



## **Ad-Hoc Query on the organisation for return of TCN's from Afghanistan, Algeria and Morocco**

**Requested by the BG EMN NCP on 7<sup>th</sup> November 2013**

**Compilation produced on 24<sup>th</sup> March 2014**

**Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (29 in Total)**

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### **1. Background Information**

Since the beginning of 2013 and especially in recent months, following a complicated migration situation in Republic of Bulgaria, a trend of increasing number of illegally resident Afghan, Algerian and Moroccan citizens has been observed. Most of them have no identification documents making difficult to organise their forced return and requiring an extended stay of these persons in the Special Homes for Temporary Accommodation of Foreigners (SHTAF) of Migration Directorate (MD) – Ministry of Interior (MoI). Diplomatic and consular authorities of these third countries in the Republic of Bulgaria refuse to issue travel documents to illegally residing in the country their nationals if they do not declare their desire to return voluntarily to the country of origin.

In view of the progressive increase in the number of illegally resident in Republic of Bulgaria nationals of Algeria and Morocco, possibilities for organisation of charter flights have been explored. According to the answer of the diplomatic departments of those countries, Algerian and Moroccan regulations do not allow use of charter flights for expulsion or forced removal of their citizens violated rules abroad. The removal can be done only through scheduled commercial flights. At the same time European airlines refuse to take on board of their aircrafts more than two illegally resident third-country nationals and almost always require obligatory police escort to final destination. The latter creates difficulties for the forced removal of a large number of Algerian and Moroccan nationals in mind the trends of their increasing.

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Embassy of Afghanistan in Republic of Bulgaria refuses to issue travel documents to illegally residing in the country their nationals because of absence of an extradition agreement signed between the Government of the Islamic Republic of Afghanistan and the Government of the Republic of Bulgaria.




Proceeding from the above, given the rise of the number of illegally resident in the country citizens of Afghanistan, Algeria and Morocco, in order to improve the organization of their return to the countries of origin and the management of the situation, it will be very useful for us to gather information and use the best European practices to increase efficiency in the fight against the illegal migration.

Due to the complicated migration situation and serious problems with the Afghan, Algerian and Moroccan illegally resident citizens' return, we need your urgent feedback and would very much appreciate your responses to the below questions by the **21<sup>st</sup> of November 2013**.




Questions

1. For issuing valid travel documents of illegally resident foreigners by the Consular offices of the Embassies of Afghanistan, Algeria and Morocco is it necessary a personal statement for voluntary return signed by the persons concerned?
2. If necessary, what procedure Member States follow on the implementation of the coercive administrative measures imposed when third-country nationals do not will to cooperate?
3. Do Member States have signed bilateral agreements with Afghanistan, Algeria and Morocco to return back their citizens resident illegally on the territory of the respective MS country?
4. Do Member States organise special operations for returning illegally resident citizens of Afghanistan, Algeria and Morocco and if so, is it possible inclusion of another MS in such operation?



## **2. Responses**

		<b>Wider Dissemination?</b>	
	<b>Austria</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Belgium</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Bulgaria</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes. Diplomatic and consular authorities of these third countries in the Republic of Bulgaria refuse to issue travel documents to illegally residing in the country their nationals if they do not declare their desire to return voluntarily to the country of origin</li> <li>2. During the identification of third-country nationals living in the SHTAF-Sofia, "Fight against illegal migration" department staff often invites for participation in the talks with the TCN's consuls or their representatives from the respective countries which</li> </ol>




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			<p>facilitates the establishment of their identity and this collaboration helps as well for the motivation of illegally resident TCN's to return voluntarily to their country of origin.</p> <p>3. No.</p> <p>4. N/A.</p>
	<b>Estonia</b>	<b>Yes</b>	<p>1. Yes in most cases Consular offices of the third countries under question are in position that the returnees have to declare they desire to leave in order to obtain a travel document. This does not mean that the return of the TCN is absolutely impossible without the agreement of the TCN.</p> <p>2. To identify the third country nationals the representatives of third country are invited to interview the person under question. Also the possibility of the return to another third country (based on readmission agreements) is usually explored.</p> <p>3. No</p> <p>4. No</p>
	<b>Finland</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>France</b>	<b>Yes</b>	<p>1. - Afghanistan: no, the person interviewed does not have to sign a personal statement for voluntary return. However, the afghan consular authorities do not issue consular <i>laissez-passer</i> if the person interviewed, who has been identified as an afghan national, does not wish to return to his/her country of origin or faces a threat if he/she returns in his/her country of origin.</p> <p>- Algeria and Morocco: no. The consulates of Algeria and Morocco carry out interviews with persons placed in administrative detention. If it is recognised that the person concerned is a national of the respective state, the consulate may issue a consular <i>laissez-passer</i>, even though he/she does not want to return to the country of origin.</p> <p>2. According to Article L. 624-1 of the Code on Entry and Residence of Foreigners and Right of Asylum (= CESEDA), third-country nationals who has received a removal order but continues staying illegally on the French territory without legitimate grounds, after being the subject of a detention order or a compulsory residence order, will be punished by one year's imprisonment or a fine. The same penalty applies to any third-country national who does not present a travel document to the competent administrative authority carrying out the above-mentioned measure, or who does not provide the information requested or gives false information on his/her identity.</p> <p>3. - Afghanistan: no bilateral agreement.</p> <p>- Algeria: Protocol signed on 27 May 1994 on the issuance of consular <i>laissez-passer</i>, which contains provisions to fast-track identification of Algerian nationals for issuing consular <i>laissez-passer</i>.</p> <p>- Morocco: Statement of the 15 January 1993 on issues of common interest on movement and residence of French and Moroccan</p>

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			<p>nationals, including cooperation in the issuance of consular laissez-passer.</p> <p>4. - Afghanistan: no. France and Great Britain organised 2 joint flights in November and December 2009 in the context of the dismantling of the Calais “jungle” camp (irregular migrants, mostly Afghans nationals, trying to reach the United Kingdom). - Algeria and Morocco: no (no charter flights accepted).</p>
	<b>Hungary</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. In the case of the Afghan consulate the above mentioned written notice is required while it does not apply in the case of the Algerian consulate. The Moroccan Embassy officially does not ask for the written notice although in practice it seldom issues travelling documents for the citizens despite of possessing the notice.</li> <li>2. If necessary administrative fine can be imposed.</li> <li>3. No.</li> <li>4. Hungary does not provide special flights in the case forced return for the above mentioned citizens.</li> </ol>
	<b>Italy</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. No, Algerian and Moroccan Consular Authorities do not formally require an agreement to return on behalf of their compatriots in order to issue the valid legal documents necessary for repatriation. However, in the past and despite the existence of a bilateral Re-Admission Agreement, Algeria still imposed this condition. Also, Afghan authorities repeatedly refuse to comply with the requests of Italian authorities in terms of identification and emission of travel documents. This is also because each identification depends on the preliminary consent of the Afghan Government.</li> <li>2. Except for potential readmission agreements and, especially, diplomatic action and concrete assistance to the Third Country, no instruments exist to persuade consular authorities to emit valid return documents for their citizens.</li> <li>3. Yes, Italy has signed bilateral Re-Admission Agreements with Algeria and Morocco. However, the agreement with Morocco, which was signed 10 years ago, has never been implemented. Concrete changes in the short term could be obtained on account of the Mobility Partnership agreement signed on June 2013 between the Reign of Morocco, the European Union and some member States (including Italy). The Mobility Partnership’s main objectives include: contrasting irregular immigration and promoting effective policy in terms of return and re-admission. Moreover, the three mentioned Countries are important geographical areas of origin of Unaccompanied Minors who are residing in Italy. When it comes to this specific category, it is extremely difficult to apply voluntary return or re-admission measures.</li> <li>4. Italy organizes charter flights to Algeria and Morocco in which citizens who have been subjected to an Expulsion Order are grouped together. These citizens are accompanied to Police Headquarters where departure takes place (in general, Milan or Rome). Usually, these charter flights do not admit citizens who have been subject to Expulsion Orders issued by other Member States, with the exception of operations organized and promoted by Frontex.</li> </ol>



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	<b>Latvia</b>	<b>Yes</b>	<p>1. To obtain the valid travel documents for illegally residing foreigners by the Consular offices of the Embassies of Afghanistan, Algeria and Morocco, the personal statement of the person is necessary both in voluntary return and in forced return cases.</p> <p>2. Immigration law of the Republic of Latvia defines the possibility of detention of a foreigner if there are grounds to believe that a foreigner will avoid the removal procedure or will impede the preparation thereof or there is a risk of absconding of the foreigner, and it is substantiated by any a circumstance if the foreigner is hiding his or her identity, provides false information or refuses to co-operate in other ways.</p> <p>3. There are no bilateral agreements signed by the Republic of Latvia and the countries mentioned on return of persons residing illegally on the territory of the country.</p> <p>4. There were no special operations for return of illegally residing citizens of Afghanistan, Algeria and Morocco organized by the Republic of Latvia, as well as such operations are not planned.</p>
	<b>Lithuania</b>	<b>Yes</b>	<p>Lithuania does not face problems in returning illegally staying Afghan, Algerian and Moroccan citizens from Lithuania. In fact, the number of illegally present Algerian and Moroccan citizens in Lithuania is very small (1-2 per year). The return of Afghans is organized within collaboration with the Embassy of the Islamic Republic of Afghanistan in Warsaw. If a person fills the required forms correctly and does not lie about his/her identity, the return documents are issued within 3 months.</p> <ol style="list-style-type: none"> <li>1. A personal statement for voluntary return signed by the persons concerned is not necessary.</li> <li>2. N/A</li> <li>3. No.</li> <li>4. No, Lithuania does not organize any special operations.</li> </ol>
	<b>Netherlands</b>	<b>Yes</b>	<p>1. For issuing valid travel documents of illegally resident foreigners by the Consular offices of the Embassies of Afghanistan, Algeria and Morocco is it necessary a personal statement for voluntary return signed by the persons concerned?</p> <p>Afghanistan For the issuing of a travel document a presentation in person before the Afghan Embassy is required for it to make sure that the person concerned is an Afghan national and is returning voluntarily to Afghanistan. The Afghan Embassy evaluates this on the basis of oral statements. The person concerned has to acknowledge his/her voluntary return for a travel document to be issued.</p> <p>Algeria: No. The Algerian Embassy in the Netherlands issues travel documents for voluntary return (via IOM) and forced return (approval of</p>





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		<p>authorities in Algiers is needed). No personal statement is needed for issuing a laissez passer (LP) for forced return.</p> <p>Morocco No. The Consular Offices of the Embassy of Morocco in the Netherlands issue travel documents for voluntary and forced return. No personal statement is needed for issuing a laissez passer (LP) for forced return.</p> <p>2. If necessary, what procedure Member States follow on the implementation of the coercive administrative measures imposed when third-country nationals do not will to cooperate? Third-country nationals who reside in the Netherlands illegally, are obliged to leave the Netherlands. Foreign nationals are personally responsible for their departure from the Netherlands. The Repatriation and Departure Service (DT&amp;V) encourages foreign nationals who are not allowed to stay in the Netherlands to leave the country voluntarily and supports them during this process. Foreign nationals who do not leave the Netherlands voluntarily may be forced to leave the country. Forced departure does not apply until the foreign national fails to leave voluntarily and does not accept assistance from the DT&amp;V or other (non-profit) organisations. If forced return is at issue, a foreign national can be placed in a detention centre.</p> <p>Afghanistan Afghan nationals who do not leave the Netherlands voluntarily, can be put in administrative detention in order to be expelled. When the person concerned does not declare his/her willingness to return voluntarily before the Afghan Embassy, the Embassy can still confirm the Afghan nationality. This allows for the forced return of the Afghan national to Afghanistan with an EU document on the basis of the Tripartite Agreement (see 3).</p> <p>Algeria Algerian nationals who do not leave the Netherlands voluntarily, can be put in administrative detention in order to be expelled. Detaining Algerian nationals is only possible if: - Their identity stands firm by means of documents; - There are tangible indications to doubt the stated (by alien him/herself) Algerian nationality.</p> <p>Morocco Moroccan nationals who do not leave the Netherlands voluntarily, can be put in administrative detention in order to be expelled.</p> <p>3. Do Member States have signed bilateral agreements with Afghanistan, Algeria and Morocco to return back their citizens resident illegally on the territory of the respective MS country? Afghanistan Yes. The Netherlands has a Tripartite Agreement with the Government of Afghanistan and UNHCR in Afghanistan allowing, i.a., for the forced return of Afghan nationals to Afghanistan without valid travel documents. When the Afghan nationality of a person is confirmed, the Dutch authorities announce the forced return of the person concerned to the Afghan Ministry of Refugees and Repatriation before effectuating the forced return with an EU document.</p>
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			<p>Algeria No. Morocco No.</p> <p>4. Do Member States organise special operations for returning illegally resident citizens of Afghanistan, Algeria and Morocco and if so, is it possible inclusion of another MS in such operation?</p> <p>Afghanistan No. In principle all forced return to Afghanistan is organized through regular commercial flights.</p> <p>Algeria No. Morocco No.</p>
	<b>Poland</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. The Embassy of the Islamic Republic of Afghanistan issues travel documents only for the citizens of Afghanistan who declare that they want to return to their country of origin. In the case of the alleged citizens of Algeria and Morocco a personal statement for voluntary return signed by a foreigner is not necessary to issue travel documents for their return to the country of origin.</li> <li>2. In case a foreigner does not want to cooperate in order to confirm his identity and citizenship the following coercive administrative measures are followed: <ul style="list-style-type: none"> <li>- Foreigner's stay in detention centre is prolonged for the next 90 days until the realisation of the decision on expulsion is possible</li> <li>- If it is proved that an expulsion decision could not be realised due to the fact that a person does not want to cooperate in order to confirm his identity, he can not be granted tolerated stay in Poland.</li> </ul> </li> <li>3. Poland has not signed bilateral or multilateral agreement on readmission with Afghanistan, Algeria or Morocco.</li> <li>4. The Polish Border Guard organised in 2012 two special flights (charter flights) to Afghanistan (on 31 January and 1 October 2012). Cooperation with other Member States in such operations is possible.</li> </ol>
	<b>Portugal</b>	<b>Yes</b>	<p>Generally speaking, to these questions PT have to answer with a "no." Recently PT has been in contact with the Moroccan Consulate for the purpose of documentation issue and no mention was made to the need of the statement mentioned. With the Embassy of Algeria PT did not had contact lately, but there is no news of this practice. On Afghanistan, PT does not have any proceedings, so for that reason it's not possible to answer.  PT also does not have bilateral agreements and/or joint operations.</p>

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	<b>Slovak Republic</b>	<b>Yes</b>	<p>1. Yes. The person has to have the will to return. When the emergency travel document is being processed for the journey back home the person has to fill out a questionnaire, which is required by his/her home country. It has to be signed by the person concerned and the embassy then interviews the person concerned (personally or by phone). But it usually happens that the embassies do not react to the application for the issuance of the emergency travel document. In last 6 years all together 17 applications have been lodged and only 1 emergency travel document was issued.</p> <p>2. None</p> <p>3. No.</p> <p>4. The Slovak Republic does not organise common return operations to these countries.</p>
	<b>Sweden</b>	<b>Yes</b>	<p>1) <u>Afghanistan</u>: If no valid passport is available the Swedish Migration Board return will be organized by the IOM, providing that the returnee fills in IOM's Voluntary return form. The returnee will then travel on an EU-Laissez passer.</p> <p><u>Algeria and Morocco</u>: No – there is no demand for a statement on voluntary return. But the returnees' identity and citizenship must be verified in order for a laissez passer to be issued by the Embassies.</p> <p>2) N/A The Swedish Migration Board is only handling the voluntary return. The Swedish police authority is responsible for the forced return.</p> <p>3) No</p> <p>4) N/A</p>
	<b>United Kingdom</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Norway</b>	<b>Yes</b>	<p>1. No, it is not necessary to obtain a personal statement for voluntary return from irregular immigrants to have documents issued from any of these countries, though it will ease the process of having documents issued. The case handling of requests for travel documents to the Moroccan and Algerian embassies tends to be lengthy.</p> <p>2. In cases where third country nationals are uncooperative with regards to divulging their identity, it is possible to audition the third country national through diplomatic representatives of their respective countries, who facilitate identifications and issue travel documents. They can also be detained, in accordance with the Norwegian Immigration Act, at the National Police Immigration Service (NPIS) Holding Centre while their identity claims are investigated. Other coercive measures include house searches and surveillance. The latter is rarely used as it is highly resource- and labour intensive.</p>



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			<ol style="list-style-type: none"><li>3. Norway has no return agreements with either Morocco or Algeria. We do have a three party Memorandum of Understanding (MoU) with Afghanistan and the UNHCR.</li><li>4. We have not conducted any special operations to the mentioned countries.</li></ol>
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