

EUROPEAN PARLIAMENT



Policy Department Citizens' Rights and Constitutional Affairs

- CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS -

**REFUGEE STATUS IN EU MEMBER STATES
AND RETURN POLICIES**

SYNOPTIC TABLE

ID. N°: IP/C/LIBE/ST/2004-07
PE 365.969_Syn

July 2005
EN

This study was requested by: the European Parliament's committee on Civil Liberties, Justice and Home Affairs.

This paper is published in the following languages:

Original: DE,

Translation: EN

Author: Prof. Dr. Kay Hailbronner,
LL.M (Montreal),
University of Constance
in co-operation with
Lukas Gehrke, ICMPD, Vienna
and the members of the Odysseus
Network (country reports)

Responsible Official: Mr Jean-Louis ANTOINE-GREGOIRE
Policy Department C
Remard 03 J016
Tel: 42753
Fax: 2832365
E-mail: jantoine@europarl.eu.int

Manuscript completed in July 2005

Paper copies can be obtained through:

- E-mail: poldep-citizens@europarl.eu.int

- Site intranet: <http://ipolnet.ep.parl.union.eu/ipolnet/cms/pid/438>

Brussels, European Parliament, 2005

The opinions expressed in this document are the sole responsibility of the author and do not necessarily represent the official position of the European Parliament.

Reproduction and translation for non-commercial purposes are authorized, provided the source is acknowledged and the publisher is given prior notice and sent a copy

Table of Contents

<i>Synoptic Table 1.1</i>	-	Statistical Survey
<i>Synoptic Table 1.2</i>	-	Detention of persons subject to enforced return
<i>Synoptic Table 1.3</i>	-	Deportation procedures
<i>Synoptic Table 1.4</i>	-	Deportation barriers
<i>Synoptic Table 1.5</i>	-	Voluntary Return
<i>Synoptic Table 1.6</i>	-	Particularly vulnerable persons subject to return
<i>Synoptic Table 1.7</i>	-	Judicial Review
<i>Synoptic Table 1.8</i>	-	Financial Aspects

Synoptic Table 1.1 „Statistical Survey “

	A	B	FIN	F	H	G	IR	I
Number of persons obliged to leave on the basis of a final administrative or judicial decision?	2003: 7831 (expulsion); 15057 (residence bans); 8073 (deportations); 2004: 6384 (exp.); 9132 (res. bans); 5274 (dep.)	2002: 38207 2003: 35368	2003: 3221 (asylum-seekers); 6546 (others)	2003: 67630 2004: 85162	2004: 4211	2004: 371074	2002: 2430; 2003: 2425 2004: n.a.	2005: 25600
Number of persons actually deported?	2003: 8073 2004: 5274	2000-2004: 5612	2003: 568 (rejected asylum seekers)	2003: 11692 (thereof 242 expulsions) 2004: 15560 (thereof 231 expulsions)	2004: 965	2002-2004: 78857 2004: 23334	2002: 521 2003: 590 2004: 599	2002: 50845 2003: 40951 2004: 35437 1-5/2005: 14173
Persons tolerated or whose deportation is suspended?	n.a. ¹	n.a.	n.a.	n.a.	2004: 177	n.a.	n.a.	2003: 14223 2004: 15647
Deportation by air ?	2003: 1 flight / 3 pers.; 2004: 8 flights / 27 pers.	2000-2004: 5612	n.a.	n.a.	2004: 41	2004: 21970	n.a.	Yes, no numbers available
Number of persons subject to regularisation programmes?	no current regularisation pro-grams (before: special program for Bosnians)	1999: Applications: 37160 Positive decisions : 25.554 Negative decisions : 10.969 Not yet decided: 637	no regularisation programs	1999-2003: ca.80 0000 illegals have been regularised 2003: 14957	2004: 1406 applications, 1128 approvals, 233 rejections	no regularisation programs	no formal regularisation programs	Programme 2002: regularisation of 640.011 p. (694 312 requests)
Deportation by other means of transport?	n.a.	n.a.	n.a. (Russian citizens are sometimes deported by car)	n.a. (citizens of Maghreb are some-times deported by sea)	2004: 2668	2004: 1634	n.a.	n.a. (some by sea)

¹ n.a. = requested data not available

Synoptic Table 1.1 „Statistical Survey “ (cont’d)

	L	MT	NL	PL	P	SL	SP	SWZ	UK
Number of persons obliged to leave on the basis of a final administrative or judicial decision?	2004: 381	n.a.	n.a.	2004: 6040 (to leave voluntarily); 6696 (expulsion)	2003: 3700 (entry refusals); 1948 (expulsion proceedings); 2007 (voluntary leaving)	n.a.	2004: 13136 (return) 13269 (expulsion)	2003: 17322 2004: 14231	2002: 57735 (48050 - illegal entrants) 2003: est. 22950 illegal entrants
Number of persons actually deported?	2004: 325	n.a.	Asylum seekers 2003: 3934 2004: 3842 Non-asylum seekers 2003: 21783 2004: 18499	2004: 6199	2003: 571 (deported); 361 (banned under readmission agreements)	2004: 472	2004: 121 121	2003: 2858 2004 2330	2002: 14200 2003: 19630
Persons tolerated or whose deportation is suspended?	n.a.	n.a.	n.a.	2004: 1097 (210 in the context of expulsion procedure)	2003: 74	n.a.	1/2002- 6/2004: 85019	2003: 9731 2004: 8982	until 2004: few hundreds. First quarter 2005: over 5000
Deportation by air ?	sometimes	n.a.	Asylum seekers 2003: 1713 2004: 1488 Non-asylum seekers 2003: 9661 2004: 7730	2004: 1004 (of 6199 deportations)	2003: 557	n.a.	2004: 11280 rejected at the frontier (specially at the airports)	2004: 34 flight/173 pers.; 1-3/2005: 8 flights/36 pers	n.a.
Number of persons subject to regularisation programmes?	no regularisation programs	n.a.	2003/2004: 9800	no regularisation programs	2003: 29486 2004: ca. 47.000	no regularisation programs	2-5/2005: ca. 690 679	no regularisation programs	2002: 6730 2003: 11235 10/03-3/05: 10350
Deportation by other means of transport?	n.a.	n.a.	n.a.	2004: 60 (by sea)	2003: 2 (by sea) 12 (by land)	n.a.	n.a.	n.a.	n.a.

Synoptic Table 1.2 „Detention of persons subject to enforced return “

	A	B	FIN	F	H	G	IR	I
Maximum duration of detention?	Before 2005: 6 months Since 2005: 10 months	8 months	No maximum duration. Regular court control concerning detention every two weeks	Before 2003: 23 hours Since 2003: 32 hours	12 months Can be re-ordered if minor offence committed after release	6 months In case of frustration of deportation by a foreigner extension by a maximum of 12 months is possible.	8 weeks	60 days (30 days which can be extended by the judicial authority for another 30 days)
Judicial authorisation necessary?	No. Not necessary	No	Yes. After one day a District Court shall be informed and hear the matter without delay and no later than four days	After 48 hours. the detention may only be lengthened by the “Juge des Libertés et de la Détention” and for a duration of fifteen hours renewable one time	Yes. After first 5 days (not for ordering it)	Yes	No	Yes. The head of Local Police, transmits a case within 48 hours to the competent Justice of the Peace validating the detention measure.
Special facilities for persons facing detention available?	No	Yes	Yes. Special detention unit	Yes	Yes	No. As an administrative rule deportees should be detained separately from criminals.	No	Yes. <i>CPTA (Centro di permanenza temporanea e assistenza)</i>
Special rules for particularly vulnerable persons?	Open stations (free movement during daytime); specific accommodations for minors w/ obligation to report to authorities regularly	No	Yes. Needs of victims of torture, rape, other physical or sexual violence and others shall be properly taken into account during the detention.	Yes. Unaccompanied minors have to take a medical-judicial test in order to prove if they are really minors.	Yes	No. No rules existing, the treatment of particular vulnerable persons is regulated in administrative rules of the Länder, responsible for the implementation of the immigration law.	Persons under 18 may not be arrested and detained	Yes. - risk of persecution on grounds of race, sex, political opinions; - minors (under-18) - person living with Italian relatives within 4th degree and/or with Italian spouse; - pregnant woman, or for the 6 months following the birth.
Judicial review of administrative detention measures?	No. On federal level complaints can be filed to the Independent Administrative Senates	Yes	Yes. Rehearing through a District Court every two weeks No appeal, but complaint possible	Yes. Beyond the 28 hours detention ordered by the Prefect, detention may only be lengthened by the « Juge des Libertés et de la Détention ». This decision may be challenged before the court of appeal, but this appeal is not suspensory, unless it is conceived by the public ministry	Yes. After 5 days, then monthly for sixth months, then every 90 days	Yes. Detention requires always judicial authorisation; administrative detention is not permitted, unless under general rules on public order and security for a preliminary period for up to 24 hours. Any administrative detention for up to 24 hours requires for a prolongation a judicial order and is subject to judicial review.	Yes. Direct challenged by means of judicial review and by the writ of habeas corpus. Indirect by means of court proceedings against the deportation order	Yes. - Rejection: the rejection can be appealed before an administrative judge (within 60 days), - Administrative expulsion ordered by the Head of the Local Governmental Office (<i>Prefetto</i>): an appeal expulsion order can be lodged at the Justice of the Peace (“ <i>Giudice di Pace</i> ”) within 60 days.
Alternative measures to enforce cooperation for return purposes, like reduction of social assistance?	Yes. Programmes providing organisational assistance and financial allowance for journey and reintegration.	Yes. No social assistance for aliens facing an order to leave the territory (with some exceptions)	Yes. - Obligation to report at stipulated intervals. - hand over travel document and tickets - The returnee may be obliged to give a security for the expenses related to residence and return	Yes. During the detention or the assignation to a residence, the alien has not got the right to exercise any professional activity and he does only benefit from the medical aid of urgency.	Yes. Detention is the main tool	Yes. Asylum seekers and foreigners frustrating deportation measures are only entitled to social benefits up to the amount required to maintain a minimum standard of living	Yes. Access to social assistance has been cut back	No

Synoptic Table 1.2 „Detention of persons subject to enforced return “ (cont’d)

	L	MT	NL	PL	P	SL	SP	SWZ	UK
Maximum duration of detention?	3 months	18 months	No	- 48 hours by the Police or the Border Guard. - 90 days which may be extended to a - maximum of one year.	60 days	6 months (which can be extended for another 6 months).	- 72 hours - 40 days in 'centro de internamiento'	3 months (in cases of detention pending removal it can be extended to a period of 9 months)	No. (In practice the majority is generally detained for less than two months.)
Judicial authorisation necessary?	No	No. But there is a right of appeal to Immigration Appeals Board.	No	Yes. After 48 hours.	Yes	Yes. - appeal to the Ministry of Interior within a period of 8 days - Judicial review against the appeal decision by filing a complaint to the administrative court (in 30 days)	No. - Not for the initial 72 hours - Yes for the confinement with a duration of 40 days.	Yes. Within 96 hours the detention has to undergo judicial review by the courts.	No. Judicial authorisation is not necessary, nor is there automatic regular and independent judicial oversight of detention. (only internal administrative review).
Special facilities for persons facing detention available?	Yes. Lighter detention mode	No. - However, asylum seekers are entitled to state education and training and to receive state medical care and services.	Yes	Yes. Detention at guarded centres and deportation centres	Yes. To avoid detention they can opt for voluntarily departure or supervised departure	Yes. Center for Aliens in Postojna or in Prosenjakovci.	Yes. 'Centro de Internamiento'.	Yes. There are some specifically-adapted facilities in some Cantons (Zürich/Airport, Basel/Removal prison)	Yes. Removal centres, with a total capacity of 3,000 places. Six of the centres detain men only and the other four are mixed centres.

Special rules for particularly vulnerable persons?	No	No See table 1.6.	Yes. For minors	Yes. Special facilities apply to aliens with a minor, unaccompanied minors and pregnant women. Since 2005 unaccompanied minors may be alternatively placed in a foster care centre. Detention not eligible if it could result in endangering a person's life or health.	No	Yes. Unaccompanied minors shall be temporarily accommodated by the police at the special department responsible for minors at the Center, and the social work centre be notified hereof - alien minors shall be together with their parents or legal representatives	Yes. Minors cannot be detained in the 'centros de internamiento', unless their parents are there and the family members expressed their will to remain together.	Yes. Detention is not possible for children and juveniles under 15 years	Yes. There is a non-detention policy with respect of particular vulnerable groups, but it is not carried out in practice - children are detained as part of a family group and when their age is disputed - detention of any child beyond 28 days is subject to express authority of the Immigration Minister
Judicial review of administrative detention measures?	Yes	No	Yes. Within 28 days after an alien is placed in detention, the Minister of Aliens Affairs and Integration must give notification of this detention to the regional court, which must then hold a hearing within 14 days.	Yes. Relevant provisions of criminal procedure apply respectively.	Yes. Within 48 hours the alien must be presented before a judge for the validation of the detention.	Yes. Judicial review may be initiated against the decision on the appeal to the Ministry of the Interior by filing a complaint to the administrative court in the period of 30 days	Yes. Within 3 days judicial order of 'detention' in the specific centre has to be appealed.	Yes. Within 96 hours the detention has to undergo judicial review by the courts. This court decision may be appealed at the Federal Court.	Yes. Detention may be reconsidered by means of an application for bail or challenged by application for habeas corpus or judicial review of the detention itself.
Alternative measures to enforce cooperation for return purposes, like reduction of social assistance?	Yes	No	Yes. Exclusion from all social and public benefits, except urgent health care, legal aid and education for persons under 18 years of age	No	No	No	No	Yes. The authorities may compulsorily assign an uncooperative person to specific accommodations, detain and reduce benefits to minimum level	Yes. - Denial of support - Withdrawal of support from families who fail to cooperate, for deliberately destroying or discarding travel documents

Synoptic Table 1.3 „Deportation procedures“

	A	B	FIN	F	H	G	IR	I
Competent authority for deportation order?	Aliens Police Authorities (District Administrative Authority or Federal Police Authority, Directorates of Security).	Ministry of Interior (<i>Office des étrangers</i>)	The Directorate of Immigration (for removal of rejected asylum seekers, of foreign nationals who have resided in Finland with or without residence permit. In other situations the local police or the Border Guard Authority decide on removal.	The prefect or the Minister of the Interior.	- Border Guards; - Office of Immigration and Nationality Affairs of the Ministry of the Interior (Aliens Police Directorate, Coercive Measures and Repatriation Division) Expulsion can also be ordered by the courts	Alien authorities of the Länder; executed by police authorities of the Länder and the federal police.	Minister for Justice, Equality and Law Reform	- Minister of Interior (public order/national security) - Head of the Local Governmental Office (illegal entry/ stay or dangerous migrants), - penal judge (convicted alien, socially dangerous) - Judicial decree (imprisonment for a crime, serving less than 2 years)

Unlimited examination of deportation barriers including danger of persecution (preclusion of specified reasons like political persecution or subsidiary protection)?	Yes. Rejections are inadmissible if a person runs the risk of being subjected to inhuman treatment or punishment or to the death penalty or their life or freedom would be endangered on account of race, religion, nationality, membership of a particular social group or political opinion	No. Not yet subsidiary protection But clause de non-reconduite and possibility to ask for humanitarian permit of residence	Yes	Yes	Yes	No. Examination of subsidiary protection reasons based upon the situation in the country of origin is in the exclusive competence of the Federal Office for Migration and Recognition of Refugees. Alien authorities have only limited competence to examine deportation barriers.	Yes. The making of a deportation order is subject to the non-refoulement provisions of Section 5 of the Refugee Act 1996 and the Criminal Justice (UN Convention against Torture) Act 2000.	Yes
Collective deportation measures and deportation centres available?	No collective deportation measures. There are in fact no deportation centres. The initial reception centres for asylum seekers which were established in 2004 might be seen as centres for management of deportation in a wider sense.	Yes No	No	Yes No	No Ordering the removal of a person is always individual, but the removal may take place in small groups with a common destination No. Detention centers do exist and there is a holding facility at the Budapest International Airport. None of them are specifically deportation centres.	No No Although the Immigration Act of 2004 provides for establishment of deportation centres.	The Garda Síochána (Garda National Immigration Bureau) have on several occasions collected deportees and carried out multiple deportations to specific destinations. There are no specific deportation centres.	Yes. In the meantime ruled unlawful. Yes. There are 12 detention centres and 4 reception ones
Competent authority for enforcement order?	Aliens Police Authorities	Ministry of Interior (<i>Office des étrangers</i>)	No separate enforcement order is issued.	- Direction des Libertés Publiques et des Affaires Juridiques (DLPAJ) - Direction Centrale de la Police aux Frontières (DCPAF) (combining the competences of the Aliens Offices of the prefectures, the police and gendarmerie of the departments and, other services like the penal administration or the customs office.)	- Border Guards - Office of Immigration and Nationality Affairs of the Ministry of the Interior (Aliens Police Directorate, Coercive Measures and Repatriation Division)	Alien authorities of the Länder.	The implementation of deportation orders is carried out by immigration officers and the Garda Síochána (Garda National Immigration Bureau).	Local Police Headquarters, Ministry of the Interior (<i>Questura</i>)

Synoptic Table 1.3 „Deportation procedures“ (cont'd)

	L	MT	NL	PL	P	SL	SP	SWZ	UK
Competent authority for deportation order?	Minister of Justice	-Principal Immigration Officer (for removal orders) -Immigration Appeals Board on an application of the Principal Immigration Officer (for EU member states' citizens) -Minister responsible for immigration matters (deportation orders)	No separate deportation order. The authority issuing the closest equivalent is the Minister of Aliens Affairs and Integration	- Voivod (local representative of the government): expulsion decisions -Head of the Voivodship (Police Headquarter/Head of the Border Guard Division, the Head of the Border Guard check-point): voluntary return. Voivod is the appellate authority.	Aliens and Borders Service. (administrative deportation order)	- Police (for illegal migrants) - Ministry of Interior, Asylum Sector (rejected asylum seekers)	The governmental authority in the region (Subdelegado del Gobierno).	Federal Office for Migration (FOM)	Secretary of State or the responsible Home Office Minister (power of administrative removal).
Unlimited examination of deportation barriers including danger of persecution (preclusion of specified reasons like political persecution or subsidiary protection)?	Yes	Yes	Yes	Yes	Yes. Only by an asylum relevant ground (not subsidiary protection ground).	Yes	Yes	Yes	Yes
Collective deportation measures and deportation centres available?	Yes	Yes. There were collective deportations w/ chartered flights. No	Yes. Collective deportations take place by chartered flights There are two deportation centres near the airports of Amsterdam and Rotterdam	No. Only technical measures may have a collective character Deportation centres are available.	No. No. However, there are regulations already in force to establish "administrative detention centres"	No. There are two detention centers (Center for Aliens Postojna and Center for Aliens Prosenjakovci)	No. Nevertheless, immigrants are usually deported by air in a collective way.	No. Removal is carried out on a single and individual basis (though 2-4 deportees can be deported on the same flight)	Yes. Removal centres, with a total capacity of 3000 places.
Competent authority for enforcement order?	Minister of Justice	Army executives are competent for removal and deportation orders and supervise detention centres.	Actual deportation is carried out by the military police (KMar).	Police and Border Guard	Aliens and Borders Service	Police	Police	Cantonal police authorities with support from the "Repatriation division" of the Federal Government	Immigration Service, part of the Home Office Immigration and Nationality Directorate, (IND) with the assistance of the police and the escorting services provided by private contractors.

Synoptic Table 1.4 „Deportation barriers “

	A	B	FIN	F	H	G	IR	I
Illness as deportation barrier?	Yes. At least 24 hours before departure the person has to undergo a medical check. If the health status does not allow deportation, it is postponed.	Yes. An application could be introduced under Art. 9, 3 Aliens Act	Yes. A temporary residence permit under Section 51 of the Aliens Act will be issued.	Yes. There are legal and practical obstacles to the deportation.	Yes. If a deportation would entail a risk of harming the life, health or bodily integrity of the foreigner to be deported.	Yes. Provided that deportation cannot be executed without a risk for the health of a deportee. Frequently medical checks are ordered by the alien authorities before executing a deportation order.	Yes. Illness is covered by the term "humanitarian considerations" to which the Minister of Justice must have regard in determining whether or not to deport.	Yes. Only if evidence for issuing a permit of stay for "health reasons" or in emergency/humanitarian cases (temporary reception in centres but final deportation).
Resistance as deportation barrier?	No. Because for so called "problematic deportations" charter flights are used and the persons are attended by a human rights observer.	Yes. Practically, but not legally.	Yes. In extreme cases of resistance, a residence permit under section 51 of the Aliens Act may come to question.	Yes. Practically, but not legally.	Yes	Yes. If resistance cannot be overcome by admissible force as laid down in guidelines by the police authorities of the Länder and the federal police.	Yes. Practically it has been so, although by allocating more officers to the Garda National Immigration Bureau this problem seems to have reduced.	No
Insufficient medical treatment in country of origin as deportation barrier?	Yes. According to Art. 57 Sect. 1 Aliens Act.	Yes. An application could be introduced under Art. 9, 3 Aliens Act	Yes. A temporary residence permit under Section 51 of the Aliens Act will be issued	Yes	Yes. If it amounts to a inhuman treatment.	Yes. The Federal Office for Migration and Admission of Refugees maintains an extensive data collection for examining the availability of medical treatment in countries of origin.	Yes. May be taken into account by the Minister in determining whether "humanitarian considerations" justify leave to remain.	Yes. Only if evidence for issuing a permit of stay for "health reasons" and if documents stating the insufficient medical treatment in the country of origin are provided.
Lack of documents as deportation barrier?	Yes.	Yes. An application could be introduced under Art. 9, 3 Aliens Act	Yes. When deportation is barred because of lack of documents a residence permit shall be granted under section 51 of the Aliens Act.	Yes	Usually yes However, in the direction of Kosovo and Iraq authorities issue a laissez passer.	Yes Lack of documents is frequently a deportation barrier. Deportation is not admissible due to the lack of valid travel documents.	Yes. Detention and the imposition of a legal obligation to cooperate has lowered this barrier.	Yes. In these cases detention can be prolonged until one year, while irregular migrants wait for the expulsion enforcement.
Danger of inhuman treatment or torture as deportation barriers?	Yes. According to Art. 57 Sect. 1 Aliens Act	Yes. An application could be introduced under Art. 9, 3 Aliens Act	Yes.	Yes	Yes	Yes. Danger of inhuman treatment is fully recognised in Sec. 60 para. 2 of the Immigration Act.	Yes. Non-refoulement provisions in the Refugee Act 1996 and the Criminal Justice (UN Convention against Torture) Act 2000 limit the freedom of the Minister to make deportation orders.	Yes. Expulsion is prohibited in case of a risk to be submitted to persecution.

Synoptic Table 1.4 „Deportation barriers “ (cont’d)

	L	MT	NL	PL	P	SL	SP	SWZ	UK
Illness as deportation barrier?	Yes. Depending on the decision of the Minister or of the court	Yes. Temporary protection can be offered.	Yes. According to Art. 64 Aliens Act 2000	Yes. Even though not explicitly stipulated in the statutory regulation. A tolerated residence leave (subsidiary protection) or a temporary protection appears possible.	No. Not legally.	No	No. Unless a person receives social assistance as a consequence of a professional illness or a labour accident.	Yes. In severe cases	Yes. Only in exceptional cases where the high threshold of Art. 3 ECHR is met, Discretionary Leave on medical grounds is granted (for a period of three years or less).
Resistance as deportation barrier?	No	No	In law: No In practice: Yes	No	No	Yes. Practically in a sense that, according to the Ministry of Interior, there are no forced returns carried out of people accommodated in the Center for Aliens	No. At least not regulated.	No. At least not regulated	In law: No In practice: Yes
Insufficient medical treatment in country of origin as deportation barrier?	Yes	No	No separate deportation barrier. It will be dealt with during the asylum procedure	Yes. Even though not explicitly stipulated in the statutory regulation.	No. Not legally.	Yes. If the insufficient medical treatment is interpreted as circumstances in which the persons life or freedom would be endangered, etc.	No. At least not regulated.	Yes	No
Lack of documents as deportation barrier?	Yes	No	In law: No In practice: Yes	Yes. Due to impossibility of putting expulsion decision into effect	Yes	Yes. Otherwise the deportation decision is not enforceable	Yes. Usually Spanish authorities let them remain illegally or give them a residence and work permit based on “humanitarian reasons”.	Yes. Main obstacle	Yes. It constitutes a major barrier to removal.
Danger of in-human treatment or torture as deportation barriers?	In theory Yes. However, depending mostly on judicial review	Yes. According to Art. 9 of the Refugees Act	No separate deportation barrier. It will be dealt with during the asylum procedure	Yes. Even though not explicitly stipulated in the statutory regulation. A tolerated residence leave (subsidiary protection) or a temporary protection appears possible.	Yes	Yes	No.	Yes	Yes. In these cases, humanitarian protection for up to three years will be granted (renewable for another three years).

Synoptic Table 1.5 „Voluntary Return“

	A	B	FIN	F	H	G	IR	I
Special programmes for voluntary return available?	Yes. In 2004 there have been six programmes concerning voluntary return financed by the Austrian Ministry of the Interior and the European Refugee Fund: i.a. International Organisation for Migration (IOM) Vienna (Coordination of support for voluntary return to Afghanistan).	Yes. REAB	No. Currently no such programmes are run by the authorities.	Yes. Each instrument is specific: the public aid to rehabilitation (APR), the aid to the rehabilitation of people invited to quit the territory (IQF), the humanitarian repatriation, the program of local development (PDLM), the exceptional and temporary aides.	Yes. Managed by IOM	Yes. There have been a variety of programmes facilitating voluntary return.	Yes. A number of programmes are being undertaken on behalf of the Department of Justice by the IOM. -Voluntary Assisted Return Programme (VARP). -Assisted Voluntary Return and Reintegration Programme (Irish-born children). -Pilot Return and Reintegration Programme for Unaccompanied Minors. -Voluntary Return and Reintegration Programme for Nationals of Sub-Saharan Countries.	Yes. Only IOM programmes in the framework of the Central System for the Protection of asylum seekers and refugees.
Preparatory measures like visits, language training, etc.?	Yes. Special trainings (language and computer courses, trainings in skilled crafts) are provided by the IOM for persons returning to Afghanistan.	No. Not systematically	No. Currently there are no such measures available for rejected asylum seekers.	Yes	No. Not currently. (There used to be in the mid-nineties with refugees from former Yugoslavia.)	With support of the federation, various measures including financial training and financial support have been undertaken to promote voluntary return of war refugees from Bosnia-Herzegovina and Kosovo.	No. Focus is on integration in country of return.	No
Total number of voluntary returns (estimated)?	<u>2004</u> : 1158 persons returned voluntarily with the assistance of IOM Vienna. The number of persons returning without organised support can hardly be estimated.	<u>2004</u> : 3275	<u>2003</u> : 49 rejected asylum seekers.	<u>2003</u> : nearly 2.000.	<u>2004</u> : 154 assisted by IOM; no further reliable data available	<u>2004</u> : 33 381	- Voluntary returns in context of deportation procedures: <u>2002</u> : 506 <u>2003</u> : 762 <u>2004</u> : n.a. -Voluntary Return Programmes: <u>11/2001-12/2004</u> : 953	<u>2001-2004</u> : 4739 <u>2002</u> : 228 <u>2004</u> : 593

Synoptic Table 1.5 „Voluntary return“ (cont'd)

	L	MT	NL	PL	P	SL	SP	SWZ	UK
Special programmes for voluntary return available?	Yes	No	Yes. -Departure programme REAN -Departure programme REAN-plus -Assisted Return and Reintegration Project -Mediation by IOM after a specific request from an alien -Randstad Return Initiative -Mediation Bureau Maatwerk bij Terugkeer (Tailor-made Repatriations)	Yes. Statutory assistance programme run by the Repatriation and Aliens Office. No special promoting programmes.	Yes. Since 2001 the Portuguese Government has a Programme for Voluntary Return with IOM	No. However, in 2005 a memorandum with the IOM on Cooperation in the Programme of Voluntary Return of Migrants was signed. The memorandum introduced special programs for voluntary return which will be financed from the state budget.	Yes. According to Immigration Act 8/2000: the Government is obliged to establish special programmes for voluntary return every year. In 2003, the Spanish Government reached an agreement with the IOM and established the first programme of voluntary return.	Yes. - Travel allowance - return assistance contributions There are two forms of return assistance: - general individual return assistance - country specific return assistance (i.e. Kosovo, Bosnia-Herzegovina, Turkey, Northern Iraq, Sri Lanka, Somalia, Ethiopia)	Yes. There are a number of IOM-assisted voluntary return programmes available: Voluntary Assisted Returns and Reintegration Programme (VARRP) Voluntary Return to Afghanistan Programme (VRAP) Assisted Voluntary Return for Irregular Migrants Programme (AVRIM)
Preparatory measures like visits, language training, etc.?	No	No	Yes	No. Assistance may only cover the cheapest travel costs, administration fees, as well as, partly, maintenance while in travel.	No	Not for illegal migrants and rejected asylum seekers. However, displaced persons with temporary protection have the opportunity to visit their country of origin	No	No	Yes. There is an 'Explore and Prepare' Programme available only to Afghans who have exceptional or indefinite leave to remain.
Total number of voluntary returns (estimated)?	<u>2004</u> : 56	n.a.	<u>2000</u> : 3220 <u>2001</u> : 1775 <u>2002</u> : 2194 <u>2003</u> : 2555 <u>2004</u> : 2750	<u>2002</u> : 516 <u>2003</u> : 85 <u>2004</u> : 57 (Based on the data from the Repatriation and Aliens Office).	<u>2004</u> : 179	- 1 recognized refugee (<u>2004</u>) - 21 asylum seekers and illegal migrants (<u>2001-2003</u>) - 4 victims of trafficking (<u>2001-2002</u>) - 130 displaced persons (<u>2001</u>)	<u>2003</u> : over 199 immigrants were returned to their countries of origin.	n.a.	<u>1999-2003</u> : 4180 IOM-assisted returns of principal applicants.

Synoptic Table 1.6 „Particularly vulnerable persons subject to return“

	A	B	FIN	F	H	G	IR	I
Special rules for children and unaccompanied minors?	No. There are no special rules for children or unaccompanied minors.	Yes	Yes. - In any decision issued under the Aliens Act that concerns a child under eighteen years of age, special attention shall be paid to the best interest of the child and to circumstances related to the child's development and age. - Further advice in applying the best interest principle are given in the "Guidelines on enforcement of decision on refusal of entry and deportation" - There are no special rules concerning the enforcement of the decision on removal.	Yes. Underage foreigners and those who have particular bonds to France are protected against the expulsion and the return. Their family ties and the duration of their residence in France are to be considered, unless reason of public order and national interest are at stake.	Yes. - Expulsion in the case of unaccompanied minors may only be ordered if in the country of origin or in another country care is taken of him/her either in the form of family (re)unification or by a state or other institution. - Unaccompanied minors must not be detained, in their case the place of stay is a community shelter - In the course of deportation children are entitled to food if the deportation lasts for more than 2 hours.	No. There are no specific legal rules for children and accompanied minors. In administrative practice minor children are only deported together with their parents. Unaccompanied minors are deported as a rule only if care is taken by relatives, authorities etc. upon arrival.	Yes. Detention provisions do not in principle apply to persons under 18 years of age.	Yes. A committee for Foreign Minors should evaluate if the return is in the interest of the child (on the basis of the U.N. Convention on the Rights of the Child), after due research of parents and relatives and after evaluation of the situation of the country of origin. Usually the repatriation is organised by the International Social Service.
Special rules for women?	No	No	No	No. There is no particular procedure for the other categories of vulnerable persons Those persons are protected when their removal would put a particular risk of inhuman treatment or torture on them.	Yes. At least one of the accompanying persons must be female	No	No. However, prohibition of <i>refoulement</i> states that a person's freedom shall be regarded as being threatened if, amongst other matters, a person is likely to be subject to serious assault, including one of a sexual nature. Although gender-neutral, may be of particular relevance to women.	Yes. See below.
Special rules for victims of trafficking?	Yes. In certain cases a "humanitarian residence permit" can be granted <i>ex officio</i> on the basis of Art. 10 Sect. 4 Aliens Act.	Yes	No	No	Yes. Only in a witness protection program in criminal legal procedural context	Yes. Victims of trafficking receive generally a toleration of a time of criminal procedure against traffickers; in some cases residence permits have been granted. The respective EC Directive has not yet implemented in German law.	No. Focus is on the traffickers, rather than the victim.	Yes. The Government provided legal and medical assistance once a person was identified as having been trafficked. There were shelters and programs for protection and job training. There also were assistance and incentive programs for those willing to return to their home country.
Legislative developments pertaining to particularly vulnerable persons being subject to return?	No	No	No	No.	Yes The rule, that a person who could not ascertain to be treated as an adult, has been amended.	Yes. The Federal Ministry of Interior is proposing legislation to implement the EC Directive on a right of residence for victims for trafficking.	Yes. In context of implementing Asylum Qualification Directive, consideration is being given to introduction of single procedure.	No

Synoptic Table 1.6 „ Particularly vulnerable persons subject to return“ (cont’d)

	L	MT	NL	PL	P	SL	SP	SWZ	UK
Special rules for children and unaccompanied minors?	No	No. Not in the law. However, there is a policy to detain families with minor children for a much shorter period. Similar policies exist pertaining to persons who are vulnerable by virtue of their age and/or physical condition	Yes	Yes. An expulsion decision of a minor alien is executed only if it is guaranteed that the minor concerned will be under custody of his or her parents or other relevant adult persons.	Yes. Unaccompanied minors need special authorisation (from parents or legal agent) to leave Portuguese territory.	Yes. Unaccompanied minors must not be returned to his/her country of origin or to a third country which is willing to accept him/her until suitable reception is provided.	Yes. Deportation of unaccompanied minors only takes place: - if it is possible to make effective the family reunification; - or if the country of origin takes care of them.	n.a.	Yes. Unaccompanied minors are given discretionary leave. DL will normally be granted for 3 years or until their 18th birthday, whichever is earlier. They are removable on turning 18 years of age unless they have established an eligibility to remain.
Special rules for women?	No	No. Not in the law. However, there seems to be an unwritten policy that women who have just given birth would be released from detention once they have given birth, irrespectively of their status.	No	No	No	No.	Yes. In case of pregnant women with risk for their lives, the deportation order will not be carried out or executed (Article 57.6, Immigration Act 8/2000).	n.a.	No
Special rules for victims of trafficking?	No	No	Yes. Art. 8 (k) Aliens Act 2000: when the victim of trafficking reports the crime, the victim has legal residence in the Netherlands during prosecution	Yes. Special rules for victims of trafficking do not refer directly to return procedures, rather they are aimed at legalizing their stay.	Yes. Victims of trafficking with collaborate with the justice authorities have the right of residence.	No. However, in practice victims of trafficking are never returned by ground transportation due to the reason of danger.	Yes. Victims of trafficking will not be expelled if they denounce the responsible persons or if they collaborate with Spanish authorities.	n.a.	No
Legislative developments pertaining to particularly vulnerable persons being subject to return?	No	No. However, there is a recently published government policy document on particularly vulnerable persons.	No	No	No	No	No	n.a.	Under a new five-year plan on immigration and asylum, the UK is seeking to tighten the law to make it easier to remove unaccompanied minors. The Home Office is currently developing a pilot scheme to return unaccompanied minors to Albania.

Synoptic Table 1.7 „Judicial Review“

	A	B	FIN	F	H	G	IR	I
Judicial review of return orders?	No. There is no judicial review possible. If the appeal is rejected a complaint to the Federal Administrative Court can be filed.	Yes. Appeal to the <i>Conseil d'Etat</i> but there is the problem of efficiency of this remedy, since the appeal is not suspensive	Yes. Appeal to an administrative court as provided in the Administrative Judicial Procedure Act. Further appeal to the Supreme Administrative Court if the Court gives a leave to appeal.	Yes. Administrative decisions with respect to asylum seekers may as a matter of constitutional law always be challenged in court, even when it is not explicitly provided for in the law	Yes. (Return in the sense of expulsion)	Yes. Return orders are fully subject to judicial review. Claims for international protection which have already been finally dealt with in a judicial procedure cannot be challenged again in a separate judicial procedure unless there is an extreme danger for life or liberty or unless new facts or legal norms are presented.	Yes. An appeal may be made to the High Court by way of judicial review.	Yes. - Rejection: a rejection can be appealed before an administrative judge (within 60 days).
Judicial review of enforcement measures / deportation orders?	No. - Appeals in the asylum proceedings may be lodged to the Federal Asylum Review Board. - Appeals in aliens law proceedings may be filed to the Directorates of Security.	Yes. Appeal to te <i>Conseil d'Etat</i>	No	Yes	No. Not quite: Only a complaint against implementation	Yes. Enforcement measures can only be challenged in court to the extent that the very act of an execution of a deportation order amounts to a violation of individual rights.	Yes. An appeal may be made to the High Court by way of judicial review within 14 days unless there is good reason for extending this period.	Yes- Administrative expulsion ordered by the Head of the Local Governmental Office (<i>Prefetto</i>): an appeal expulsion order can be lodged at the Justice of the Peace (" <i>Giudice di Pace</i> ") within 60 days
Interim protection available?	Yes. If deportation is inadmissible or also if it is impossible on actual reasons, a deferment can be issued for the maximum period of one year; this deportation deferment can be renewed	No	No	Yes	Yes	Yes. Interim protection is fully available; courts may order, if necessary, by a very short procedure, the staying of execution measures.	Yes. The High Court may, in appropriate cases, suspend deportation orders.	Yes. Generally, the expulsion order is immediately enforceable, but for the possibility to ask for the urgent suspension of the measure, the decision rests on the discretion of the Local Governmental Office.

Suspensive effect of interim protection measures?	Yes	No	No. A decision on refusal of entry may be enforced regardless of appeal, unless otherwise ordered by an administrative court. Yes. Decision of the Directorate of Immigration on refusal of entry unless the matter has been decided in an accelerated asylum procedure.	Yes	Yes. (Scrutiny of the applicability of the non-refoulement rule, including no return to torture, inhuman or degrading treatment or punishment or death penalty).	No There is no suspensive effect; generally, suspensive effect, however, may be granted by the court in an interim procedure.	Yes. The High Court may, in appropriate cases, suspend deportation orders.	No. However, it is possible to ask for suspension of the measure
Appeal rights?	Yes. Appeals are possible to the Directorates of Security. In detention cases complaints may be filed to the Independent Administrative Senates in the Federal States. If the appeal is rejected a complaint to the Federal Administrative Court is possible.	No	Yes	Yes	No. Not within the administrative law system. However, request for judicial review against expulsion is available.	No. There is no right of appeal against administrative return orders; a first instance court decision cannot be appealed against unless admitted by the court of first instance or the appeal on reasons on its fundamental importance or grave violation of procedural rights.	Yes. Possibility of a further appeal to the Supreme Court in relation to deportation orders is confined to cases where the High Court certifies that there is a point of law of exceptional public importance to be decided.	Yes

Synoptic Table 1.7 „Judicial Review“ (cont'd)

	L	MT	NL	PL	P	SL	SP	SWZ	UK
Judicial review of return orders?	Yes	Yes. Right of appeal on points of law only from the decisions of the Board to the Court of Appeal.	No. Only review against refusal of residence permit, no separate review of return order.	Yes. In expulsion cases an appeal to an administrative court following the administrative appeal procedure.	Yes	Yes. -Asylum seekers can appeal to the Administrative Court. -Illegal migrants and persons under temporary protection can appeal to the Ministry of Interior, and have consequently the right to seek judicial review by filing a complaint to the Administrative court	Yes. Immigration Act 8/2000 (Article 65) and Regulation on Immigration refer to common law system.	Yes. Asylum Appeal Commission (AAC) as judicial body is competent for dealing with appeals against asylum and removal decisions.	Yes. Judicial review can be used to challenge decisions which are made by public authorities including the immigration authorities.
Judicial review of enforcement measures / deportation orders?	Yes	No. No judicial review of deportation orders by Minister.	No. See above.	No. Enforcement measures are taken under expulsion decision in situations statutorily provided for.	Yes	Does not apply: Enforcement measures and return orders are not separate decisions	Yes. Immigration Act 8/2000 (Article 65) and Regulation on Immigration refer to common law system.	Yes. Appeal to the Asylum Appeals Commission	Yes.
Interim protection available?	Yes. On request, but decision lies with the Minister	Yes. Immigration Appeals Board may, even on a verbal request, grant provisional release to any person who is arrested or detained and is a party to such proceedings. (additional cases in which interim protection is available).	No. Only review against refusal of residence permit.	No. Lodging appeal to an administrative court is not of suspensive character. However, under the 2002 Act of proceedings before administrative courts, leave to remain on the territory may be granted.	Yes. The person subject of a deportation measure can demand to the court to decide the suspensive effect of the measure.	Yes. When a person files a complaint to the administrative court, he/she may also ask for interim measure to retain the enforcement of a deportation order.	No. However, any Court could be asked for habeas corpus and grant interim protection until final decision is adopted.	No	Yes. The High Court can give interim orders to prevent the immigration authorities from removing a person until the judicial review can be dealt with.
Suspensive effect of interim protection measures?	No	Yes. In cases of release from custody by order of the Immigration Appeals Board solely on the grounds that the duration of detention was unreasonable, the Principal Immigration Officer may order the re-arrest and retaking into custody.	No. See above.	No. However, can be ordered by the court	Yes	Yes	Yes. 1994 Asylum Act establishes suspensive effect of deportation order regarding an asylum-seeker, as long as UNHCR reported in favour of the asylum request (Art. 21).	Yes	Yes
Appeal rights?	Yes	Yes. Right of appeal on points of law only from the decisions of the Board to the Court of Appeal.	No	Yes. Appeal to the Supreme Administrative Court.	Yes	Yes. Appeal to the supreme court.	No	Yes	No. Not in in-country cases except on human rights or asylum grounds.

Synoptic Table 1.8 „Financial Aspects“

	A	B	FIN	F	H	G	IR	I
Estimated costs of special return projects?	The total costs of the six programmes amounted in 2004 to € 1 447 473,32. Of this amount, the Ministry of the Interior paid 578.757,48 €, the ERF € 692.158,83.	n.a.	Does not apply. Currently there are no special return projects.	n.a.	25 000 000 HUF (approximately. 1 million €)	BORK (Kosovo Reintegration): 1 628 975 € REAG/GARP for Kosovo: 285 US\$/per refugee	n.a.	For asylum seekers, the cost of the voyage changes in relation to the country of origin, while financial incentives vary from 100 to 300 €/per person.
Financial incentives granted for voluntary return? Total volume?	The total volume of this financial support is unknown.	REAB n.a.	The travel costs are covered if the person who returns voluntarily is without means of her or his own. Repatriation assistance is available according to discretion of the authorities for those receiving temporary protection and for refugees, who would like to return to their country of origin. There are no other financial incentives available.	n.a.	n.a.	Financial incentives have been granted in special return promotion projects; though, no figures can be given for promotion of voluntary return in individual cases. The BORK-Programme (Kosovo Reintegration) offers up to 3 067 € for returning Kosovars who found employment in Kosovo	n.a.	n.a.
Average expenses of enforced return per person by air?	There are no data available about the costs for regular flights. Media reports refer to costs of € 40 000, -- for charter flights (six persons to be deported).	n.a.	n.a.	The DCPAF estimates that the average costs of an removal add up to 4000 €. (cf. Le Figaro, February 21, 2005, p.8).	400000 HUF (approximately 1550 €)	n.a.	n.a.	2003: general costs of 3 200 000 €, 2004: general costs of 2 800 000 €. 2003: 16 500 000 € for enforced return 2004: more than 9 000 000 €. for enforced return
Average expenses of enforced return per person by ground transport?	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Average costs for person obliged to leave per year?	n.a.	n.a.	n.a.	Approximately: general costs of 500 millions €/year. (This number has only indicatory value for several reasons).	n.a.	Estimates vary between 10 000 € and 50 000 € depending on the factors to be taken into account (social benefits only, administrative and judicial costs for processing claims).	n.a.	85 €/per day/ per person who is detained in the centres.

Synoptic Table 1.8 „Financial Aspects“ (cont'd)

	L	MT	NL	PL	P	SL	SP	SWZ	UK
Estimated costs of special return projects?	n.a.	n.a.	n.a.	n.a.	2004: 163 298,43 €	n.a.	n.a.	n.a.	n.a.
Financial incentives granted for voluntary return? Total volume?	2003: 552 597 €	n.a.	Asylum seekers who have lodged an asylum claim before 1 April 2001: IOM will provide free airline ticket, financial contribution (€ 570 for an adult or unaccompanied minor; a family with up to 2 children will receive € 800 (and € 90 for each additional child). Reintegration contribution (€ 1750 for an adult and € 875 for an accompanying family member who is a minor)	n.a.	Transport Costs and financial support for reintegration (maximal 250 €/per adult person).	The only occasion when financial incentives were available for return was the return of displaced persons to Bosnia and Herzegovina in 2001 and 2002: In the beginning the allowance per person was 1000 €, which in time decreased to 420 € encouraging an early return.	n.a.	2450 €/adult 1225 €/child (Bosnia) 1370-685 €/adult 685-340 €/child (Kosovo) 2050 €/adult 2050 €/child (Turkey/Iraq) 1350 €/adult 675 €/child (Sri Lanka) 1370 €/adult 684 €/child (FR Yugoslavia) Federal Office for Migration 2001: General Budget for return assistance: 47 mio. Sfr.	n.a.
Average expenses of enforced return per person by air?	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	Federal Office for Migration 2001: General Budget for enforced return: 19 mio. Sfr.	n.a.
Average expenses of enforced return per person by ground transport?	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Average costs for person obliged to leave per year?	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.