

The Situation in Norway

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All subsequent information is provided in the following context:

- The expression “non-removable migrants” is limited to those migrants present on the territory who at one point in their personal history have applied for protection as an asylum-seeker in Norway.
- The phrase “suspected or convicted of serious crimes” relates to crimes considered in relation to article 1F of the Refugee Convention or to acts that are considered related to terrorism although they may take place on Norwegian territory.

This means that the following scenarios are not included

- Those who are rejected as asylum-seekers (Norway includes a person as a refugee before considering exclusion) but who may very well have committed serious crimes before coming to Norway as a refugee, but who for practical reasons are not returned to their country of origin.
- Those who may have committed serious crimes in Norway but are non-removable.

For the persons included in this paper, the volume itself is rather limited. Asylum seekers excluded from refugee status, and who may not be returned, due to ECHR art 3 or RC art 1/art. 33 (non-refoulement) considerations, count around a hundred individuals today. The figures tend to increase approximately by 10 each year. Most of these people do not necessarily “affect” Norway in any serious way. This is mainly because most of the crimes are very context specific, meaning that most of these people live law-abiding lives in Norway. The other reason may be that most of them will receive a temporary right to work and they would still be able to live cost-free at a reception center. For those with family members that have received ordinary permits it would seem that most follow their families when they are settled locally by the Norwegian government, although excluded persons do not themselves enjoy the right to be settled/assisted into a local community.

The categories that are not included in this paper would probably be said to “affect” the Norwegian society to a much more detrimental degree. These would often be heavily represented in organized crime of some sort, most notably various forms of drug trafficking.

The key characteristics for non-removable migrants (excluded persons) in Norway are mainly Iraqis excluded for Crimes against Humanity or Afghans excluded for serious non-political crimes. Overall, in the category of excluded persons, most persons are excluded for ordinary crimes (rape, murder, etc.) regardless of country.

The persons would be deemed non-removable mostly because they are protected from being returned to their country of origin due to the fact that they would risk ECHR art 3 or RC art 33 violations. A very limited number within the stipulated categories will not be returned because of ECHR art 8 considerations.

The scale of the problem is, as mentioned not very large. Within the relevant category there are approximately 100 persons, but if one were to include the other categories, this number would in all probability be significantly higher although that would for the most part be pure speculation as we have no reliable statistic.

One well-known example would be the much-debated case of Mullah Krekar, but most of the excluded persons prefer to keep a low profile, especially in terms of their excluded status and what might account for this.

There is a limited focus on policy measures to deal with these cases. There was recently an attempt to apply a section in the legislation to provide for a designated and limited area of habitual residence for Mullah Krekar, and this case is still pending in the court system, now at the appeal stage.

For excluded persons, their temporary permits are reviewed every 6 months, which means that if their need for protection is no longer valid, their permits will not be renewed and they are under an obligation to leave. Apart from that, the legislation itself provides for the possibility to seriously limit the work permit that they may receive.

Taking into account that the only protection left for this group of persons is usually ECHR art. 3 (considering that they have been excluded from the protection in the RC), this protection is linked to presence at the Norwegian territory. Thus the obligation for Norway not to refoule a person is no longer applicable if the person chooses himself or herself to leave Norway. The limited permit granted to persons excluded from refugee status does not give the right to a travel document or the right to re-entry into Norway. Neither does it give the right to family reunification, or to a permanent permit later, or eventually a right to Norwegian nationality.

The lack of exchange of factual information and comparable information on legal status between the various countries is the main challenge for the Norwegian authorities with regard to excludable persons, as well as those who would be designated as potential terrorist threats. Within the Norwegian asylum system, there are some safeguards in the sense that a lot of personal information is being collected and scrutinized in each individual case. However, in cases of family immigration, it is often difficult to know when a person, who is actually excluded in another country, tries to avoid the consequences of exclusion through the vehicle of family reunification. This may not necessarily be a large problem as such, but a government should ideally know about the important facts of any person settling on their territory, in order to avoid that a person deliberately – and for no valid reason – suppresses information about excludable activity.

In this regard, three obstacles can be identified:

- Few countries have a systematic approach to exclusion.

- Few countries have a coherent legal policy with respect to types of permits, when dealing with excludable persons under the refugee convention.
- Exchange of information in cases involving national security is often even more restricted.

In conclusion, however, excluded and excludable persons have so far not created major, known difficulties in the Norwegian society. Once identified and excluded by the Norwegian authorities, they tend not to cause additional problems upon receiving their limited permits. The challenge at this stage concerns those relatively few persons, who, with their excludable activity and present criminal activity combined, constitute primarily a pressing social problem for Norway.