



EMN Ad-Hoc Query on Ad-Hoc Query on Palestinians from Lebanon

Requested by Tania CHARALAMBIDOU on 1st December 2015

Protection

Responses from [Austria](#), [Belgium](#), [Bulgaria](#), [Croatia](#), [Czech Republic](#), [Estonia](#), [Finland](#), [France](#), [Germany](#), [Hungary](#), [Ireland](#), [Italy](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Netherlands](#), [Portugal](#), [Slovak Republic](#), [Slovenia](#), [Sweden](#), and [Norway](#) (21 in total)

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.

Background information:

Cyprus is currently experiencing a sharp increase in applications for international protection by Palestinians from Lebanon. We are interested in seeing other Member States' practices and/or policy regarding applications for international protection submitted by Palestinians of Lebanon. Does your Member State apply Article 12 (1)(a)(b) of the Qualification Directive, according to which,

12(1). A third-country national or a stateless person is excluded from being a refugee if:


(a) he or she falls within the scope of Article 1(D) of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, those persons shall ipso facto be entitled to the benefits of this Directive;

(b) he or she is recognised by the competent authorities of the country in which he or she has taken up residence as having the rights and obligations which are attached to the possession of the nationality of that country, or rights and obligations equivalent to those.

Questions

1. What kind of protection does your Member State grant to Palestinians from Lebanon who apply for international protection?
2. Does your Member State apply Article 12 (1)(a)(b) of the Qualification Directive for this category of applicants?

Responses

	Country	Wider Dissemination	Response
	Austria	Yes	1. With regard to Palestinians no statistics are available, because only nationals of certain states are covered statistically. Decisions are always taken on a case-by-case basis. Source: Federal Ministry of the Interior.

**Belgium**

Yes



1. 1. If the applicant is not registered with UNRWA or when the applicant is unable to substantiate his claim of being registered with UNRWA, article 1D of the Geneva Convention or Article 12 (1)(a)(b) of the Qualification Directive is not applied. The applicants need for international protection will then be examined applying 1A of the Geneva Convention. The asylum application will be assessed on its individual merits and can result in a rejection or international protection status;




2. in case the Palestinian applicant is registered with UNRWA, article Article 12 (1)(a)(b) of the AQD or article 1D of the Geneva Convention is applied:


In case the Palestinian applicant is registered with UNRWA (as a Palestinian Refugee 1948, a displaced person 1967, a MNR family Member or a Non-refugee wife) and the assistance provided by UNRWA has ceased refugee status will automatically be granted, unless article 1C, 1E or 1F or the Convention apply.



Assistance had ceased in the following circumstances:





- Termination of the mandate of UNRWA or abolition of UNRWA;
- Discontinuation of UNRWA's activities. An event which makes it impossible for UNWRA to carry out its mission in the applicant's last place of habitual residence, for example military occupation, armed conflict. (These guidelines imply for example that UNRWA-Palestinians from Syria are automatically granted refugee status based on article 1D §2: protection and assistance has ceased, because UNWRA has stopped functioning in Syria);
- When the applicant has been forced to leave UNRWA's area of operations due to circumstances beyond the applicants control and independent of his volition. A Palestinian refugee will be regarded as having been forced to leave UNRWA's area of operations if his personal safety is at serious risk (because of a well-founded fear of persecution or a real risk of suffering serious harm) and if it is impossible for that agency to guarantee that his living conditions in that area will be commensurate with the mission entrusted to that agency.





			<p>However, when it is established that the assistance UNRWA provides has not ceased (at the time of the applicants departure from his last place of habitual residence), CGRS will investigate if there are objective reasons why the applicant is unable to return to his last place of habitual residence and therefore prevented of re-availing himself of the assistance of UNRWA.</p> <p>Objective reasons why the applicant is unable to return or re-avail himself or herself of the protection or assistance of UNRWA are:</p> <ul style="list-style-type: none"> • Threats to life, physical security or freedom, or other serious protection related reasons (sur place claims): if it is established that the applicant’s personal safety, when returned to his last place of habitual residence, will be at serious risk (because of a well-founded fear of persecution or a real risk of suffering serious harm). • Practical, legal and safety barriers to return. (for example being unable to access the last place of habitual residence because of border closures.; or the absence of documentation allowing the applicant to travel to, or transit through, or re-enter and reside in the relevant UNRWA area of operation) <p>If an applicant registered with UNRWA is able to return to his last place of habitual residence, he will be excluded from the refugee status (and subsidiary protection will be refused).</p> <p>If an applicant registered with UNRWA is unable to return due the above mentioned objective reasons, refugee status will automatically be granted, unless article 1C, 1E or 1F or the Convention apply.</p>
	Bulgaria	Yes	1. Since we do not have such applicants (Palestinians from Lebanon) we could not provide you with answers in regard to the above questions. We have examined applications for international protection lodged by Palestinians from Syria.
	Croatia	Yes	1. There are no such cases in Croatia.



	Czech Republic	Yes	1. There are no such cases in the Czech Republic.
	Estonia	Yes	1. There is no general rule regarding granting international protection to Palestinians from Lebanon. Decisions are made on a case by case basis.
	Finland	Yes	<p>1. Only very few people from this category have sought asylum in Finland.</p> <p>1. In the latest decisions stateless Palestinians from Lebanon have received asylum ipso facto. Last year one asylum application was refused because the unwillingness to return to the permanent resident country, Lebanon, was not in context with the danger that would have entitled to the asylum according to the Geneva Convention.</p> <p>2. Alien's Act Art 87 (3): (3)</p> <p>“Asylum is not granted to persons who are eligible for protection or help from bodies or offices of the United Nations other than the United Nations High Commissioner for Refugees (UNHCR). Once such protection or help has ceased without final regulation of the status of the person in accordance with the valid resolutions adopted by the United Nations General Assembly, the person is entitled to refugee status. If the person has voluntarily relinquished the protection mentioned above by leaving the safe area for reasons other than those related to a need for protection, his or her right of residence is examined under this Act.”</p> <p>According to the UNHCR handbook, UNRWA is acting only in certain areas in the Near East and the protection is given only in these areas. Palestinian asylum seeker who has to leave these areas, which have been his / her permanent place of resident, and is not able to return, is entitled to an asylum under the Geneva Convention. This has been applied to the Palestinian asylum seekers from Lebanon.</p>

	France	Yes	<p>1. 1. France has treated few applications of this type and does not have recent files to quote. Usually, files are examined based on their facts of the case and the protection (subsidiary or through the Convention) is issued depending on the elements included in the application.</p> <p>2. France uses a jurisprudence related to the article 12-1 of the Qualification Directive: this decision is related to a Palestinian national from Jordan, Mr A. As a Palestinian refugee in the Ibid camp in Jordan, he was registered by the UNRWA. He would have left the camp by fear of reprisal from a Palestinian family and by fear of persecution from the Jordan authorities because of his political activities. The French Office for the Protection of Refugees and Stateless Persons (OFPRA) did not consider that his fear was justified and rejected his application. The National Court of Asylum (CNDA) cancelled this decision based on the fact that they did not even analyse the element of fear but considered that the applicant should automatically benefit from the status of refugee pursuant to article 1D alinea 2 of the Geneva convention, taken up in the article 12-1 a) of the Qualification Directive.</p> <p>The OFPRA appealed to the French Council of State which cancelled the CNDA decision through a judgement dated July 23, 2010 (n°318356): the Council of State considered that a voluntary departure from the UNRWA zone does not give access automatically to the Refugee status and that the applicant has to justify his/her fear in case of return in order to be granted this status.</p> <p>Referred to the CNDA, a decision was taken on May 24, 2013, under which this applicant is issued the refugee status. Based on the judgement of ECJ dated December 19, 2012 (Mr E.K. n° 174/12), the CNDA considered that when processing the application, if it can be proved that the applicant was obliged to leave the protection or assistance zone, the fact to be eligible ipso facto to the Qualification Directive (mentioned in Article 12-1 a) implies the recognition and the automatic issuance of the refugee status to the applicant.</p> <p>As a conclusion, based on the current jurisprudence, Article 12-1 a) of the Qualification Directive could apply to Palestinians from Lebanon who would have registered to the UNRWA,</p>
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			and could prove their forced departure (and not voluntary). They could thus benefit from the refugee status.
	Germany	Yes	<p>1. 1. In Germany, the Federal Office for Migration and Refugees examines if an applicant was granted protection of UNRWA and if he/she has lost this protection. It is important too, why the applicant lost this protection and if there is a possibility for the applicant getting protection in case of return to the Lebanon.</p> <p>In most cases, Germany doesn't grant international protection to Palestinians from Lebanon. In Lebanon, Palestinians are suffering under poor living conditions, because there are circumstances like a limited opportunity to work, occupational ban and prohibition to acquire houses and land. But all these conditions are not relevant as a reason for asylum or international protection.</p> <p>2. Germany applies Art. 12 (1) (a) (b) of the Qualification Directive for this category of applicants</p>
	Hungary	Yes	<p>1. 1. The Hungarian Office of Immigration and Nationality usually does not grant any kind of international protection to the Palestinian asylum applicants from Lebanon, however each case is examined individually and subsidiary protection may be granted.</p> <p>2. Yes, the Hungarian Office of Immigration and Nationality applies Article 12 (1)(a) of the Qualification Directive for the category of Palestinian asylum applicants registered by the UNRWA according to ECJ judgment in case C-364/11.</p> <p>UNRWA is able to provide assistance for registered Palestinians in Lebanon in the country's refugee camps. The level of this assistance is not required to be provided on high-level of livelihood and living conditions. UNRWA fulfills the requirements by ensuring a sufficient level of living conditions.</p>

			Due to the fact that in Lebanon the UNRWA operates on a sufficient level the asylum applicant should be excluded from refugee status.
	Ireland	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Italy	Yes	<p>1. 1. The same type of protection granted to any other applicant (who is on Italian territory)</p> <p>2. Italian legislation implementing the Qualification Directive provides only for the first of the two clauses excluding TCNs from the recognition of refugee status. Article 10 of Legislative Decree No 251/2007, as amended by Legislative Decree No 18/2014, established that “a third-country national is excluded from refugee status, if he or she falls within the scope of Article 1(D) of the Geneva Convention, relating to the protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance ceases for any reason, without the position of these third-country nationals being finally established in conformity with the relevant resolutions adopted by the General Assembly of the United Nations, they have full access to the forms of protection provided for. By contrast, national legislation does not provide for the case referred to in Article 12(1) (b), under which refugee status is excluded when the competent authorities of the country in which the third-country national has taken up residence recognises him or her as having the rights and obligations which are attached to the possession of the nationality of that country, or rights and obligations equivalent to those.</p>
	Latvia	Yes	<p>1. 1. So far no Palestinians from Lebanon have been registered as asylum seekers in Latvia.</p> <p>2. N/A – due to the above-mentioned reason.</p>
	Lithuania	Yes	<p>1. 1. In recent years, Lithuania has not received any application for international protection by Palestinians from Lebanon; therefore, there is no such practice. 2. N/A.</p>

	Luxembourg	Yes	<p>1. 1. In 2014 and 2015, no applications for international protection have been submitted by Palestinians from Lebanon. 2. Article 12 (1) (a) and (b) of the Qualification Directive has been transposed into article 34 (1) (a) and (b) of the amended law of 5 May 2006 (Asylum Law). In case of an application submitted by Palestinians from Lebanon, LU could apply this article.</p>
	Netherlands	Yes	<p>1. 1. What kind of protection does your Member State grant to Palestinians from Lebanon who apply for international protection? Depends on the case. The application will be assessed on their individual circumstances in relation to the position of the group of Palestians in Lebanon. 2.Does your Member State apply Article 12 (1)(a)(b) of the Qualification Directive for this category of applicants? Yes, but as mentioned, this depends on the individual circumstances</p>
	Portugal	Yes	<p>1. PT NCP has only one case or two and they are still under review.</p>
	Slovak Republic	Yes	<p>1. 1. Based on the individual assessment of asylum applications from Palestinian refugees coming from Lebanon, it is examined whether the person in question was forced to leave the area to which the international protection applies or the area of operations of an organ or agency responsible for granting of the international protection. In case the asylum seeker is in a situation when his/her life safety is at serious risk and the organ or agency are not able to provide him/her decent living conditions in this area, and he/she was forced to leave the country of protection due to reasons which are beyond his/her reasonable control, this person shall be granted asylum. Otherwise Slovak Republic does not grant any form of protection status to this category of migrants. 2. Yes, Article 12 (1)(a)(b) of the Qualification Directive is applied and the persons in question are excluded from the protection. The exceptions are persons mentioned in the answer 1 who are entitled to the protection according to the ruling of the Court of Justice of the EU (Case C-364/11).</p>
	Slovenia	Yes	<p>1. So far we didn't receive any application for granting international protection status from Palestinians from Lebanon. In case of such application we will follow provisions of the relevant national legislation such as International Protection Act and Qualification Directive.</p>

	Sweden	Yes	<p>1. Sweden considers each application from Palestinians from Lebanon individually. Our statistics doesn't select Palestinians from Lebanon but the outcome of the decisions vary according to the grounds for the asylum application etc. Sweden has recognition for refugee status and subsidiary protection as well as rejections for Palestinians who have been settled in Lebanon. Yes, Sweden does apply article 12 (1) (a)(b) of the Qualification Directive.</p>
	Norway	Yes	<p>1. 1. The short answer is that stateless Palestinians from Lebanon will receive an individual consideration of their claims/story/reasons for applying for international protection in much the same way as other groups from Lebanon seeking international protection in Norway. Some applicants will qualify for international protection based on protection provided for in the 1951 Convention, some will qualify for subsidiary permits and some applications will receive a negative decision.</p> <p>2. As of Dec. 2015, Norway does not apply Article 12 (1)(a)(b) of the Qualification Directive for this category of applicants. Everyone receives an individual consideration of their case. The Applicability of Article 1D, first paragraph, of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto exclude Palestine refugees as long as they receive assistance from UNRWA. Article 1D, second paragraph, however says that if protection from UNRWA no longer applies/ is no longer valid, no matter the reason, then the person "ipso facto" shall benefit from the 1951 Convention. (When UNRWA was set up in 1949, Palestine refugees were specifically and intentionally excluded from the international refugee law regime established in 1951.)</p> <p>The wording in the convention has been interpreted in Norway in the same way as previously practiced in most of the MS (though a number of MS have changed their interpretation after the El Kott decision); that is to say, that these persons have a right to have their applications considered in compliance with the 1951 convention's provisions.</p> <p>Please note that Norway is in the process of considering which consequences the El Kott decision will have for the handling of stateless Palestinians who previously benefited from</p>

			protection from UNRWA should this agency close down. The authorities in Norway have not completed this work at this point in time.
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