



EMN FOCUSED STUDY 2016

Approaches to rejected asylum seekers in Bulgaria

Top-line "Factsheet"

Overview of the BG Contribution – introducing the study and drawing out key facts and figures from across all sections of the Focussed Study, with a particular emphasis on elements that will be of relevance to (national) policymakers.

Since mid-2013 Bulgaria is facing to unprecedented migration pressure. In conditions of complicated migration situation, Bulgaria has received large number of immigrants the main part of which asylum seekers and irregular third-country nationals.

According to the Law on Asylum and Refugees the provisions of the Law on Foreigners in the Republic of Bulgaria shall apply to a third-country national for whom a decision for refusal, termination or revoking of international protection has been enacted, or regarding whom the proceedings have been terminated.

According to the Bulgarian legislation all irregular third-country nationals are imposed compulsory administrative measures „compulsory taking to the border of the Republic of Bulgaria" or "expulsion" (return decisions). There is a legal possibility, irregular third-country nationals to apply for protection under the Law on Asylum and Refugees, in which case the compulsory administrative measures "withdrawing the right of residence", "compulsory taking to the border of the Republic of Bulgaria", "expulsion" and "entry ban" are not enforced till the procedure is completed with a decision entered into force. The compulsory administrative measures shall be revoked if the third-country national is granted asylum or international protection. After a refusal of the application the compulsory administrative measures shall be enforced.

Bulgarian national legislation does not provide a specific approach to persons with entered into force refusal of protection different than to other categories of irregular third-country nationals. The rejected asylum seekers enjoy the same rights and are subject to the same obligations and procedures regarding their return decision other irregularly staying third-country nationals.

The body responsible for implementing the return decisions is the Migration Directorate (MD) within the Ministry of Interior (MoI). State Agency for Refugees (SAR) at the Council of Ministers is the national institution responsible for deciding on application for protection.

The State Agency for Refugees shall inform in writing the Ministry of Interior about the decisions for refusal, termination or revoking of international protection.

According to the Ministry of Interior data in the last three years in Bulgaria 95% of all established as irregularly staying third-country nationals with imposed return decisions apply for protection, which stops the enforcement of the return procedures. Simultaneously, the data of the State Agency for Refugees show a tendency to increase the number of third-country nationals with terminated procedure. In the 2011-2015 period 80% of all asylum applications are terminated. The number of refusals in the reference period is much smaller than the number of terminated procedures, confirming the trend that Bulgaria continues to be used as a transit country on the way to Western Europe, and the application for protection is used as an opportunity for circumvent the obligation to return the country.



Executive Summary/ BG Synthesis Report

Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and National policymakers as its main target audience.

Section 1: Overview of the national situation [Maximum 2 pages]

This section of the Synthesis Report will provide information on the national situation and the scale of the problem, i.e. the number of rejected asylum seekers in comparison to the number of rejected asylum seekers effectively returned (voluntary and enforced). It sets out the context for the Study and the measures that can be taken during the asylum procedure as well as the approaches to rejected asylum seekers. It will be drafted on the basis of data available from Eurostat and complemented by national data provided by Member States.

Q1. To what extent is the non-return of rejected asylum seekers considered a major issue in your Member State? Is the return of rejected asylum seekers a national policy *priority*? Please provide qualitative evidence e.g. from reports, political debate and media reports (*quantitative evidence is requested in subsequent questions so should not be covered here*)

Since mid-2013 Bulgaria is facing to unprecedented migration pressure. In conditions of complicated migration situation, Bulgaria has received large number of migrants the main part of which asylum seekers and irregular immigrants.

According to the Bulgarian legislation all irregular migrants are imposed compulsory administrative measures „compulsory taking to the border of the Republic of Bulgaria” or "expulsion" (return decisions). There is a legal possibility, irregular foreigners to apply for protection under the Law on Asylum and Refugees, in which case the compulsory administrative measures "withdrawing the right of residence", " compulsory taking to the border of the Republic of Bulgaria", "expulsion" and "entry ban" are not enforced till the procedure is completed with a decision entered into force. The compulsory administrative measures shall be revoked if the foreigner is granted asylum or international protection. After a refusal of the application the compulsory administrative measures shall be enforced.

According to the Law on Asylum and Refugees, the provisions of the Law on Foreigners in the Republic of Bulgaria shall apply to foreigners for whom international protection has been refused, terminated or revoked, or for whom the proceedings have been terminated.

Bulgarian national legislation does not distinguish between the return of persons receiving a final negative decision on their protection application and other categories of irregular third-country nationals. Rejected asylum seekers enjoy the same rights and are subject to the same obligations and procedures regarding their return decision as other irregularly staying third-country nationals.

The effective counteraction of irregular migration, an important element of which is the implementation of the return procedure, has been a major national priority for the last three years, in view of the complicated migration situation in Bulgaria. At the national level, a series of measures in the field have been taken, aimed at increasing the number of returnees. These have included the implementation of programmes for assisted voluntary return, participation in joint flights organized by Member States and coordinated through Frontex and improving dialogue and cooperation with consular and diplomatic offices of third-countries which are risky in migration terms. The measures have all been aimed at returning irregular migrants who do not meet the grounds for residence in Bulgaria, including asylum applicants whose applications have been rejected.

According to the Ministry of Interior data in the last three years in Bulgaria 95% of all established as irregularly



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staying third-country nationals with imposed return decisions apply for protection, which stops the enforcement of the return procedures. Simultaneously, the data of the State Agency for Refugees show a tendency to increase the number of foreigners with terminated procedure. In the 2011-2015 period 80% of all asylum applications are terminated. The number of refusals in the reference period is much smaller than the number of terminated procedures, confirming the trend that Bulgaria continues to be used as a transit country on the way to Western Europe, and the application for protection is used as an opportunity for circumvent the obligation to return the country.



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Q2. Please complete the Excel document in Annex 1 (providing information also on the metadata) if you have national statistics available on:

- The total number of rejected asylum seekers who were issued an enforceable return decision in 2011-2015 disaggregated by sex;¹
- The number of rejected asylum seekers who were effectively returned from your Member State to third countries in 2011-2015 (if possible disaggregated by sex and by type of return (voluntary / assisted voluntary / forced).

The table requests information on the total number of rejected asylum seekers returned, as well as data for the top ten citizenships of rejected asylum seekers in your Member State in the period 2011-2015 disaggregated by sex.

Please note that in some Member States (e.g. UK) data is available on asylum seekers returned, but this does not distinguish between rejected asylum seekers and others. If this is the case in your Member State, please provide the data for asylum seekers returned, but please make the scope and nature of the data clear.

Q3. Please provide national estimates, disaggregated by sex, of (a) the share of rejected asylum seekers out of the total number of TCNs issued a return decision in 2011-2015 and (b) the share of rejected asylum seekers issued a return decision who were effectively returned, by completing the table below and indicating whether the share is:

- a) Between 90 to 100%
- b) Between 51 to 90%
- c) Between 31 to 50%
- d) Less than 30%

These estimates may be made available through national studies, or may be identified through consultation with relevant national authorities for the purpose of this study. For every estimate, please indicate in the final column the source of the estimate and – where possible – the method used.

Year	% rejected asylum seekers out of total no. TCNs issued a return decision			% rejected asylum seekers out of total no. TCNs effectively returned			Source / method of the estimate
	Male	Female	Total	Male	Female	Total	
2011	n/i	n/i	36.6	n/i	n/i	74.5	State Agency for Refugees (SAR) and Migration Directorate (MD)
2012	n/i	n/i	23.0	n/i	n/i	56.3	SAR and MD
2013	10.4	11.5	10.6	n/i	n/i	50.5	SAR and MD

¹ As outlined in section 2.1 of this Common Template, this group includes rejected asylum seekers who may yet be able to appeal the decision on their asylum case, but who are nonetheless obliged to return under return legislation.



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2014	5.7	4.9	5.6	n/i	n/i	62.0	SAR and MD
2015	2.7	4.9	3.0	n/i	n/i	84.6	SAR and MD

Q4a. If available, please provide any national estimates on the total number of rejected asylum seekers disaggregated by sex who, despite having been imposed a return decision, continue to reside in your Member State during the period 2011-2015 because they could not be returned (see also sections 3 and 4)?

Year	# rejected asylum seekers imposed an enforceable return decision who continue to reside in the Member State			Source / method of the estimate
	Male	Female	Total	
2011	n/i	n/i	n/i	
2012	n/i	n/i	n/i	
2013	n/i	n/i	n/i	
2014	n/i	n/i	n/i	
2015	n/i	n/i	n/i	

Q4b. Please provide, if possible, a breakdown of the statistics described in 4a by **reason for non-return**. If statistics are not available disaggregated by reason, please describe any qualitative evidence of the main reasons in your Member State for the non-return of rejected asylum seekers described in 4a. *Reasons may include the successful or on-going appeal of the asylum decision, the successful or on-going appeal of the return decision, problems with readmission, returnee resistance, etc. Please note that more detailed questions on challenged to return are outlined in section 4.*

No information.

Section 2: Member States’ policies and measures vis-à-vis rejected asylum seekers at the point of rejection [Maximum 10 pages]

The purpose of this section is to describe at what stage of the asylum procedure an asylum seeker can be issued an enforceable return decision and what happens when the enforceable return decision is issued.

SECTION 2.1: HOW ASYLUM DECISIONS TRIGGER THE ISSUANCE OF THE RETURN DECISION

Q5 At what stage in the asylum decision-making procedure can an enforceable return decision (i.e. one that can lead to the return of the asylum seeker) be *issued*? Please select one of the following options:

- a) after the first instance decision (all applications for international protection);



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- b) after the first instance decision (only for applications for international protection considered unfounded – e.g. if they are lodged by an applicant from a safe country of origin);
- c) after *some* appeals on the asylum decision have been lodged, but before *all* possibilities for appeal on the asylum decision have been exhausted;
- d) only after all asylum appeals have been exhausted;**
- e) under other circumstances (*please describe*).

According to the Law on Asylum and Refugees the compulsory administrative measures "withdrawal of the right of stay", "compulsory taking to the border", "expulsion" and "prohibition of entry in the country" shall not be fulfilled until finalization of the proceedings with a decision entered into force.

The compulsory administrative measures under para 1 shall be revoked if the foreigner has been granted asylum or international protection.

The above mentioned shall not apply if there are grounds to suppose that the third-country national seeking or having received protection poses a danger for national security or who is convicted of a severe crime, and therefore poses a danger to society.

There is an amendment to the Law on Asylum and Refugees, according to which a third-country national shall not benefit from the right to remain on the territory of the Republic of Bulgaria after his/her subsequent application for international protection has been rejected by an enforced decision, or if she / he is subject to an extradition or delivery to another European Union Member State or to a third state in fulfilment of Extradition and European Arrest Warrant Act.

Q6. If the return decision can enter into force *before* all asylum appeals have been exhausted, how often, in practice does this lead to the applicant being returned? (e.g. in all cases, most cases, some cases, rarely, never)?

The return decision can't enter into force before all asylum appeals have been exhausted except the cases when:

- there are grounds to suppose that the third-country national seeking or having received protection poses a danger for the national security or who, once convicted by an enacted sentence for a severe crime, poses a danger for the society;
- a third-country national who has final decision for rejection from subsequent application for international protection in which he/she is not referring to any new circumstances of significant importance for his/her personal situation or regarding his/her country of origin;
- a third-country national is subject to extradition or delivery to another European Union Member State or to a third state in fulfilment of Extradition and European Arrest Warrant Act.

Q7a. Is the authority responsible for issuing the return decision in your Member State the same as the authority who is responsible for making decisions on the application for asylum? **No**

If no, how do these authorities coordinate and communicate to ensure that asylum decisions trigger the return procedure at the right time? *Please describe any coordination arrangements and how they work in practice.*

The body responsible for implementing the return decisions is the Migration Directorate within the Ministry of Interior. State Agency for Refugees at the Council of Ministers is the national institution responsible for deciding on application for protection.



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The State Agency for Refugees shall inform in writing the Ministry of Interior about the decisions for refusal, termination or revoking of international protection.

- Q 7b.** When a decision on an asylum application triggers a return decision, how soon after the rejection is the return decision issued? Please select among the following options:
- a) The return decision is issued at the same time the decision rejecting the asylum application enters into force/becomes executable.
 - b) The return decision is issued within 24 hours of the rejection decision entering into force/becoming executable.
 - c) The return decision is issued within a week of the rejection decision entering into force/becoming executable.
 - d) The return decision is issued within a month of the rejection decision entering into force/becoming executable.

Please provide further details on current practice in your Member State, in particular if not covered under the options above

The return decision is issued simultaneously with the entry into force of the decision to reject an application for asylum. If the asylum seeker has already been issued a return decision, this shall enter into force simultaneously with the refusal of protection.

Q8. In your Member State, is it possible to use the information that is obtained from the applicant in the course of the asylum procedure for the purposes of facilitating return? Yes / No

If yes, is such information regularly used? *(for example, documentation and declarations that were made as part of the asylum claim, family connections stated, etc. may be used after a return decision has entered into force as supporting evidence for the purpose of establishing identity and obtaining travel documents to the relevant (consular) authorities of the third-country)*

No

SECTION 2.2: IMMEDIATE CONSEQUENCES FOR REJECTED ASYLUM SEEKERS REQUIRED TO RETURN

Q9. What are the immediate consequences for the rejected asylum seeker of the return decision entering into force? Please answer this question by completing the table below. Please note that similar information was requested in the Ad-Hoc Query on 'the right of residence provided for TCNs to whom international protection application has been rejected' requested 30th December 2015. Please review your Member State to this AHQ (if completed) and provide only updated information here.



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Table 2.1: The immediate consequences for the rejected asylum seeker of the return decision entering into force

Questions	... according to law	... as carried out in practice	Provide here evidence to suggesting this contributes to encouraging or deterring return
Accommodation			
<i>Can the applicant stay in reception centres once rejected? Yes/no</i>	NO	NO	
<i>If you stated yes above, please indicate for how long after receiving the return decision they can stay in the reception centre (e.g. X days or 'until the return decision is enforced and the individual returns')</i>	N/A	N/A	
<i>If you stated no above, are they accommodated elsewhere (e.g. special open return centres) or elsewhere? Yes/no and – for yes, briefly describe accommodation service provided</i>	<i>They are compulsorily accommodated in a detention centre with the purpose of organising their compulsory taking to the border of the Republic of Bulgaria or their expulsion.</i>	<i>They are compulsorily accommodated in a detention centre with the purpose of organising their compulsory taking to the border of the Republic of Bulgaria or their expulsion.</i>	
Employment			
<i>Are rejected applicants entitled to access / continue accessing the labour market? Yes/No</i>	NO	NO	
<i>If yes, please indicate for how long after receiving the return decision they can continue</i>	NO	NO	



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<i>to work (e.g. X days or 'until the return decision is enforced and the individual returns')</i>			
<i>If yes, please describe any specific conditions attached to their employment</i>	N/A	N/A	
Welfare			
<i>Are rejected applicants entitled to receive any social benefits?</i>	NO	NO	
<i>If yes, please briefly describe what these benefits are</i>	N/A	N/A	
<i>If yes, please indicate for how long after receiving the return decision they can continue to receive the benefits (e.g. X days or 'until the return decision is enforced and the individual returns')</i>	N/A	N/A	
Healthcare			
<i>Are rejected applicants still entitled to healthcare? Yes /no</i>	<i>Medical care is provided for every irregular migrant who is compulsorily accommodated in a detention centre with the purpose of organising his/her compulsory escort to the border of the Republic of Bulgaria or his/her expulsion. The third-country nationals have right to emergency medical care.</i>	<i>Medical care is provided for every irregular migrant who is compulsorily accommodated in a detention centre with the purpose of organising his/her compulsory escort to the border of the Republic of Bulgaria or his/her expulsion. The third-country nationals have right to emergency medical care.</i>	



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<p><i>Does it include all healthcare or only emergency healthcare?</i></p>	<p><i>Medical services include an initial medical examination and subsequent medical advice. There are 24 hours medical offices in the detention centres. Treatment of serious medical cases is carried out in the Medical Institute of the Ministry of Interior and other general hospitals in the country.</i></p>	<p><i>Medical services include an initial medical examination and subsequent medical advice. There are 24 hours medical offices in the detention centres. Treatment of serious medical cases is carried out in the Medical Institute of the Ministry of Interior and other general hospitals in the country.</i></p>	
<p>Education</p>			
<p><i>Are rejected applicants still entitled to participate in educational programmes and/or training? Yes / no</i></p>	<p>NO</p>	<p>NO</p>	
<p><i>If yes, please indicate for how long after receiving the return decision they can continue to participate in educational activities (e.g. X days or 'until the return decision is enforced and the individual returns')</i></p>	<p>N/A</p>	<p>N/A</p>	
<p>Other?</p>			
<p><i>Are any other measures taken which are relevant to mention here? Please describe</i></p>	<p><i>Psychological consultations are provided for the third-country nationals who are in a detention centre.</i></p>	<p><i>Psychological consultations are provided for the third-country nationals who are in a detention centre.</i></p>	

Q10. When a rejected asylum seeker receives an enforceable return decision, what measures does the Member State take to enforce the return decision and prevent absconding (e.g. regular reporting)?

- Compulsory accommodation in a detention centre with the purpose of organising the return decision for the rejected asylum seekers with imposed return decision before the asylum procedure.
- In the cases when rejected asylum seekers have received return decision after the rejection, it shall be specified a term between 7 and 30 days, within they shall voluntarily fulfil their obligation to return. During this period these third-country nationals are not detained. After the deadline for voluntary departure has expired and they have not left the country, they are imposed coercive administrative measure and they are compulsorily placed in a detention centre to ensure the implementation of the respective measure.
- Coordination with the relevant third-country embassy for the establishment of individuals' identification and issuance of travel document when necessary.

SECTION 2.3 POSSIBILITIES FOR APPEALING THE RETURN DECISION

Q11. Are asylum seekers who have received an enforceable return decision able to lodge an appeal on the decision, before being returned? *Yes / No*

If yes, under what conditions can the appeal be lodged?

The orders for imposing compulsory administrative measures can be appealed under the conditions and by the order of the Administrative Procedure Code.

The orders for expulsion shall be subject to appeal before the Supreme Administrative Court, whose decision shall be final. The appeal against the orders shall not stop the fulfilment of the order.

Q12. How frequently does an appeal on the return decision prevent the return of rejected asylum seekers (e.g. in all cases, most cases, some cases, rarely, never)? Do rejected asylum seekers appealing their return have a better chance of a positive decision on their return appeal than other third-country nationals required to return appealing the return decision? *Yes / No (and please explain your response)*

Considering the legislative framework under which the implementation of administrative enforcement measures/ return decisions is suspended while third-country nationals are in procedure under the Law on Asylum and Refugees, they appeal these measures only in isolated cases during the asylum procedure. These appeals lead rarely to the return decision being overturned.

National legislation does not provide for a differentiated approach in regard to rejected asylum seekers and other third-country nationals in these cases. So, the rejected asylum seekers appealing their return do not have a better chance of a positive decision to their return appeal than other third-country nationals required to return appealing the return decision.

SECTION 2.4 POSSIBILITIES FOR LODGING SUBSEQUENT ASYLUM APPLICATIONS

Q13. Are asylum seekers who have received an enforceable return decision able to lodge a subsequent application in your Member State, before being returned? **Yes**

If yes, under what conditions can the subsequent application be lodged²

² Note that the AHQ 2015.1007 launched by Ireland on 25 November asked questions related to this topic. It might be therefore useful to refer to your national responses to this AHQ in providing a response here.

Amendments to the Law on Asylum and Refugees in December 2015 included a new section on preliminary examination of application, which introduced the admissibility of subsequent application to proceedings for granting international protection.

It is expressly stipulated that when conducting a procedure for prior examination of a subsequent application for protection, third-country nationals shall enjoy the following rights:

- cooperation and assistance from the side of the United Nations High Commissioner for the Refugees and from other governmental or non-governmental organisations at every stage of the proceedings and after the international protection is provided;
- translator or interpreter;
- the third-country national or his representative shall be entitled to apply for access to the information compiled on the basis of which a decision will be taken;
- a third-country national beneficiary of temporary protection shall be entitled to apply for international protection.

Legal guarantees are spelled out to prevent the possibility of abuse of the right of access to protection. Third-country nationals will not be granted the right to remain in the country during the procedure of preliminary consideration of a subsequent application for international protection in the cases when:

1. They submit a subsequent application for international protection only in order to delay or frustrate a return decision or expulsion, or
2. The subsequent application for international protection has been considered inadmissible or ineligible.

Q14. Is the fact that the application was lodged *after* a return decision was issued taken into account in assessing the *credibility* of the subsequent application? *Yes / No* If yes, does the issuance of the return decision make a negative decision on the subsequent application more likely? *Please refer to studies or governmental documents that provide evidence of these effects*

When conducting preliminary examination procedure of subsequent application for protection, the third-country nationals does not enjoy the right to remain in the country when submits first subsequent application for international protection only in order to delay or frustrate the enforcement of the applied its suppressive administrative measure "withdrawal of the right of stay in Republic of Bulgaria", "compulsory taking to the border of Republic of Bulgaria" or "expulsion"

Section 3: Challenges to the return of rejected asylum seekers and Member States' policies to manage these [Maximum 6 pages]

The purpose of this section is to discuss some of the factors that can prevent the return of rejected asylum seekers and to identify any good practices to managing or preventing these. The description of the challenges to return will build on the results of EMN AHQs and other literature, as identified in section 5 of the background/context to this Common Template.

The section also asks Member States to identify specific challenges which have proven difficult to address and for which no effective measures have, to date, been identified.

The box below lists the identified challenges to return which the remainder of this section will build on.

Main challenges to return

The Ad-Hoc Queries as listed in section 5 of the background to this Common Template requested information on the main challenges to return as under the Return Directive. National responses indicate that Member States consider the main challenges to both voluntary and forced return to include:

Resistance of the **third-country national** to return, which can take the form of:

- > Physical resistance and restraint
- > Self-injury (including hunger striking)
- > Absconding

Note that third-country nationals may resist return for a variety of reasons including poor employment prospects on return, poverty and poor infrastructure in the country of return, levels of corruption in the country of return etc. and it may be relevant to address these drivers in trying to mitigate the challenge, as well as trying to address the challenge itself;

Refusal by the **authorities** in **countries of return** to readmit their citizens, particularly when they have been returned forcibly (*inter alia* Afghanistan, Eritrea, Ethiopia, Rwanda and South-Central Somalia refuse to accept their nationals returned forcibly against their will);

Refusal by the **authorities** in **countries of return** to issue travel documents;

Refusal by the **authorities** in **countries of return** to issue identity documents;

Problems in the **acquisition of travel documents** – especially when no copies of the originals are available (and e.g. identification can only be verified through fingerprints) or when citizenship is complex (e.g. involving married couples from different countries or citizens who were born in another country);

Administrative and organisational challenges due to e.g. a lack of Member State diplomatic representation in the country of return, which can slow down administrative procedures (e.g. make any obligatory consular interviews costly and challenging to arrange) and make negotiations more difficult.

Additionally, in preparing this Common Template, members of the Advisory Group have indicated that the following is a challenge to return:

Medical reasons – i.e. If the returnee has a medical problem rendering travel difficult or impossible.

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Q15. Are there any other challenges to return that your Member State experiences which are not mentioned in the box above? Yes /No

If yes, please describe them by completing the table below.

When describing, please state explicitly whether these challenges are general to the return of all third-country nationals, or whether it is a challenge that exclusively or more commonly affects the return of rejected asylum seekers. Also, if you would like to elaborate more on any of the challenges mentioned above, placing these in your national context, please include relevant information here.

Challenge	Description of how this impedes return in your Member State	State whether the challenge is: general to return / more common to the return of rejected asylum seekers / exclusive to the return of asylum seekers

Q16. In general, Member States undertake a broad range of measures to manage challenges to implementing return. Examples of measures that are undertaken, matched to the challenges, are mapped in the table below.

Please indicate with yes/no which measures your Member State implements and, if necessary, include other measures not (yet) listed in the table. If relevant, add comments to further explain your Member States' policy related to a specific measure.

Challenges to return	Measures to manage challenges	Implemented?	Does the measure specifically target the return of rejected asylum seekers?
Resistance of the returnee to return	Development AVRR programmes	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Detaining rejected asylum seekers to prevent absconding	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Physical force	No	No
	Surprise raids to enforce removal	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Delay or cancellation of the return procedure	No	No
	Other?	-	-
Refusal of authorities in countries of return to readmit citizens	Readmission Agreements (EU and/or national)	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>

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Refusal by the authorities in countries of return to issue travel documents Refusal by the authorities in countries of return to issue identity documents	Bilateral cooperation with third countries/ establishment of diplomatic relations	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Establishment of representations in third countries	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Offering positive incentives, e.g. aid packages, to third countries' authorities	No	No
	Applying political pressure on third countries' authorities	No	No
	Delay or cancellation of the return procedure	No	No
	Other?	-	-
Problems in the acquisition of travel docs	Repeating fingerprint capture attempts/using special software to capture damaged fingerprints	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Using interpreters to detect cases of assumed nationalities	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Detention	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Offering positive incentives, e.g. aid packages to third countries' authorities	No	No
	Applying political pressure on third countries' authorities	No	No
	Delay or cancellation of the return procedure	No	No
	Other?	-	-

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Administrative/organisational challenges	Budget flexibility	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Coordination arrangements between authorities	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Designation of a Service Provider in third countries	No	No
	Establishment of a diplomatic representation in third countries	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Delay or cancellation of the return procedure	No	No
	Other?	-	-
Medical reasons	organising medical transfer	No	No
	facilitating medical support in the country of destination	No	No
	medical supervision during travel	Yes	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Delay or cancellation of the return procedure	Yes (delay)	<i>No, it targets the return of all irregularly staying third-country nationals</i>
	Other?	-	-
Other challenges? <i>Please describe and add rows if necessary</i>	-	-	-

Q17. From your experience, can you indicate if there are any challenges which affect the return of *rejected asylum seekers* more greatly than *third-country nationals* in general? *If there is no difference in the efficacy of returning rejected asylum seekers vis-à-vis third-country nationals in general please specify "no difference".*

No difference.

Q18. Has your Member State recently introduced any new measures/policies to ensure the return of *third-country nationals* (e.g. following the exceptional flows of *asylum seekers* arriving in the EU since 2014)?

In view of the changed migration situation as a result of the events of the end of 2013 in May 2015 the Council of Ministers adopted an updated Strategy on migration, asylum and integration from 2015 to 2020, which outlines

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guidelines for policy implementation of the Republic of Bulgaria in the field of return. The strategic document introduces "prevention and effective counteraction to irregular migration" as a specific national target and outlines the implementation of return procedures as an important element of the management of migration processes, especially in the context of increased mixed migration flows to the territory.

In implementing the procedures on return and readmission, Bulgaria adheres strictly to the provisions of Directive 2008/115 / EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals; "Twenty guidelines on forced return" of the Council of Europe in 2005; Readmission agreements for the persons illegally staying and EU Action Plan on the return.

Q19. Are you able to identify, from the measures as set out in the table above, any good practices, i.e. measures that have proven particularly effective in overcoming challenges to return of rejected asylum seekers specifically?

No.

If so please describe these measures in more detail by completing the table below and referring to any evidence (studies/evaluations/statistics on return trends) which demonstrate that these are effective practices in returning rejected asylum seekers.

Measure	Evidence of effectiveness / why the measure can be considered a 'good practice'	State whether the measure is effective in supporting the return of <u>rejected asylum seekers</u>

Q20. Are there any challenges to return which your Member State has so far been unable to address effectively through any counter-measures? *Yes / No*

If yes, please describe the most pressing challenges here and explain why they are so challenging in practice, elaborating on why the counter-measures implemented have not proven effective.

No.

Section 4: What happens when return is not immediately possible? [Maximum 5 pages]

The purpose of this section is to present an overview of the approaches followed by the Member States to deal with those rejected asylum seekers who, for various reasons, cannot return / be returned. It focuses in particular on the status granted and the conditions of stay available to this group.

Q21. If it becomes clear that a rejected asylum seeker cannot return / be returned, does a national authority official acknowledge this? *yes / no*

If no, what happens? Can the rejected asylum seeker continue to be issued return orders even though it has been established that they cannot be immediately returned, or is it communicated to the police / enforcement authorities that the person should be left to remain temporarily?

If immediate expulsion of the third-country national needs to be postponed due to reasons of a legal or technical nature, the body which has issued the return order will postpone the enforcement of return until these obstacles are addressed.

If the return of rejected asylum seekers is impossible or needs to be postponed due to reasons of health or humanitarian character, the body which has issued the return order will postpone the enforcement of return until these obstacles are addressed.

A third-country national with imposed compulsory administrative measure expulsion shall not be expelled to a country where his life and freedom are endangered and he is subjected to a danger of prosecution, torture or inhuman or humiliating treatment. Where these circumstances are established by an effective judicial decision the third-country national shall be issued and served an order by the body which has issued the expulsion order. The order will explicitly state the prohibition of expulsion and the country to which the foreigner should not be deported. The order shall not be subject to appeal. Third-country nationals whose return decision has been suspended are required to appear once a week at the territorial unit of the Ministry of Interior by their place of residence. If after one year the return decision has not been carried out, the foreigner shall be allowed temporary access to the labour market under the terms and conditions of the Law on the Labour Migration and Labour Mobility – until implementation of the expulsion.

Q22a. If it is formally acknowledged that a person cannot be (immediately) returned, who makes this formal decision? On the basis of which criteria is the decision made?

The administrative authority responsible for implementing the return assesses the situation and makes this formal decision.

Q22b. Is an official status granted to individuals who cannot be (immediately) returned? (*if no status is granted, please write "no status granted"*). In what circumstances may this be granted?

No status granted.

Q22c. If a status is granted, what advantages and disadvantages does the granting of such status to those who cannot return / be returned bring to the authorities of your Member State? (*e.g. advantages may include the possibility to maintain contact with the non-returnee in case return becomes viable in the future, the possibility for the non-returnee to contribute to society in the Member State, etc. and disadvantages may include the increased pressure on resources and the threat to the credibility of the asylum system*)

N/A

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Q23. What rights are available to rejected asylum seekers who are not able to return immediately? *Please answer this question by completing the table below.*

*Returning Rejected Asylum Seekers: challenges and good practices***Table 2.1: Rights and services available to rejected asylum seekers who cannot be immediately returned**

Questions	... according to law	... as carried out in practice	Provide here evidence to suggesting this contributes to encouraging or deterring return
Accommodation			
<i>Is the rejected asylum seekers who cannot be immediately returned provided with accommodation? Yes/no</i>	<i>The rejected asylum seekers as all third-country nationals with imposed compulsory administrative measures that cannot be returned are not provided with accommodation. The rejected asylum seekers have to find their own accommodation during this period and are required to appear weekly in the territorial structure of the Ministry of Interior by their residence.</i> <i>They are accommodated in detention centres only to ensure the implementation of the imposed measures.</i>	<i>The rejected asylum seekers as all third-country nationals with imposed compulsory administrative measures that cannot be returned are not provided with accommodation. The rejected asylum seekers have to find their own accommodation during this period and are required to appear weekly in the territorial structure of the Ministry of Interior by their residence.</i> <i>They are accommodated in detention centres only to ensure the implementation of the imposed measures.</i>	
<i>If you stated yes above, please describe the circumstances under which the accommodation can be provided</i>	N/A	N/A	
Employment			
<i>Are rejected asylum seekers who cannot be immediately returned authorised to access the labour market? Yes/No</i>	NO (for the reference period)	NO	
<i>If you stated yes above, please describe the circumstances under which they can access the labour market</i>	<i>A third-country national who has compulsory administrative measure "expulsion" shall not be expelled to a country where his life and freedom are endangered and he is</i>	<i>A third-country national who has compulsory administrative measure "expulsion" shall not be expelled to a country where his life and freedom are endangered and he is</i>	

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	<p><i>at risk of persecution, torture or inhuman or degrading treatment. When circumstances are established by an effective judicial act, the third-country national shall be issued and served an order by the authority issuing the expulsion order, which explicitly states the prohibition of expulsion and the country to which the third-country national should not be expelled. The order can't be appealed.</i></p> <p><i>In case a year after the order for compulsory administrative measure the expulsion in a third safe country has not been carried out, the third-country national shall be allowed temporary access to the labour market under the terms and conditions of the Law on the Labour Migration and Labour Mobility – until the implementation of the expulsion.</i></p> <p><i>The third-country national doesn't have this right if with his activities he has put or could put in danger the security or the interests of the Bulgarian State or about whom there are data that he acts against the security of the country.</i></p>	<p><i>at risk of persecution, torture or inhuman or degrading treatment. When circumstances are established by an effective judicial act, the third-country national shall be issued and served an order by the authority issuing the expulsion order, which explicitly states the prohibition of expulsion and the country to which the third-country national should not be expelled. The order can't be appealed.</i></p> <p><i>In case a year after the order for compulsory administrative measure the expulsion in a third safe country has not been carried out, the third-country national shall be allowed temporary access to the labour market under the terms and conditions of the Law on the Labour Migration and Labour Mobility – until the implementation of the expulsion.</i></p> <p><i>The third-country national doesn't have this right if with his activities he has put or could put in danger the security or the interests of the Bulgarian State or about whom there are data that he acts against the security of the country.</i></p>	
Welfare			
<i>Are rejected asylum seekers who cannot be immediately returned entitled to receive any social benefits? Yes / no</i>	NO	NO	
<i>If you stated yes above, please briefly describe what these benefits are</i>	N/A	N/A	

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<i>If you stated yes above, please briefly describe under what conditions these benefits can be provided</i>	N/A	N/A	
Healthcare			
<i>Are rejected asylum seekers who cannot be immediately returned entitled to healthcare? Yes /no</i>	YES	YES	
<i>Does it include all healthcare or only emergency healthcare?</i>	Only emergency medical care	Only emergency medical care	
Education			
<i>Are rejected asylum seekers who cannot be immediately returned still entitled to participate in educational programmes and/or training? Yes / no</i>	NO	NO	
<i>If you stated yes above, please briefly describe under what conditions they can participate in educational programmes and training</i>	N/A	N/A	
Other?			
<i>Are any other measures taken which are relevant to mention here? Please describe</i>	-	-	

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Q24. In terms of status and/or rights, does your Member State make a difference between those who cannot return / be returned through no fault of their own and those who are considered to have hampered their own return? Yes / No

If yes, (i.e. if you differentiate between these two groups), please describe the reasons for this differentiation and the method used to distinguish the two.

There is no difference between the both groups in Bulgaria. All foreigners receive the same basic rights (accommodation, food, medical care).

Q25. Can persons who are not immediately returnable also be eligible for regularisations? Yes / No If so, under what circumstances?

No, Bulgaria has not introduced into the legislation "the status of tolerance" yet.

Q26. Does your Member State regularly assess the possibilities of return for rejected asylum seekers who could not immediately return / be returned? If so:

- a. what are the mechanisms for this assessment?
- b. How regularly is it undertaken?
- c. Which types of persons does it cover (i.e. does it cover all persons who cannot return / be returned or only those not granted a status)?
- d. Is there a point at which an alternative to return (e.g. regularisation) becomes possible? If so, on what criteria is it decided that the alternative to return should apply?

No.

Q27. Do you have any evidence that rejected asylum seekers who could not be immediately returned were eventually returned during the period 2011-2015? *Evidence may include government reports, studies conducted by research institutes or migrant rights groups or testimonies of returned individuals.*

No information

Section 5: Linking return policy to the asylum procedure: Member States' policies and measures to ensure that unfounded claims lead to swift removal and to prepare asylum seekers for return [Maximum 8 pages]

This section aims to explore interlinkages between the national asylum systems and Member States' return policies. It aims to provide an overview of: 1) measures that Member States have in place to ensure that unfounded claims lead to the swift removal of the concerned person (in line with the EU Return Package and Article 31(8) of the Asylum Procedures Directive), and; 2) existing national approaches/ practices to prepare asylum seekers for (voluntary) return before a final decision on the asylum application has been taken.

SECTION 5.1 ACCELERATED PROCEDURES

According to recital 20 of the recast Asylum Procedures Directive (Directive 2013/32/EU), "in well-defined circumstances where an application is likely to be unfounded or where there are serious national security or public order concerns, Member States should be able to accelerate the examination procedure, in particular by

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introducing shorter, but reasonable, time limits for certain procedural steps, without prejudice to an adequate and complete examination being carried out and to the applicant's effective access to basic principles and guarantees provided for in this Directive". Accelerated procedures can help Member States to facilitate a swift return for asylum seekers whose applications are likely to be rejected. This sub-section explores whether – and under what circumstances – Member States use accelerated procedures.

Q28. Did your Member State make use of accelerated asylum procedures, as stipulated in Art. 31 (8) of the recast Asylum Procedures Directive 2011-2015? Yes / No

Accelerated procedure in the Republic of Bulgaria takes place before the 2011-2015 reference period. There was a change in the accelerated procedure during the last year consisting in the introduction of admissibility procedure for a subsequent application. By the end of 2015 the subsequent application was considered in an accelerated procedure, but since 26 December 2015 an admissibility procedure is already applied. If the subsequent application has been admissible to proceedings it should be considered in a general order.

If yes, for what reasons/in what circumstances does your Member State make use of such accelerated procedures? Please complete the table below *Please indicate in the "comments" column if the measure is no longer applied, describing, if possible, why the measure was discontinued.*

The accelerated procedure is shorter in terms of duration than the procedure in a general order. The accelerated procedure should be used for screening of clearly unfounded applications.

Grounds for accelerating the examination procedure	Is it policy accelerate the examination procedure when the application presents these characteristics? Yes/No	If policy, is the policy applied in practice to date? Yes/No	How often does this happen in practice? in all cases, most cases, some cases, rarely, never	What was the Member State experience of accelerating the examination procedure in these circumstances – has it helped to ensure swift removal?
Applicant only raised issues not relevant to the examination	YES	YES	Rarely	N/I
Applicant is from a safe country of origin	YES	YES	Rarely	N/I
Applicant can return / be returned to a safe third country in line with Art. 38 of the Asylum Procedures Directive or equivalent national law	NO	NO	N/A	N/A
Applicant misled the authorities by presenting false documents/information, withholding of info/docs	YES	YES	Some cases	N/I
Applicant destroyed documents intentionally to make assessment	YES	YES	Rarely	N/I

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difficult				
Applicant made inconsistent, contradictory, false representations which contradict country of origin information (COI)	YES	YES	Most cases	N/I
Applicant lodged an inadmissible subsequent application	NO	NO	N/A	N/A
Applicant lodged an application to delay or frustrate enforcement of removal	YES	YES	Most cases	N/I
Applicant irregularly entered the territory and did not present him/herself to the authorities	YES	YES	Some cases	N/I
Applicant refuses to comply with the obligation to have his/her fingerprints taken	YES	YES	Rarely	N/I
Applicant poses danger to national security or public order	NO	NO	N/A	N/A
Other? (please specify and add rows if necessary)	-	-	-	-

Q29. Does your Member State have a list of safe countries of origin / safe third countries? **Yes**

If yes, when was this introduced and which countries are included? *Please note that this question was posed as part of Ad-Hoc Query 2016.1024 requested on 3rd February 2016. Please refer to your Member State response to this AHQ and provide only updated information.*

List of safe countries of origin and safe third countries was adopted by the Council of Ministers of Bulgaria in May 2005, but the presumption of safety can be disproved.

The applications for international protection shall be examined by the State Agency for Refugees and an assessment for the purposes of granting refugee status shall be made first. In case refugee status is not granted, the need to grant humanitarian status shall be considered.

According to the Law on Asylum and Refugees every year by the 30th of November the Chairperson of the State Agency for Refugees, in coordination with the Minister of Foreign Affairs, shall submit for approval national lists of safe countries of origin and safe third countries to the Council of Ministers.

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In the process of adopting the lists the Council of Ministers shall take into account sources of information from European Union Member-States, the United Nations High Commissioner for Refugees, the Council of Europe or other international organizations and shall make a judgement of the extent to which a country provides protection against persecution based on:

1. legislation adopted in this area and the manner of enforcing thereof;
2. the manner of observing rights and freedoms provided for in the Convention on the protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
3. the manner of enforcing the non-refoulement within the meaning of the Convention relating to the Status of Refugees of 1951;
4. the existence of a system of effective sanctions against any violation of these rights and freedoms.

The Council of Ministers shall notify the European Commission of the states included in the national lists of safe countries of origin and safe third countries.

The list of safe countries of origin includes as follows:

Albania, Armenia, Bosnia and Herzegovina, Georgia, F.Y.R of Macedonia, Serbia, Montenegro, Turkey, Ukraine, Bangladesh, China, India, Algeria, Ethiopia, Ghana, Nigeria and Tanzania.

The list of safe third countries includes as follows:

Bosnia and Herzegovina, F.Y.R of Macedonia, Romania, Russia, Serbia, Montenegro and Ukraine.

Q30. Does your Member State implement any other measures to ensure that unfounded claims lead to the swift removal of concerned persons? *Please describe such measures*

No.

Q31. Have there been any recent changes to policy or practice **to ensure that claims considered unfounded lead to swift removal** (e.g. these may include changes to policy or practices with regard to accelerated procedures and the use of a list of safe countries of origin and/or other measures)? **No**

If yes, what are these changes? Why were they introduced (please specify if in response to the exceptional increase in asylum applications since 2014)? What are the likely effect of these changes (in particular to what extent will they contribute to ensuring the swift removal of applicants with unfounded claims)?

Please note that this question was posed as part of Ad-Hoc Query 2016.1024 requested on 3rd February 2016. Please refer to your Member State response to this AHQ and provide only updated information.

N/A

SECTION 5.2 PREPARING ASYLUM SEEKERS FOR RETURN

Q32. Is it part of your Member State's policy on return to, early on and throughout different stages in the asylum procedure, prepare asylum seekers for return should their application be rejected? **Yes / No**

If yes, is this policy formalised in:

- a) official communications,
- b) soft law or is it

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Please describe the main features of this policy / what it involves (e.g. informing asylum applicants of voluntary return opportunities, making AVR available to all asylum seekers).

*Please note that this question is about **policy**. Please do not provide here information on the different approaches to inform asylum seekers about (voluntary) return. Such information is available in the EMN study on dissemination of information on voluntary return and should not be duplicated here, but can be cross-referenced to.*

Asylum seekers are informed during the application procedure for all stages and steps of the proceedings, including the possibility for voluntary return by themselves, through AVR and reintegration programs, forced return in the case when the asylum seeker is not granted positive decision or the procedure is terminated.

Q33a. Have any recent changes taken place in your Member State policies with regard to *the preparation of asylum seekers for return* during the asylum procedure (notably following the exceptional flows of asylum seekers arriving in the EU since 2014)? Yes / No If yes, please describe such changes

Please note that this question was posed as part of Ad-Hoc Query 2016.1024 requested on 3rd February 2016. Please refer to your Member State response to this AHQ and provide only updated information.

No

Q34. If no specific approaches/measures are currently implemented, is your Member State planning to introduce a specific approach/measures to prepare asylum seekers for return whilst they are still in the asylum procedure?

Please specify when these will be implemented, explain what they will entail and further elaborate on their main drivers? (E.g. *new measures to reach out to newly arriving asylum applicants to inform them of return options will be introduced in July 2016 in response to the exceptional flows of asylum seekers arriving in my Member State*).

No

Section 6: Conclusions [Maximum 2 pages]

The purpose of this section is to draw conclusions as to the extent to which the Member State has targeted or otherwise appropriate policies and practices in place to ensure the return of rejected asylum seekers. It asks whether, based on the evidence presented in the study, Member State return policies and practices are tailored to rejected asylum seekers and whether any good practices exist in the Member States.

Q35. Based on your answers provided, does your Member State tailor its return policies to rejected asylum seekers, and if so, how?

Bulgaria does not tailor its return policy specifically to rejected asylum seekers. The BG return policy concerns all irregularly staying third-country nationals with imposed compulsory administrative measures including rejected asylum seekers.

Q36. Based on the evidence provided, which practices or policies in your Member State can be described as good practice approaches to return rejected asylum seekers?

- Compulsory accommodation in a detention centre with the purpose of organising the return decision

As the Republic of Bulgaria is still a transit country for the irregular migration the compulsory accommodation in the closed centres is identified as a good practice having deterrent effect to the secondary movement of this category of third-country nationals to countries of Central and Western Europe. This measure aims to prevent the risk of absconding and ensure the implementation of return decisions

- In some cases it shall be specified a term between 7 and 30 days, within the irregularly staying third-country nationals shall voluntarily fulfil their obligation to return

Lighter measure to secure the implementation of return decisions, according to European standards in providing promotion of voluntary return. The statistics in the Annex to the survey show that a majority of TCNs are returned as a result of the application of these two measures – compulsory and voluntary return.

- Coordination with the relevant embassy of a third country for the establishment of individuals' identification and issuance of travel document

Over 90% of TCNs irregularly entering or staying on the territory of Republic of Bulgaria have no identity documents and no small percentage of them embarrass, hamper or intentionally mislead the police authorities in order to delay the procedures for identification and return.

- Assisted voluntary return and reintegration programs

Republic of Bulgaria gives priority to voluntary return as good practice for sustainable and permanent return of TCNs to their countries of origin. In recent years the Bulgarian Mission of International Organization for Migration is actively involved in the implementation of programs for assisted voluntary return and reintegration of third-country nationals in their countries of origin.

Annex 1

Q37. *With reference to Question 2, please complete the following table with national statistics on the (estimated) number of rejected asylum seekers, if available.*

Please provide here a brief explanation of the metadata, describing for example the population covered, the method used to reach the estimates, any caveats as to their likely accuracy etc. It should be noted, given the differences in methods used to make the estimates, that it will not be possible to synthesise this information to produce a 'total EU estimate' for the Study.

Data presented in the attached table are produced by two different authorities – Migration Directorate within Ministry of Interior and State Agency for Refugees with the Council of Ministers. That is the reason why it is not possible to provide common metadata.

The data for 2011 and 2012 by citizenship are done for top 5 only because of the very small figures for the rest of countries concerning the return procedures.

Some of data are not available by sex in the information system and they are presented for the total only.

Please provide your answer by completing the Excel document inserted as an object below and sent separately with this Common Template. The top ten nationalities for each year should be indicated by replacing the word "citizenship 1, 2, 3, etc." in the first column of the table with the name of the nationality. For example, if Serbia was the third-country producing the largest number of rejected asylum seekers in 2015, then this would be listed in place of "citizenship 1" in the table for 2015.

Please do not here include Eurostat information on third-country nationals returned, as this information is available publically and can therefore be analysed centrally for the Synthesis Report.

