Compilation produced on 9 March 2011**

**Responses from Austria, Belgium, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom plus Norway (18 in Total)**

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### **1. Background Information**

The Administrative Jurisdiction Division of the Council of State has recently initiated an investigation in two appeal cases of rejected Libyan asylum-seekers. An important topic of these appeal-cases is the question whether an expulsion to Libya would violate the rights under Article 3 of the European Convention on Human Rights (ECHR). Therefore the Council of State has submitted the following questions to the Immigration and Naturalisation Service in order to implement her investigation.

- a. Which policy did you implement regarding the expulsion of rejected Libyan asylum-seekers during 2008, 2009 and 2010? Please specify your policy for each year separately.
- b. How many Libyan rejected asylum-seekers have been expelled to Libya in 2008, 2009 and 2010. Please specify the numbers for each year separately .
- c. Have you monitored these expulsions? And if so, please indicate your findings.

In view of the court date, which is approaching rapidly, it would be highly appreciated if you could answer these questions and return your responses before 24 February.

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## 2. Responses<sup>1</sup>

		Wider Dissemination? <sup>2</sup>	A) WHICH POLICY DID YOUR MEMBER STATE IMPLEMENT REGARDING THE EXPULSION OF REJECTED LIBYAN ASYLUM-SEEKERS DURING 2008, 2009 AND 2010? PLEASE SPECIFY YOUR POLICY FOR EACH YEAR SEPARATELY. B) HOW MANY LIBYAN REJECTED ASYLUM-SEEKERS HAVE BEEN EXPELLED TO LIBYA IN 2008, 2009 AND 2010? PLEASE SPECIFY THE NUMBERS FOR EACH YEAR SEPARATELY . C) HAS YOUR MEMBER STATE MONITORED THESE EXPULSIONS? AND IF SO, PLEASE INDICATE YOUR FINDINGS.
	Austria	No	-
	Belgium	Yes	a) During these years, the removal policy towards Libya has not changed. In the rare cases that an irregular-staying Libyan migrant is intercepted, we try to identify him in order to get a laissez-passer from the Libyan authorities. b) 2008: 2, 2009: 4, 2010: 1 c) No
	Bulgaria	Yes	
	Cyprus	Yes	
	Czech Republic	Yes	
	Denmark	Yes	
	Estonia	Yes	Estonia has never had any asylum seekers from Libya, so there is no special policy designed. Only case by case approach is being used.
	Finland	Yes	a) Finland does not have a separate policy regarding Libya, as the numbers are so low. All expulsions have been routed to Tripoli with or without escort. b) 2008: 4 persons, of which 3 were escorted to the final destination 2009: 2 persons, of which 1 were escorted to the final destination 2010: 3 persons, of which 2 were escorted to the final destination c) No, Finland does not monitor the expulsions after that they have been carried out.
	France	Yes	
	Germany	Yes	a) Decisions about returns to Libya are taken in accordance with general residence law regulations taking into account the circumstances of the individual case. b) Police data on returns do not include „asylum applicants“ as a separate category. It is therefore only possible to indicate the <u>total</u> number of

<sup>1</sup> 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.

<sup>2</sup> 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."

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			<p>returns of Libyan nationals.</p> <p>2008: 38 persons 2009: 31 persons 2010: 36 persons</p> <p>b) The Federal Police does not have a specific program to monitor returns to Libya.</p>
	<b>Greece</b>	<b>Yes</b>	
	<b>Hungary</b>	<b>Yes</b>	<p>a) There is no separate statistics, for the rejected asylum seekers' expulsions ordered by the court or immigration control. In regard to Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals the expulsion causes are unrelated to the rejection of an asylum application.</p> <p>The competent authorities are required before the implementation of expulsion ordered by the court or the immigration control to seek the Office of Immigration and Nationality in the existence of non-refoulement.</p> <p>b) There is no separate statistics; however, we can conclude that there is a few of the Libyan rejected asylum-seekers illegal in Hungary. The following statistic includes the total coercive measure of immigration: 2008: expulsion order of 2 Libyan, expulsion ordered by the court of 1 Libyan 2009: expulsion ordered by the court of 1 Libyan 2010: dispensation from the expulsion of 2 Libyan</p> <p>c) No</p>
	<b>Ireland</b>	<b>No</b>	-
	<b>Italy</b>	<b>Yes</b>	<p>In Italy the applications for international protection are processed case by case. In case of negative response, within 5 days the applicants can apply for a reexamination of their case to the Committee's president, producing any new element of evaluation in addition to those of the first hearing. In any case, within 15 days from the notification of the decision they can appeal to the territorially relevant ordinary court. Therefore, unless they have been granted any other kind of residence permit, they have to leave the country at the expiry of the time limit for appealing.</p> <p>The statistics archives on returns (Department of Public Security of the Ministry of the Interior) are not directly linked with the archives of the National Committee for the Right of Asylum of the Ministry of the Interior, therefore it is not possible to keep track of the actual return of applicants who have received a negative response. However, since few people are involved, it is possible to have an overall view of the actual trends.</p> <p>a) <u>Returns</u> (Department of Public Security of the Ministry of the Interior): during the reference period, 25 out of 95 tracked Libyan citizens in 2008, and 11 out of 46 in 2009 were actually returned (2010 figures are not available at the moment; after a formal request they could be available within a few weeks, but presumably not in time for the deadline to answer to this ad hoc query). See table 1.</p> <p>b) <u>Refusals of asylum applications</u> (National Committee for the Right of Asylum of the Ministry of the Interior): between January 1, 2008 and June 30, 2010 the rejected applications for international protection submitted by Libyan citizens were 8. During the same period, the refugee status was granted in 5 cases and the subsidiary or humanitarian protection in further 11 cases. See table 2.</p> <p> NCP Italy (Table 1 and 2).xls</p>

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	<b>Latvia</b>	<b>Yes</b>	a) Until now Latvia has not have asylum seekers from Libya. b) - c) -
	<b>Lithuania</b>	<b>Yes</b>	Lithuanian authorities didn't receive any requests for international protection from Libyan nationals in 2008-2010.
	<b>Luxembourg</b>	<b>Yes</b>	a) Luxembourg does not have an explicit policy regarding the expulsion ('retour forcé') of rejected asylum-seekers of certain nationalities. Assessments are always done on a case by case basis. b) In 2008, one Libyan national whose application for international protection had been rejected was expelled. In 2009 and 2010, there were no expulsions of rejected applicants for international protection to Libya. c) In general, expulsions ('retours forcés') are organized by the Ministry of Foreign Affairs. If they are organized as charter flights, expulsions are systematically monitored by a neutral observer (Luxembourg Red Cross). In contrast to voluntary returns ('retours volontaires'), there is no 'follow-up' in the country of origin.
	<b>Malta</b>	<b>Yes</b>	
	<b>Netherlands</b>	<b>Yes</b>	
	<b>Poland</b>	<b>Yes</b>	a) Our experience in this matter is not much extensive. During last 3 years we only had ONE Libyan national expelled from the territory of the Republic of Poland under escort of 2 Border Guard officers. The person was expelled on the basis of the decision on expulsion according to Act on Aliens. b) 2008 – 0; 2009 – 0; 2010 – 1 c) The Libyan national was expelled from Poland under escort of 2 Border Guard officers. None of NGOs was involved in the process of expulsion.
	<b>Portugal</b>	<b>Yes</b>	a) In the reference years there are no requests from Libyan seekers. b) - c) -
	<b>Romania</b>	<b>Yes</b>	
	<b>Slovak Republic</b>	<b>Yes</b>	a) In last three years the Slovak Republic had only 2 asylum seekers from Libya. In one case the subsidiary protection has been granted (2009) and in the other case (2009) the person has been returned via Dublin transfers. Thus the Slovak Republic has no experiences in the expulsion of the rejected asylum seekers from Libya. b) - c) -
	<b>Slovenia</b>	<b>Yes</b>	a) Slovenia had no asylum seekers from Libya in this period. b) - c) -
	<b>Spain</b>	<b>Yes</b>	

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	Sweden	Yes	<p>a) It may be noted that the Migration Board is in charge of voluntary return while the Police conduct forced return.</p> <p>Many applications from Libyans have been rejected in recent years, and also affirmed by the Migration Courts. The reasons for rejecting these applications have been that the grounds for asylum have not been invoked strong enough, nor have the grounds been made plausible.</p> <p>In Sweden, there is a court system where asylum applicants can appeal a case of rejection from the Migration Board. Many applicants are entitled to a legal representative to assist his/her case. This method/procedure aims to ensure that asylum claims, or new circumstances that are referred to during the case, will be thoroughly assessed in the procedure. From a return perspective, we are unable to comment on the existence of impediments to enforce the decision etc. Due to the current situation in Libya, as of February 21, 2011, all expulsions to Libya are inhibited.</p> <p>Voluntary returns are arranged in cooperation with the returnee. Regular flights are used. Final destination is usually Tripoli.</p> <p>b)</p> <p><b>2008 Libyan citizens</b></p> <table border="1"> <thead> <tr> <th>Destination</th> <th>voluntary returned</th> <th>Forced return</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Dublin country</td> <td>15</td> <td>10</td> <td>25</td> </tr> <tr> <td>Libya</td> <td>73</td> <td>27</td> <td>100</td> </tr> <tr> <td>Unknown destination</td> <td>138</td> <td>8</td> <td>146</td> </tr> <tr> <td>Third country</td> <td>6</td> <td>6</td> <td></td> </tr> <tr> <td><b>Total</b></td> <td><b>232</b></td> <td><b>45</b></td> <td><b>277</b></td> </tr> </tbody> </table> <p><b>2009 Libyan citizens</b></p> <table border="1"> <thead> <tr> <th>Destination</th> <th>voluntary returned</th> <th>Forced return</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Dublin country</td> <td>19</td> <td>22</td> <td>41</td> </tr> <tr> <td>Libya</td> <td>96</td> <td>49</td> <td>145</td> </tr> <tr> <td>Unknown</td> <td>28</td> <td>9</td> <td>37</td> </tr> <tr> <td>Third country</td> <td>40</td> <td>3</td> <td>43</td> </tr> <tr> <td><b>Total</b></td> <td><b>183</b></td> <td><b>83</b></td> <td><b>266</b></td> </tr> </tbody> </table> <p><b>2010 Libyan citizens</b></p> <table border="1"> <thead> <tr> <th>Destination</th> <th>voluntary returned</th> <th>Forced return</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Dublin country</td> <td>24</td> <td>16</td> <td>40</td> </tr> <tr> <td>Libya</td> <td>132</td> <td>55</td> <td>187</td> </tr> <tr> <td>Unknown</td> <td>2</td> <td>2</td> <td>4</td> </tr> <tr> <td>Third country</td> <td>94</td> <td>1</td> <td>95</td> </tr> <tr> <td><b>Total</b></td> <td><b>252</b></td> <td><b>74</b></td> <td><b>326</b></td> </tr> </tbody> </table> <p>c) No, we have not monitored these expulsions.</p>	Destination	voluntary returned	Forced return	Total	Dublin country	15	10	25	Libya	73	27	100	Unknown destination	138	8	146	Third country	6	6		<b>Total</b>	<b>232</b>	<b>45</b>	<b>277</b>	Destination	voluntary returned	Forced return	Total	Dublin country	19	22	41	Libya	96	49	145	Unknown	28	9	37	Third country	40	3	43	<b>Total</b>	<b>183</b>	<b>83</b>	<b>266</b>	Destination	voluntary returned	Forced return	Total	Dublin country	24	16	40	Libya	132	55	187	Unknown	2	2	4	Third country	94	1	95	<b>Total</b>	<b>252</b>	<b>74</b>	<b>326</b>
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	<b>United Kingdom</b>	<p style="text-align: center;"><b>Yes</b></p>	<p>a) We recognise that the conditions in some countries are such that there are individuals who are able to demonstrate a need for international protection. We do not, however, consider that each and every individual who applies for asylum is in need of international protection. We only enforce the return of those we are satisfied are not in need of protection, and we do not seek to enforce returns unless we are satisfied that it is safe to do so.</p> <p>The UK Border Agency does not have a separate policy specifically for removals of failed asylum seekers to Libya. The last published Operational Guidance Note for Libya was published in April 2007. This OGN was withdrawn in the light of our decision to produce OGNs only for the top 30 asylum generating countries. However, it provided the operational policy guidance for treatment of asylum claims from Libya for 2008, 2009 and 2010.</p> <div style="text-align: center;">  </div> <p>RemVolDep_Libya_2008 to Sep 2010.xls</p> <p>b) Please see statistics attached.</p> <p><u>Note:</u></p> <p>It is not possible to say what stage in the asylum process the nationals of any country have reached at the time of their removal, including whether their claim has failed at that point, because those departing voluntarily can do so at any stage without notifying the UK Border Agency. For this reason we will not use the term “failed/rejected asylum seekers”. We will use the term the number of asylum cases, including dependants, removed.</p> <p>Statistics for Q4 2010 will be published on the 24<sup>th</sup> of February on the Home Office’s Research, Development and Statistics website at: <a href="http://www.homeoffice.gov.uk/rds/immigration-asylum-stats.html">http://www.homeoffice.gov.uk/rds/immigration-asylum-stats.html</a>.</p> <p>c) Except in individual cases where this is provided for as part of ‘deportation with assurances’ arrangements with the country concerned, or other exceptional circumstances, the UK Border Agency does not pro-actively monitor the treatment of individual failed asylum seekers on return to their country of origin or to any other third country to which they returned. It would generally be inappropriate and impractical for the UK to actively monitor individual citizens of another country once they return there. We believe that the best way to avoid ill-treatment is to make sure that we do not return those who are at real risk, not by monitoring them after they have returned. This should certainly not be interpreted as disinterest.</p> <p>FCO follows the human rights situation through its network of posts around the world, including in the countries to which we return failed asylum seekers. They will pass to the UK Border Agency any general information they may receive that suggests that returnees have been mistreated. Such information will always be taken fully into account in the formulation of the UK Border Agency’s policies and hence in the decision whether it is safe to return an individual. If the UK Border Agency receive any specific allegations that a returnee has experienced ill-treatment on return to their home country, then these would be investigated including through the FCO who where necessary will make discreet enquiries, often</p>

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			through NGOs or other third parties.
	Norway	Yes	<p>a) Rejected asylum-seekers are returned to Libya by force. The Norwegian Directorate of Immigration (UDI) is aware that Libyans may be detained and questioned upon return. However, we do not consider that the treatment they risk is so severe that it may constitute a breach of ECHR Art 3. The UDI has had the same policy in 2008, 2009 and 2010.</p> <p>b) Number of Libyan nationals returned to Libya by force: 13 in 2008, 24 in 2009, 16 in 2010. These numbers include rejected asylum-seekers as well as other Libyans expelled from Norway.</p> <p>c) No</p>