



## Uzbekistan - information supplied by IGC Participating States

### Introduction

The Danish Immigration Service has received information from the following IGC Participating States:

Australia; Belgium; Canada; France, Germany; Ireland; the Netherlands; New Zealand; Norway; Sweden, Switzerland and the United Kingdom.

All information provided by the IGC Participating States has been included in the compilation at hand.

The compilation is structured according to the questionnaire which was distributed by the IGC secretariat. The information provided by the IGC Participating States is presented in alphabetical order by country name.

In the IGC questionnaire all IGC Participating States were informed that the information provided would be compiled and shared with the Danish Refugee Appeals Board and that the compilation would be a public document. No IGC Participating State objected to this.

### A. Statistics:

1. Number of Uzbek asylum applicants in 2012
2. Number of refusals in 2012
3. Number of permissions (Geneva Convention) in 2012
4. Number of permissions (subsidiary protection status) in 2012

Annex A contains statistics concerning 2012 based on the input from the IGC Participating States.

### B. Asylum policy/precedence

**Please describe your asylum policy concerning Uzbek asylum applicants in relation to exit from and re-entry into Uzbekistan. Please include information about the significance assigned to the applicant's profile (e.g. persons who have been involved in low profile activities such as protests against public building projects vs. high profiled applicants whose asylum motives are associated with the five conventional reasons for granting asylum).**

**Australia:** The caseload of citizens from Uzbekistan that have sought protection in Australia has been and remains small. For that reason any special circumstances about a case would be dealt with on a case-by-case basis.

All claims for protection are assessed on an individual basis against the criteria contained in the 1951 Refugees Convention and the complementary protection



criteria (which gives effect to Australia's international treaty obligations), in accordance with Australian legislation, case law and up-to-date information on conditions in the applicant's country of origin.

**Germany:** As a matter of principle, the Federal Office for Migration and Refugees does not register the grounds for asylum presented by the applicants. For this reason a statistical analysis is not possible. When examining an asylum application, no distinction is made between cases where the applicant entered Germany legally and those where he/she entered illegally unless he/she entered with a visa issued by a safe third country. If this is the case, the German authorities will check whether the safe third country that issued the visa is responsible for examining the asylum application. In the asylum procedure, asylum applicants often fail to mention the fact that they hold a visa issued by a safe third country so that it is not possible to draw up a statistical analysis of legal exits from Uzbekistan.

In 2012, a total of 31 persons from Uzbekistan applied for asylum in Germany. Given the small number of asylum applicants from Uzbekistan, the following rough analysis of the cases was drawn up:

- In 2012, 31 persons from Uzbekistan filed a first-time application for asylum in Germany.
- 26 persons entered Germany without a visa (i. e. without a German visa; whether they held a visa from a safe third country is not known). Among those 26 persons
  - there was one individual who entered Germany in 2012 without a visa after having applied for a German visa in 2008 which was denied . This individual has meanwhile been recognized as a refugee pursuant to section 60 paragraph 1 of the German Residence Act;
  - there were five persons who entered Germany in 2012 without a visa; however, these individuals (amongst them four children) had been granted a visa in 2010. Their asylum cases are still pending;
  - there were 15 persons whose asylum cases are currently still pending;
  - there were five persons whose asylum applications were rejected.
- Five persons entered Germany with a visa. Among those,
  - there was one person who entered Germany with a German visa and was recognized as a refugee pursuant to section 60 paragraph 1 of the German Residence Act;
  - there were two persons who entered Germany with visa issued by Poland; their asylum cases are currently still pending;
  - there were two persons who entered Germany with German visa; their asylum cases are currently still pending.

It is not possible to identify a general connection between legal versus illegal exit from Uzbekistan and the grounds for asylum presented by the asylum applicants because the persecution histories of the asylum applicants are far too individual.



**Ireland:** There is no specific policy for dealing with particular groups of asylum seekers, such as Uzbeks, in Ireland. Every asylum applicant, with the exception of those to whom the Dublin II Regulation applies, is guaranteed an investigation and determination of his or her claim at first instance by the Office of the Refugee Applications Commissioner (ORAC).

Each asylum application is assessed by ORAC on the basis of the circumstances of the individual case and having regard to both the subjective elements (the applicant's own account or personal history) and objective elements (up-to-date information on the applicant's country or place of origin).

**Sweden:** The Swedish Migration Board (SMB) carried out a Fact Finding Mission (FFM) to Kyrgyzstan in December 2011. Some information regarding Uzbekistan was also collected during this mission. Additional information was received in a mission to Moscow 2012. These two missions form the base of the SMB's current knowledge of the situation in Uzbekistan. The SMB has assembled the information into one report "Utsatta grupper i Uzbekistan – rapport från utredningsresor", 2012-05-21. In addition the director for Legal Affairs at the SMB issued in May 2011 comments on Uzbekistan and Uzbek asylum seekers concerning inter alia groups at risk, sur place activities in Sweden and return issues. Answers to the questions below are based on that report. Other relevant sources are various publications from Norwegian Landinfo.

The FFM reports from the missions to Kyrgyzstan and Russia states that none of the consulted sources foresee any positive developments regarding the human rights situation in Uzbekistan. Unanimous sources confirm the vulnerability of risk categories which have previously been identified by the SMB. These categories are:

- Religious persons when exercising their religion. Any religion other than the state-sanctioned is prohibited.
- Political opposition, independent journalists and human rights activists.
- All persons having any connection with the Andijan massacre in 2005.

#### *Religious persons*

The situation for persons at risk of being prosecuted and convicted for religious extremism is particularly difficult. The Uzbek authorities prioritize the national security and fight against terrorism, which motivate restrictions on the freedom of religion.

Responses by Uzbek authorities to persons worshipping other religions than the one sanctioned by the state are unpredictable, not necessarily immediate and not limited to persons who carry and express a more radical religious belief.



Visits to/participation in unofficial mosques/religious meetings (some sources indicate that there are no longer any other mosques than the official and that unofficial religious meetings are organized in private homes) are, according to unanimous sources, a risk behavior. Some of the sources emphasize that also frequent visits to official mosques can be brought to the attention of the authorities.

According to some sources, persons wearing religious attributes are controlled and blacklisted, but there is also reports indicating that the use of hijab is banned and that women who have used hijab have been fined or sentenced to prison.

Also Christian communions and individual members are vulnerable. Communions have difficulties becoming registered (non-registered activities are illegal) and some Christian groups are strictly monitored. Several sources express the view that the vulnerability of Christian groups is less severe compared to Muslim groups due to the considerations the Uzbek regime has to take in its international relations. However, trials against Christian preachers have been held, Christians have been sentenced to imprisonment, and other measures are taken and assaults are committed against individuals. Protestants and Jehovah Witnesses are especially vulnerable while the position of the Russian Orthodox Church, according to several sources, is described as an exception in a positive sense.

#### *Political opposition, independent journalists and human rights activists*

The secular, political opposition in Uzbekistan is by numerous sources described as marginalized. Active oppositional individuals are few and leaders are in exile. Activities of the oppositional movements are severely limited. They are not given access to state media and lack party organs as well as other possibilities to have a wider dissemination of their propaganda. Only smaller demonstrations occur and attempts to organize large-scale activities have failed lately.

Persons who are engaged in political activism risk being prosecuted and convicted. At the same time, several sources indicate that well-known oppositional individuals still residing in Uzbekistan and forced to stay passive, are being monitored and controlled by the authorities but that other, more severe measures are not taken against them. Demonstrations are stopped and participants in such activities risk short-term imprisonment or being fined. Collective punishments, which can target family members of oppositional individuals as well as neighborhoods as a reaction to manifestations of opposition, occur.

#### *Differences between larger cities and other regions*

Differences between Tashkent (and possibly other larger cities) and other regions of the country are observed with regard to the degree of political freedom. The authorities' control is described as somewhat lower in Tashkent. Explanations to these observations differ between sources but do not necessarily contradict each other: the still existing international presence in Tashkent; the less effective mahalla system in Tashkent; the still existing oppositional milieus in Tashkent and



the lack of the same in the regions where opposition is mainly constituted by a few individuals who are more vulnerable to measures taken by the authorities. Andizhan, but also the remainder of the Fergana Valley, is identified as particularly strictly controlled.

#### *Child labor in the cotton industry and other economic and social issues*

Likewise, nuances in the delicacy of political topics can be observed. Activism in relation to issues on political rights, religion, and child labor in the cotton industry is taboo, while engagement in economic and social issues can be accepted by the authorities to some extent. It is, however, important to note that the consulted sources are not unanimous in this regard and that what is acceptable to discuss or engage in may vary over time, depending on the current view of the regime on a certain problem.

#### *Independent journalists and human rights activists:*

Several sources describe the situation of independent journalists as similar to that of human rights activists: the regime allows a small number of them being active to give the impression that the country allows independent journalism.

#### *Uzbeks that have applied for asylum in other countries*

The general reasoning of the consulted sources regarding the view of the Uzbek authorities on citizens who have applied for asylum in other countries are in some aspects contradictory. The sources unambiguously state that former asylum seekers who return to Uzbekistan may be suspected and have serious allegations brought against them, as the asylum application as such is significant to the Uzbek authorities. However, the sources do not share a common view regarding who among former asylum seekers may be at risk. On the one hand, some sources state that applying for asylum is viewed upon as an act of treachery and that returning former asylum seekers are therefore severely punished, as well as that Uzbek authorities are induced to suspect that a person who has applied for asylum in another country is an Islamist or oppositional and that an asylum application in such cases may constitute a ground for conviction. On the other, some sources state that persons who have applied for asylum for social or economic reasons are not targeted, with the exception of persons who are already blacklisted by the authorities, and that there is no known cases where such persons have been punished. Uzbek authorities know that there are persons who have had other reasons for applying for asylum than political/religious among Uzbek asylum seekers, and such persons are not punished.

#### *Risk assessment in connection with returns*

When assessing the various statements regarding possible risks associated to return, the following has to be taken into account. The sources give few concrete examples to support their reasoning regarding the risk associated with asylum



applications and the situation of returning former asylum seekers. The examples given most often concern persons whom the Uzbek authorities, according to the sources, have already shown interest in (which, for example, have been manifested through warrants) or persons who have pursued oppositional activities while abroad. Sources arguing that an asylum application is considered by the Uzbek authorities as an act of treachery and that returning asylum seekers therefore are punished, and that Uzbek authorities suspect persons who have applied for asylum being Islamist or oppositional, do not appear to differentiate between persons who have left Uzbekistan due to fear of authorities' measures and persons who have had other reasons for leaving the country. The representatives of Memorial and Ferghana Valley Lawyers Without Borders make this distinction, and stresses that the consequences of return for the two categories are different, and, thus, appear to be more nuanced in their statements. In addition, it is important to note that Memorial is systematically monitoring and documenting cases where persons have been convicted on political or religious grounds in Uzbekistan and that the representative of the organization is not familiar with any case where a former asylum seeker, whose motive for applying for asylum has been social or economic, has been punished after having returned to Uzbekistan.

The Uzbek regime is of a repressive nature and has a strong control over its population. At the same time, several sources describe the Uzbek exercise of authority as arbitrary and unpredictable but also that the authorities can react to, inter alia, non-sanctioned religious practice with considerable delay. Statements about black lists etc., which implicate that persons have been identified by the authorities due to, for example, their religious practice without other measures having been taken, are frequent among the consulted sources.

Overall, there are not sufficient grounds to conclude that returning former asylum seekers who have not previously come to the attention of Uzbek authorities risk being subjected to reprisals due to their asylum application. However, the general reasoning by the consulted sources, along with other stated circumstances, in particular the arbitrariness and unpredictability of Uzbek exercise of authority, urges a high degree of caution in return procedures. In addition, statements regarding the Uzbek regime's negative view of Sweden appear reasonable and relevant to consider in this context.

**Switzerland:** According to the Swiss asylum policy the lack of exit-visa alone is no sufficient ground for being granted protection.

**UK:** The UK does not really have a significant response to provide. Uzbekistan is not really a huge concern for the UK in terms of numbers, and requires very few resources.

We therefore don't have anything noteworthy to report back on.



## 1. How do you assess the question of legal/illegal departure from Uzbekistan?

**Belgium:** Our policy is in line with the UNHCR position to be cautious

“(…) Thus, it would be difficult for UNHCR to give a blanket advice on how rejected asylum seekers would be treated, but it is prudent to take the viewpoint that for those who are considered to be a threat to national security, and whose claims for asylum have somehow been brought to the attention of the government, can expect problems.”

In case it is deemed that the asylum seekers are not a threat to national security (e.g. because of lack of credibility), we assume that the fact of illegal departure will not cause any problems upon return.

In case of return, the Belgian Immigration Department, will never indicate that the returnee is a rejected asylum seeker.

**Canada:** n/a

**France:** As mentioned above, the figures of Uzbek asylum seekers are very low in France.

Moreover, most of the claimants invoke being threatened or harassed by the authorities because of their participation to the Andijan demonstration in 2005.

A significant proportion of claimants also raise the issue of their ethnic origins (Russian, Armenian…) and being prosecuted by the authorities.

The question of legal/illegal departure from Uzbekistan is not a ground put forward by Uzbek asylum seekers in France, thus we do not have any relevant information on that issue.

**New Zealand:** Given the very low number of claims by Uzbeks in NZ, we cannot answer this question at the level of policy. The one case we are currently considering turns very much on its unique facts.

**Norway:** The fact that a citizen of Uzbekistan has left Uzbek territory, with or without exit visa, might be important for assessing the aliens need for protection as a refugee in Norway. If an applicant has departed legally from the airport in Tashkent in Uzbekistan, it may indicate that the person is not wanted by the Uzbek authorities. But we do not necessarily draw that conclusion. In some cases the applicant may be registered wanted after their departure, in other words there can be a reasonable explanation on how the person crossed the border legally, e.g. by bribing boarder guard personnel.



## 2. How do you assess cases where applicants are in possession of a valid exit visa?

**Belgium:** In case an asylum seeker represents an exit-visa, extra attention will be given to this fact during the credibility assessment of the case. E.g. it will be difficult for persons to receive an exit-visa, if they oppose the regime.

**Canada:** n/a

**France:** Since the independence in 1991, authoritarian-ruled Uzbekistan has kept in place Soviet-era exit-visa regimes for its citizens who wish to travel abroad<sup>1</sup>.

The legal departure with an exit visa will be taken into account among others factors during the assessment phase of an asylum application, as we do for all claims. Therefore, there is no policy which precludes not studying the fears of persecution when Uzbek claimants succeeded to leave the country legally.

For instance, the French Court (CNDA) had admitted an Uzbek citizen to the refugee status on the ground of his sexual orientation although he left the country with a business exit visa<sup>2</sup>.

**New Zealand:** See Q. B1.

**Norway:** If the asylum seeker is in possession of a valid exit visa, it may indicate the same as written in the previous answer.

## 3. How do you assess cases where applicants lack exit visa or if the exit visas have expired?

**Belgium:** In general, Uzbek asylum seekers claim not to be in possession of travel documents, so we cannot establish the lack or expiration of exit visa.

Most cases claim to have left the country illegally. The credibility assessment of the illegal departure is one of the elements of the overall credibility assessment.

**Canada:** Decision makers of the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (IRB) enjoy adjudicative independence and make decisions on the merits of individual cases based on a thorough assessment of the evidence before them and application of the relevant law. The IRB does not make asylum policy in Canada nor does it take an institutional stand or position on country conditions or the merits of any claim for refugee protection.

**The Netherlands:** The Netherlands does not have a special policy for asylum seekers from Uzbekistan. This means that the need for international protection is assessed, based on the individual merits of each case.

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<sup>1</sup> Refworld/ [Radio Free Europe/Radio Liberty](#)/ June 27, 2012: *Uzbekistan reinstates exit visas to Tajikistan, Turkmenistan*.

<sup>2</sup> CNDA, 17 novembre 2011, n°743375, M. A.



**New Zealand:** See Q. B1.

**Norway:** As mentioned in the answers above, we are of the opinion that the legal exit with an exit visa may indicate that a person is not wanted by the Uzbek authorities. The fact that the Uzbek asylum seekers have left Uzbekistan without an exit visa or that their exit visa has expired is not considered decisive for the outcome of their application for asylum in Norway. In current practice, Norway grant no protection or residence on humanitarian grounds to Uzbek asylum seekers solely on the basis that they have left Uzbekistan without a valid exit visa, or because their exit visa has expired.

Sweden: When trying to answer these sorts of questions it is important to emphasize that asylum cases are assessed individually and there are often a lot of different aspects that must be taken into consideration in the final assessment of an asylum case. It happens very rarely that there is just one issue to assess. An import factor when assessing issues of departure from Uzbekistan is if the Uzbek authorities already have an interest in the person in question or not.

#### *Exit permits*

According to the information received from the FFM's to Kyrgyzstan and Russia Uzbek citizens must have an exit permit to leave the country. It is easier for ethnic Uzbeks than minorities to obtain such permits. It is easier to obtain exit permits to the countries of the former Soviet Union, with the exception of the Baltic States and Georgia. According to the representative of the Ferghana News Agency, which is confirmed by representatives of the Swedish Embassy in Moscow, but also supported by other reports, Uzbeks may travel to other CIS countries without exit permits. Otherwise, the rules for getting exit permits have been tightened. It requires a stamp from OVIR and a stamp from the local mahalla valid for two years and must be renewed. It often happens that people working abroad and then return to renew their exit permits. It is possible to bribe the police to get a new permit.

#### *Punishments*

Persons returning without the exit stamp in their passports sentenced to fines, not imprisonment. Getting caught in connection with illegal border crossing is punishable. According to Memorial's representative, the illegal exit could render a custodial sentence.

#### *Registration abroad*

There is a requirement to register with the consulate abroad. If Uzbeks do not register for five years, they lose their citizenship. Furthermore, according to the representative of illegally acquiring dual citizenship - it is considered treason and is punishable.



Considering the information given above is not possible to give accurate answer to the questions B 1-3.

What we could say is that an illegal departure from Uzbekistan is a serious factor when assessing the case and could indicate problems if the person in question returns to the country. If a person is in possession of an exit visa this generally indicate that the exit is approved by the Uzbek authorities and is an important factor when assessing the case. Question number three has to be answered in a case by case approach. Simply the fact that an asylum applicant lacks an exit visa from Uzbekistan is however not per se enough to grant the person asylum in Sweden.

### **C. Country of Origin Information (COI)**

**Please list the most important and recent country of origin information that forms the basis of your asylum policy concerning asylum applicants from Uzbekistan in relation to legal/illegal exit and re-entry issues.**

**Belgium:** General: BE has done research on related topic in the past, mainly around the time UNHCR issued statements urging that ‘Return to Uzbekistan, should be weighed with extreme caution and care’ (2006-2007). Since then BE has not done further active research on this topic but at the same time did not receive information indicating that the situation has changed significantly since then.

BE has consulted a report by Landinfo (last version available to BE: May 2011).

**Canada:** Although decision makers of the RPD are independent, as an administrative tribunal, the RPD promotes consistency in decision-making by providing them with a number of resources and tools. Among those tools are National Documentation Packages (NDP) on refugee-producing countries. These packages form a common evidentiary base for members across the country to use when hearing refugee claims.

A NDP is a selection of documents that, although not an exhaustive source of information, aims to accurately and objectively report on human rights and country conditions in the countries from which refugee claimants originate. The packages are standard in format, are nationally issued and provide the best available current country of origin information to decision makers involved in the refugee determination process. This information is equally available to all other parties involved in the process and does not limit, restrict or preclude the submission of additional information to the IRB by such parties, particularly the claimant.

The NDP compiled for Uzbekistan was last updated in May 2012 and is available at: [http://www.irb-cisr.gc.ca:8080/Publications/PubNDP\\_CDN.aspx?id=5128](http://www.irb-cisr.gc.ca:8080/Publications/PubNDP_CDN.aspx?id=5128)

[The Canadian National Documentation Package can be found in Annex B]

**Ireland:**



Please see the compilation of COI in relation to Uzbekistan as prepared by the Refugee Documentation Centre of Ireland [...] below.

**Please list the most important and recent country of origin information that forms the basis of your asylum policy concerning asylum applicants from Uzbekistan in relation to legal/illegal exit and re-entry issues.**

**Please supply information about the following questions:**

- 1. Do the Uzbek authorities automatically assume that Uzbeks who return from Western countries have applied for asylum there and what are the consequences in terms of how returnees are treated?**
- 2. How are Uzbeks treated upon return to Uzbekistan if they have never had an exit visa or if the exit visa has expired during their stay abroad? Do the following issues play a role in this respect?**
  - a. applicants profile (cf. “B. Asylum policy/precedence”)**
  - b. voluntary return vs. forced return**
  - c. Uzbek authorities suspect that the person has applied for asylum in a Western country/has stayed in a Western country.**
- 3. How are Uzbeks treated upon return to Uzbekistan if they are in possession of a valid exit visa? Do the following issues play a role in this respect?**
  - a. applicants profile (cf. “B. Asylum policy/precedence”)**
  - b. voluntary return vs. forced return**
  - c. Uzbek authorities suspect that the person has applied for asylum in a Western country/has stayed in a Western country.**

Information on the above matters was scarce among sources consulted by the Refugee Documentation Centre within time constraints.

A submission by Amnesty to the Human Rights Committee states:

“Amnesty International has been particularly concerned about the requirement that Uzbekistani nationals apply for and obtain permission to travel abroad before leaving the country and Article 223 of the Criminal Code which punishes illegal exit and entry of the country, including return to the country after the expiry of the permission to travel abroad. According to the procedures in place, an individual submits their passport and a completed questionnaire to the local Department of Internal Affairs which, within 15 days, returns it with a sticker, valid for two years, authorizing the travel. Citizens who do not have a passport (authorizing foreign travel)



are entitled to receive a passport and enabling sticker from their local Department of Internal Affairs, also within a period of 15 days. Throughout the two years of their authorized travel, Uzbekistani bearers of such passports may freely leave and enter Uzbekistan. Amnesty International is concerned that human rights defenders and independent journalists have been refused permission to travel abroad or have suffered long delays in being issued with permission to travel abroad.” (Amnesty International (28 April 2009) *Uzbekistan: Submission to the Human Rights Committee, 96th session, 16-31 July 2009, Pre-sessional meeting of the Country Report Task Force on Uzbekistan*, p. 10)

This submission also states:

“Illegal exit abroad or illegal entry into Uzbekistan, including by overstaying the permission to travel abroad or failing to renew it, are punishable under Article 223 of the Criminal Code with fines or with imprisonment from three to five years or in aggravated circumstances by up to 10 years’ imprisonment. Returned asylum-seekers are particularly vulnerable to being charged under Article 223, as many will not have renewed their permission to travel abroad (having applied for asylum abroad). Other Uzbekistani nationals have reportedly also fallen increasingly foul of the travel regulations while they were abroad, as new regulations, in some instances, have not allowed nationals to renew their permission or exit visas in their nearest Uzbekistani consulate, but rather have required them to do so in Uzbekistan at the local Department of Internal Affairs which gave them their original documentation. Amnesty International has learned of at least one Uzbekistani national who was prosecuted under Article 223 of the Criminal Code for failure to do this in 2007, two years after the Human Rights Committee recommended that Uzbekistan ‘abolish the requirement of an exit visa for its nationals’. This individual was charged with illegal exit abroad upon return to Uzbekistan and sentenced to five years’ imprisonment. Although later released from prison under an amnesty, the individual remains under a form of house arrest and under a permanent foreign travel ban. By law, Uzbekistani citizens do not require an exit visa if they are travelling to another country in the Commonwealth of Independent States (CIS). In at least three recent cases, however, Uzbekistani human rights defenders who went to Kyrgyzstan, a member of the CIS, were prosecuted under Article 223 of the Criminal Code.” (Ibid, pp. 10-11)

I have attached Amnesty International (May 2010) *Uzbekistan: A Briefing On Current Human Rights Concerns*, which repeats much of the above material.

An Upper Tribunal (Immigration and Asylum Chamber) Determination states the following under the heading ‘Country Guidance’:



“(1) Article 223 of the Uzbekistan Criminal Code (UCC) makes it an offence for a citizen to leave the country without permission – what is described as "illegal exit abroad". The basic offence of "illegal exit abroad" is punishable by a fine or by imprisonment for between three to five years.

(2) In specified aggravating circumstances (a physical breach of the border, conspiracy, or the exit abroad of a state employee requiring special permission) the penalty for "illegal exit abroad" under Article 223 of the UCC rises to five to ten years' imprisonment. It is unclear from the evidence before us whether a fine will also be imposed.

(3) Uzbek citizens are required to obtain an exit permit prior to leaving the country. However, Annex 1 to the Resolution of the Council of Ministers No. 8, issued on 06.01.1995, provides that no penalties apply to someone who returns to Uzbekistan after the expiry of their exit permit. Normally, exit permits can be renewed at the Uzbekistan Embassy in the third country where an Uzbek citizen is living.

(4) There are cases of Uzbek nationals, having left the country lawfully, nevertheless being charged with "illegal exit abroad" and prosecuted under Article 223 following their return to Uzbekistan with expired exit permits. However, those cases involved pre-existing interest by the authorities, association with the events in Andijan in 2005, association with Islamic militant activity, travel to countries other than that authorised in the exit permit or other such distinguishing features.

(5) There is no evidence of prosecutions under Article 223 of the UCC of ordinary returning Uzbek citizens with expired exit permits, including failed asylum seekers, where such individuals had no particular profile or distinguishing features which would otherwise have led to any adverse interest in them. It has therefore not been established that such returnees are at real risk of persecution on return.

(6) The ill-treatment of detainees is a pervasive and enduring problem in Uzbekistan, for which there is no concrete evidence of any fundamental improvement in recent years (*Ergashev v Russia* [2009] ECtHR 12106/09 ECHR 2249). Therefore, where an Uzbek citizen is likely to be detained on return, Article 3 ECHR will be engaged.

(7) The country guidance given by the Asylum and Immigration Tribunal in OM (Returning citizens, minorities, religion) Uzbekistan CG [2007] UKAIT 00045 is re-affirmed.” (*LM (returnees – expired exit permit) Uzbekistan CG [2012] UKUT 00390 (IAC)*)

A Country Advice published by the Australian Government Refugee Review Tribunal states:



“Several human rights organisations have warned that failed asylum seeker on return to Uzbekistan face dangers including harassment, detention, false charges at trials, imprisonment, and possibly torture. There is also information indicating that the government sometimes exerts pressures on families of asylum seekers and other governments to force the return of asylum seekers, most likely to face charges from authorities. The suppression of media reporting in Uzbekistan has likely prevented documentation of individual cases; however, the general assessment of the poor situation of human rights in Uzbekistan by the international community indicates it is likely that returnees could be ill-treated by authorities.

Information is also provided below regarding one notable instance where a citizen of Uzbekistan, who was granted asylum in Australia, returned to Uzbekistan to visit family, was put on trial, and is now serving a ten-year sentence.

Human Rights Watch, in the May 2008 special report *Saving its Secrets*, describes the very poor treatment of failed asylum seekers and voluntary returnees connected to the Andijon massacre. While the report is focused on this particular event, it illustrates that Uzbekistan authorities have used pressure on families to force individuals to return; they have arbitrarily arrested and harassed returnees, conducted repeated interrogations, and forced some to sign false confessions.

An Uzbekistan human rights organisation named Uznews, which operates outside Uzbekistan, has lobbied extensively on behalf of Uzbeks who are denied asylum and facing forcible repatriation, warning that the failed asylum seekers face certain harm from authorities. Several reports and recent appeals on their website have been directed toward recent Polish and Swedish decisions to deport failed asylum seekers back to Uzbekistan.

[...]

AI and other sources have reported on the case of Uzbekistani Dilorom Abdukadirova, who successfully sought asylum in Australia in 2005 following the government crackdown and massacre of demonstrators in Andizhan. Ms Abdukadirova, who was at Andizhan in 2005, fled the country without her husband and children. After obtaining assurances from the government that she would not be harmed, she travelled back to Uzbekistan January 2010 to visit her family. She was immediately detained for four days upon arrival and then released. In March 2010 she was again detained and kept incommunicado for two weeks and released. In April she was put on trial on „anti-constitutional charges as well as illegal exit and entry to Uzbekistan for her participation in the Andizhan events“ . She was subsequently sentenced to ten years and two months in prison on 30



April.” (Australian Government Refugee Review Tribunal (8 December 2010) *Country Advice - Uzbekistan*, pp. 8-10)

This Country Advice also states:

“Several sources indicate stringent and oppressive exit procedures are in place in Uzbekistan, and it is likely that anyone of interest to authorities or on restrictive list would be identified upon attempting to exit. According to 2008 Uzbekistan government information provided to the UNHCR and published in the UN Human Rights Committee: Third Periodic Report, Uzbekistan, citizens intending to travel abroad must apply to the office of the Ministry of Internal Affairs and submit their Uzbekistan passport. The application is processed within 15 days and, if successful, the applicant receives a stamp in their passport that authorises travel abroad. The stamp is valid for two years, during which time the relevant passport-holder can make multiple trips abroad without having to apply to the Ministry for authorisation.

It is possible that citizens who have come to the attention of authorities will be denied issuance of the travel stamp and prevented from departing. A citizen’s name may be placed on a restricted travel list for several reasons, including anyone possessing sensitive state information, someone subject to criminal proceedings, someone under supervision of the police for past acts, someone who has submitted false information, or someone obligated to military service.

In 2010, the Uzbekistan–German Forum for Human Rights published a paper that responded to the Uzbekistan report to the UNHRC. It argued that, in practice, the types of individuals who are denied permission to travel abroad, or whose decisions by the Ministry are delayed, go far beyond the above-listed categories. The Report states that individuals whom authorities consider to be disloyal and individuals on whom authorities have placed secret restrictions are also targets for discrimination with respect to the denial of exit visas:

- 1) individuals who, from the point of view of the authorities, are considered to be ‘disloyal,’ often including human rights and civil society activists, independent journalists, religious zealots, and members of religious communities.
- 2) individuals of the age of 18 and some older, upon whom the authorities have secretly placed restrictions in the last two or three years...

The report also states that visa-issuing agencies often delay applications so as to solicit a bribe – in the capital, Tashkent, this practice is frequent. The report alleges that the National Security Service (NSS) has oversight of all



applications and monitors agencies suspected of taking bribes without NSS permission. Relevant excerpts of the report appear below:

Often, there are delays in issuing travel permits simply out of corrupt motives because it compels the applicant to pay a bribe to expedite the process.

...Permission for leaving is issued by the Department of Exit, Entry and Citizenship at the Internal Affairs district offices. But these departments do not make decisions themselves; they are merely a screen for security authorities. Upon receipt of an application, they slip these statements to the city or regional departments of the National Security Service (NSS), where the decisions whether to accept or deny an application are actually made. ... Since 2005, the NSS has increased its control over the Department of Exit, Entry and Citizenship. Since then, NSS delegated its staff to the Department of Exit, Entry and Citizenship to consider applications and make decisions by checking them with the 'blacklist' of dissidents and the instructions with regards to other discriminated categories of population, namely young men eligible to be called for military service or religious zealots of not traditional persuasions. ... Such denials have become routine. Thus it has apparently been decided to reduce the communications costs – the representatives of the NSS administer routine refusals on-site and monitor the Department of Exit, Entry and Citizenship suspected of taking bribes for granting exit visas without NSS permission.

In June 2010, Freedom House reported that the Uzbekistan government places restrictions on foreign travel, including exit visas, which are often issued selectively. In the 2009 Country Report on Human Rights Practices - Uzbekistan, the US Department of State (USDOS) noted that citizens often bribe officials to obtain the exit visas. General information on the USDOS website concerning travel within Uzbekistan states that 'the Uzbekistan Government tightly controls all official border crossings.' The UK Foreign & Commonwealth Office warns 'do not try to cross the border illegally as the absence of entry/exit stamps will cause problems (e.g. possible detention or fines) when you try to leave or re-enter.'" (Ibid, pp. 7-8)

The US Department of State Country Report states under the heading 'Emigration and Repatriation':

"In theory, returning citizens must prove to authorities that they did not acquire foreign citizenship while abroad or face loss of citizenship. In practice citizens who possessed dual citizenship generally traveled without impediment.



The government noted that citizens residing outside the country for more than six months could register with the country's consulates, and such registration was voluntary. Unlike in some previous years, there were no reports that failure to register rendered citizens residing abroad and children born abroad stateless.” (United States Department of State (24 May 2012) *2011 Country Reports on Human Rights Practices – Uzbekistan*)

This report also states under the heading ‘Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons’:

“In-country Movement. The constitution and law provide for freedom of movement within the country and across its borders, although the government limited this right in practice. The government at times delayed domestic and foreign travel and emigration during the visa application process. Borders occasionally were closed around national holidays due to security concerns. Permission from local authorities is required to move to Tashkent City or Tashkent Region, although authorities rarely granted such permission without the payment of bribes.

“Foreign Travel. Citizens are required to have a domicile registration stamp in their passport before traveling domestically or leaving the country. The government also requires citizens and foreign citizens permanently residing in the country to obtain exit visas for foreign travel or emigration, although it generally grants the visas. In July the Cabinet of Ministers adopted amendments to exit visa procedures that allowed denial to travel on the basis of ‘information demonstrating the inexpedience of the travel.’ According to civil society activists, these provisions were poorly defined and such decisions could not be appealed. In addition, ostensibly in an effort to combat trafficking in persons, the country introduced regulations that required male relatives of women age 18 to 35 to submit a statement pledging that the women would not engage in illegal behavior, including prostitution, while abroad.

As in past years, although the law prescribes that a decision should be reached within 15 days, there were reports that the government delayed exit visas for human rights activists and independent journalists to prevent their travel abroad. For example, during the year authorities subjected human rights activists Dmitry Tikhonov and Vladimir Khusainov, and independent journalist Abdumalik Boboev to such delays, although Tikhonov and Boboev eventually received visas after waiting 10 and four months, respectively. In August the government refused to issue an exit visa to human rights activist Tatiana Dovlatova, citing her January conviction on hooliganism charges.



Citizens generally continued to be able to travel to neighboring states. Land travel to Afghanistan remained difficult. Citizens needed permission from the NSS to cross the border.” (Ibid)

A report by the Arkansas Times states:

“Sitting in an airport in Washington, D.C., with a Coke in one hand and a Big Mac in the other, a 16-year-old just arrived from Uzbekistan was wide-eyed with curiosity. So this is America?

Now, 12 years after his first visit to the United States, Dmitriy Nurullayev, a first-year law student at the William H. Bowen School of Law of the University of Arkansas at Little Rock, feels like he is an American. The problem is, so do the authorities in Uzbekistan - or close enough; they believe he's a spy for the CIA. If Nurullayev, 23, can't get asylum in the United States, he believes he faces years in prison when his student visa expires and he's forced to return to the former Soviet state.

America is home to him because "home is where you feel safe," Nurullayev said in an interview. It is also where his views of Uzbekistan corruption, which he has long been aware of, came into clearer focus.” (Arkansas Times (22 February 2012) *Seeking asylum*)

A document by Human Rights Watch states:

“The Kazakh government has violated international law by forcibly returning at least 28 Uzbeks to Uzbekistan, putting their lives and well-being at risk, Human Rights Watch said today.

The forced returns on June 9, 2011, signal Kazakhstan's disturbing willingness to flout its international commitments not to return any individual to a country where he or she faces credible risk of torture and to protect individuals who have come into its territory fleeing persecution.” (Human Rights Watch (10 June 2011) *Kazakhstan: Forced Returns to Uzbekistan Illegal*)

This document also states:

“The wives and children of the men who were extradited - and at least four men who are still detained in Kazakhstan - are also at great risk should they be returned to Uzbekistan, Human Rights Watch said. The 28 Uzbeks had been in custody in Kazakhstan since last year after Uzbekistan filed a request for their extradition. Human Rights Watch called on the international community to redouble efforts to prevent further forced returns by the Kazakh government and to secure access to the extradited men in Uzbekistan.



The 28 Uzbeks, two of whom are believed to be Tajik nationals, are Muslims who fled Uzbekistan fearing religious persecution and were wanted by Uzbek authorities on various anti-state and religion-related charges. In a December 2010 letter to the prosecutor general of Kazakhstan, Human Rights Watch described how Uzbeks charged with religion-related offenses have routinely been tortured.

Uzbekistan's record of torture and ill-treatment of pretrial detainees and prisoners has been documented by many United Nations bodies. In December 2010, the UN Committee against Torture even issued interim measures to the Kazakh government directing it to refrain from extraditing the men to Uzbekistan based on the credible risk they could face torture there. Only last month, on May 6, the committee reiterated the warning to Kazakhstan.

Theo van Boven, then the UN Special Rapporteur on Torture, in 2003 found torture in Uzbekistan to be 'systematic.' The UN Committee against Torture, after its periodic review of Uzbekistan in 2007, found that torture in detention in Uzbekistan is 'routine' and occurs 'with impunity.' Methods of torture and other ill-treatment have included electric shock, beatings with truncheons, rape and other sexual abuse, asphyxiation, and psychological abuse, including threats to harm a detainee's relatives." (Ibid)

A report by the Coventry Evening Telegraph states:

"A heartbroken Coventry mother has spoken of her fears for her son's safety after he was deported to Uzbekistan. Care worker Liliya Kirienko claims her son Alexey, 24, was dumped 200 miles from his home city with just the clothes he stood up in. He is now stranded in the Uzbekistan capital, Tashkent, with no passport, no luggage, no money and no hope of getting home, she said. Liliya, aged 41, is terrified for her son's safety as he is living on the streets and working odd jobs to survive. 'The police have told him because he crossed the border illegally he could go to jail for two to five years and be fined pounds 6,000,' said Liliya, of Wordsworth Road, Stoke. Alexey fled Uzbekistan to escape the repressive regime. He came to the UK to be with his mother, but was detained on arrival and was eventually escorted back to Tashkent three weeks ago but no arrangements were made to return him to his home town of Namangan. His mother only has contact with him because she gave him her mobile phone when she saw him the day he was deported.

'One day I tried to call him and there was no answer - I thought he might be dead,' said Liliya, who has lived in Coventry for five years with her husband Peter, who grew up in the city.



A UK Border Agency spokesman said: 'It is always better for a failed asylum seeker to leave the UK voluntarily. But we will enforce the return of those that refuse to leave voluntarily. We will only enforce a return where our decision makers and the independent courts are satisfied that it is safe to do so.' (Coventry Evening Telegraph (18 October 2008) *A mother's fear for her deported son; Immigrant: Asylum seeker living rough after being taken back to Uzbekistan*)

## References

Amnesty International (May 2010) *Uzbekistan: A Briefing On Current Human Rights Concerns*; <http://amnesty-eu.temp.brainlane.com/static/documents/2010/UzbekBrief2010.pdf> (Accessed 26 February 2013)

Amnesty International (28 April 2009) *Uzbekistan: Submission to the Human Rights Committee, 96th session, 16-31 July 2009, Pre-sessional meeting of the Country Report Task Force on Uzbekistan*; Document found on internet: URL not available

Arkansas Times (22 February 2012) *Seeking asylum*; <http://www.lexisnexis.com/> This is a subscription source (Accessed 26 February 2013)

Australian Government Refugee Review Tribunal (8 December 2010) *Country Advice – Uzbekistan*; <http://www.mrt-rrt.gov.au/CMSPages/GetFile.aspx?guid=25c878cf-3bc7-46f9-afbd-b9aff8c15506> (Accessed 26 February 2013)

Human Rights Watch (10 June 2011) *Kazakhstan: Forced Returns to Uzbekistan Illegal*; <http://www.hrw.org/news/2011/06/10/kazakhstan-forced-returns-uzbekistan-illegal> (Accessed 26 February 2013)

UK Upper Tribunal (Immigration and Asylum Chamber) *LM (returnees – expired exit permit) Uzbekistan CG [2012] UKUT 00390 (IAC)*; <http://www.ein.org.uk/> This is a subscription source (Accessed 26 February 2013)

United States Department of State (24 May 2012) *2011 Country Reports on Human Rights Practices – Uzbekistan*; <http://www.state.gov/documents/organization/186693.pdf> (Accessed 25 February 2013)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

## Sources consulted



Amnesty International  
Australian Government Refugee Review Tribunal  
Electronic Immigration Network  
European Council on Refugees and Exiles  
European Country of Origin Information Network  
Freedom House  
Google  
Human Rights Watch  
Lexis Nexis  
Refugee Documentation Centre Databases  
UNHCR Refworld  
United Kingdom Foreign and Commonwealth Office  
United States Department of State

**Norway:** We base our asylum practice on the following main sources: national/international law and reports from the Norwegian Center for Country Information (Landinfo), and information detained from NGOs. Norwegian Centre for Country Information (Landinfo) has prepared a report detailing information about the situation of Uzbek asylum seekers who return to Uzbekistan, updated as of May 20, 2011. Following the judgement by EMD on the 18. Desember 2012 in the trial of F.N. AND OTHERS v. SWEDEN  
[\[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-115396#{"itemid":\["001-115396"\]}\]](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-115396#{), we are now reviewing our practice.

**1. Do the Uzbek authorities automatically assume that Uzbeks who return from Western countries have applied for asylum there and what are the consequences in terms of how returnees are treated?**

**Belgium:** BE has no information on the assumptions of the Uzbek authorities regarding Uzbek citizens returning from Belgium (in relation to legal/illegal exit and re-entry issues).

Migration from Uzbekistan to Belgium is mixed (commercial reasons, travel, asylum, ...) (no statistics available, however).

**Canada:** n/a

**New Zealand:** See Q. B1.



**Norway:** We do not have information that the Uzbek authorities automatically draw the conclusion that a citizen has applied for asylum, when returning from western countries. Nevertheless many sources state that this may be the situation when asylum seekers return.

**Sweden:** The general reasoning of the consulted sources regarding the view of the Uzbek authorities on citizens who have applied for asylum in other countries are in some aspects contradictory. The sources unambiguously state that former asylum seekers who return to Uzbekistan may be suspected and have serious allegations brought against them, as the asylum application as such is significant to the Uzbek authorities. However, the sources do not share a common view regarding who among former asylum seekers may be at risk. On the one hand, some sources state that applying for asylum is viewed upon as an act of treachery and that returning former asylum seekers are therefore severely punished, as well as that Uzbek authorities are induced to suspect that a person who has applied for asylum in another country is an Islamist or oppositional and that an asylum application in such cases may constitute a ground for conviction. On the other hand, some sources state that persons who have applied for asylum for social or economic reasons are not targeted, with the exception of persons who are already blacklisted by the authorities, and that there is no known cases where such persons have been punished. Uzbek authorities know that there are persons who have had other reasons for applying for asylum than political/religious among Uzbek asylum seekers, and such persons are not punished.

When assessing the various statements regarding possible risks associated to return, the following has to be taken into account. The sources give few concrete examples to support their reasoning regarding the risk associated with asylum applications and the situation of returning former asylum seekers. The examples given most often concern persons whom the Uzbek authorities, according to the sources, have already shown interest in (which, for example, have been manifested through warrants) or persons who have pursued oppositional activities while abroad. Sources arguing that an asylum application is considered by the Uzbek authorities as an act of treachery and that returning asylum seekers therefore are punished, and that Uzbek authorities suspect persons who have applied for asylum being Islamist or oppositional, do not appear to differentiate between persons who have left Uzbekistan due to fear of authorities' measures and persons who have had other reasons for leaving the country. The representatives of Memorial and Ferghana Valley Lawyers Without Borders make this distinction, and stresses that the consequences of return for the two categories are different, and, thus, appear to be more nuanced in their statements. In addition, it is important to note that Memorial is systematically monitoring and documenting cases where persons have been convicted on political or religious grounds in Uzbekistan and that the representative of the organization is not familiar with any case where a former asylum seeker, whose motive for applying for asylum has been social or economic, has been punished after having returned to Uzbekistan.



The Uzbek regime is of a repressive nature and has a strong control over its population. At the same time, several sources describe the Uzbek exercise of authority as arbitrary and unpredictable but also that the authorities can react to, inter alia, non-sanctioned religious practice with considerable delay. Statements about black lists etc., which implicate that persons have been identified by the authorities due to, for example, their religious practice without other measures having been taken, are frequent among the consulted sources.

Overall, there are not sufficient grounds to conclude that returning former asylum seekers who have not previously come to the attention of Uzbek authorities risk being subjected to reprisals due to their asylum application. However, the general reasoning by the consulted sources, along with other stated circumstances, in particular the arbitrariness and unpredictability of Uzbek exercise of authority, urges a high degree of caution in return procedures. In addition, statements regarding the Uzbek regime's negative view of Sweden appear reasonable and relevant to consider in this context.

**2. How are Uzbeks treated upon return to Uzbekistan if they have never had an exit visa or if the exit visa has expired during their stay abroad? Do the following issues play a role in this respect?**

**Belgium:** General remark: Sources have indicated that re-entry with invalid exit visa could lead to questioning.

**Canada:** n/a

**New Zealand:** See Q. B1.

**Norway:** We do not have access to reports on how the Uzbek authorities treat this group. But several sources claim that the authorities will keep an eye on these people and that they might be under surveillance from the authorities.

*a. applicants profile (cf. "B. Asylum policy/precedence")*

**Belgium:** Different sources point out that the applicant's profile does indeed play a role in the treatment upon return. (a clear example could be Andijan refugees)

**Canada:** n/a

**Norway:** If a returnee has a low profile, it's our opinion that this person is not likely to risk negative attention from the Uzbek authorities but they are still in a situation where the authorities might use the Criminal Code art. 223. It seems like the law is being used as it suits the authorities.

*b. voluntary return vs. forced return*

**Belgium:** BE has no specific information on the difference in treatment.

**Canada:** n/a



**Norway:** Voluntary vs. involuntary return: at the present time Norway return Uzbek citizens both voluntary and involuntary. We do not officially inform Uzbek authorities of the reason for returning their citizens. If a person returns voluntarily it will create less attention. It is important to do the return as discretely as possible for those being forcibly returned to Uzbekistan to avoid attention.

*c. Uzbek authorities suspect that the person has applied for asylum in a Western country/has stayed in a Western country.*

**Belgium:** Sources refer to the “paranoid” attitude of the Uzbek authorities and the “imputed political opinion” or single out specific countries that raise suspicion (UNHRC mentioned SW and NO in particular) or give less cause for suspicion. However BE does not have specific information on the treatment.

**Canada:** n/a

**Norway:** We do not have information on whether the art 223 in the Criminal Code will be used against persons that Uzbek authorities suspect having asked for asylum in a Western country. As earlier stated the Uzbek authorities seem to use the law in an arbitrary manner.

**Sweden:** Please also see the answer to question C: Q:1 regarding the aspects of a. applicants profile, b. return arrangements and c. the Uzbek view on asylum applications abroad. Also see answer to B: Q.3 subtitle exit permits.

Persons staying abroad longer than two years are, according to the representative of Ferghana News Agency, held administratively responsible and sentenced to fines. Likewise, persons returning to Uzbekistan without exit stamps are, according to the representative of Ferghana Valley Lawyers Without Borders but with the exception of persons who have been blacklisted, held administratively responsible and sentenced to fines, not imprisonment. However, getting caught in connection with illegal border crossing is punishable. According to Memorial's representative, illegal exit could render a custodial sentence.

**3. How are Uzbeks treated upon return to Uzbekistan if they are in possession of a valid exit visa? Do the following issues play a role in this respect?**

**Belgium:** General remark: Re-entry with valid exit-visa can give less cause for (any kind of) suspicion upon return, but responses to the questions under C.2. could apply here as well.

**Canada:** n/a

**Germany:** Neither our country analysts nor our case workers are aware of cases where individuals were persecuted upon their return to Uzbekistan merely because they filed an asylum application abroad, exited Uzbekistan illegally or overstayed their exit visa abroad (In this context one has to bear in mind that the overall number of asylum applications filed by persons from Uzbekistan is very small).



**New Zealand:** See Q. B1.

**Norway:** We do not have access to concrete information on how the Uzbek authorities treat this group or unambiguous information that they are treated differently than people who return without valid exit visa.

*a. applicants profile (cf. "B. Asylum policy/precedence")*

**Belgium:** See response to 2.a.

No information whether a distinction between legal/illegal exit and re-entry (valid/invalid exit visa) could or should be made in this regard.

**Canada:** n/a

**Norway:** The Applicant Profile is of importance even when they have a valid exit visa. If a person of a high profile returns with a valid exit visa, he will still be under surveillance because of his high profile.

*b. voluntary return vs. forced return*

**Belgium:** Re-entry with valid exit-visa can give less cause for (any kind of) suspicion upon return, either voluntary or forced.

**Canada:** n/a

**Norway:** We do not have information that Uzbek authorities treat their returnees carrying valid exit visa differently whether they are returning voluntary or with force. As previously mentioned Norway tries to conduct the transfers as discretely as possible for those being forcibly returned to Uzbekistan.

*c. Uzbek authorities suspect that the person has applied for asylum in a Western country/has stayed in a Western country.*

**Belgium:** See response to 2.c.

No information whether a distinction between legal/illegal exit and re-entry (valid/invalid exit visa) could or should be made in this regard.

**Canada:** n/a

**France:** We don't have any specific COI on the topics mentioned above.

**The Netherlands:** First of all we would like to stress that our Office for country information and language analysis does not receive many questions about this topic. Therefore our information position with regard to this matter is not particularly strong.



On the subject is some information available dated 23 November 2012 from the Upper Tribunal (Immigration and Asylum Chamber)<sup>3</sup>. After a thorough examination and assessment of the available country of origin information and having heard several experts, some of their conclusions are:

“Article 223 of the Uzbekistan Criminal Code (UCC) makes it an offence for a citizen to leave the country without permission – what is described as “illegal exit abroad”. The basic offence of “illegal exit abroad” is punishable by a fine or by imprisonment for between three to five years.”

“In specified aggravating circumstances (a physical breach of the border, conspiracy, or the exit abroad of a state employee requiring special permission) the penalty for “illegal exit abroad” under Article 223 of the UCC rises to five to ten years’ imprisonment. It is unclear from the evidence before us whether a fine will also be imposed.”

“Uzbek citizens are required to obtain an exit permit prior to leaving the country. However, Annex 1 to the Resolution of the Council of Ministers No. 8, issued on 06.01.1995, provides that no penalties apply to someone who returns to Uzbekistan after the expiry of their exit permit. Normally, exit permits can be renewed at the Uzbekistan Embassy in the third country where an Uzbek citizen is living.” (Although this last point is stated in the law and the evidence in the case leads to this conclusion, we have some doubts as to whether this is actually possible in practice)”

“There is no evidence of prosecutions under art 223 of the UCC of ordinary returning Uzbek citizens with expired permits, including failed asylum seekers, where such individuals had no particular profile or distinguishing features which would otherwise have led to any adverse interest in them. It has therefore not been established that such returnees are at real risk of persecution on return.”

“There are cases of Uzbek nationals, having left the country lawfully, nevertheless being charged with “illegal exit abroad” and prosecuted under art 223 of the penal code following their return to Uzbekistan with expired exit permits. However, those cases involved pre-existing interest by the authorities, association with the events in Andijan in 2005, association with Islamic militant activity, travel to other countries other than that authorized in the exit permit or other such distinguishing features.”

In general persons returning to Uzbekistan with valid exit visas should not have a problem related to the visa. On the matter of whether forced return or the suspi-

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<sup>3</sup> *LM (returnees - expired exit permit) Uzbekistan CG v. Secretary of State for the Home Department*, [2012] UKUT 00390(IAC), United Kingdom: Upper Tribunal (Immigration and Asylum Chamber), 23 November 2012, available at: <http://www.unhcr.org/refworld/docid/50b774b12.html> [accessed 5 March 2013]



cion of having applied for asylum can cause problems for returning Uzbeks there is no clear information available. According to the above mentioned , and their treatment upon return. It is possible that persons returning on one-way tickets from a western country are suspected of having applied for asylum, but we have no clear information in this or their treatment upon return. There have been suggestions that they would have a problem because of art 139 “Denigration” and art 140 “Insult” of the UCC. Although it is possible that persons returning to Uzbekistan are being charged with violating these articles, there is no clear information on this matter.

**Norway:** If the Uzbek authorities suspect a person of having asked for asylum in a Western country, the question of a valid exit-visa will probably not be of such great importance.

**Sweden:** Please also see the answer to question 1 regarding the aspects of a. applicants profile, b. return arrangements and c. the Uzbek view on asylum applications abroad.

Uzbek authorities do not normally undertake any investigative or other controlling measures when Uzbek citizens return, according to the representative of Memorial.

## **D. Return**

**Please provide a description of your experiences concerning return of failed asylum seekers from Uzbekistan, including forced returns.**

**Australia:** Australia has not previously removed any Uzbekistanis.

**Norway:** 52 persons were forcefully returned to Uzbekistan in 2011 and 20 in 2012 (up to November 2012).

We had interestingly enough a rather high number of voluntary returns to Uzbekistan, 63 in 2012 and 7 as of 1 February 2013.

**1. Do you in advance inform the Uzbek authorities that a returnee is a failed asylum seeker? If yes, what are the implications in terms of how the Uzbek authorities treat the returnee upon entry into Uzbekistan?**

**Belgium:** In case of return, the Belgian Immigration Department will never indicate that the returnee is a rejected asylum seeker.

The number of returnees is very low: in 2012 the Immigration Department requested and obtained 2 laissez-passer, and 1 person was finally returned.

**Canada:** When applying for travel documents, Canada does not inform a foreign mission if the client is a failed asylum; doing so would be contrary to the principle of non-refoulement and could create a refugee sur place situation for the unsuccessful refugee claimant. The mission is simply advised that the client is unable to



comply with the Immigration Act and that a travel document is required in order to facilitate that person's return.

Claims for asylum are adjudicated on a case-by-case basis in which the specific merits of the claim are evaluated. Clients are given access to both a refugee determination process as well as a pre-removal risk assessment, which is done prior to removing a person from Canada. Persons found to be at risk if returned to their country are not removed. Everyone ordered removed from Canada is entitled to due process before the law and all removal orders are subject to various levels of review. When individuals have exhausted all avenues of due process, they are expected to obey our laws and leave Canada.

**France:** OFPRA has no competence over return issues, under the authority of the Ministry of Interior. Therefore we cannot provide information on that topic.

**Germany:** In the case of returns the Federal Police and the Länder do not provide any information to the authorities of the country of destination as to whether the returnees are rejected asylum applicants or not. Only upon request will they inform the authorities of the country of destination that the returnee is required to leave Germany and thus to be returned.

**Ireland:** Ireland has not returned anyone to Uzbekistan in the last 5 years (either forced or voluntarily).

Ireland do not monitor the safety of returnees. We will only return a person to their own country where they have no protection need and there is no risk to the person in doing so.

**The Netherlands:** No, the Dutch Repatriation and Departure Service does not inform the Uzbek authorities in advance that a returnee is a failed asylum seeker.

**New Zealand:** New Zealand does not have a return case load for Uzbekistan and we have not returned any of their nationals recently.

**Norway:** As mentioned above, the returns to Uzbekistan are carried out as discreetly as possible.

**Sweden:** No, we never inform Uzbek authorities, or any other country of origin, that a person is a failed asylum seeker. However, regarding Uzbekistan, this is a sensitive question even if this information is not given. The Swedish Police actually, from yesterday, due to a judgment from the European Court (2012-12-18 - F.N. and others v Sweden) decided that the police, in every case where there are no valid travel documents, must inform the Swedish Migration Board the measures they are planning (for example contacting the UZ embassy in Riga) in order to remove a person to UZ. This means that there will be an individual assessment in every case.



**Switzerland:** Because of the small number of persons to be returned to Uzbekistan (2012: one voluntary return, no forced returns), Switzerland has no substantial cooperation with the Uzbek authorities.

Switzerland does not inform the Uzbek authorities that a returnee is a failed asylum seeker.



## Annex A – Statistics

|    |                                                       |                     |                          |             |                                               |             |             |             |
|----|-------------------------------------------------------|---------------------|--------------------------|-------------|-----------------------------------------------|-------------|-------------|-------------|
| 1  | First and second Instance Asylum Decisions Uzbekistan |                     |                          |             |                                               |             |             |             |
| 2  | 2012                                                  |                     |                          |             |                                               |             |             |             |
| 3  |                                                       | Asylum applications | Geneva Convention Status |             | Subsidiary Protection and Humanitarian Status |             | Rejections  |             |
| 4  |                                                       |                     | 1. instance              | 2. instance | 1. instance                                   | 2. instance | 1. instance | 2. instance |
| 5  | Belgium                                               | 12                  | 4                        |             | 0                                             |             | 14          |             |
| 6  | Canada                                                | 23                  | 15                       |             | 9                                             |             | 9           |             |
| 7  | France                                                | 67                  | 3                        | 5           | 0                                             | 2           | 16          |             |
| 8  | Germany                                               | 34                  | 2                        |             | 0                                             |             | 20          |             |
| 9  | Ireland                                               | 0                   | 0                        |             | 0                                             |             | 0           |             |
| 10 | Netherlands*                                          |                     |                          |             |                                               |             |             |             |
| 11 | New Zealand                                           | 1                   | 0                        |             | 0                                             |             | 0           |             |
| 12 | Norway                                                | 131                 | 9                        |             | 5                                             |             | 130         |             |
| 13 | Sweden                                                | 366                 | 37                       |             | 8                                             |             | 243         |             |
| 14 | Switzerland                                           | 10                  | 7                        |             | 0                                             |             | 17          |             |

\* **The Netherlands:** The Dutch Immigration and Naturalisation Service cannot give reliable figures for the year 2012. This is because in 2012 a start was made to use a new registration system.

For an indication I refer to the statistics of 2011. In 2011 20 persons of Uzbekistan nationality applied for asylum. In five cases this was the second asylum application of the same person.



## Annex B – National Documentation Package provided by the Canadian RPD

30 May 2012

# National Documentation Package<sup>4</sup>

## UZBEKISTAN

### *List of Documents*

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#### 1

#### General Information and Maps

##### 1.1

- a. United Nations. January 2004. [Cartographic Section. "Uzbekistan."](#)
- b. Larousse. N.d. ["Ouzbékistan." L'Encyclopédie en ligne.](#)

##### 1.2

*The Europa World Year Book 2011*. 2011. "Uzbekistan," pp. 4961-4978. London: Routledge. [Electronic version not available. Hard copy may be viewed in IRB regional offices.]

##### 1.3

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<sup>4</sup> Disclaimer: "National Documentation Packages (NDPs) are prepared by the Immigration and Refugee Board of Canada (IRB) on the basis of publicly available information, analyses and comments. All sources are cited. Where possible, links are provided to referenced material available through public web sites. Although the IRB will attempt to ensure that these links are maintained for the most recent NDPs, please note that it cannot guarantee or be responsible for:

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**9**

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**10**

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**11**

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## 16

### Other - (No items in this section)

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*The following changes have been made to the previous package dated 30 May 2011:*

#### *Updated*

- 1.2) *The Europa World Year Book 2010*. 2010. "Uzbekistan," pp. 4858-4875. London: Routledge. [Electronic version not available. Hard copy may be viewed in IRB regional offices.]
- 2.1) United States. 8 April 2011. Department of State. "Uzbekistan." *Country Reports on Human Rights Practices for 2010*.
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