



OPEN SUMMARY: Ad-Hoc Query on Asylum Applicants From The Russian Federation

Requested by FI EMN NCP 16.03.15

Compilation produced 09.06.15 Summary produced by NO 31.07.15

Responses from Austria, Belgium, Czech Republic, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Slovak Republic, Slovenia, Sweden, plus Croatia, Norway (19 in Total)

Disclaimer: The following summary has been based on the responses which were 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

The number of Russian asylum seekers belonging to LGBTI (lesbian, gay, bisexual, transgender, intersexed) minorities has grown in Finland. Therefore, the Finnish Immigration Service (FIS) would like to find out the situation in other (Member) States. Moreover, the FIS would like to know, how asylum applications filed by asylum seekers belonging to Russian LGBTI minorities are resolved in other (Member) States. Another typical ground for asylum applications filed by Russian nationals in Finland is political activism and problems caused by it.

2. Questions and Highlights / Norway's practice in relation to others

***Have there been changes in the past 2 years in the number of asylum seekers from the RF belonging to the LGBTI minority?**

Only 4 of the 19 MS who participated in this AHQ gave any indication at all that there *could possibly* be a trend towards a *slight* increase in the numbers of applications from this group; the others made no comment. However, the numbers in each reporting MS are so small as to be *insignificant*. NO sees a small increase in the number of all applications from LGBTI minorities, but can't pinpoint particular nationalities. The other MS had no data, no experience or no applications from the RF at all. Most reporting MS do not aggregate or differentiate applicants according to different categories; and SE is not allowed to register sexual orientation for asylum seekers. We can conclude that based on these responses, there has not been any noticeable change in patterns/trends for this group in the past 2 years.

***What kinds of decisions are currently made for asylum applicants, whose claims are based on the fact that they belong to the Russian LGBTI minority (e.g. refugee status, subsidiary protection, other status, negative decision)?**

The MS stated that each case was handled individually and cases are assessed in the light of other grounds for international protection. Some applicants belonging to this minority were given international protection, others were not; some MS report granting subsidiary protection or refugee status, others do not explicitly state the kind of protection granted. Clearly the reporting MS that have *any* experience (it is very limited) with this group of applicants (AT, BE, FR, DE, LT, NL, SE, NO) understand that the situation for LHBTI in Russia is less than favourable, but still these MS indicated that belonging to the LGBTI minority alone does not necessarily qualify an applicant for international protection. These MS indicate that there needs to be evidence of fear from being personally persecuted, or the applicant has to be at risk of being criminalized, or be subjected to human rights violations by non-state actors, have problems opening up about her/his homosexuality towards her/his social environment, and the applicant's experiences with state authorities also need to be considered.

***Are persons who belong to the Russian LGBTI minority considered to be able to avail themselves of the protection of the state authorities in Russia, if the persecutor is e.g. a homophobic organisation or a single police officer?**

SE views this issue in the light of whether the RF has actually taken action to prevent persecution or not. Apparently it has not. Even though DE notes that there is little acceptance of same-sex partnerships in RF, they still maintain that there is no evidence of any general persecution of homosexuals there. DE also states that RF federal legislation banning and criminalizing the "spreading of homosexual propaganda" which was enacted on 30.06.2013, does not in itself constitute an act of persecution sufficient to justify granting refugee status. And yet, DE also notes that there is an increase in violent crimes against homosexuals, in particular by members of extreme right-wing groups, so they do conclude that it *is possible*, that in individual cases, (i) public authorities cannot in fact, provide sufficient protection or that (ii) state agencies actually *actively* participate in acts of persecution. NO, NL, FR, FI and DE express varying degrees of certainty that there is a potential for persecution/homophobic violence for members of this minority in the RF and that in such cases, this minority most likely cannot avail themselves of protection from the authorities. At the same time, responses seem to indicate that a low-profile private person who is not politically active outside the local community would most likely not be granted international protection.

***Is internal flight option considered possible in case of Russian LGBTI asylum applicants?**

The few MS who responded to this question indicated that it might be difficult ascertaining the degree of protection available at the local level, but every case would be assessed individually and if it was clear from the documents that there was in fact an IFO then there would be no obstacle to applying IFO in a given case.

***What kinds of asylum decisions are currently made for Russian political activists, who oppose the current regime in the RF?**

The few MS with any experience with applicants from the RF, including NO, report that they generally consider the individual merits of each case. In NO, 2-3 applicants have been granted protection on such grounds (refugee status, subsidiary protection, other status) the last couple of years. FI, LT, NL & SE specially note that political activists have been granted asylum if able to give a credible account of the threat which they are facing and are able to substantiate their claim of being a (profiled) political activist. FI, LT, & NL report that activism limited to local politics or participation in demonstrations has usually resulted in a negative decision. In DE a possible risk of persecution is especially considered for journalists, opposition and/or human rights activists and human rights lawyers.

*** Exclusion clause: In which situations have MS applied the exclusion clause with regard to asylum seekers from the RF?**

Again, the majority of MS who have responded to this AHQ, have no experience with applicants from the RF. Of those who have some experience, IE, LV, LT, Croatia report that they have not applied the exclusion clause in respect to any Russian cases recently. Of those who have, the numbers are extremely small; just a very few in the case of each MS. Grounds for exclusion that were reported:

- members of the Kadyrovci-armed groups/ Chechen rebel armed groups/ fighters from the North Caucasus who committed war crimes, crimes against peace or crimes against humanity or if the applicant supported such activities, in the RF or in Europe, that met the standards of article 1Fa or committed serious criminal offences that met the standard of article 1F b (In some cases command responsibility has been established)
- participated in serious non-political crimes or who executed blood feud
- some members of the Russian army and military police
- person convicted of criminal charges/offences in an MS
- in cases where the applicant meets the criteria of the Refugee Convention - None of those excluded were "kadyrovtsy". The legal basis for the exclusions was article 1 F b (the Norwegian Immigration Act section 31 first paragraph (b)). **NO**