



AD HOC QUERY ON 2019.2 Reasons for being excluded from the grant of international protection and criminal liability for incorrect or incomplete information

Requested by DE EMN NCP on 14 January 2019

Responses from EMN NCP Austria, EMN NCP Belgium, EMN NCP Bulgaria, EMN NCP Croatia, EMN NCP Cyprus, EMN NCP Estonia, EMN NCP Finland, EMN NCP France, EMN NCP Germany, EMN NCP Greece, EMN NCP Hungary, EMN NCP Italy, EMN NCP Latvia , EMN NCP Lithuania, EMN NCP Luxembourg, EMN NCP Netherlands, EMN NCP Poland, EMN NCP Slovakia, EMN NCP Sweden, EMN NCP United Kingdom plus EMN NCP Czech Republic, EMN NCP Norway (22 in Total)

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1. Background information

In order to collect information for possible legislative measures in the near future in Germany, concerning the penalty of false statements etc. given within the asylum procedure, we ask EMN Member States:

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2. Questions

1. 1. Does your legal system provide that asylum seekers who were convicted in the host country during the period before taking the decision for committing a “particularly serious crime” (Article 14) or a “serious crime” (Article 17) are excluded from being granted international protection within the meaning of Directive 2011/95/EU (Qualification Directive)?

Available choices: Yes, No

2. a. If you answer YES to Q.1, to which requirements is this exclusion subject (in particular: which degree of penalty and / or which type of criminal offense leads to an exclusion) and in what extent were the conditions of the Geneva Refugee Convention and the Directive 2011/95/EU (Qualification Directive) considered in the draft of this provision?

3. b. Is an exclusion dependent on just the degree of penalty or also on the legal right infringed and/or the modalities of the commission of the offense (if so, please clarify)?

4. 2. Does your legal system foresee a criminal liability for asylum seekers who, during the process of asylum application and/or in legal proceedings give incorrect or incomplete information or use such in order to be granted an asylum status or to avert its withdrawal (if so, please clarify)?


We would very much appreciate your responses by **15 April 2019**.

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3. Responses

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		Wider Dissemination ²	
	EMN NCP Austria	Yes	<p>1. Yes</p> <p>Yes. In Austria, a person seeking asylum is ineligible for asylum status if he/she has been convicted, by final judgment of an Austrian court, of a particularly serious felony and, by reason of such punishable act, represents a danger to the community. A conviction by a foreign court which meets the requirements set out in Art.73 of the Penal Code shall be deemed equivalent to a conviction by an Austrian court (Art. 6 para 1 subpara 4 Asylum Act 2005).The legal wording of the law implies that granting subsidiary protection is not excluded per se. However, according to Art. 8 para 3a Asylum Act 2005 the application for international protection in regard to the granting of subsidiary protection status shall be dismissed if a reason for the withdrawal of subsidiary protection status (Art. 9 para 2 Asylum Act 2005) exists. According to Art. 9 para 2 subpara 3 Asylum Act 2005 the subsidiary protection status shall be withdrawn if the alien has been finally sentenced by a domestic court for a felony (Art. 17 Criminal Code). In such a case the rejection is to be linked with the conclusion that a rejection at the border, a forcible return or a removal is inadmissible. The alien is consequently only tolerated on the federal territory.</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."


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			<p>2. The exclusion of granting asylum requires a final judgment of a particularly serious felony by an Austrian court and, by reason of such punishable act, that the alien represents a danger to the community. A conviction by a foreign court which meets the requirements set out in Art. 73 of the Penal Code shall be deemed equivalent to a conviction by an Austrian court (Art. 6 para 1 subpara 4 Asylum Act 2005).- Felony: In accordance with Art. 17 para 1 Penal Code, felonies are intentional offences that are punishable by imprisonment for life or by imprisonment for more than three years.- Particularly serious felony: Whether a felony qualifies as “particularly serious” is evaluated based on the criminal classification of the offence committed and the specific circumstances of the individual case. Usually, the offence must qualify as capital crimes (as is the case, for example, with murder, arson, rape and robbery). There is no exhaustive list since the ground for the exclusion from the non-refoulement protection is not the offence committed, but the danger posed by the offender (Schrefler-König and Szymanski, Art. 6 Asylum Act 2005 comment 8).- Danger to the community: Aside from the offence committed, a negative assessment of the offender’s future dangerousness is required. The assessment must conclude that there is a risk of the offender committing a particularly serious crime again. Only the dangerousness posed by the individual has to be assessed – general prevention considerations shall not be taken into account (Schrefler-König and Szymanski, Art. 6 Asylum Act 2005 comment 8).- Convictions by foreign courts shall also be considered if the offender was convicted of an offence which would also be punishable under Austrian law, and were rendered in a trial in accordance with Art. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The grounds for ineligibility for asylum status according to Art. 6 Asylum Act 2005 are in line with the provisions of the Geneva Refugee Convention (Schrefler-König and Szymanski, Art. 6 Asylum Act 2005 comment 8).In Austrian legal terminology, a “serious crime” (in accordance with Art. 17 Qualification Directive) means the conviction by final judgement because of a felony (Art. 17 Penal Code; Schrefler-König and Szymanski Art. 9 Asylum Act 2005, comment 6).</p> <p>3. Ineligibility for asylum status is not solely based on the offence committed, but additionally requires a negative assessment of the offender’s future dangerousness (see Q1a).</p>
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			<p>4. Yes. According to Art. 120 para 2 subpara 2 Aliens Police Act 2005, persons seeking international protection are to be punished, if they knowingly provided false statements to the Federal Office for Immigration and Asylum or the Federal Administrative Court in the asylum procedure. Those false statements must be given in regards to their identity or their origin in order to be tolerated in the federal territory or to fraudulently obtain the right to – even if only temporarily – reside on the federal territory. Such persons are committing an administrative offence and shall be subject to a financial penalty of EUR 1,000 - 5,000 or, in the event of default thereon, up to three weeks' imprisonment.</p>
	<p>EMN NCP Belgium</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. On 3 September, the law of 10 August 2015 amending the Immigration Act came into force. This amendment is intended to take into account threats to society and national security in applications for international protection. The legislative change provided the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) the competence to refuse refugee status if the applicant for international protection is considered a danger to society because he has been definitively convicted for a particularly serious crime or when there are reasonable grounds to consider the asylum applicant as a threat to national security (Article 52/4 Immigration Act). Furthermore, the CGRS is now also entitled to revoke refugee status if the person poses a threat to national security or a threat to society because he has been convicted for a particularly serious crime (Article 55/3/1 of the Immigration Act). The applicant for international protection can be excluded from subsidiary protection if the person has committed a serious crime or if he poses a threat to society or national security ; but also if the person has committed a crime in his country of origin that is punishable in Belgium and fled his country of origin to escape punishment for this crime (Article 55/4 of the Immigration Act). A subsidiary protection status can also be revoked on these grounds (Article 55/5/1 of the Immigration Act). As regards the refusal or revocation of refugee status due to the conviction for a particularly serious crime the CGRS has a certain margin to assess the concept of "particularly serious crime". When the criminal judge describes the facts in his judgment as particularly serious, it is clear that the CGRS shall</p>


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			<p>consider the crime as a particularly serious crime and refuse or revoke refugee status on this ground. However, even if the criminal judge only classifies the crime as serious, the CGRS can still assess that the crime is sufficiently serious to be qualified as a particular serious crime as described in article 14 of the AQD. This consideration takes into account the following elements: - the nature and seriousness of the offenses (e.g. the wording in the judgment refers to brutal violence, particularly aggressive, ..- the penalty, - the manner in which the crime was committed (level of violence, organized character, intention, ..),- the duration and quantity of the facts,- aggravating circumstances (eg victim under age,..)The CGRS will also need to demonstrate in its motivation of the refusal/revocation that the person persons a threat to society. This can be illustrated by the criminal judgement, the recidivism, or the seriousness of the crime as such. As regards the exclusion from subsidiary protection due to a serious crime (Article 17 AQD), the UNHCR guidelines on this subject are also taken into account and the following factors must be taken into account for determining the seriousness of the crime:- the nature of the act; including the degree of violence and the methods used, the use of weapons,..- the damage caused;- the suffering inflicted;- the type of procedure used to judge it;- the nature of the sentence;- if other jurisdictions also consider this crime to be serious.A violation of physical integrity (murder, rape, assault, ...) or other offense that the law punishes with a very serious sentence, will more likely be considered as a serious crime and serve as a ground for exclusion from subsidiary protection. Serious drug offenses (trafficking) can also be considered as serious crimes. Offenses against minors are also more likely to be classified as serious crimes, as well as terrorist offenses. On the other hand, offenses such as theft, for example, will probably not be classified as a serious crime for the application of this exclusion clause.In contrast with the revocation or refusal of refugee status, the existence of a criminal conviction is not necessary, the statements of an applicant before the asylum authorities and / or objective information available may be sufficient to qualify an act of crime as serious to be excluded from subsidiary protection. As the standard of burden of proof is "serious reasons for believing a serious crime was committed", rather than a definitive judgment from a court, as demanded for refusal of refugee status on this ground.</p> <p>3. see reply to question 1 a.</p>
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			4. No
	EMN NCP Bulgaria	Yes	<p>1. Yes According to the Law on Asylum and Refugees refugee status shall not be granted to a foreigner for whom there are serious grounds to assume that he/she has committed a serious non-political crime outside the territory of the Republic of Bulgaria; Subsidiary protection (“humanitarian status”) shall not be granted to a foreigner in respect of whom there are serious reasons to assume that he/she has committed a serious crime.</p> <p>2. A serious crime is the one for which the law provides for a term of imprisonment of more than five years, life imprisonment or life imprisonment without substitution. (art.93, т.7 Penal Code).The principle of non-refoulment is observed. A foreigner who has entered the Republic of Bulgaria to seek protection or who has received protection can not be returned to the territory of a state where his or her life or freedom is threatened by reason of race, religion, nationality, belonging to a particular social group or political opinion or is exposed to the risk of torture or other cruel, inhuman or degrading treatment or punishment. The rights referred to above can not be enjoyed by a foreigner who has received protection for whom there are grounds for believing that he is a danger to national security or who, once sentenced by a judgment which has become final to a serious crime, constitutes a danger to society.</p> <p>3. The type of punishment depends on the severity of the offense, the assessment by the punishing authority and the occurrence of the other circumstances set out in the legal norm.Exclusion depends on the degree of the penalty provided in the Penal Code. The type of punishment depends on the severity of the offense, the assessment by the punishing authority and the occurrence of the other circumstances set out in the legal norm.</p> <p>4. Pursuant to the Law on Asylum and Refugees, a foreigner's application for international protection is rejected as manifestly unfounded when the conditions for granting international</p>


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			protection are not met and the foreigner deliberately, verbally or in writing, gives false or conceals essential information about his case.
	EMN NCP Croatia	Yes	<p>1. No According to Art. 30. para.1.(3) of the Act on International and Temporary Protection, asylum shall not be granted to an applicant if there are serious reasons for considering that he/she committed, incited or in some other way participated in committing a serious non-political crime outside the Republic of Croatia, before his/her arrival in the Republic of Croatia, also including particularly cruel acts, even if committed with an allegedly political objective. According to Art. 31.para.1.(1) of the said Act, subsidiary protection shall not be granted to an applicant if there are serious reasons for considering that he/she has committed, incited or in some other way participated in committing a serious crime. For the exclusion of subsidiary protection, the time and place of the commission of the serious crime is not condition. A serious crime is deemed to be a crime which, pursuant to legislation of the Republic of Croatia, is punishable by a term of imprisonment of five years or more (Art.31.para.2.).</p> <p>2. NO for asylum seekers. But with regards the subsidiary protection, a serious crime is deemed to be a crime which, pursuant to legislation of the Republic of Croatia, is punishable by a term of imprisonment of five years or more (Art.31.para.2.).Subsidiary protection shall not be granted to an applicant if he/she constitutes a danger to the national security or public order of the Republic of Croatia (Art.31.para.1.(2)).</p> <p>3. NO for asylum seekers. But as regards the exclusion of subsidiary protection, a serious crime is deemed to be a crime which is punishable by a term of imprisonment of five years or more. In the case of subsidiary protection the applicant shall be excluded if criminal offenses he committed constitutes a danger to the national security or public order of the Republic of Croatia.</p>

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			<p>4. According to Act on International and Temporary Protection asylum seekers is obliged to give credible and convincing explanations of the reasons on which he/she bases his/her application, present all the available evidence used to support the application, and reply truthfully to all questions asked. No criminal liability or punishment is envisaged in Act on International and Temporary Protection. Also, according to Art. 50.para.1. of the international protection shall be revoked if:</p> <p>2. it is established that status was recognised on the basis of incorrectly presented or omitted facts, false presentation of important facts and circumstances, or the use of unreliable documents or other documents which were decisive for the approval of international protection. In that case, a third-country national or stateless person, whilst in the Republic of Croatia, shall enjoy rights pursuant to the 1951 Convention, especially in relation to the prohibition of discrimination, freedom of religion, access to courts, education, non-punishment of illegal entry or stay, expulsion and respect of the "non-refoulement" principle.</p>
	<p>EMN NCP Cyprus</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. When deciding upon degree of penalty and /or which type of criminal offence leads to an exclusion, the decision is based on the following legal definition, as to what constitutes "serious criminal offences".List of "serious criminal offences"The list of "serious criminal offences" is defined in Article 2(1)(k) of the current Eurodac Regulation as being those referred to in Article 2(2) of Framework Decision 2002/584/JHA - the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision. These are listed below:participation in a criminal organisation,terrorism,trafficking in human beings,sexual exploitation of children and child pornography,illicit trafficking in narcotic drugs and psychotropic substances,illicit trafficking in weapons, munitions and explosives,corruption,fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests,laundrying of the proceeds of crime,counterfeiting currency, including of the euro,computer-related</p>

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			<p>crime, environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties, facilitation of unauthorised entry and residence, murder, grievous bodily injury, illicit trade in human organs and tissue, kidnapping, illegal restraint and hostage-taking, racism and xenophobia, organised or armed robbery, illicit trafficking in cultural goods, including antiques and works of art, swindling, racketeering and extortion, counterfeiting and piracy of products, forgery of administrative documents and trafficking therein, forgery of means of payment, illicit trafficking in hormonal substances and other growth promoters, illicit trafficking in nuclear or radioactive materials, trafficking in stolen vehicles, rape, arson, crimes within the jurisdiction of the International Criminal Court, unlawful seizure of aircraft/ships, sabotage. Terrorist Offences The list of "terrorist offences" is defined in Article 2(1)(j) of the current Eurodac Regulation as being those offences under national law which correspond or are equivalent to the offences referred to in Articles 1 to 4 of Framework Decision 2002/475/JHA as amended by Council Framework Decision 2008/919/JHA. These Articles are reproduced below: Article 1 Terrorist offences and fundamental rights and principles 1. Each Member State shall take the necessary measures to ensure that the intentional acts referred to below in points (a) to (i), as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation where committed with the aim of: seriously intimidating a population, or unduly compelling a Government or international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation, shall be deemed to be terrorist offences: (a) attacks upon a person's life which may cause death; (b) attacks upon the physical integrity of a person; (c) kidnapping or hostage taking; (d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss; (e) seizure of aircraft, ships or other means of public or goods transport; (f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons; (g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life; (h) interfering with or disrupting the supply of</p>
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			<p>water, power or any other fundamental natural resource the effect of which is to endanger human life;(i) threatening to commit any of the acts listed in (a) to (h).2. This Framework Decision shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.Article 2Offences relating to a terrorist group1. For the purposes of this Framework Decision, "terrorist group" shall mean: a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist offences. "Structured group" shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.2. Each Member State shall take the necessary measures to ensure that the following intentional acts are punishable:(a) directing a terrorist group;(b) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.Article 3 [Amended version]Offences linked to terrorist activities1. For the purposes of this Framework Decision:(a) "public provocation to commit a terrorist offence" shall mean the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in Article 1(1)(a) to (h), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed;(b) "recruitment for terrorism" shall mean soliciting another person to commit one of the offences listed in Article 1(1)(a) to (h), or in Article 2(2);(c) "training for terrorism" shall mean providing instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing one of the offences listed in Article 1(1)(a) to (h), knowing that the skills provided are intended to be used for this purpose.2. Each Member State shall take the necessary measures to ensure that offences linked to terrorist activities include the following intentional acts:(a) public provocation to commit a terrorist offence;(b) recruitment for terrorism;(c) training for terrorism;(d) aggravated theft with a view to committing one of the offences listed in Article 1(1);(e) extortion with a view to the perpetration of one of the offences listed in Article 1(1);(f) drawing up false administrative documents with a view to committing one of the offences listed in Article</p>
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			<p>1(1)(a) to (h) and Article 2(2)(b).3. For an act as set out in paragraph 2 to be punishable, it shall not be necessary that a terrorist offence be actually committed."Article 4 [Amended version]Aiding or abetting, inciting and attempting1. Each Member State shall take the necessary measures to ensure that aiding or abetting an offence referred to in Article 1(1), Articles 2 or 3 is made punishable.2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Article 1(1), Article 2 or Article 3(2)(d) to (f) is made punishable.3. Each Member State shall take the necessary measures to ensure that attempting to commit an offence referred to in Article 1(1) and Article 3(2)(d) to (f), with the exception of possession as provided for in Article 1(1)(f) and the offence referred to in Article 1(1)(i), is made punishable.4. Each Member State may decide to take the necessary measures to ensure that attempting to commit an offence referred to in Article 3(2)(b) and (c) is made punishable."</p> <p>3. An exclusion is dependent on just the degree of penalty.</p> <p>4. There is no legal criminal liability for an asylum seeker who during the process of asylum application and/or in legal proceedings give incorrect or incomplete information or use such in order to be granted an asylum status. In such situations international protection shall be revoked, ended or be refused to be renewed under the provisions of article 14 (2) and article 14 (3), (b) and article 19 (3), (b) of the Directive 2011/95/EU.</p>
	<p>EMN NCP Czech Republic</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. The provision states it has to be a "serious non-political crime" or "particularly cruel act even with political aim". The seriousness of the crime cannot be measured against national criminal law provisions. It has to be interpreted within the international law context. So the Czech Asylum Act does not make any reference to national criminal law. We use UNHCR handbooks on exclusion when applying this notion. However, experience of the Czech Republic is very rare. CZ considers this as fully compatible with GC and QD.</p>


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			<p>3. See above, there is no direct relation to national criminal law.</p> <p>4. NO</p>
	<p>EMN NCP Estonia</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. According to Act on Granting International Protection to Aliens (AGIPA) a TCN shall not be recognized as a refugee among others if: there is good reason to believe that he or she has committed a serious non-political crime outside Estonia before arrival to Estonia. However, a particularly cruel act committed with an allegedly political objective is also deemed to be a serious non-political crime (AGIPA article 22 clause 1(4) and clause 2). The exact degree of penalty or type of criminal offence leading to exclusion is not specified in the Estonian legislation. Regarding subsidiary protection, the AGIPA stipulates that the TCN shall not be recognized as a person eligible for subsidiary protection among others if: there is good reason to believe that he or she has committed a serious crime (AGIPA article 22 clause 3(2)). The type of the crime is not specified. Aforementioned applies to TCN who has incited the specified acts or crimes or participated in the specified acts in whatever manner (AGIPA article 22 clause 4). Additionally the AGIPA regulates that the TCN shall not be recognized as a person eligible for subsidiary protection if he or she has left the country of origin on the ground that he or she has committed an act other than those specified in previous clauses for which imprisonment is prescribed (AGIPA article 22 clause 3 p 5).</p> <p>3. See answer to question 1 a.</p> <p>4. The Estonian legal system does not foresee a criminal liability for asylum seekers who, during the asylum procedure give incorrect or incomplete information. However, giving false information is a ground for considering the application to be clearly unfounded and also for revocation of international protection.</p>


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	EMN NCP Finland	Yes	<p>1. Yes</p> <p>2. Yes, but only for article 17 of the QD. Article 14.4 has no equivalent in the Finnish Aliens Act and, therefore, it is not applicable in Finland. a) In the preparatory work for the Aliens Act it is noted that 'serious crime' does not correspond or equal serious/aggravated crimes defined in the Finnish Criminal Code, and it is used to describe the grave nature of the crime in general. As serious crime is not definitively defined it is applied in relation to both national and European jurisprudence. When applying exclusion, reference is made to the Geneva Refugee Convention and the QD. In addition, the CJEU's judgement in case C-369/17 (Ahmed v Hungary) has been noted, and, accordingly, exclusion from subsidiary protection for a serious crime committed in Finland is done on a case-by-case basis including a full investigation into all the circumstances of the case and an assessment of the seriousness of the crime at issue. At least the following crimes have been considered by the Finnish Immigration Service to meet the criteria of a serious crime as meant in the article 88 of the Aliens Act (17 of the QD): rape, aggravated rape, grave drug crimes (e.g. having a central role in an international organisation involved in the import and distribution of drugs in Finland) and sexual abuse of a child. In these cases the praxis has been endorsed by jurisprudence. As for aggravated assault, the Supreme Administrative Court has ruled that it may not meet the criteria, but it depends on the individual circumstances.</p> <p>3. The degree of penalty is not that relevant in the case of exclusion, but rather the modalities and motives of the crime. A useful guideline for relevant factors when considering the seriousness of the crime is found in the UNHCR's Background Note on the Application of the Exclusion Clauses (paragraph 39).</p> <p>4. Finnish Immigration Service can report an offence in case an asylum seeker uses incorrect or false identity (e.g. name, nationality). However, this measure is not applied automatically, but rather on case-by-case basis. If the false identity is revealed after the person has been granted international protection, the process for the revocation of the refugee status or subsidiary protection is initiated.</p>
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	<p>EMN NCP France</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. French law provides for the possibility to deny refugee status: - if the TCN falls under one of the exclusion clauses of the 1951 Refugee Convention (article L. 711-3 of the Code on Entry and Residence of Foreign Nationals and Right of Asylum - CESEDA); - if the presence of the TCN on French soil constitutes a threat to state security (article L. 711-6, 1° of the CESEDA);- if the TCN has been convicted by a final judgement in France, a Member State of the European Union, Iceland, Liechtenstein, Norway, or in Switzerland, either for a crime, a terrorism offence or an offence punishable by imprisonment for ten years and if his/her presence represents a serious threat to French society (article L. 711-6, 2° of the CESEDA). Subsidiary protection will not be granted if there are serious reasons to believe that: - the TCN committed a crime against peace, a war crime, or a crime against humanity, a serious crime (art. 12.2(b) of the Qualification Directive), or acts contrary to the purposes and principles of the United Nations (a, b, and c of the article L. 712-2 of the CESEDA); - his/her activity in the host country constitutes a serious threat for public order, public security, or state security (d of the article L. 712-2 of the CESEDA);- before arriving in France, the TCN committed one or various crimes other than those listed previously and which are punishable by imprisonment as in France, and if the TCN seems to have left his/her country of origin to avoid penalties resulting from these crimes. These provisions - excluding those related to public order - apply to the instigators, offenders, or accomplices to these crimes or acts, or to people personally involved. The French Office for the Protection of Refugees and Stateless Persons (OFPRA) is carefully reviewing those cases, taking into account the national criminal legislations, their application, and the general political climate.</p> <p>3. see above</p> <p>4. The French legal system does not foresee any criminal liability for submitting incorrect or incomplete information. However, the administrative authority or the OFPRA can decide to examine the asylum application under the accelerated procedure when the applicant presented false identity or travel documents, false indications or hid any information or documents related to his/her identity, nationality or his/her means of entry into France with</p>
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			<p>the view of misleading the OFPRA or to submit several asylum requests at the same time using different identities. Similarly, the OFPRA can decide to review an asylum application under the accelerated procedure when the asylum seeker made incoherent, contradictory or implausible statements concerning information on the country of origin. Finally, the OFPRA can withdraw the international protection a TCN benefits from when it appears that the decision to grant protection was induced by fraud.</p>
	<p>EMN NCP Germany</p>	<p>Yes</p>	<p>1. The French legal system does not foresee any criminal liability for submitting incorrect or incomplete information. However, the administrative authority or the OFPRA can decide to examine the asylum application under the accelerated procedure when the applicant presented false identity or travel documents, false indications or hid any information or documents related to his/her identity, nationality or his/her means of entry into France with the view of misleading the OFPRA or to submit several asylum requests at the same time using different identities. Similarly, the OFPRA can decide to review an asylum application under the accelerated procedure when the asylum seeker made incoherent, contradictory or implausible statements concerning information on the country of origin. Finally, the OFPRA can withdraw the international protection a TCN benefits from when it appears that the decision to grant protection was induced by fraud.</p> <p>2. The French legal system does not foresee any criminal liability for submitting incorrect or incomplete information. However, the administrative authority or the OFPRA can decide to examine the asylum application under the accelerated procedure when the applicant presented false identity or travel documents, false indications or hid any information or documents related to his/her identity, nationality or his/her means of entry into France with the view of misleading the OFPRA or to submit several asylum requests at the same time using different identities. Similarly, the OFPRA can decide to review an asylum application under the accelerated procedure when the asylum seeker made incoherent, contradictory or implausible statements concerning information on the country of origin. Finally, the OFPRA can withdraw the international protection a TCN benefits from when it appears that the decision to grant protection was induced by fraud.</p>

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			<p>3. The French legal system does not foresee any criminal liability for submitting incorrect or incomplete information. However, the administrative authority or the OFPRA can decide to examine the asylum application under the accelerated procedure when the applicant presented false identity or travel documents, false indications or hid any information or documents related to his/her identity, nationality or his/her means of entry into France with the view of misleading the OFPRA or to submit several asylum requests at the same time using different identities. Similarly, the OFPRA can decide to review an asylum application under the accelerated procedure when the asylum seeker made incoherent, contradictory or implausible statements concerning information on the country of origin. Finally, the OFPRA can withdraw the international protection a TCN benefits from when it appears that the decision to grant protection was induced by fraud.</p> <p>4. The French legal system does not foresee any criminal liability for submitting incorrect or incomplete information. However, the administrative authority or the OFPRA can decide to examine the asylum application under the accelerated procedure when the applicant presented false identity or travel documents, false indications or hid any information or documents related to his/her identity, nationality or his/her means of entry into France with the view of misleading the OFPRA or to submit several asylum requests at the same time using different identities. Similarly, the OFPRA can decide to review an asylum application under the accelerated procedure when the asylum seeker made incoherent, contradictory or implausible statements concerning information on the country of origin. Finally, the OFPRA can withdraw the international protection a TCN benefits from when it appears that the decision to grant protection was induced by fraud.</p>
	<p>EMN NCP Greece</p>	<p>Yes</p>	<p>1.</p> <p>2. According to Presidential Decree 141/2013 which has transposed the EU Directive 2011/95, and according to Article 12 par.1 “2. A third country national or a stateless person shall be excluded from being a refugee where there are serious reasons for (a)[...] (b) he or</p>


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			<p>she has committed a serious non-political crime prior to his or her admission in the Greek territory. Cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;[...]3. Paragraph 2 shall apply to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein. In any case, the degree/weight of involvement shall be taken into consideration. Thus, a person may be excluded from refugee status only if s/he has been convicted for a serious non-political crime prior to his or her admission in the Greek territory. If this person has been convicted for a serious nonpolitical crime after having entered the Greek territory by the Greek courts, this does not constitute a reason to exclude him/her from refugee status. (According to article 14 par. 4 point b of Presidential Decree 141/2013, the final conviction for a particularly serious crime in the Greek territory is however, a reason to withdraw refugee status that has been granted, if, according to the nature of the crime, this person is a danger to the society of the country. Yet, withdrawal of status from beneficiaries is not the same as exclusion from status of applicants).There is a single exception regarding the commission of a trans-border crime, i.e. a crime whose commission by a person began before entering the Greek territory. If a person, having committed such a crime, has been finally convicted for this crime by Greek courts and it is clear that the commission of the crime has began before entering the Greek territory, this person may be excluded according to article 12 par.2 of P.D. 141/2013.Both the Geneva Convention as well as the EU directive 95/2011 have been discussed during the period before adopting the presidential decree 141/2013.Article 12 par.2(b) of the Directive provides “2. A third country national or a stateless person shall be excluded from being a refugee where there are serious reasons for considering that: (a) ... b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;” According to Article 1 point F, “F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:(a) [...] (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;” However, Greece has transposed the provision of Article 12 par.2 (b) so as to be in line with the true meaning of Article 1F (b) of the Geneva Convention, and has interpreted the phrase “prior to his admission as a refugee”, as</p>
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			<p>meaning the entry of this person inside the country. It is clear that in both article 12 par.2 b of the Directive as well as in article 1F of the Geneva Convention the crime in question has to have taken place outside the country of refuge, in order to consider exclusion from the refugee status.</p> <p>3. No, there is no specification in the Greek law on what can be considered as a serious non political crime, meaning that there has to be an interpretation of the term “serious crime”.</p> <p>4. No, a specific criminal liability provision regarding the stance of the applicant during the processing of asylum application is not provided for under Greek law. However, according to Greek penal law, it is unlawful to make false statements or present falsified documents before public authorities with the aim to acquire benefits. Thus, a criminal procedure may be instigated for the above mentioned behavior in the context of the asylum process.</p>
	<p>EMN NCP Hungary</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. Due to decision nr. C-369/17. of the Court of Justice of the European Union, (preliminary ruling) the asylum authority shall assess the seriousness of the crime at issue by carrying out a full investigation into the facts of the case concerned. In accordance with the above mentioned CJEU decision, from 1st January 2019. the Hungarian law specifies the categories of serious crime which is defined as follows.- Refugee status or subsidiary protection cannot be granted to a person who has been sentenced to imprisonment for a term of five years or more as a punishment of an intentional crime- Refugee status or subsidiary protection cannot be granted to a person who has been sentenced to imprisonment for committing crime as a recidivist, multiple recidivist, or violent multiple recidivist.- Refugee status or subsidiary protection cannot be granted to a person who has been sentenced to imprisonment for a term of three years or more as a punishment of convicted a crime against life, bodily health, health, human freedom, freedom of sexual life, sexual morality, public peace, public security or public order. The above mentioned rule can</p>

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			<p>only be used by examining an application lodged after 1st January 2019 or review/revocation processes started after this time.</p> <p>3. See answer to Q 1/a.</p> <p>4. No. Such provision of information does not foresee any criminal liability.</p>
	EMN NCP Italy	Yes	<p>1. Yes</p> <p>2. According to article 12 of Law 251/2007, refugee status can not be recognized (apart from cases in which there are not requirements established by artt. 7, 8) when the applicant: - is excluded from being a refugee (art. 10, art. 16 for subsidiary protection). In this case the applicant abstractly had be eligible for the refugee status, but it can not be recognized to him, because of there are reasonable grounds to believe that he has committed: 1) a crime against peace or humanity or a war crime; 2) a serious crime or particularly cruel actions (outside the Italian territory, before becoming an asylum applicant). The seriousness of the crime is assessed even taking into account the penalty of law, which should not be less than 4 years in the minimum and 10 years in the maximum;3) he has been guilty of acts contrary to the purposes and principles of the United Nations.- is suspected to be a danger to the community or to the security of the State;- is a threat to public order e security, because of he has been convicted for acts of terrorism (art. 407, comma 2, letter a, Code of Criminal Procedure).Recently, the Law 132/2018 (art. 7) has increased number of crimes, which - in case of final judgement or when the applicant is considered socially dangerous - lead to a denial of refugee status of subsidiary protection (new art. 12 of law 251/2007). Among crimes mentioned there are: female genital mutilation; violence, threat and injuries to public officials; residential burglary, robbery committed with weapons or narcotic; extortion; kidnapping; exploitation of slavery or servitude; sexual violence; sex trafficking; exploitation of prostitution; human trafficking; underage pornography.In particular, after a conviction at first instance for these crimes, the international protection process is suspended and the applicant is expelled. The sub</p>


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			<p>mentioned regulation takes into account the principle of the Geneva Convention and the provision of the Qualification Directive, which is transposed in the national legislation without significant modifications. Article 20 of Law 251/2007 remarks the principle of non refoulement, according to which a person cannot be return to his Country of origin, if he runs the risk to suffer different forms of persecution, torture or other inhuman treatments (art. 33 of Geneva Convention, art 19 comma 1 of Law 286/1998).</p> <p>3. See Q.2.</p> <p>4. Yes. Article 13 letter b of law 251/2007 foresees the withdrawal of the international protection status if the beneficiary has obtained it thanks to an erroneous reconstruction of events, an omission of them or through a false submission of documents. Moreover, article 6 comma 2 letter d of Law 142/2015, dealing with cases in which an asylum applicant can be detained, states that the assessment of the existence of flight risk can be assumed from previous and systematic false misrepresentation or certificates aimed to avoid the adoption or the execution of an expulsion order.</p>
<p>==</p>	<p>EMN NCP Latvia</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. Regarding “particularly serious crime” and “serious crime” convicted in the host country during the period before taking the decision national legislation (Section 45 and Section 46 of the Asylum Law. Available in English on https://likumi.lv/ta/en/en/id/278986-asylum-law) provides that one of the reasons when the refugee status shall not be granted (excluded) is: the person who has been recognised as guilty of committing a particularly serious crime by a court judgement of the Republic of Latvia poses a threat to the society of Latvia. Similarly one of the reasons when subsidiary protection status shall not be granted (excluded) is: the person has committed a crime which, in accordance with the law of the Republic of Latvia, is recognised as a serious or an especially serious crime. According to the definitions provided in the Section 7 of the Criminal Law, a “serious crime” is an intentional offence for which the deprivation of liberty for a period exceeding three years but not exceeding eight years is</p>


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			<p>provided for in the Criminla Law, as well as an offence which has been committed through negligence and for which the deprivation of liberty for a time period exceeding eight years is provided for in the Criminal Law, but an “especially serious crime” is an intentional offence for which the deprivation of liberty for a period exceeding eight years or life imprisonment is provided for in the Criminal Law.</p> <p>3. National legislations in the field of asylum foresees only degree of penalty regarding exclusion grounds.</p> <p>4. No, national legislation does not foresee a criminal liability in such kind of cases.</p>
	<p>EMN NCP Lithuania</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. The refugee status is not granted in accordance with Article 88 (Refusal of Asylum) Part 2, Paragraph 5 of the Law on the Legal Status of Aliens of the Republic of Lithuania: if there are serious ground for believing that an asylum seeker who fulfills the requirements of Article 86 (1) of this Law (refugee status) but his / her presence in the Republic of Lithuania threatens the security of the state or he / she has been convicted of a particularly serious crime and threatening the public by a valid court judgment. Subsidiary protection is not granted in accordance with Article 88 (Refusal of Asylum) Part 2, Paragraph 3 of the Law: if there are serious grounds for believing that an asylum seeker who fulfills the requirements of Article 87 (1) of this Law (subsidiary protection) has committed a serious or a particularly serious crime or has instigated or otherwise was involved in such an offense. When assessing whether a criminal offense committed by an alien is equivalent to committing a serious or very serious crime, the Criminal Code of the Republic of Lithuania (hereinafter referred to as the LR Criminal Code) shall be followed. The Qualification Directive and the Geneva Refugee Convention use the concepts of a "serious crime" and a "particularly serious crime", LR Criminal Code meanwhile defines a serious crime and a very serious crime, therefore, the Law states that asylum may not be granted because of commission of a serious or a very serious crime. Article 11 of the Criminal Code of the Republic of Lithuania</p>


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			<p>states that:</p> <ul style="list-style-type: none"> • A serious crime is a deliberate crime for which the maximum penalty provided for in the Criminal Law exceeds six years of imprisonment, but does not exceed ten years' imprisonment. • A very serious crime is a deliberate crime for which the maximum penalty provided for in the Criminal Law exceeds ten years of imprisonment. <p>3. Whether a criminal offense is equivalent to a serious or a very serious crime, is determined on the basis of definitions provided in the LR Criminal Code, therefore, it can be stated that the exclusion from being granted international protection depends only on the degree of punishment.</p> <p>4. No.</p>
	<p>EMN NCP Luxembourg</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. Article 47 (4) b) of the Law of 18 December 2015 on international protection and temporary protection (Asylum Law) states that the Minister in charge of Immigration and Asylum may revoke the refugee status when s/he, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that Member State. Article 47 (5) states that in situations described in article 47 (4), Luxembourg may decide not to grant status to a refugee, where such a decision has not yet been taken. Finally article 50 (1) b) of the Asylum Law indicates that a third-country national or stateless person is excluded from being granted subsidiary protection where there are serious reasons for considering that he or she has he or she has committed a serious crime. The Directorate of Immigration considers a serious crime as crimes committed for personal reasons (e.g. revenge, profit) but also, those accomplished for a political purpose, considering their particular gravity (e.g. assassinations, acts of terrorism). It is opposable to individuals who participated directly or indirectly in the decision, preparation or execution of the crime (See Judgement of the First in-stance Administrative Court, first chamber, n° 37391 of 27 July 2016).</p>

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			<p>3. See answer to Q.1.a.</p> <p>4. 2. Articles 47 (3) b) and 52 (3) b) only foresee the revocation of the refugee and subsidiary status in case the applicant gives incorrect or incomplete information or use such in order to be granted an international protection status or to avert its withdrawal. Those articles do not foresee any criminal liability for the applicant.</p>
	<p>EMN NCP Netherlands</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. In Article 33, paragraph 2, of the UN Refugee Convention it is decided that a refugee may be expelled when he poses a threat to the safety of the host country or that he has been convicted as a result of a particularly serious crime and therefore poses a threat to society of the host country. This provision has been laid down in Article 14, paragraph 4, of the Qualification Directive and has been laid down in Dutch law in Article 32, paragraph 1(b) of the Aliens Act and Article 3.105(c) of the Aliens Decree 2000 (Vb).The requirements are stated in article C2/7.10.2 of The Aliens Act Implementation Guidelines 2000. For a 'particularly serious crime' the conditions are:</p> <ul style="list-style-type: none"> • the foreign national has been sentenced to a prison sentence by an irrevocable court order, or a custodial measure has been imposed on him; and • the penalty or measure imposed is a total of at least 10 months <p>The Immigration and Naturalisation Service (IND) also involves the offenses that the foreign national has committed abroad in the assessment. The IND assesses, on the basis of information provided by the Public Prosecution Service, which consequences would be attached to the offenses under Dutch law if these offenses were committed and punished in the Netherlands.The IND assesses the danger to the community on an individual basis and on the basis of all relevant factual and legal data.The IND weighs the following aspects when assessing the 'danger to the community':</p> <ul style="list-style-type: none"> • the nature of the crime; and • the imposed penalty. <p>The IND assesses the danger that the foreign national poses to the community on the basis of the situation that occurs when assessing the application.In any event, the IND can assume a danger to the community in the following cases:</p> <ul style="list-style-type: none"> • drug, sex and violent crimes; • arson; • human trafficking; • illegal trade in arms, ammunition and explosives; and



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			<p>illegal trafficking in human organs and tissues. The foreign national also poses a danger to the community or national security as referred to in Article 3.105, preamble and under c, Aliens Decree 2000:• if he has performed acts abroad that have seriously shaken the public legal system; and• regarded as serious crimes under Dutch law. The IND assesses whether the facts or circumstances presented by the alien make it plausible that in his case there is no question of a danger for the community. There can be a serious crime if all of the following conditions are met:• the foreign national has been sentenced to a prison sentence, or a custodial measure has been imposed on him;• the sentence or measure imposed is a total of at least six months; and• at least one of the convictions relates to a crime that by its nature represents a danger to the community. The IND can also file a serious crime against a foreign national if the conviction for this crime has not yet become irrevocable</p> <p>3. See answer under 1a</p> <p>4. Yes, if an asylum seeker has committed fraud, the Immigration and Naturalisation Service (IND) can take measures. The IND can, for example, reject an application for a residence permit or a naturalisation application, or revoke a residence permit that was already granted. In the first procedure, when the asylum seeker provides false information/documents or commits fraud, the IND has the possibility to reject an application based on article 30b, under c, Aliens Act. When the asylum seeker already has a residence permit, in case of false information/documents or fraud, later on the IND has the possibility to withdraw a residence permit based on article 32, paragraph 1, sub a Aliens Act (temporary residence permit) and article 35, paragraph 1, sub a Aliens Act (permanent residence permit). Furthermore, when a criminal offence has been established, such as fraud, falsification of documents, impersonating another persons, and such, the IND files a report with the police. The law enables the IND to impose administrative fines, and to recover the costs made by the IND (and possible other organisations).</p>
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	<p>EMN NCP Poland</p>	<p>Yes</p>	<p>1. No In this situation it's possible to refuse only subsidiary protection. Poland implemented Art. 17 (1)(b), but didn't implement Art. 14(4)(b) and 14(5) QD. Foreigner who should get a refugee status could be treated only as a person who is guilty of acts contrary to the purposes and principles of the United Nations and because of this it's possible to refuse the refugee protection, but only if the crime could be treated as an such act.</p> <p>2.</p> <p>3. According to the Polish law as a "serious crime" only a felony could be treated, which means that such a crime must be punishable by imprisonment for no less than 3 years or more of severe punishment. Moreover such a crime can only be committed intentionally. Because of the Geneva Refugee Convention Poland didn't decide to use similar provision regarding the refugee status.</p> <p>4. According to the Polish criminal law anybody, who during the administrative or legal proceedings gives false testimony could be subject to criminal liability. This is why in some extremal situations asylum seekers who give incorrect or incomplete information could be subject to criminal liability, but only when it's proved that an asylum seeker deliberately wanted to mislead the authorities.</p>
	<p>EMN NCP Slovakia</p>	<p>Yes</p>	<p>1. Yes Yes, only in relations to the exclusion from eligibility to subsidiary protection in line with article 17 para 1 letter b) of the Qualification Directive (QD). Exclusion from eligibility to subsidiary protection connected to the "serious crime" under art. 17 para 1 letter b) of QD is transposed in the Act on Asylum (art. 13c para 2 letter b) – see Q2.Regarding the "particularly serious crime" mentioned in Art. 14 of QD (refugee status), SR did not transpose art. 14 para 4 and 5 into its legal system.</p>


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			<p>2. Exclusion from eligibility to subsidiary protection in line with article 17 para 1 letter d of the QD is reflected in art. 13c para 2 letter b) as follows: "Ministry of Interior also does not grant subsidiary protection if there is a reasonable suspicion that the applicant has committed a particularly serious crime". Act on Asylum in this case refers to the Act n. 300/2005 Coll. (the Criminal Code) that defined the "particularly serious crime" as: "a crime for which this Code sets a punishment of imprisonment with the lower limit of penalty at least 10 years". When it comes to the extent in which the conditions of the Geneva Refugee Convention and the Qualification Directive was considered in the draft of this provision, in this case exclusion from eligibility to subsidiary protection is, in relation to Geneva Convention, irrelevant as this Convention does not cover subsidiary protection. In the case of QD this was almost a literal transposition with the adding that it should be a "particularly serious crime" (not „only“ serious crime).</p> <p>3. Yes, exclusion depends on the possible penalty rate (note: how many years of imprisonment one can get) for the particular crime (see previous Q).</p> <p>4. No, our legal system does not foresee a criminal liability in such cases.</p>
	<p>EMN NCP Sweden</p>	<p>Yes</p>	<p>1. According to Swedish legislation that transposed Article 17 QD, a person who is guilty of having committed a serious crime is excluded from subsidiary protection. If the crime was committed in Sweden, the interpretation is that the person must have been convicted to be considered as "being guilty of having committed" a crime. Article 17.2 is also transposed in Swedish legislation. Article 14.4 and Article 14.5 QD are transposed in Swedish legislation. The persons are not excluded from being refugees, as they are if Article 12 applies, but they may not be granted refugee status.</p> <p>2. The provision transposed the QD but there are no details in the legislation. In the drafts, there is a reference to the Geneva Convention and the interpretation of UNHCR with regard to "serious non-political crimes". The Migration Court of Appeal has in precedents underlined</p>

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			<p>the interpretation of UNHCR in the Guidelines on International Protection: Application of the Exclusion Clauses (HCR/GIP/03/05, 4 September 2003), Para. 14.</p> <p>3. See the answer above, under question a.</p> <p>4. Yes, there is a provision on criminal liability in these cases. The penalty is a fine or prison in maximum six months if the circumstances are aggravating. Other consequences of having given incorrect or incomplete information, may under certain conditions be that a status or a residence permit could be withdrawn, or that an application could be examined in an accelerated procedure.</p>
	EMN NCP United Kingdom	Yes	<p>1. Yes</p> <p>2. Section 72 of the Nationality Immigration and Asylum Act 2002 provides the domestic legislative framework for the application of Article 33(2) of the Refugee Convention. This sets out that a person shall be presumed to have been convicted of a particularly serious crime and to constitute a danger to the community if, (a) convicted in the UK of an offence; and (b) sentenced to a period of imprisonment of at least two years.</p> <p>Section 72 also applies where a person who is convicted overseas, is sentenced to a period of imprisonment of at least two years and could, if convicted in the UK for a similar offence, have been sentenced to at least two years. However, for the purposes of section 72(2) and (3) is not the maximum sentence that could have been imposed, or the time a person actually spends in prison or detention, but the period of imprisonment to which they were sentenced.</p> <p>The presumption that an individual is a danger to the community as set out in section 72 is rebuttable. Any evidence provided by the individual is considered in assessing whether they are a danger to the community.</p>


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			<p>Whilst section 72 provides an automatic presumption where someone is sentenced to a period of imprisonment of at least two years, this does not mean that individuals whose crimes attract shorter sentences cannot be considered for refusal under paragraphs 334(iii) and (iv), which reflect Article 14(5) of the Qualification Directive. However, to refuse protection under these provisions it must be considered that an individual is in fact a danger to the community and as such it is unlikely that this threshold will be met where the sentence falls short of the provisions in section 72.</p> <p>The relevant provisions under Article 33(2) of the Refugee Convention and Article 14 of the EU Qualification Directive were considered and reflected in the drafting of UK domestic law and policy on excluding serious criminals from benefits of protection status. However, even where an individual is denied protection, we will not remove them to their country of origin if there is a real risk of serious harm and will instead grant shorter, more restrictive periods of leave until we can remove them.</p> <p>Further details are available in the Home Office policy instruction available on gov.uk at: https://www.gov.uk/government/publications/asylum-instruction-exclusion-article-1f-of-the-refugee-convention.</p> <p>3. The UK defines a particularly serious crime in section 72 of the Nationality Immigration and Asylum Act 2002 as one which either attracted a custodial sentence of two years or more or, where the offence is committed outside the UK, could have attracted a custodial sentence of two years or more had the offence been committed in the UK.</p> <p>Moreover, given that Article 1F(b) excludes those who have committed serious crimes (as opposed to particularly serious) it may, depending on the exact nature of the crime and the context in which it is committed, be appropriate to treat a crime for which a custodial sentence of 12 months or more on conviction as a serious crime. This is in line with provisions for automatic deportation in section 32(2) of the UK Borders Act 2007.</p> <p>The length of prison sentence alone is not determinative of whether the claimant should be excluded under Article 1F(b). In AH (Algeria) v Secretary of State for the Home Department</p>
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			<p>[2012] EWCA Civ 395, Lord Justice Ward noted (at paragraph 54) that:“ Sentence is, of course, a material factor but it is not a benchmark. In deciding whether the crime is serious enough to justify his loss of protection, the Tribunal must take all facts and matters into account, with regard to the nature of the crime, the part played by the accused in its commission, any mitigating or aggravating features and the eventual penalty imposed” •</p> <p>More important than the sentence is the nature and context of the crime, the harm inflicted, the part played by the claimant and whether most jurisdictions would consider it a serious crime. Examples include murder, terrorism, rape, extremism, arson, and armed robbery. Other offences which may be regarded as serious include the use of deadly weapons, involve serious injury to persons, or if there is evidence of serious habitual criminal conduct. Other crimes, though not accompanied by violence, such as large-scale fraud, may also be regarded as serious for the purposes of Article 1F(b).</p> <p>4. Asylum seekers who provide false information to obtain leave by deception are be liable to prosecution under Section 24A of the Immigration Act 1971 and may face up to two years imprisonment on conviction. Status as an asylum seeker does not provide immunity under criminal law.</p> <p>The use of false documents could also lead to prosecution under the Identity Documents Act 2010. Fraud by false representation or failure to disclose information when under a legal duty to do so are both criminal offences under the Fraud Act 2006.</p> <p>In addition, refugee status may be revoked under Paragraph 339AB of the Immigration Rules where such status was obtained by deception, where that deception was material to the grant of leave.</p>
	<p>EMN NCP Norway</p>	<p>Yes</p>	<p>1. Yes</p>

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			<p>2. It is a reflection of the Geneva Convention article 33 second subparagraph and there is a requirement that the person ALSO constitute a danger to society. As a main rule the crime in question would need to carry a minimum of a 10-year penalty.</p> <p>3. This will be subject to individual considerations.</p> <p>4. Yes but it is not linked to exclusion. It is only a criminal offence.</p>
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