



## **EMN Ad-Hoc Query on BE EMN NCP AHQ on return to Sudan**

Requested by Alexandra LAINÉ on 18th January 2018

### **Return**

Responses from Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Sweden, United Kingdom, Norway (24 in total)

#### Disclaimer:

*The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

## **Background information:**

On 22 December 2017, the Belgian Prime Minister officially requested the Office of the Commissioner General for Refugees and Stateless Persons to carry out an independent enquiry on testimonies and allegations of mistreatment from Sudanese nationals forcibly returned to their country of origin following an identification mission by a Sudanese delegation in Brussels.

In this context and in the framework of this investigation, the Belgian authorities would like to collect up to date and comparable 1) data regarding the number of Sudanese ordered to leave the territory and returned to Sudan by other EU Member States and Norway, and 2) additional information on the identification and return processes if applicable.

Eurostat numbers on this topic are not up to date (until 2016) and complete (no data for UK and DE as regards the disaggregation voluntary/forced returns). Besides the statistical data is inconclusive as regards returns of Sudanese nationals to Sudan (also data on returns of Sudanese nationals to other countries included).

This information is urgently required. Therefore, with the consent of Magnus, we invite you to send your replies within 2 weeks (the sooner the better). This is justified in light of the high political relevance of this ad hoc query.


We would recommend to liaise with the REG representatives and the persons responsible for the provision of data to IRMA and Eurostat (in particular for the first question).


## **Questions**

1. Please provide statistics regarding the number of Sudanese nationals returned towards Sudan in 2016 and 2017 (returns, or transfers to other EU MS or other countries besides Sudan should be excluded, also refusals of entry should be excluded): 1.1 Number of Sudanese nationals voluntarily returned to Sudan (assisted and non-assisted) in 2016, 1.2 Number of enforced returns of Sudanese nationals to Sudan in 2016, 1.3 Number of Sudanese nationals voluntarily returned to Sudan (assisted and non-assisted) in 2017, 1.4 Number of enforced returns of Sudanese nationals to Sudan in 2017. For those four figures, if possible, please distinguish between returns of rejected asylum applicants and non-former asylum applicants. Please also specify whether returns were undertaken elsewhere than to Khartoum. 1.5 Number of Sudanese nationals ordered to leave the territory of your Member State in 2017 (Eurostat data are available for 2016).
2. In case the irregularly staying persons to be returned did not apply for asylum, is there a procedure to ensure that there is no risk of violation of Article 3 ECHR. Please describe briefly the procedure in your Member State.
3. In case returns of Sudanese nationals to Sudan were reported for 2016 and/or 2017, how were they identified in view of the return operation?

4. Does the return policy vary according to the profile of Sudanese nationals concerned (e.g. region of origin and ethnicity)? Are these profiles also taken into account in the absence of an asylum application? And if so, how are these profiles in this case verified ?
5. In case returns of Sudanese nationals to Sudan were reported for 2016 and/or 2017, have you monitored the situation of returnees upon return? If so, did you receive concrete indications that Sudanese nationals returned by your Member State have been subject to mistreatment or torture by the Sudanese authorities ?

### Responses

|   | Country | Wider Dissemination | Response   |
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|  | Austria | Yes                 | <p><b>1.</b> 1.1 - 1.5.: no answer</p> <p><b>2.</b> According to Art. 50 (1) Aliens Police Act, the deportation of aliens to a state is inadmissible if this constitutes a violation of Art. 2 or 3 of the European Convention on Human Rights (ECHR), Federal Law Gazette No. 210/1958, or of the Protocol No. 6 or No. 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms on the abolition of the death penalty or if it would pose a serious threat to him/her as a civilian to his/her life or integrity as a result of arbitrary violence in an international or intrastate conflict. Aliens are by law all persons who do not possess Austrian citizenship. In line with this query, this also includes irregularly staying persons who did not apply for asylum. During a procedure for issuing an expulsion decision or an exclusion order, of which the alien has to be notified, it needs to be determined upon request of the alien whether a deportation to a state designated by him/her, which is not his/her country of origin, is inadmissible pursuant to Art. 50 Aliens Police Act. If this application relates to the country of origin of the alien, it is classified as an application for international protection. Until a final decision regarding the application is reached, the alien may not be deported to the designated state, unless the application has been dismissed in accordance with Art. 68 para 1 General Administrative Procedures Act (see Art. 51 Aliens Police Act). As a result, the residence of aliens is to be tolerated as long as their deportation would violate the principle of non-refoulement (see Art. 46a (1) Aliens Police Act).</p> |



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|   |         |     | <p><b>3.</b> no answer</p> <p><b>4.</b> During the asylum procedure, Austria determines the entitlement to international protection on the basis of individual case examination. In the course of the first interrogation, reasons for flight as well as other relevant facts for the asylum procedure (region of origin, ethnicity, etc.) are inquired. These are crucial for assessing whether a person is entitled to asylum.</p> <p><b>5.</b> no answer ---- Source: Ministry of the Interior</p>  |
|  | Belgium | Yes | <p><b>1.</b> 1.1 voluntary returns in 2016: 4 (including 4 rejected asylum applicants) 1.2 enforced returns in 2016: 0 (including 0 rejected asylum applicants) 1.3 voluntary returns in 2017: 9 (including 8 rejected asylum applicants) 1.4 enforced returns in 2017: 10 (including 1 former asylum applicant who withdrew his asylum application) 1.5 Sudanese nationals ordered to leave the territory in 2017: 869 (Eurostat guidelines) (see also table in attachment)</p> <p><b>2.</b> The Belgian authorities consider that the general situation in Sudan, although it gives cause for concern (with the circumstances in the below mentioned regions), is not one of such extreme general violence that the Sudanese citizens to be returned would risk a violation of article 3 ECHR. The Belgian authorities are aware of reports from independent international human rights organizations, such as Amnesty International, which reported problems in certain regions of Sudan, in particular the Blue Nile, Darfur and South-Kordofan. However statistical data illustrate that returns to Sudan (Khartoum), forcibly or on voluntary basis, are taking place. Overall, there is no information that people returning to Khartoum are facing a real risk of being exposed to torture or some other form of ill-treatment. Khartoum is thus considered as a safe destination, irrespective of the specific region the Sudanese citizens originate from. So, only information about a real and personal risk of the individual by virtue of his own situation can possibly make this assessment shift to another conclusion. In this regard, the Belgian authorities consider that it is mainly the responsibility of the individual to provide information or, to the extent possible, evidence of a risk, irrespective of his status (asylum-seeker or not). Nevertheless, the Sudanese nationals are informed and advised by the Immigration Office and different NGO's to claim asylum if they fear torture, and other cruel, inhuman or degrading treatment or punishment upon return to Sudan, since the appropriate procedure for examining the need for protection is the asylum procedure. Even in the absence of an asylum application, the Sudanese nationals are invited to share any information on their situation at any time. In this respect, like all other residents in the</p> |





centres, they have access to procedural safeguards and possibilities for judicial review foreseen in domestic law. This information provided by the individuals concerned is necessary to identify their specific needs. Only the circumstances which are known to the Member State can be taken into account in the assessment.




3. The Sudanese national who voluntarily returned with the assistance of the IOM in 2017 from a detention centre, received a travel document after identification by a Sudanese delegation. Of the 10 Sudanese nationals, who forcibly returned to Khartoum in 2017, 9 received a travel document after identification by a Sudanese delegation invited by the Belgian State to undertake identification of Sudanese nationals in Brussels mid-September 2017, and 1 person, returned in May, was in possession of a passport.

4. See reply to question 2



5. The Immigration Office made arrangements to provide support and follow-up for the returned Sudanese citizens. They were free to benefit from these arrangements, if they expressed the wish to do so, because this is offered on a voluntary basis. In this regard the Immigration Office is a partner to the ERIN program (European Reintegration Network ) whereby reintegration support and follow-up after forced return is possible. The Immigration Office activated the ERIN module Sudan in October 2017 so as to provide support to the Sudanese returnees after their arrival. This support (such as airport pick-up, travel guidance, schooling, shelter facilities, social support) is provided in Sudan by the IOM. The Sudanese citizens who qualified for the ERIN program were informed about this possibility in the closed centre as of 26 October 2017. They received a personal letter to contact IOM Sudan – located near the airport in Khartoum. The three Sudanese nationals who returned after 26 October 2017 were given the contact details of IOM Sudan, so that they could receive the necessary support after returning and could report any problems. None of these three persons made use of this. The IOM unit in Sudan was also informed that six Sudanese nationals had already returned before the official activation of the ERIN contract on 26 October 2017. If these persons would present themselves at the IOM office, they could still claim ERIN support after approval of the Immigration Office. Two of these six persons turned to IOM for support. One person returned with IOM and subsequently also turned to IOM for support. So in total three persons requested assistance from IOM after return. The Belgian authorities did not opt to carry out on-the-spot monitoring by the Immigration Office or an Embassy (there is no Belgian Embassy in Sudan), since they did not have indications of abuse or torture in the framework of returns. In February and March 2016, Denmark and the United Kingdom carried out a joint fact-finding mission to Sudan, resulting in the report "Sudan - Situation of Persons from Darfur, Southern

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|   |          |     | <p>Kordofan and Blue Nile in Khartoum - Joint Report of the Danish Immigration Service and UK Home Office Fact finding missions to Khartoum, Kampala and Nairobi Conducted February - March 2016" published in August 2016. The mission was carried out, among other things, to check the treatment – upon arrival – of people returning to Sudan after having left the country illegally or after a long-term stay outside Sudan, including failed asylum seekers. The report includes information from reliable sources including IOM, UNHCR and other international organizations. According to the report (on page 13) “A number of sources stated that they had no information to indicate that failed asylum seekers / returnees from Darfur or the Two Areas would generally experience difficulties on return to Khartoum International Airport (KIA)”.</p> <p>Furthermore, the IOM stated in January 2017 that: “Based on past assistance records, IOM has not received any specific information on the treatment of voluntary or forcibly returned Sudanese nationals by the Sudanese authorities at Khartoum International Airport. The Organization closely monitors returns and will review and change/amend any measure within the AVRR procedures to countries where mistreatment of voluntary or forcibly returnees are reported. IOM did not receive any complaint by Sudanese returnees and IOM is not aware of specific profiles being deliberately targeted.”</p> |
|    | Bulgaria | Yes | <ol style="list-style-type: none"> <li>1. In the period of 2016-29.01.2018 no coercive administrative measures (according to the Foreigners in the Republic of Bulgaria Act) towards citizens of Sudan have been executed.</li> <li>2. N/A</li> <li>3. In the period of 2016-29.01.2018 one coercive administrative measure has been imposed to one citizen of Sudan, namely "Return to the country of origin, a transit country or a third country".</li> <li>4. Regarding citizens of Sudan, there is no policy of distinction according to their region of origin or ethnicity.</li> <li>5. There are no returned citizens of Sudan for the period 2016 -2017.</li> </ol>  |
|  | Croatia  | Yes | <ol style="list-style-type: none"> <li>1. During the years 2016 and 2017, we had not recorded the forcible removal of the Sudanese nationals. Please note that there were no recorded illegal crossings of the state border by the Sudanese nationals.</li> </ol>   |

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|   |                |     | <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p>   |
|    | Czech Republic | No  |   |
|    | Estonia        | Yes | <p>1. 1.1 In 2016 there were no Sudanese nationals who voluntarily returned to Sudan. 1.2 There was 1 enforced return of Sudanese national to Sudan in 2016. 1.3 1 Sudanese national returned voluntarily (assisted) to Sudan in 2017. 1.4 There were no enforced returns to Sudan in 2017. 1.5 1 Sudanese national who has returned with the help of AVRR programme .</p> <p>2. The authorities carrying out return procedure are required to suspend the removal of third country national, if it would violate the principle of non-refoulement. However, there is no specific procedure.</p> <p>3. 2016 – identification was performed by the Embassy of Sudan. 2017 – the person left with the help of AVRR programme offered by IOM.</p> <p>4. No. The return policy does not take into account the profiles of Sudanese nationals as there have not been enough cases.</p> <p>5. 2016 – the return was not monitored. 2017 – 1 returnee via AVRR, monitoring performed by IOM.</p> |
|  | Finland        | No  |   |
|  | France         | No  |   |

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|    | Germany | No  |  |
|    | Greece  | Yes | <p><b>1.</b> 1.1 Three (3) Sudanese nationals were voluntarily returned to Sudan in 2016. 1.2 Three (3) Sudanese nationals were enforced returned to Sudan in 2016. 1.3 Two (2) Sudanese nationals were voluntarily returned to Sudan in 2017. 1.4 There were no enforced returns of Sudanese nationals in 2017. All the returns were undertaken to Khartoum. 1.5 Sixty-seven cases of Sudanese nationals were registered in the electronic system of Hellenic Police.</p> <p><b>2.</b> There is not any specific procedure in our MS. All the officers in the field of migration and involved in return operations follow all procedures based on the respect and protection of human rights. There are also trainings on the protection of human rights and also the Greek Ombudsman for external audit in accordance with the Return Directive.</p> <p><b>3.</b> The identification process which is followed in our country consists of interviews at the Embassy of Sudan in Athens. In general, the Sudanese Embassy in Greece does not cooperate satisfactorily with the response to the identification of foreign prisoners and it only issues travel documents to those wishing to return to their country through voluntary repatriation program of IOM. The average waiting time for the issuing of travel documents is 5-10 days for those cooperating.</p> <p><b>4.</b> The identification process is the same for all detainees who claim for their Sudanese nationality.</p> <p><b>5.</b> We have been notified of no incident of mistreatment or torture upon return so far, though no Greek mechanism is available to report on that. IOM could have more information about this, who is directly related to possible reintegration programmes and representatives there.</p> |
|  | Hungary | Yes | <p><b>1.</b> The Immigration and Asylum Office of Hungary has carried out the following returns. All returns have been undertaken to Khartoum. 1.1 Number of Sudanese nationals voluntarily returned to Sudan in 2016: 0 1.2 Number of enforced returns of Sudanese nationals to Sudan in 2016: 6 1.3 Number of Sudanese nationals voluntarily returned to Sudan in 2017: 2 (assisted) 1.4 Number of enforced returns of Sudanese nationals to Sudan in 2017: 0 1.5 Nr. of Sudanese nationals ordered to leave the territory of Hungary in 2017: 10</p>  |





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|   |         |     | <p><b>2.</b> According to Subsection 2 of Article XIV of the Hungarian Constitution no one shall be expelled or extradited to a State where he or she would be in danger of being sentenced to death, being tortured or being subjected to other inhuman treatment or punishment. In accordance with S. 52 (1) of Act II of 2007 the immigration authority shall take into account the principle of non-refoulement in the proceedings relating to the ordering and enforcement of expulsion measures. Therefore the immigration authority requests the asylum authority for an opinion regarding non-refoulement before issuing a return decision. Also, the competent authority enquires the asylum authority regarding non-refoulement once again before carrying out the return procedure.</p> <p><b>3.</b> Identification procedures are carried out in cooperation with the Consular Section of the Sudanese Embassy in Budapest.</p> <p><b>4.</b> Such profiles are not taken into consideration in return procedures. Special policies apply to vulnerable cases (eg. minors, single women, etc).</p> <p><b>5.</b> Post-return monitoring hasn't been carried out in the case of Sudanese returnees.</p> |
|    | Ireland | Yes | <p><b>1.</b> Ireland did not return anyone to Sudan either on a forced or voluntary basis in 2016 or 2017. Ireland does return to Sudan. However each case is considered on its own merits. Our Sudanese caseload would be very low.</p> <p><b>2.</b> .</p> <p><b>3.</b> .</p> <p><b>4.</b> .</p> <p><b>5.</b> .</p>   |
|  | Italy   | Yes | <p><b>1.</b> 1.1 Three (3) Sudanese nationals returned voluntarily to Sudan in 2016 1.2 Forty-one (41) enforced returns in 2016 1.3 No (0) Sudanese have voluntarily returned to Sudan in 2017 1.4 Two (2) enforced returns of</p>   |


Sudanese nationals in 2017 1.5 NA



**2.** Article 19 of the Legislative Decree on Immigration (Decreto Legislativo) n. 286/1998 (Testo Unico T.U.) contains a general prohibition for Italian Authorities to expel migrants where their expulsion might violate the principle of non-refoulement as provided in the Geneva Convention. The Supreme Court has also specified that the prohibition of refoulement applies even when the person concerned has not filed any asylum application. Recently Law 110/2017 Against Torture under art. 3 specifies: “No entry refusal, refoulement, expulsion or extradition of a person towards another State are admitted if there are well-founded reasons to believe that she/he risks being exposed to torture. In the evaluation of these risks, also systematic and serious violations of human rights , in this State, are taken into consideration”. Notwithstanding, currently standard procedures do not exist, and are left with discretion of the public authority taking care of repatriation operations.


**3.** In 2015 the European Commission introduced the “hotspot system”, Italian authorities are now helped by competent European agencies to identify migrants. In hotspots, pre-identification method consist of: Police, helped by mediators, interviews the migrant to complete the so called “foglio notizie” (information paper), that contains their generalities and the reason they entered the country (for international protection or for work), that allows authorities to divide them in a faster manner in the three groups, applicants for international protection, beneficiaries of relocation and illegal migrant to be returned. The “foglio notizie” have to be completed together with fingerprints and photos (fotosegnalamento). Within the Hotspot, operations are carried out using standardised procedures for initial screening aimed at the early identification of persons in need of international protection and/or liable to benefit from relocation procedures, individuals who have specific needs or persons who do not intend to apply for international protection. Information on the possibility of submitting an application for international protection will be provided to all citizens of third countries and stateless persons who reached the European Union territory. Where available, it will be possible to use specific support instruments for identifying vulnerable persons. Information will also be provided on the obligations of new arrivals, in particular with respect to their identification and the acquisition of fingerprints. Until August 2016 no defined procedures of identification for Sudan are in place by Italian authorities. On 3rd August 2016, the Department of Public Security of the Italian Ministry of Interior, and the National Police of the Sudanese Interior Ministry signed a Memorandum of Understanding (MoU) for the fight against criminality, management of frontiers and migration flws and about repatriation. This Memorandum (art.9, paragraph 1,2,3), sets that: “The Sudanese competent authorities supply assistance

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|   |        |     | <p>and support in the inspection concerning the nationality of irregular migrants, proceeding to their identification, in order to let the Italian competent authorities execute the repatriation measure in accordance with the national and international relevant legislation and, in particular, for Italy, with obligations arising from the membership to European Union and, for Sudan, with obligations arising from the membership to the African Union, as well as with the respect of human dignity and fundamental rights of migrants... “[par. 1]”. “For the purposes of paragraph 1, the Sudanese diplomatic/consular competent authorities, upon request of the Italian competent authorities, proceed without delay to interview people who have to be repatriated, in order to ascertain their nationality and, on the basis of the results of the interview, without carrying further investigations on their identities, promulgate, as early as possible, emergency Sudanese travel documents (laissez passer), in that way allowing the Italian competent authorities to organize and execute repatriation operations through scheduled flights or charter”. Moreover, art.14 of the MoU, “Repatriation procedures in cases of necessity and urgency” introduces the possibility that identification operations are carried out directly in Sudan.</p> <p><b>4.</b> Asylum seekers cannot be repatriated, and their applications are evaluated based on profiling procedures that take into consideration i.e. region or origin and ethnicity. This therefore should also apply for return policy. In case of forced repatriations, in the absence of an asylum application, no profiling procedures are implemented.</p> <p><b>5.</b> No systematic monitoring procedures have been put in place by Italian authorities. Notwithstanding a pool of Italian lawyers is in contact with 5 Sudanese citizens repatriated in August 2016. According to the reported declarations of the Sudanese citizens, they are currently forced to live in clandestinely in the suburbs of Khartoum for security reasons.</p> |
|  | Latvia | Yes | <p><b>1.</b> 1.1. In 2016 we had 1 case when Sudanese national (student) voluntarily returned (non-assisted) to Sudan. 1.2. There were no Sudanese nationals forcefully returned to their home country in 2016. 1.3. NA 1.4. There were no Sudanese nationals forcefully returned to their home country in 2017. 1.5. NA</p> <p><b>2.</b> The State Border Guard as the authority responsible for removals while organizing removal procedure carries out procedural activities in compliance with Article 3 ECHR. Moreover there is a mechanism in place upon which the State Border Guard while organizing a removal carries out an assessment of possible risk of violation. In accordance with this mechanism the State Border Guard takes into account changes in the</p>   |

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|   |           |     | <p>individual situation of a TCN (a TCN can report on changes by himself/herself or the competent authority can detect the changes during assessment of the situation) and the situation in the country of return (if there is a risk of violation).</p> <p><b>3.</b> The person who returned voluntarily (non-assisted) in 2016 presented a passport issued by Sudanese authorities. The State Border Guard does not have cooperation experience with authorities of Sudan in identification issues.</p> <p><b>4.</b> There are not enough cases to provide an answer. Taking into account that there is no influx of illegal immigrants from Sudan the competent authorities do not have profiles of Sudanese nationals that could have impact on the return policy.</p> <p><b>5.</b> As there has been only one case of voluntary return it has not been monitored. After the return of TCN the situation of returnee is not monitored by the competent authorities responsible for enforcement of return procedure in Latvia. Such monitoring activities can be provided by IOM if it assists the person in voluntary return.</p> |
|  | Lithuania | Yes | <p><b>1.</b> In 2014–2017 there were no cases of irregular migration of a Sudanese citizens in Lithuania. Therefore, no decisions were taken on the return of Sudanese nationals.</p> <p><b>2.</b> Prior to adopting a decision regarding the return (voluntary return) or expulsion from Lithuania (forced return), it is assessed whether there are any circumstances specified in p. 1, 2 and 4 of Article 130 of the Law "On the Legal Status of Aliens" (the alien is interviewed and survey form is filled), and the decision on return or expulsion is accepted only in the absence of such circumstances. According to Article 130(2) of the Law of the Republic of Lithuania "On the legal status of aliens", an alien shall not be expelled from the Republic of Lithuania or returned to a country where there are serious grounds for believing that in that country the alien will be tortured, subjected to cruel, inhuman or degrading treatment or punishment.</p> <p><b>3.</b> N/A</p> <p><b>4.</b> N/A</p>  |



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|   |            |     | 5. N/A  |
|  | Luxembourg | Yes | <p><b>1.</b> 1.1 Number of Sudanese nationals voluntarily returned to Sudan (assisted and non-assisted) in 2016: 0. Luxembourg did not carry out voluntary returns of Sudanese nationals to Sudan in 2016. 1.2 Number of enforced returns of Sudanese nationals to Sudan in 2016: 0. Luxembourg did not carry out forced returns of Sudanese nationals to Sudan in 2016. 1.3 Number of Sudanese nationals voluntarily returned to Sudan (assisted and non-assisted) in 2017: 0. Luxembourg did not carry out voluntary returns of Sudanese nationals to Sudan in 2017. 1.4 Number of enforced returns of Sudanese nationals to Sudan in 2017: 0. Luxembourg did not carry out forced returns of Sudanese nationals to Sudan in 2017. For those four figures, if possible, please distinguish between returns of rejected asylum applicants and non-former asylum applicants. N/A. Please also specify whether returns were undertaken elsewhere than to Khartoum. N/A. 1.5 Number of Sudanese nationals ordered to leave the territory of your Member State in 2017 (Eurostat data are available for 2016). During 2017, there were no order to leave the territory for Sudanese nationals. Also, there were no rejected applications to Sudanese nationals neither in the normal international protection procedure nor in the fast track procedure. There were only 10 decisions taken in regard to the Dublin regulation.</p> <p><b>2.</b> Yes. In accordance with article 129 of the amended law of 29 August 2008 on free movement of persons and immigration a third-country national irregular staying in Luxembourg and who was detected and detained by the authorities may not be removed or expelled to a country if he/she establishes that his/her life or liberty would be seriously threatened there or that he/she would be at risk there of treatment contrary to Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (ECHR) or to treatment within the meaning of Articles 1 and 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In Luxembourg the principle of non-refoulement deriving from Art. 3 of the ECHR is assessed systematically before executing a return decision.</p> <p><b>3.</b> N/A.</p> <p><b>4.</b> Does the return policy vary according to the profile of Sudanese nationals concerned (e.g. region of origin and ethnicity)? No. Are these profiles also taken into account in the absence of an asylum application? And if so, how are these profiles in this case verified ? N/A.</p> |


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|   |             |     | 5. N/A.   |
|  | Malta       | Yes | <p><b>1.</b> 1.1 Assisted – 1, Non-assisted – 0 1.2 Given that we did not forcibly return any Sudanese national during the past 10 years there is no input from this end. 1.3 Assisted – 2, Non assisted – 0 1.4 Given that we did not forcibly return any Sudanese national during the past 10 years there is no input from this end. 1.4 Entered to Khartoum – Forced return – N/A, Non-assisted – N/A, Assisted – 2 to Khartoum, 1 to Nyala. 1.5 N/A</p> <p><b>2.</b> N/A</p> <p><b>3.</b> N/A</p> <p><b>4.</b> N/A</p> <p><b>5.</b> 5.In case returns of Sudanese nationals to Sudan were reported for 2016 and/or 2017, have you monitored the situation of returnees upon return? In cases of assisted return, 1 case was monitored; 2 returnees in the process of accessing the package. 5.If so, did you receive concrete indications that Sudanese nationals returned by your Member State have been subject to mistreatment or torture by the Sudanese authorities ? Assisted - No indications.</p>                             |
|  | Netherlands | Yes | <p><b>1.</b> 1.1: 15 1.2: 0 1.3: 10 1.4: 1 Our organisation does not have information on returns of rejected asylum applicants and non-former applicants. The forced return (1) in 2017 was a return to Khartoum. 1.5 Not available. For return we do not register whether a person has an asylum application or not, because this is not relevant for return.</p> <p><b>2.</b> When a third country national who is staying illegally in the Netherlands does not apply for asylum, an assessment of artikel 3 ECHR does not take place before he/she is returned.</p> <p><b>3.</b> In The Netherlands, the identity and nationality of Sudanese nationals is established by the Sudanese embassy in The Hague. The embassy also provides for travel-documents (laissez-passers) for return.</p> <p><b>4.</b> No. It is good to understand that there is a difference between return policy and asylum policy. In general, all third country nationals who do not reside in the Netherlands legally, have an obligation to leave the</p> |

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|   |        |     | <p>Netherlands (return policy). This return policy does not vary depending on nationality, region of origin, or ethnicity and therefore also applies to Sudanese nationals. When a third country national applies for asylum, the asylum policy applies. In the case of Sudanese nationals this means that the IND investigates (in a very careful procedure) whether there are safe alternatives for settlement available for Sudanese nationals originating from specific regions. The Netherlands considers some parts of Sudan not to be safe enough to return to for non-Arabic Sudanese nationals (asylum policy). When the applicant receives a negative decision, he /she must return to Sudan. In cases in absence of an asylum application the person has to return to Sudan as well. In these cases the general return policy applies.</p> <p><b>5.</b> Our Ministry of Foreign Affairs produces a country-report with general information about the Country of Origin (COI). Information about the situation in the country of origin (or a third country if there is another country which the third country national can return to) is taken into consideration while assessing an application for asylum. When there are serious signals from objective sources that returnees are at risk of a treatment as mentioned in article 3 ECHR, our Ministry of Foreign Affairs can be asked to investigate these signals (in general) and it is possible to temporarily suspend the asylum-procedure and forced returns to the country concerned. This procedure in itself guarantees that there is a careful assessment of any risk before the third country national is returned. Also, The Netherlands has a careful asylum procedure with a independent judiciary check. In this procedure a judge can verify whether return of an individual is a violation of article 3 EHRM. Therefore The Netherlands does not monitor returnees after they are returned (forcibly or voluntarily).</p> |
|  | Poland | Yes | <p><b>1.</b> Poland cannot provide any statistics regarding the number of Sudanese nationals returned towards Sudan in 2016 and 2017, as at that time Poland did not have any returned Sudanese neither Sudanese granted or seeking refugee-status.</p> <p><b>2.</b> According to Act on Foreigners art. 304: The authority that conducts the proceedings on imposing the return obligation (Border Guards) informs the foreigner about the possibility to submit an application for refugee status. Furthermore if circumstances referred to humanitarian stay or tolerated stay come to light during the proceedings on imposing the return obligation on a foreigner, the decision concluding such proceedings shall adjudicate on the matter of granting a residence permit for humanitarian reasons or granting a permit for tolerated stay. A foreigner is granted a permit for humanitarian/tolerated stay within the territory</p>  |

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|  |                 |     | <p>of the Republic of Poland, if a return obligation for him/her can be made solely to the state in which within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950: a) his/her right to life, freedom and personal security might be threatened, or b) he/she could be subject to torture or inhumane or degrading treatment or punishment, or c) he/she could be subject to forced labour, or d) he/she could be deprived of the right to fair trial or be punished without a legal basis, or</p> <p><b>3.</b> n/a</p> <p><b>4.</b> n/a</p> <p><b>5.</b> n/a</p>  |
|  | Slovak Republic | Yes | <p><b>1.</b> There were no such cases in 2016 and 2017.</p> <p><b>2.</b> The Slovak Republic respects the ECHR. According to the Article 16. of the Constitution of the Slovak Republic, “no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment”. The Convention is respected also by other legal norms and internal regulations of state authorities. As regards returns of third-country nationals in practice, in order to ensure that there is no risk of violation of the Article 3 ECHR, there are preventive activities, repetitive training of staff and the police force who participate in returns. There is also a control system in relation to the respect of human rights during the procedures of state authorities through the supervision of the prosecutor and the ombudsman – public defender of rights and other authorities carrying out supervising activities.</p> <p><b>3.</b> N/A</p> <p><b>4.</b> Due to the fact that the Slovak Republic has not carried out any returns to Sudan, no policy has been developed as regards the profile or origin of the Sudanese.</p> <p><b>5.</b> N/A</p> |



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|  | Slovenia | Yes | <p><b>1.</b> Q 1.3. 1 x non-assisted (He was non-former asylum applicants. We returned him to Khartum airport).</p> <p><b>2.</b> Permission to stay in the Republic of Slovenia shall be granted, if the deportation of the alien is not permitted according to the principle of non-refoulement. Permission to stay shall be granted by the police at the request of the alien or ex officio. It can be issued for max. period of six months. The permission may be renewed at the alien's request or ex officio for as long as the conditions exist.</p> <p><b>3.</b> His personal data were send to the Embassy of Sudan in Vienna. His identity was verified and the Embassy issued him an emergency passport.</p> <p><b>4.</b> NO</p> <p><b>5.</b> We only monitored the ractions of the Sudanese authorities during the hand over procedure. At that time we didn't detect any subject of mistreatment or torture by the Sudanese authorities.</p>  |
|  | Sweden   | Yes | <p><b>1.</b> 1.1 Eleven Sudanese nationals returned voluntarily in 2016. 1.2 None 1.3 Three Sudanese nationals returned voluntarily in 2017. 1.4 One forced returned to Sudan in 2017 There is no statistics available for non-former asylum applicants. Returns have only been undertaken to Khartoum. 1.5 In 2016 there were 179 return decisions issued and the number in 2017 is 110.</p> <p><b>2.</b> A third country national may be refused entry or expelled when he or she lacks a permission to stay in the country. The Swedish Aliens Act (2005:716) corresponds with Article 3 ECHR. The refusal of entry and expulsion of an alien may never be enforced to a country where there is fair reason to assume that: • the third country national would be in danger there of suffering the death penalty or being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment or • the third country national is not protected in the country from being sent on to a country in which the alien would be in such danger. The Police shall always, before enforcement, consider if there is impediments to the enforcement of refusal of entry and expulsion.</p> <p><b>3.</b> Those returnees who did not have a Sudanese passport were identified by the Embassy of Sudan in Stockholm and were then issued with a travel document by the Embassy.</p> |

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|   |                       |            | <p>4. There is no policy explicit on region of origin or ethnicity when looking at return however the handling officer is always taking into account if there are any specific needs or conditions to address. Region of origin and ethnicity are on the other hand issues of importance when investigating the asylum application. Internal displacement is looked upon depending on these two issues.</p> <p>5. No, no monitoring has been conducted regarding the situation of returnees.</p>   |
|  | <p>United Kingdom</p> | <p>Yes</p> | <p>1. *The UK Government does not publish data on the location of return other than the destination country. All data has been sourced from the data table: “Table rt_04_q: Returns by country of nationality and destination” available online at: <a href="https://www.gov.uk/government/publications/immigration-statistics-july-to-september-2017/how-many-people-are-detained-or-returned">https://www.gov.uk/government/publications/immigration-statistics-july-to-september-2017/how-many-people-are-detained-or-returned</a></p> <p>1.1 Number of Sudanese nationals voluntarily returned to Sudan (assisted and non-assisted) in 2016 There were 23 total voluntary returns (assisted and non-assisted) of Sudanese nationals returned to Sudan during the year 2016. Of these returns, 11 were returns of people who had previously sought asylum and 12 were non-asylum cases.</p> <p>1.2 Number of enforced returns of Sudanese nationals to Sudan in 2016 There was 1 total enforced returns of Sudanese nationals returned to Sudan during the year 2016. This was a return of a non-asylum case.</p> <p>1.3 Number of Sudanese nationals voluntarily returned to Sudan (assisted and non-assisted) in 2017 Returns data is only available for the first three quarters of 2017 (January 1st – 30th September 2017). For this period in 2017 there were the 11 total voluntary returns of Sudanese nationals returned to Sudan. Of these returns, 4 were returns of people who had previously sought asylum and 7 were non-asylum cases. Provisional information for the whole of 2017 will be available on the 22nd February 2018.</p> <p>1.4 Number of enforced returns of Sudanese nationals to Sudan in 2017. Returns data is only available for the first three quarters of 2017 (January 1st – 30th September 2017). For this period in 2017 there were zero enforced returns of Sudanese nationals to Sudan. Provisional information for the whole of 2017 will be available on the 22nd February 2018.</p> <p>1.5 Number of Sudanese nationals ordered to leave the territory of your Member State in 2017 (Eurostat data are available for 2016). The UK Government only publishes annual data regarding the numbers of nationalities ordered to leave the territory. Provisional information for the whole of 2017 will be available on the 22nd February 2018.</p> <p>2. *The UK Government does not publish data on the location of return other than the destination country. All data has been sourced from the data table: “Table rt_04_q: Returns by country of nationality and destination” available online at: <a href="https://www.gov.uk/government/publications/immigration-statistics-july-to-">https://www.gov.uk/government/publications/immigration-statistics-july-to-</a></p> |

september-2017/how-many-people-are-detained-or-retained 1.1 Number of Sudanese nationals voluntarily returned to Sudan (assisted and non-assisted) in 2016 There were 23 total voluntary returns (assisted and non-assisted) of Sudanese nationals returned to Sudan during the year 2016. Of these returns, 11 were returns of people who had previously sought asylum and 12 were non-asylum cases. 1.2 Number of enforced returns of Sudanese nationals to Sudan in 2016 There was 1 total enforced returns of Sudanese nationals returned to Sudan during the year 2016. This was a return of a non-asylum case. 1.3 Number of Sudanese nationals voluntarily returned to Sudan (assisted and non-assisted) in 2017 Returns data is only available for the first three quarters of 2017 (January 1st – 30th September 2017). For this period in 2017 there were the 11 total voluntary returns of Sudanese nationals returned to Sudan. Of these returns, 4 were returns of people who had previously sought asylum and 7 were non-asylum cases. Provisional information for the whole of 2017 will be available on the 22nd February 2018. 1.4 Number of enforced returns of Sudanese nationals to Sudan in 2017. Returns data is only available for the first three quarters of 2017 (January 1st – 30th September 2017). For this period in 2017 there were zero enforced returns of Sudanese nationals to Sudan. Provisional information for the whole of 2017 will be available on the 22nd February 2018. 1.5 Number of Sudanese nationals ordered to leave the territory of your Member State in 2017 (Eurostat data are available for 2016). The UK Government only publishes annual data regarding the numbers of nationalities ordered to leave the territory. Provisional information for the whole of 2017 will be available on the 22nd February 2018.

**3.** As outlined by the below document published in August 2017 the UK government is not aware of any substantiated cases of returnees being mistreated on return to Sudan.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/635917/Country\\_and\\_Policy\\_Information\\_Note\\_-\\_Sudan\\_Rejected\\_Asylum\\_Seekers\\_August\\_2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/635917/Country_and_Policy_Information_Note_-_Sudan_Rejected_Asylum_Seekers_August_2017.pdf) “In September 2016, the British Embassy in Khartoum observed that ‘As reported in our letter of February 2015, it remains the case that neither we nor our international partners are aware of substantiated cases of returnees, including failed asylum seekers, being mistreated on return to Sudan.’”

**4.** As outlined by the below document published in August 2017 the UK government is not aware of any substantiated cases of returnees being mistreated on return to Sudan.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/635917/Country\\_and\\_Policy\\_Information\\_Note\\_-\\_Sudan\\_Rejected\\_Asylum\\_Seekers\\_August\\_2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/635917/Country_and_Policy_Information_Note_-_Sudan_Rejected_Asylum_Seekers_August_2017.pdf) “In September 2016, the British Embassy in Khartoum observed that ‘As reported in our letter of February 2015, it remains the case that neither we nor our international partners are aware of substantiated cases of returnees, including failed

asylum seekers, being mistreated on return to Sudan.””

**5.** We are unable to differentiate passport and ETD returns from the published statistics. But where a person is fully compliant with the documentation process we would have been able to obtain ETD from the Embassy.

**6.** We are unable to differentiate passport and ETD returns from the published statistics. But where a person is fully compliant with the documentation process we would have been able to obtain ETD from the Embassy.


**7.** Please see the extract concerning the return of non-Arab Darfuris from the published report linked below. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/635559/Sudan\\_-\\_Non\\_Arab\\_Darfuris\\_-\\_CPIN\\_-\\_v1.0\\_\\_August\\_2017\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/635559/Sudan_-_Non_Arab_Darfuris_-_CPIN_-_v1.0__August_2017_.pdf) “The security, human rights and humanitarian situation in Darfur continues to be poor. Non-Arab Darfuris in the Darfur region are likely to face human rights violations which amount to serious harm or persecution. Existing caselaw has found that non-Arab Darfuris as an ethnic group are at risk of persecution in Darfur and cannot reasonably be expected to relocate elsewhere in Sudan, including to Khartoum. The Home Office view is, however, that there is cogent evidence indicating that non-Arab Darfuris are not generally at risk of persecution or serious harm solely on the grounds of their ethnicity in Khartoum. This evidence provides strong grounds to depart from the existing caselaw of AA and MM. Rather, a person’s non-Arab Darfuri ethnicity is likely to be a factor which may bring them to the attention of the state and, depending on other aspects of their profile and activities, may lead to a risk of serious harm or persecution in Khartoum. Darfuris in Khartoum face discrimination in accessing public services, education and employment, experience forced eviction, societal harassment from other Sudanese, and do not have access to humanitarian assistance. However in general such treatment is not so severe that it is likely to amount to persecution but each case will need to be considered on its individual facts. All returns are to Khartoum. It will generally be reasonable for a person, including those not previously resident in Khartoum, to return to that city but each case will need to be considered on its individual facts. If the person is able to demonstrate a risk of persecution or serious harm from the state in Khartoum, internal relocation to another part of Sudan will not be reasonable. There is no sufficiency of protection available. Cases are unlikely to be certifiable.”

**8.** Please see the extract concerning the return of non-Arab Darfuris from the published report linked below.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/635559/Sudan\\_-\\_Non\\_Arab\\_Darfuris\\_-\\_CPIN\\_-\\_v1.0\\_August\\_2017\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/635559/Sudan_-_Non_Arab_Darfuris_-_CPIN_-_v1.0_August_2017_.pdf) “The security, human rights and humanitarian situation in Darfur continues to be poor. Non-Arab Darfuris in the Darfur region are likely to face human rights violations which amount to serious harm or persecution. Existing caselaw has found that non-Arab Darfuris as an ethnic group are at risk of persecution in Darfur and cannot reasonably be expected to relocate elsewhere in Sudan, including to Khartoum. The Home Office view is, however, that there is cogent evidence indicating that non-Arab Darfuris are not generally at risk of persecution or serious harm solely on the grounds of their ethnicity in Khartoum. This evidence provides strong grounds to depart from the existing caselaw of AA and MM. Rather, a person’s non-Arab Darfuri ethnicity is likely to be a factor which may bring them to the attention of the state and, depending on other aspects of their profile and activities, may lead to a risk of serious harm or persecution in Khartoum. Darfuris in Khartoum face discrimination in accessing public services, education and employment, experience forced eviction, societal harassment from other Sudanese, and do not have access to humanitarian assistance. However in general such treatment is not so severe that it is likely to amount to persecution but each case will need to be considered on its individual facts. All returns are to Khartoum. It will generally be reasonable for a person, including those not previously resident in Khartoum, to return to that city but each case will need to be considered on its individual facts. If the person is able to demonstrate a risk of persecution or serious harm from the state in Khartoum, internal relocation to another part of Sudan will not be reasonable. There is no sufficiency of protection available. Cases are unlikely to be certifiable.”

**9.** Returnees are not routinely monitored on return. According to our published statistics all but one returnee was a voluntary return. For more information please see the UK Country Policy and Information note on rejected asylum seekers from Sudan found here: <https://www.gov.uk/government/publications/sudan-country-policy-and-information-notes> “The UK-DIS Fact Finding Mission report of August 2016, based on a range of sources interviewed in Kenya, Sudan and Uganda in February and March 2016, stated: ‘Several sources noted that there were established Sudanese diaspora communities overseas. Most sources did not consider that in general travelling from overseas countries would result in a person being targeted or detained on arrival.’” “In September 2016, the British Embassy in Khartoum observed that ‘As reported in our letter of February 2015, it remains the case that neither we nor our international partners are aware of substantiated cases of returnees, including failed asylum seekers, being mistreated on return to Sudan.’”

**10.** Returnees are not routinely monitored on return. According to our published statistics all but one returnee

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|   |        |     | <p>was a voluntary return. For more information please see the UK Country Policy and Information note on rejected asylum seekers from Sudan found here: <a href="https://www.gov.uk/government/publications/sudan-country-policy-and-information-notes">https://www.gov.uk/government/publications/sudan-country-policy-and-information-notes</a> “The UK-DIS Fact Finding Mission report of August 2016, based on a range of sources interviewed in Kenya, Sudan and Uganda in February and March 2016, stated: ‘Several sources noted that there were established Sudanese diaspora communities overseas. Most sources did not consider that in general travelling from overseas countries would result in a person being targeted or detained on arrival.’” “In September 2016, the British Embassy in Khartoum observed that ‘As reported in our letter of February 2015, it remains the case that neither we nor our international partners are aware of substantiated cases of returnees, including failed asylum seekers, being mistreated on return to Sudan.’”</p>   |
|  | Norway | Yes | <p><b>1.</b> Please see table inn attached document.</p> <p><b>2.</b> The At. 3 reads as follows: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." The Norwegian Directorate of Immigration always considers the risk of a violation of ECHR art. 3 in all cases, before a decision on an involuntary return to Sudan, regardless of whether the person has applied for asylum or not. The Immigration Appeals Board in Norway provided the following information in another similar enquiry for BE: The Immigration Appeals Board (UNE) is the appellate body for cases concerning asylum, immigration, residence permits and citizenship. All cases considered by UNE have first been considered by the Directorate of Immigration (UDI). Most cases are prepared by case officers and the final decisions are made by board chairs. In cases involving a substantial degree of doubt, either about the appellant's claims or the interpretation of the law, a decision is made only after a board meeting has taken place. The Decision is made by a board chair and two appointed board members from outside the organization. Decisions are based on a variety of sources of information. In many cases, we are assisted by country analysts. These analysts are employed by the Norwegian Country of Origin Information Centre (Landinfo). Landinfo is an independent body and has expertise and knowledge of other countries. Landinfo answers specific questions and also makes reports on topics of general interest. Their reports are made public here (mostly in Norwegian). In the case preparation, a wide variety of other legal and factual sources are considered as well, including: - Domestic court decisions - UNE's own case practice in similar cases - European Court of Human Rights (ECtHR) decisions (both general and country specific decisions) - UNHCR recommendations - Reports from human rights groups, such a Crisis Group or Amnesty International - Information from other countries' immigration authorities or bodies equivalent to Landinfo, such as LIFOS in</p> |

Sweden, , UK Home Office or Canadian Home Office - Decisions from other countries (not legally binding, but their reasoning might have some influence) - Reports from trusted journalists or news agencies Once UNE has concluded the consideration of the appeal against the UDI's rejection, UNE is done with the case. However, we sometimes have to reconsider cases if people so request, on the basis of new information in the case. But otherwise, other public agencies take over where our responsibilities end after UNE has considered the case. There are no set procedures to control or verify the claims of an appellant during case considerations or after the person has left the country. Each case will be considered based on its own merits and according to what is deemed necessary. This is also the case with asylum seekers from Sudan. Should it come to The Board's attention that a person might have been subjected to treatment contrary to the prohibition on torture, we will usually try to verify whether these claims are factual. The legality of a board decision may be reviewed in a variety of ways. The Ombudsman may initiate a review on their own, or after an appellant's complaint. The appellant can also bring the case in for a judicial review in the courts. Since 2010 five cases concerning Sudanese asylum seekers have been subject to trial. UNE's decisions were upheld and deemed to be in accordance with the law in three of the cases. In the other two, UNE's decisions were not. Please see UNE's website for more information.

**3.** Regarding assisted voluntary returnees from Norway to Sudan, operated by IOM, the applicant either applies with actual valid travel documents or receives assistance from IOM to gain travel documents from the Sudanese Embassy. Norway does not have any special challenges to report regarding ETD for Sudanese citizens returning on voluntary return programs with IOM.

**4.** " YES. " The profile of Sudanese nationals is taken into account in our assessment of the need for protection or non-refoulement. Ethnicity and region of origin are significant factors in the assessment, although not necessarily decisive. This means that UDI is somewhat cautious in the assessment of non-Arab groups from conflict areas, but each case is considered individually. If the case is viewed solely from the point of ethnicity and origin; that alone in most cases will not be sufficient to apply the principle of non-refoulement. This goes for cases where (i) there is an asylum application and in cases where (ii) there is an absence of an asylum application. " The profiles are not verified other than through interviews, credibility assessments, and in some cases, when applicable, language analysis.

**5.** NO. Norway does not monitor returnees to Sudan. In 2017 there was only 1 assisted return. In cases of forced return, The National Police Immigration Service in Norway (NPIS) will notify the Sudanese Embassy

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|  |  |  | in Oslo before deportation. After delivery in Sudan, Norway has no further follow-up. |
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