Nordic Journal of Human Rights

ISSN: (Print) (Online) Journal homepage: https://www.tandfonline.com/loi/rnhr20

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Maja Janmyr & Özlem Gürakar Skribeland

To cite this article: Maja Janmyr & Özlem Gürakar Skribeland (2020) Human Rights References in Norway's Readmission Agreements: (How) Do They Protect?, Nordic Journal of Human Rights, 38:1, 18-39, DOI: 10.1080/18918131.2020.1776955

To link to this article: https://doi.org/10.1080/18918131.2020.1776955

NORDIC JOURNAL OF HUMAN RIGHTS
2020, VOL. 38, NO. 1, 18–39
https://doi.org/10.1080/18918131.2020.1776955

Routledge
Taylor & Francis Group

Human Rights References in Norway's Readmission Agreements: (How) Do They Protect?

Maja Janmyr and Özlem Gürakar Skribeland

Faculty of Law, University of Oslo, Oslo, Norway

ABSTRACT

Norway is a country with one of the highest numbers of readmission agreements in Europe, concluded with a view to 'combat' irregular migration and to facilitate return procedures. Despite the widespread perception that such agreements in a sense are human rights 'neutral', this article takes as starting point that the return of irregular migrants is one of the most vexed aspects of migration management, raising not only questions of cooperation between states, but also issues of the protection, safety and dignity of migrants. This article is the first to explore the extent to which Norway's more than 30 readmission agreements take an international human rights law approach. It analyses their scope of application; their specific and general human rights commitments; and issues linked to the return of specific groups of persons. It finds that there are considerable differences between Norway's readmission agreements when it comes to human rights protection, and that even seemingly subtle differences can have important human rights implications. It argues for an overall stronger human rights focus in the drafting and implementation of readmission agreements, and suggests ways in which future agreements be designed with a view to better achieving human rights in practice.

KEYWORDS

Migration management; Return Directive; refugees; asylum seekers; stateless persons; unaccompanied minors; post-return monitoring

1. Introduction

To 'combat' irregular migration and to facilitate return procedures, European states increasingly negotiate legally binding readmission agreements.[1] With respect to the nationals of the parties, these agreements confirm an existing state obligation to readmit, in addition to setting modalities for its exercise in practice, but where applicable to non-nationals, they establish a new legal obligation which is not otherwise found in international law.[2] Among policymakers, there is a widespread perception that such

CONTACT Maja Janmyr maja.janmyr@nchr.uio.no

[1]Council of the European Union, 'Council Conclusions Defining the European Union Strategy on Readmission' Doc 11260/11 MIGR 118 (2011) 2 <www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/65_council122501_/65_council122501_en.pdf> accessed 11 January 2020; Kay Hailbronner and Daniel Thym, *EU Immigration and Asylum Law: A Commentary* (Hart 2016) 299.

[2]Nils Coleman, *European Readmission Policy: Third Country Interests and Refugee Rights* (Martinus Nijhoff 2009) 49; Maria-giulia Giuffré, 'Obligation to Readmit? The Relationship between Interstate and EU Readmission Agreements' in Ippolito

agreements – being merely technical instruments aimed at improving the cooperation between administrations – are in a sense 'neutral' in terms of human rights.[3] However, as this article discusses, the return of irregular migrants is one of the most vexed aspects of migration management, raising not only questions of cooperation between states, but also issues of the protection, safety and dignity of migrants. For vulnerable groups and those with a protection claim, the link between readmission agreements and human rights law is arguably 'essential'.[4]

This article takes Norway as a case study and explores the extent to which Norway's readmission agreements aim to safeguard the human rights of individuals being returned through explicit and/or implicit references to international human rights instruments and standards. As part of this, it also considers the legal and practical value of such references. Concluding readmission agreements has long been among Norway's top priorities – in 2005 alone, the country negotiated six agreements.[5] Today's 32 bilateral agreements make Norway a country with one of the highest numbers of readmission agreements in Europe.[6] At the same time, the current Norwegian government policy is to continue working towards securing readmission agreements with more countries '… in order to avoid that persons stay in Norway without legal residency'.[7] The large number of existing agreements and the continued drive to conclude more make it an opportune time to conduct this analysis, and to discuss how future agreements may provide better protection.

This article analyses Norway's readmission agreements in the context of return from (and not readmission by) Norway. This choice is justified both practically and legally: while all except five of Norway's readmission agreements create formally reciprocal rights and obligations for the parties, involving both return and readmission by Norway, current migration trends and Norway's position as a destination country mean that in practice Norway will often be the returning and not the readmitting party. Furthermore, returns from Norway are likely to raise more issues of human rights and international law than returns to Norway.

This article focuses on 30 of the 32 readmission agreements concluded thus far by Norway, excluding the agreements with Turkey and Germany.[8] This is because the 2016 agreement with Turkey has not been ratified by the parties yet and is not publicly available,[9] and the 1950 agreement with Germany is both too old and stand-alone to be of value for our analysis. Separately, data protection is kept outside the scope of our article as it constitutes a major topic of discussion in its own right.

and Trevisanut (eds), *Migration in Mare Nostrum: Mechanisms of International Cooperation* (Cambridge University Press 2015) 263–87, 271 <doi.org/10.1017/CBO9781316104330.012> accessed 17 January 2020.

[3]European Commission, 'Communication from the Commission to the European Parliament and the Council: Evaluation of EU Readmission Agreements' Doc COM (2011) 76 final, 76, 10 <www.statewatch.org/news/2011/mar/eu-com-readmission-agreements-evaluation-com-76-11.pdf> accessed 11 January 2020.

[4]Steve Peers and others (eds), *EU Immigration and Asylum Law, Volume 2: EU Immigration Law* (Martinus Nijhoff 2012) 571.

[5]Government of Norway, Norges landrapport til Migrasjonsutvalget (2006) 3.

[6]Maja Janmyr, 'Norway's Readmission Agreements: Spellbound by European Union Policies or Free Spirits on the International Field?' (2014) 16(2) European Journal of Migration and Law 181, 185.

[7]Government of Norway, 'Political Platform' (2019) <www.regjeringen.no/no/dokumenter/politisk-plattform/id2626036/> accessed 11 January 2020.

[8]In this article, we use 'readmission agreement' in a wide sense. The agreements with Afghanistan, Iraq, Ethiopia and Burundi are in fact memoranda of understanding; the one with Sri Lanka, an exchange of letters between the parties; and the agreement with former Czechoslovakia is a visa facilitation agreement with a thin readmission clause.

[9]We have confirmed with the Norwegian authorities that the Norway–Turkey Readmission Agreement closely follows the text of the EU–Turkey Readmission Agreement, in line with the joint declaration contained in the latter.

Following this introduction, the article begins with a more general discussion of the implications of Norway's link to the European Union (EU) on readmission and return. The article's main section on human rights safeguards in Norway's readmission agreements is divided into three parts; focusing, first, on their scope of application; second, on the agreements' specific and general human rights commitments; and third, on issues linked to the return of specific groups of persons. One of our key contributions is the development of Table 1, which sets out in detail, both the scope of application of, and the human rights references in, each of Norway's readmission agreements. This table is not intended as a mere visual aid tool and we encourage the reader to study it in detail.

We show that there are considerable differences between Norway's readmission agreements when it comes to human rights protection. While many of the agreements are very similar, and some are likely based on the same precedent, seemingly subtle differences are far from inconsequential and can in fact have important human rights implications. Before concluding, the article discusses opportunities for ensuring human rights compliance in practice, in particular, ways of strengthening the human rights protection in Norway's future readmission agreements.

2. Norway-EU Link: Implications for Readmission Agreements and Return

While not an EU member, Norway strives to harmonise its migration policies to match those of the EU, seeking close cooperation with the EU on almost all matters of immigration and asylum.[10] This includes close dialogue with the European Commission on readmission agreements.[11] The Commission has a mandate to enter into EU level readmission agreements with third countries (EURA). Not being an EU member, Norway does not get the benefit of EURAs; however, the Commission asks that the third countries with which it enters into EURAs conclude agreements on the same terms with Norway, and EURAs contain a standard joint declaration to this effect.[12] In addition, Norway has also concluded a number of agreements which do not have a corresponding EURA, using EURAs as a template also for starting negotiations with those countries.[13] In short, the EU's work on readmission, including EURAs, has a considerable impact on Norway's readmission policy and practice.

Furthermore, through Schengen, Norway is also formally bound by many of the EU's return policies and instruments, including importantly the Return Directive.[14] Binding on all EU member states other than Ireland, and on the four Schengen-associated countries (Switzerland, Norway, Iceland and Liechtenstein), the Return Directive requires these states to return non-nationals staying illegally on their territory. This directive sets out the consequences of illegal stay, while states remain free to decide what constitutes legal

[10] Janmyr (n 6); Vigdis Vevstad, *Utvikling av et felles europeisk asylsystem: jus og politikk* (Universitetsforlaget 2006).
[11] Janmyr (n 6).
[12] For example, the relevant section of the EU–Turkey Readmission Agreement provides: 'The Contracting Parties take note of the close relationship between the Union and Iceland and Norway, particularly by virtue of the Agreement of 18 May 1999 concerning the association of these countries with the implementation, application and development of the Schengen *acquis*. In such circumstances it is appropriate that Turkey concludes a readmission agreement with Iceland and Norway in the same terms as this Agreement.'
[13] Janmyr (n 6) 208.
[14] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348/98, 24 December 2008.

or illegal stay in their country subject to certain limitations, such as those imposed by asylum and human rights laws.

The Return Directive contains references to a number of core international and human rights law instruments and concepts. The preamble provides that the 'best interests of the child' and family life should both be primary considerations in the directive's implementation, in line with the Convention on the Rights of the Child (CRC) and the European Convention on Human Rights (ECHR) respectively (Rec 22); that the directive's application is to be without prejudice to the obligations resulting from the Convention relating to the Status of Refugees, as amended by the Protocol of 1967 (Refugee Convention or RC) (Rec 23); and that the directive respects the fundamental rights and observes the principles recognised in particular by the EU Charter of Fundamental Rights (Rec 24). The directive separately requires that the returns thereunder are to be in accordance with fundamental rights as general principles of EU law as well as international law, including refugee protection and human rights obligations (art 1), and that Norway, in its implementation of the directive, shall take due account of the best interests of the child, family life, the state of health of the persons concerned, and respect the principle of *non-refoulement* (art 5). Finally, Norway is required to postpone any removal if it would violate the principle of *non-refoulement* (art 9(1)(a)).

Separately worth noting is that Norway is already party to all main human rights and other related instruments. These include the ECHR, the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the CRC, the Refugee Convention, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. By contrast, as will be discussed below, states with which Norway has readmission agreements are not necessarily bound by the same instruments or standards.

Thus, Norway is already bound by an extensive set of instruments and standards while taking return decisions and implementing them; however, as the next section will show, the picture is complex and the potential issues manifold, depending on exactly who is being returned and where he/she is being returned. Such an extensive set of legal and human rights considerations is not easy to duly factor into each decision and case of return, especially considering the routine administrative nature of the process. Readmission agreements with the right human rights focus can complement the process.

3. Norway's Readmission Agreements: Human Rights Safeguards

3.1. Scope of application

The human rights protection afforded by Norway's readmission agreements in the context of return from Norway cannot be properly assessed without paying due attention, for each agreement, to the two other actors involved, namely (1) the 'identity' of the other state party to the agreement (i.e. the readmitting state), and (2) the 'identity' of the person being returned (i.e. the agreement's exact scope of application).

What we mean by the identity of the readmitting state is twofold. First, what is that state's standing in terms of its relation to international and human rights law, both in formal terms (e.g. being state party to core treaties) and in practice (which, in addition to actual compliance with those treaties, also implicates core concepts such as democracy, rule of law, transparency, accountability etc.)? Second, is the readmitting state acting in the capacity of a country of origin readmitting its own nationals, or a country of transit readmitting non-nationals? After all, Norway's return of Russian migrant workers back to Russia has different legal and human rights implications than Norway's return of Syrian refugees to Russia.

Regarding the second point, who exactly gets returned also has important legal and human rights implications. Is it only the parties' current nationals? To the extent former nationals are covered, is it only those who renounced their nationality on their own initiative, or also those who were deprived of it by the now-readmitting state of origin? How about other stateless persons, refugees, asylum seekers and minors? Different groups of returnees have different needs and vulnerabilities, and their return and readmission implicate specialised legal regimes.

To evaluate the human rights protection provided by Norway's readmission agreements, we set out in Table 1 the exact scope of application of each agreement and we look at the potential issues linked to the return of various different groups of persons. This allows us to also factor into the analysis the issues linked to the identity of the readmitting state. For example, when discussing return of refugees to a transit state, that state's relation to the Refugee Convention automatically comes into play.

With the exception of the agreements with Afghanistan and Iraq, Norway's readmission agreements apply, as a starting point, to *persons who have no legal right of stay in Norway*, with the exact formulation varying to some extent from agreement to agreement. This is typically (but not always) the only criterion for returning the nationals of the other state-party. When it comes to non-nationals (and to some extent former nationals), additional criteria need to be fulfilled. As is apparent from Table 1 (2nd column), the additional criteria relating to non-nationals may differ considerably, requiring different types and levels of connection to the readmitting transit country.

Of the 30 agreements analysed in our research, those with Afghanistan, Iraq, Ethiopia, Burundi and Sri Lanka do not contain reciprocal rights and obligations but provide only for return from (but not to) Norway. Among these, the agreements with Afghanistan and Iraq stand out in terms of their scope of application: Both apply not only to persons who have no legal right of stay in Norway but also to those who have the right to stay but nonetheless wish to go back to their own country.

Finally, while the agreements with Afghanistan, Iraq and Ethiopia promote and aim for voluntary return of certain groups, they do not rule out – and in fact explicitly retain – the possibility of forced return for others. Thus, it can be said that *all* of Norway's agreements are open for forced return.

3.2. Specific and general human rights commitments

As Table 1 shows, it is in very few of Norway's readmission agreements that the parties make express commitments intended to protect the specific human rights, and/or improve the overall situation, of the persons falling within their scope (4th column).

The agreements with Afghanistan and Iraq (and on the face of it, Ethiopia), are exceptions in this respect. This difference seems to be due to their different scopes of application.

With a validity of two years, the tripartite instrument between Norway, Afghanistan and the UNHCR contains a relatively extensive list of commitments by the parties. This can be explained by the fact that the agreement involves the voluntary return of, among others, Afghans with refugee status or a humanitarian residence permit in Norway, i.e. people who previously had valid reasons to flee Afghanistan. Among all of Norway's readmission agreements, this is in fact the only agreement that concerns the repatriation of refugees.

The agreement with Iraq seems to have taken the Afghan one as a precedent, but is both shorter and provides for overall less protection, which can again be explained by its personal scope of application, which is wider than most agreements (i.e. includes voluntary return of Iraqis with permanent residency and those in asylum application process in Norway) but narrower than the Afghan agreement (i.e. does not include Iraqis with refugee status or a humanitarian residence permit in Norway).

The agreement with Ethiopia seems to have been based on the Iraqi agreement but with yet fewer commitments (see Table 1), which commitments are also comparatively much thinner content-wise. For example, regarding preservation of family unity, the Ethiopian agreement contains only the first sentence of the corresponding six-sentence provision in the Afghan agreement. Whereas the former only requires Norway to make every effort to avoid involuntary separation and to return families as units, the latter also deals with achieving reunification where families nonetheless get separated, in addition to imposing obligations also on Afghanistan, for example with respect to permitting non-Afghan-national family members to enter the country.

The agreement with Vietnam provides that the process will respect the principles of order, safety and respect for human dignity, taking into account humanitarian aspects and family unity of the returnee; that each state-party shall give the person some period to settle his personal matters; and that the returnee will be allowed to transfer/bring with him property acquired in the returning state. Separately, the agreements with Montenegro, Serbia, and Kazakhstan contain express obligations to readmit, alongside own nationals, those nationals' family members who are not nationals of the readmitting state. This is positive in terms of maintaining family unity when the concerned persons wish this.

Finally, some of the agreements contain data protection clauses. While this article does not go into that topic, worth flagging here is that data protection is an issue with important human rights implications. For example, under the agreement with Ethiopia (art 3), Norway is required to share with the Ethiopian authorities 'as much information as possible' about the returnees, and submit its return applications not only to the Ethiopian Ministry of Foreign Affairs but also to the National Intelligence and Security Services/ Immigration, responsible for counterterrorism management and known for its severe human rights violations.[15] Data sharing and protection provisions in Norway's agreements warrant a close review and analysis.

[15]NOAS, '13 Months of Sunshine? Rapport fra NOAS' faktasøkende reise til Etiopia' (2012) <www.noas.no/wp-content/uploads/2003/12/Etiopia-rapport-2012.pdf> accessed 11 January 2020; UN OHCHR, 'Communication from Special Procedures: Allegation Letter' On file with authors (2012).

By contrast to these limited specific commitments, the great majority of Norway's readmission agreements contain some kind of preambular reference to international law and human rights law and/or a non-affection clause. The exact formulations of these vary greatly. The countries with which Norway has negotiated have clearly had different views regarding which international conventions, if any, to mention specifically. For example, Hong Kong was unwilling to include reference to any specific convention when concluding the readmission agreement with Norway.[16] Given that Norway's readmission agreements do not typically contain articles expressing specific human rights commitments towards the persons being returned but more generally reference international and human rights law (whether by general reference or by name), we will focus on those preambular references and non-affection clauses in this section.

Some of Norway's agreements make very brief and broad references to human rights and international law in general. Where Norway's readmission agreements refer to specific international legal instruments, either specifically with their names or in more general terms, those that are referred to are one or more of the following: Universal Declaration of Human Rights (UDHR, non-binding), ICCPR, ECHR/Protocols, CAT, Refugee Convention, Convention on Stateless Persons (once), Convention on Reduction of Statelessness (once), 'international conventions determining the State responsible for examining applications for asylum lodged', 'multilateral international conventions and agreements on the readmission of foreign nationals' and 'international conventions on extradition'. Important to note is that not a single agreement refers to the CRC.

Following this, a pertinent question arises as to whether, on the one hand, blanket references to international law more generally and international human rights law more specifically, and on the other hand, references to specific human rights instruments, are sufficient from a protection point of view. The dominant view within human rights scholarship appears to be that blanket references to international law do not suffice from a human rights point of view.[17] This approach has long also been shared by the European Parliament, which in 2002 found that the lack of explicit references to specific conventions in the EURAs rendered these agreements far too week from a human rights perspective. In fact, the Parliament subsequently called upon the European Commission to

> … reconsider the wording of the clause or to make provisions for the definition of a joint declaration annexed to the agreement itself, making the obligation deriving from international treaties in the sphere of respect for human dignity, rights and fundamental freedoms more explicit.[18]

[16]Coleman (n 2) 104–105.

[17]Sokol Dedja, 'Human Rights in the EU Return Policy: The Case of the EU-Albania Relations' (2012) 14(1) European Journal of Migration and Law 95; Jean-Pierre Cassarino, *Unbalanced Reciprocities: Cooperation on Readmission in the Euro-Mediterranean Area* (Middle East Institute 2010).

[18]European Parliament, 'Report on the Proposal for a Council Decision on the Signing of the Agreement between the European Community and the Government of the Special Administrative Region of Hong Kong of the People's Republic of China on the Readmission of Persons Residing Without Authorization' Doc A5-0381/2002 (2002) 8 <www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A5-2002-0381+0+DOC+XML+V0//EN&language=EN> accessed 11 January 2020.

As shown in Table 1 and discussed above, some of Norway's readmission agreements do contain explicit references to specific instruments. What legal and practical functions do such references serve? Norwegian officials have argued, like several other European governments, that any explicit and detailed human rights references in readmission agreements are superfluous because, as touched upon in Section 2, the state parties already will have human rights obligations regardless of whether or not these are stipulated in the actual agreement.[19] This is, however, not necessarily true in each case. Below we will discuss the different implications of referencing instruments binding on either one or both parties. Separately worth noting is that some agreements also reference the formally non-binding UDHR, which is an expression of the parties' intent to uphold those standards.

In practice, many of the countries with which Norway has readmission agreements are not state parties to key international law and human rights instruments. For example, Vietnam, Hong Kong, Iraq, Sri Lanka and Pakistan are not party to the Refugee Convention. (Norway's most recent readmission agreements is with Pakistan [2019] and while Pakistan is party to the ICCPR and CAT, it is not party to the related optional protocols, so it is not possible to bring individual complaints under these against Pakistan.) Therefore, many contracting states are party to fewer instruments. Especially considering that the overwhelming majority of the agreements involve readmission of not only nationals but also non-nationals, holding the contracting states to specific human rights standards in the readmission agreements is important. This is also the view taken by the European Commission, who recommended that in the case of the EURA's non-affection clause, '… if the readmitting country has not ratified the key international human rights conventions, the EURA should explicitly oblige the country to comply with the standards set out in those international conventions'.[20]

Another complex issue is deciphering the legal and practical implications of referencing specific instruments, which are already binding on both parties. Are such references superfluous, as claimed for example by Coleman.[21] Giuffre[22] and Ippolito[23] have pointed out that such references may have implications for purposes of art 60 of the Vienna Convention on the Law of Treaties (VCLT). That article allows the parties to a treaty to terminate or suspend the treaty in case of material breach, which is defined as '… the violation of a provision essential to the accomplishment of the object or purpose of the treaty'. If a readmission agreement is drafted in such a way that human rights compliance appears as an essential element of the returns and readmissions to be carried out as per that agreement, this article could come into play.[24] Thus, referencing already binding instruments and existing human rights obligations is not necessarily without *legal* consequences.

[19]Confidential interview, 12 September 2013.
[20]European Commission (n 3) 13 <www.statewatch.org/news/2011/mar/eu-com-readmission-agreements-evaluation-com-76-11.pdf> accessed 11 January 2020.
[21]Coleman (n 9) 306.
[22]Mariagiulia Giuffré, 'The European Union Readmission Policy after Lisbon' (2011) 1(1) Interdisciplinary Political Studies 7.
[23]Francesca Ippolito, 'Mainstreaming Human Rights in EuroMed Bilateral Relations: "The Road to Hell is Paved with Good Intentions"' in Giuliana Ziccardi Capaldo (eds), *The Global Community: Yearbook of International Law and Jurisprudence* (Oxford University Press 2017) 83–105, 87.
[24]See e.g. art 2(8) of the agreement with Bosnia-Herzegovina, which states: 'The return and readmission *shall in all instances be conducted* in accordance with the regulations of this Agreement, fully respecting the human rights and dignity of the persons returned and readmitted' (emphasis added).

In practice, however, this is not likely to contribute to better protection of the human rights of the persons being returned. VCLT art 60 simply gives the parties a right to terminate or suspend with cause whereas the vast majority of Norway's readmission agreements already allow termination without cause (upon 1/3/6 months' notice). And in practice, vis-à-vis the other contracting party, Norway has a right but not an obligation to return, and can always refrain from returning if there are human rights issues (and as a matter of human rights law, *should* refrain from returning in such cases). Unlike many other agreements where both parties have great incentives in the continued performance of the obligations under the agreement, the nature of readmission agreements is such that a risk or threat of termination by the typically returning state, e.g. Norway, does not create an incentive for the other party to comply with human rights. What might, however, enhance human rights protection would be an *obligation* to suspend under certain circumstances, explored further in Section 4.

3.3. Issues linked to the return of specific groups of persons

3.3.1. Nationals and former nationals

Some of the persons being returned will be those who previously escaped from the readmitting state of origin and sought protection in the returning state or elsewhere. As has already been established, Norway is indeed required not to return them if it would violate the principle of *non-refoulement*. A question remains, nevertheless, whether there are any other guarantees that apply to nationals and former nationals.

Sixteen of Norway's readmission agreements apply to former nationals who in one way or other lost their nationality after entering the returning state. Eight of these indeed use the term 'lost' (Romania, Croatia, Slovakia, Moldova, Bosnia, Macedonia, Armenia and Hong Kong); four use 'renounced' (Russia, Ukraine, Serbia and Tanzania); and the remaining four use 'renounced or deprived of' or 'terminated' (Georgia, Albania, Montenegro and Kazakhstan). These agreements also require that the person has not already acquired, and/or been guaranteed, the nationality of the requesting state (i.e. Norway), and in the case of the Georgian agreement, of any state. Thus, those former nationals being readmitted by Georgia are by definition stateless, while many of the former nationals being readmitted under the other 15 agreements are likely (though not necessarily) stateless. The distinctions in the formulation are also noteworthy: By using the term 'lose' or 'being deprived', 12 of these 16 agreements involve the return of former nationals who did not willingly give up but were stripped of their nationality. Some of those persons may be at a bigger risk of remaining stateless because of the specific conditions surrounding the revocation of their nationality by the state of origin.

This then raises the question of what happens to these stateless former nationals once readmitted. There appears to be no guarantees in the readmission agreements that the readmitting state will give them back their nationality. Russia, Tanzania and Kazakhstan are not party to the Convention on the Reduction of Statelessness, and only the Armenian agreement refers to that convention. The next section will expand further on this link between stateless persons – as non-nationals – and Norway's readmission agreements.

3.3.2. Non-nationals

Since neither third-country nationals nor stateless persons are nationals of the readmitting state of transit, that state will very likely seek to further return them to their country of origin or to another transit country. Norway's readmission agreements may therefore help create the conditions for cases of removal to a country which thereafter *refoules* the individual concerned to a place where his or her human rights are not guaranteed. The Committee of Ministers of the Council of Europe (CoE) has notably confirmed that:

> If the state of return is not the state of origin, the removal (readmission) order should only be issued if the authorities of the host state are satisfied, as far as can reasonably be expected, that the state to which the person is returned will not expel him or her to a third state where he or she would be exposed to a real risk.[25]

Each time a readmission agreement covers readmission of non-nationals by transit states, we thus need to be aware of two related risks: (1) Risk of chain *refoulement* (2) Risk of detention in prison-like conditions in the transit state, including for families with children. As will be detailed below, there are also specific risks – and applicable human rights standards – related to different categories of persons: stateless persons, refugees and asylum-seekers, and children, including unaccompanied minors.

3.3.2.1. Stateless persons. Those agreements that do not apply only to the nationals of the parties typically cover both third-country nationals *and* stateless persons. (The agreements with Lithuania, Bosnia and Switzerland are exceptions, not applying to stateless persons.) Eighteen of the 30 analysed agreements indeed involve the return of stateless persons not only to their country of habitual residence but also to transit countries (e.g. Russia readmitting from Norway a stateless person who used to reside in Iran), raising the issue of what kind of rights these persons will have in the readmitting transit state. Some of these 18 countries (Estonia, Russia, Tanzania and Kazakhstan) are not party to the Convention on the Status of Stateless Persons, which agreement is intended to ensure a minimum set of rights for stateless persons. Thus, in implementing these readmission agreements in particular, it is imperative to examine how these states treat the stateless persons they have readmitted under their national laws.

3.3.2.2. Refugees and asylum seekers. A common argument is that for refugees and asylum seekers, protection is already built into the asylum system of the returning state, e.g. Norway. It is true that for purposes of the Return Directive, asylum seekers are not considered to be illegally staying pending their asylum application. It is when they receive a negative decision on their application, or a decision ending their right of stay as asylum seeker that they fall into the scope of the Return Directive.[26] Yet, especially where individuals are intercepted in the border region and subjected to accelerated procedures for return, the shorter deadlines for making readmission requests that accelerated procedures involve (see e.g. Kazakhstan art 5(3), Russia art 6(3), Ukraine art 5(3)), may result in the available legal safeguards of asylum law to not be properly applied in practice. In particular, such accelerated procedures may prevent individuals from accessing legal rights and

[25]Council of Europe, 'Twenty Guidelines on Forced Return' (2005) <www.refworld.org/docid/42ef32984.html> accessed 11 January 2020.
[26]See para 9 of the preamble of the Return Directive.

remedies, such as access to lawyers or opportunities to challenge return decisions.[27] This issue has also been acknowledged by the European Commission.[28]

Of the 21 agreements that provide for the return of not only nationals but also non-nationals, only the agreements with Switzerland and Bosnia keep refugees and asylum seekers outside of their scope. This means that 19 agreements allow for the return of refugees and asylum seekers to transit countries based on the first country of asylum and safe third country rules of the EU asylum *acquis*, also found in the Norwegian Immigration Act.[29] Thus, a particular concern is the situation of individuals being readmitted to ostensibly 'safe' countries, which do not have a functioning asylum system.[30] As non-citizens, they may have only limited access to necessary social assistance and may be relatively more vulnerable to violation of their rights.[31] 'Safe' country designations can be highly controversial and political, as demonstrated by the case of Turkey in recent years.

Importantly, these individuals may in principle have an arguable claim, but their claim may not be examined as to the substance in Norway because they have passed through so-called safe countries.[32] This situation is very much a real concern for some asylum-seekers in Norway. In late 2015, the Norwegian government introduced new restrictions in the national immigration law that made it easier for the Norwegian Directorate of Immigration (UDI) and the Norwegian Immigration Appeals Board (UNE) to refer asylum seekers to so-called safe third countries.[33] The government subsequently decided that Russia constituted a safe third country, and the Ministry of Justice and Public Security instructed the UDI and UNE to reject asylum applicants coming to Norway from Russia without considering the substance of their cases.[34]

Some Syrian asylum-seekers were then readmitted to Russia without any consideration of their individual cases in Norway. This was heavily criticised by Norwegian civil society organisations,[35] and the UNHCR addressed two critical letters to the Norwegian government. The first one noted that the new legislative changes and instructions '… appear to have created a hybrid between the concepts of "safe third country" and the "safe country of origin", without applying all of the established criteria and procedural safeguards for the implementation of these concepts'.[36] The second letter stressed that there were not

[27]Imke Kruse, 'EU Readmission Policy: The Case of Albania' (2006) 8(2) European Journal of Migration and Law 115; Cassarino (n 17); HRW (Human Rights Watch), 'Ukraine: On the Margins, Rights Violations against Migrants and Asylum Seekers at the New Eastern Border of the European Union' (2005) <www.hrw.org/report/2005/11/29/ukraine-margins/rights-violations-against-migrants-and-asylum-seekers-new-eastern> accessed 11 January 2020; HRW, 'Ukraine: Buffeted in the Borderland, The Treatment of Migrants and Asylum Seekers in Ukraine' (2010) <www.hrw.org/report/2010/12/16/buffeted-borderland/treatment-asylum-seekers-and-migrants-ukraine> accessed 11 January 2020.

[28]European Commission (n 3) 12.

[29]See arts 35 and 38 of the Asylum Procedures Directive and s 32, paras 1 (a) and (d) of the Norwegian Immigration Act.

[30]Marion Panizzon, 'Readmission Agreements of EU Member States: A Case for EU Subsidiarity or Dualism?' (2012) 31(4) Refugee Survey Quarterly 101; Peers and others (n 4) 571; UNHCR, 'Global Consultations on International Protection/Regional Meetings: Conclusions (Regional Meeting in Budapest, 6–7 June 2001)' Doc EC/GC/01/14 (2001) <www.refworld.org/docid/3b36f29b1.html> accessed 11 January 2020.

[31]Council of Europe, 'Readmission Agreements: A Mechanism for Returning Irregular Migrants' Report of the Committee on Migration, Refugees and Population no 12168 (2010a) paras C2, C28 <www.refworld.org/pdfid/4bdadc1c3.pdf> accessed 11 January 2020.

[32]Peers and others (n 4) 571.

[33]NOAS, 'Norway's Asylum Freeze: A Report on Norway's Response to Increased Asylum Arrivals at the Storskog Border Crossing with Russia in 2015 and Subsequent Legal Developments' (2019) <www.noas.no/wp-content/uploads/2019/02/Storskog-rapport-februar-2019.pdf> accessed 11 January 2020.

[34]Government of Norway, 'Hurtigbehandling av asylsøkere som kommer over Storskog' (2015) <www.regjeringen.no/no/aktuelt/hurtigbehandling-av-asylsokere-som-kommer-over-storskog/id2464084/> accessed 11 January 2020.

[35]NOAS, 'Norway's Asylum Freeze' (n 33).

adequate safeguards in place in Norway to prevent chain *refoulement,* and also highlighted the deficiencies of the asylum system in Russia, pointing out that '… asylum-seekers in the Russian Federation are at risk of arrest, detention and expulsion at all stages of the asylum process'.[37]

3.3.2.3. Children and unaccompanied minors. Children and unaccompanied minors are not exempt from the scope of Norway's readmission agreements. Norway is already bound by the best interests of the child criterion in carrying out returns, both by being state party to the CRC and by the related requirements set out in the Return Directive. However, it is noteworthy that not one of the 30 analysed agreements refers to the CRC or otherwise to the principle of the best interests of the child. Only two make reference to any form of child protection; the agreement with Ethiopia includes in article 7 children as a vulnerable group needing special measures, while the Afghan agreement includes a child-focus in both article 11 on preservation of family unity, and article 12 on special measures for vulnerable groups.

4. Ensuring Respect for Human Rights

The discussion has so far mainly focused on the *de jure* situation of whether the states with which Norway has readmission agreements are parties to key relevant international and human rights law instruments or are otherwise held to corresponding standards in the respective readmission agreements. The problem of course remains as to how to make sure that the parties indeed respect those standards in practice. As Carrera[38] observes, inter-state trust is simply not sufficient to ensure compliance. There is a wealth of literature on the question of compliance and international law, and our intention is not to review Norway's readmission agreements in light of these. The purpose here is to highlight some concrete ways in which Norway's readmission agreements could strengthen respect for human rights.

It can be argued that even where both parties are already bound by core principles of international human rights law, an agreement's negotiation still provides an opportunity to more closely elaborate on rule of law principles and due process. Such elaboration may increase clarity about the applicable standards, and their inclusion in the agreements may lead to greater observance by both parties – especially where e.g. border control staff are not fully aware of which rules to abide by and how to best fulfil state obligations. Thus, at a very minimum, the principles of *non-refoulement* and best interests of the child should be explicitly mentioned along with rigid procedural standards.

In 2010, the Parliamentary Assembly of the CoE stressed the importance of including legal safeguards in readmission agreements for the protection of human rights.[39] Yet, eight

[36]UNHCR, 'UNHCR Observations on the Law Proposal "Prop. 16L (2015–2016) Endringer i utlendingsloven (innstramninger)", Instructions GI-12/2015, GI-13/2015 and 15/7814-EST. Circular "RS 2015-013", and amendment to the "Immigration Regulation, §§17-18"' (2015) <www.noas.no/wp-content/uploads/2016/04/UNHCR-brev-23-desember-2015.pdf> accessed 11 January 2020.

[37]UNHCR, 'UNHCR Observations regarding the Processing of Asylum Claims from Persons who have arrived to Norway from the Russian Federation' (2016) <www.noas.no/wp-content/uploads/2016/04/UNHCR-brev-15-februar-2016.pdf> accessed 11 January 2020.

[38]Sergio Carrera, *Implementation of EU Readmission Agreements. Identity Determination Dilemmas and the Blurring of Rights* (Springer 2016) 55.

[39]Council of Europe, 'Readmission Agreements (n 31) para 7.

years later, human rights organisations were still calling on European states to include strong human rights conditions in readmission agreements, particularly with respect to return to transit countries, and asking states to '… ensure procedural fairness, including the right to contest a removal decision'.[40]

While having a standard and comprehensive set of human rights references as a baseline for the negotiation of readmission agreements is valuable, as our analysis has shown, the negotiating parties may need to further tailor these in each case based on their respective commitments under international law, and on the agreements' exact scope of application. In other words, Norway should better customise the agreements to the 'identity' of the other state party to the agreement, and to the 'identity' of the persons being returned.

Based on our analysis, we recommend three additional insertions in future agreements. First, certain protected groups such as refugees and stateless persons should be excluded from the scope of the readmission agreements. Whether it is eventual repatriation to one's home country, or the return of asylum seekers to transit countries on safe country grounds, returning persons with protection needs (even if past) requires close scrutiny and may benefit from additional considerations, such as obtaining diplomatic assurances. The agreements with Switzerland and Bosnia are examples of good practice in this respect. Second, as discussed in Section 3.2, the agreements should include a suspension clause requiring the parties to suspend the agreement in the event or risk of serious human rights violations. Despite the fact that such an inclusion was recommended by the European Commission already in 2011,[41] none of Norway's subsequent agreements (Georgia, Ethiopia, Kazakhstan and Pakistan) contain such a clause.

Third, we emphasise the importance of monitoring human rights compliance in the agreements' implementation – both during the actual return procedure as well as post-return. Of Norway's post-2011 agreements, only the one with Ethiopia requires the establishment of a committee to monitor implementation, while the one with Pakistan refers to the possibility ('may') of establishing such a committee. Currently, such committees appear to monitor cooperation on a more technical level, and it seems appropriate therefore to consider the extension of their mandate to also explicitly cover human rights compliance.[42] In this connection, we also concur with the European Commission[43] on the importance of post-return monitoring and recommend that future agreements require the parties to pay due attention to the post-return situation in the country of return. There is generally very little data as to what happens upon return, and post-return monitoring seems to be a 'missing link' in the protection system.[44] Norwegian civil society have long asked for an institutional mechanism to review the human rights impact of readmission agreements (with regard to the Ethiopian agreement, see UN

[40]HRW, 'Towards an Effective and Principled EU Migration Policy Recommendations for Reform' (2018) 10 <www.hrw.org/sites/default/files/supporting_resources/hrw_eu_migration_policy_memo_0.pdf> accessed 11 January 2020.
[41]European Commission (n 3) 12.
[42]cf European Parliament, 'Report on the proposal for a Council decision concerning the conclusion of the Agreement between the European Community and the Russian Federation on readmission' Doc A6-0028/2007 (2007) para 3.2.2 <www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2007-0028+0+DOC+XML+V0//EN&language=EN> accessed 11 January 2020.
[43]European Commission (n 3) 13.
[44]Jari Pirjola, 'Flights of Shame or Dignified Return? Return Flights and Post-Return Monitoring' (2015) 17(4) European Journal of Migration and Law 305; Jari Pirjola, 'Out of Sight, Out of Mind: Post-return Monitoring – A Missing Link in the International Protection of Refugees?' (2019) 38 Refugee Survey Quarterly 363.

OHCHR),[45] and a Europe-wide study from 2011 pointed to a '… near universal agreement' among the interviewed Norwegian stakeholders that the absence of monitoring on and after return represented 'the most serious gap' in Norway's return monitoring system.[46]

Of course, including human rights references in readmission agreements may not be sufficient in all cases. As Panizzon has argued, 'readmission agreements are often concluded with countries that cannot guarantee human rights protection and an asylum procedure to their own nationals, let alone third country nationals'.[47] For example, the agreement with Russia does reference specific human rights instruments and Russia is a member of the CoE. Yet, for many years, it was also the country with the highest number of convictions before the ECHR, having only recently become second to Turkey, with which country Norway also signed an agreement recently.[48]

Norwegian civil society actors have also convincingly argued that Norway's cooperation on readmission with certain governments adds further legitimacy to regimes that systematically breach international human rights.[49] Thus, before readmission negotiations even commence, Norway needs to consider carefully with which states it negotiates. More specifically, it should ideally comply with the recommendation by Parliamentary Assembly of the CoE that readmission agreements be concluded only with '… countries that comply with relevant human rights standards and with the 1951 Geneva Convention, that have functioning asylum systems in place and that protect their citizens' right to free movement'.[50]

5. Conclusions

Scholars have long criticised European readmission agreements for subjecting migrants to risks of human rights violations.[51] This article has analysed Norway's readmission agreements in light of these criticisms and finds that there are considerable differences between the agreements when it comes to human rights protection. It argues for an overall stronger human rights focus in the drafting and implementation of readmission agreements.

To this end, we recommend that each agreement, to start with, contains a standard and comprehensive set of human rights references, which could for example include the

[45]UN OHCHR, 'Communication from Special Procedures: Allegation Letter' (2012) On file with authors.
[46]Matrix, 'Comparative Study on Best Practices in the Field of Forced Return Monitoring' (2010) 171 <https://op.europa.eu/en/publication-detail/-/publication/88a6b015-a715-45f3-af69-1ef33b991500> accessed 16 January 2020.
[47]Panizzon (n 30) 105.
[48]See European Court of Human Rights, 'Violations by Article and by State', <www.echr.coe.int/Documents/Stats_violation_1959_2018_ENG.pdf>.
[49]Silje Sønsterbråten and others, *Retur som avtalt? En effektivitetsstudie av Norges returavtaler* (FAFO 2016) 17 <www.udi.no/globalassets/global/forskning-fou_i/retur/retur-som-avtalt.pdf> accessed 11 January 2020.
[50]Council of Europe (n 31) para 6.1.
[51]Silja Klepp, *Italy and its Libyan Cooperation Program: Pioneer of the European Union's Refugee Policy?* (Middle East Institute 2010) <www.mei.edu/publications/italy-and-its-libyan-cooperation-program-pioneer-european-unions-refugee-policy> accessed 11 January 2020; Rosemary Byrne, 'Changing Paradigms in Refugee Law' in Ryszard Cholewinski and others (eds), *International Migration Law: Developing Paradigms and Key Challenges* (TMC Asser 2007) 163–75; Cholewinski Ryszard, 'European Union Policy on Irregular Migration: Human Rights Lost?' in Barbara Bogusz and others (eds), *Irregular Migration and Human Rights: Theoretical, European and International Perspectives* (Martinus Nijhoff 2004) 159–92; Daphne Bouteillet-Paquet, 'Passing the Buck: A Critical Analysis of the Readmission Policy Implemented by the European Union and its Member States' (2003) 5(3) European Journal of Migration Law 359; Nazaré A. Abell, 'The Compatibility of Readmission Agreements with the 1951 Convention Relating to the Status of Refugees' (1999) 11(1) International Journal of Refugee Law 60.

standards set out in the Return Directive. In determining this content, the potential precedent value of each agreement (as demonstrated by our analysis of Norway's agreements) should also not be underestimated; after all, lawyers tasked with preparing the first draft of an agreement typically start out by picking an appropriate precedent. Yet, a standard set of references will not suffice. As our analysis rather has shown, the differences in scope between Norway's readmission agreements are not minor, and different agreements raise different human rights risks and implications. It is therefore key to tailor the agreement as appropriate in each case, including in some cases expressly stipulating specific human rights commitments.

There is both legal and practical value to such tailored agreements. Where a readmitting state is not already state party to key instruments, the legal value of holding it to the relevant standards is obvious. Separately, such tailored agreements can arguably also enhance human rights compliance by Norway, including in the process of taking a return decision, by flagging the potential issues of the return of particular categories of persons to particular countries.

Second, it is important to focus on how respect for human rights can be achieved in practice. To this effect, we recommend three additional insertions in future agreements. First, certain protected groups such as refugees and stateless persons should be excluded from the scope of the readmission agreements. Second, the agreements should include a suspension clause requiring the parties to suspend the agreement in the event or risk of serious human rights violations. Third, we emphasise the importance of monitoring human rights compliance, for example by extending the mandate of the committees tasked with overseeing the agreements' implementation to not merely cover the technical aspects of the readmission agreements, but also human rights. This step is notably imperative for any suspension clause to function appropriately. All of that said, arguably the most important first step to ensuring human rights compliance in practice is for Norway to carefully consider with which states it negotiates readmission. If Norway enters into agreements with states that are notorious for their blatant disregard of human rights, it is doubtful that listing instruments and standards in the agreements will enhance protection and may instead serve legitimising otherwise problematic returns.

Disclosure Statement

No potential conflict of interest was reported by the authors.

Funding

This work has been supported by the Research Council of Norway under Grant 247622.

Appendix

Table 1. Human rights provisions in Norway's readmission agreements.

Country & date	Scope (i.e. personal scope & circumstances surrounding entry/stay & other connection to state parties)	Preambular references	Non-affection clause & other relevant provisions
Covering only nationals of the parties			
FRGermany (1950)	Ns	N/A	N/A
Czechoslovakia (1990)	Ns	N/A	N/A
Vietnam (2007)	Ns who do not have the nationality/ permanent residency of a third state	International treaties/conventions binding on them	Other: Rights of the returnee requires compliance with international law, observance of human dignity, family unity etc. (art 3)
Pakistan (2019)	Ns	International law	Non-affection: International law and treaties (art 14(1)) Other: Certification that person has been notified of available rights/remedies (art 14(3)) Other: Retains right to return under other arrangements (art 14(2))
Covering only non-national asylum seekers			
Sweden (2003)	NN asylum seekers	N/A	N/A
Covering both nationals of the parties and 3rd country nationals/non-nationals			
Lithuania (1992)	Ns. Also permanent residents of Lithuania TCNs who arrived directly from requested state	N/A	N/A
Estonia (1997)	Ns NNs who arrived directly from requested state	ECHR & pp. in RC and other appl. international instruments on legal status of aliens	Non-affection: International agreements (art 11)
Latvia (1997)	Ns NNs who arrived directly from requested state	ECHR & pp. in RC and other appl. international instruments on legal status of aliens	Non-affection: International agreements (art 11)
Bulgaria (1998)	Ns NNs who arrived directly from requested state	ECHR & pp. in RC and other appl. international instruments on legal status of aliens	Non-affection: International agreements (art 12)
Romania (2002)	Ns, and FNs who lost nationality of requested state after entry into requesting state	International treaties/conventions binding on them	Non-affection: International agreements (art 13)

(*Continued*)

Table 1. Continued.

Country & date	Scope (i.e. personal scope & circumstances surrounding entry/stay & other connection to state parties)	Preambular references	Non-affection clause & other relevant provisions
	NNs who either (i) arrived directly from requested state, or (ii) have valid visa/ residence permit/other doc. of requested state		
Croatia (2005)	Ns, and FNs who lost nationality of requested state after entry into requesting state NNs who either (i) arrived directly from requested state, or (ii) have valid visa/ residence permit of requested state	International treaties/conventions binding on them	N/A
Slovakia (2005)	Ns, and FNs who lost nationality of requested state after entry into requesting state NNs who either (i) arrived directly from requested state, or (ii) have valid visa/ residence permit of requested state	N/A	Non-affection: International agreements (art 12)
Switzerland (2005)	Ns TCNs (i) who entered requesting state after having stayed in/passed through requested state during the six months prior to the request or (ii) have a valid visa/residence permit of requested state Excludes persons recognised as refugees or stateless persons by requesting state	International treaties/agreements	Non-affection: RC, human rights conventions signed by the parties, international conventions on extradition (art 21)
Moldova (2006)	Ns, and FNs who lost nationality of requested state after entry into requesting state NNs who either (i) arrived directly from requested state, or (ii) have valid residence permit/other doc. of requested state	International treaties/conventions binding on them	N/A
Bosnia-Herzegovina (2007)	Ns, and FNs who lost nationality of requested state after entry into requesting state (except if this was obtained by naturalisation)	International treaties/conventions binding on them Excludes from its scope persons	Other: Returns and readmissions to fully respect human rights and dignity of the person (art 2(8))

(*Continued*)

Table 1. Continued.

Country & date	Scope (i.e. personal scope & circumstances surrounding entry/stay & other connection to state parties)	Preambular references	Non-affection clause & other relevant provisions
	TCNs who either (i) arrived directly from requested state, or (ii) have valid visa/ residence permit/other doc. of requested state Excludes stateless persons, persons recognised as refugees by requesting state and asylum seekers in appl. process	protected by RC and Convention on Stateless Persons	
Hong Kong (2007)	HK readmits permanent residents and those who lost permanent residency since entering Norway Norway readmits Ns, and FNs who renounced/were deprived of nationality after entry into HK NNs who either (i) arrived directly from requested state, or (ii) have valid visa/ residence permit of requested state at the time of *entry*	N/A	Non-affection: International law (art 16(1)) Other: Retains right to return under other formal/informal arrangements (art 16(2))
FYR Macedonia (2007)	Ns, and FNs who lost nationality of requested state after entry into requesting state NNs who either (i) arrived directly from requested state, or (ii) are residing illegally in requesting state and has a valid visa/residence permit/other doc. of requested state	International treaties/conventions binding on them	Non-affection: International agreements (art 13(1))
Russia (2008)	Ns, and FNs who renounced nationality of requested state after entry into requesting state NNs who either (i) arrived directly from requested state and holds valid visa of that state at the time of readmission request, (ii) holds valid residence authorisation of requested state at the time of readmission request, or (iii) entered unlawfully, arriving directly from requested state	International law, international human rights law, UDHR, ICCPR, RC, ECHR & Protocol 4 and CAT	Non-affection: International law, RC, ECHR, CAT, international treaties on extradition and transit, and international treaties containing rules on the readmission of foreign nationals, e.g. Convention on International Civil Aviation (art 18(1)) Other: Retains right to return under other formal/informal arrangements (art 18(2)) Other: Retains right to refuse transit for protection of the individual (art 14(3)(a))

(*Continued*)

Table 1. Continued.

Country & date	Scope (i.e. personal scope & circumstances surrounding entry/stay & other connection to state parties)	Preambular references	Non-affection clause & other relevant provisions
Ukraine (2009)	Ns, and FNs who renounced nationality of requested state after entry into requesting state NNs who either (i) arrived directly from requested state and held valid visa of that state at the time of *entry*, (ii) held valid residence authorisation of requested state at the time of *entry*, or (iii) entered illegally, arriving directly from requested state	Human rights and freedoms, international law, UDHR, ICCPR, ECHR, RC and instruments on extradition	Non-affection: International law and international agreements (art 14(1)) Other: Retains right to return under other formal/informal arrangements (art 14(2)) Other: Retains right to refuse transit for protection of the individual (art 10(4)(a))
Albania (2009)	Ns, and FNs renounced/were deprived of nationality after entry into requesting state NNs who either (i) held valid visa/residence authorisation of requested state at the time of *entry*, or (ii) who entered requesting state after having stayed in/passed through requested state	International law, ECHR, RC and instruments on extradition	Non-affection: International law, ECHR, RC, instruments on extradition (art 17(1)) Other: Retains right to return under other formal/informal arrangements (art 17(2)) Other: Retains right to refuse transit for protection of the individual (art 13(3)(a))
Montenegro (2009)	Ns (and, subject to some conditions, their unmarried minor children and spouses regardless of nationality), and FNs who renounced/were deprived of nationality after entry into requesting state NNs who either (i) hold, or at the time of entry held, valid visa/residence permit of requested state, or (ii) entered illegally, arriving directly from requested state	International law, ECHR and RC	Non-affection: International law, ECHR, RC, CAT, international conventions determining state responsible for examining asylum applications, international conventions on extradition and transit, international conventions and agreements on the readmission of foreign nationals (art 17(1)) Other: Retains right to return under other formal/informal arrangements (art 17(2)) Other: Retains right to refuse transit for protection of the individual (art 13(3)(a))
Armenia (2010)	Ns, and FNs who lost nationality of requested state after entry into requesting state	International law, ECHR & its protocols, RC and UN Convention on Reduction of Statelessness	Non-affection: International agreements (art 10(1)) Other: Retains right to return under other

(*Continued*)

Table 1. Continued.

Country & date	Scope (i.e. personal scope & circumstances surrounding entry/stay & other connection to state parties)	Preambular references	Non-affection clause & other relevant provisions
	NNs who either (i) held valid visa/residence permit or other doc. of requested state at the time of interception by requesting state, or (ii) entered directly and illegally from requested state in the last six months		formal/informal arrangements, especially in cases of voluntary return (art 10(2))
Serbia (2010)	Ns (and, subject to some conditions, their unmarried minor children and spouses regardless of nationality), and FNs who renounced nationality after entry into requesting state NNs who either (i) hold, or at the time of entry held, valid visa/residence permit of requested state, or (ii) entered illegally, arriving directly from requested state	International law, ECHR and RC	Non-affection: International law, ECHR, RC, CAT, international conventions determining state responsible for examining asylum applications, international conventions on extradition, international conventions and agreements on the readmission of foreign nationals (art 17(1)) Other: Retains right to return under other formal/informal arrangements (art 17(2)) Other: Retains right to refuse transit for protection of the individual (art 13(3)(a))
Tanzania (2011)	Ns, and FNs who renounced nationality of requested state after entry into requesting state NNs who either (i) arrived directly from requested state and held valid visa of that state at the time of entry, (ii) held valid residence authorisation of requested state at the time of entry, or (iii) entered illegally, arriving directly from requested state	Human rights and freedoms, UDHR, international treaties/conventions binding on them	Non-affection: International law and international agreements (art 14(1)) Other: Retains right to return under other formal/informal arrangements (art 14(2)) Other: Retains right to refuse transit for protection of the individual (art 10(4)(a))
Georgia (2012)	Ns, and FNs who lost nationality of requested state after entry into requesting state and does not have nationality of a third state NNs who entered directly from, and hold valid visa/residence permit of, requested state	Aim of securing fundamental human rights and freedoms, incl. right to appeal, as stipulated in international agreements and national laws of the parties	Non-affection: International agreements, ICCPR, ECHR & Protocols in force for both parties, RC, international agreements on extradition (art 11) Other: Retains right to refuse transit for protection of the individual (art 6(2))

(*Continued*)

Table 1. Continued.

Country & date	Scope (i.e. personal scope & circumstances surrounding entry/stay & other connection to state parties)	Preambular references	Non-affection clause & other relevant provisions
Kazakhstan (2016)	Ns (and, subject to some conditions, unmarried minor children and spouses regardless of nationality), and FNs who renounced/were deprived of nationality after entry into requesting state NNs who either (i) arrived directly from requested state and held valid visa of that state at the time of entry, (ii) held valid residence authorisation of requested state at the time of entry, or (iii) entered illegally, arriving directly from requested state	Human rights and freedoms, international law, UDHR, ICCPR, RC and international agreements on extradition	Non-affection: International treaties (art 14) Other: Retains right to refuse transit for protection of the individual (art 10(4)(a))
Turkey (2016)	Not ratified and not publicly available	–	–
Agreements which provide only for return by Norway (i.e. not reciprocal)			
Afghanistan and UNHCR (2005)	Return/readmission of Afghan nationals • Includes voluntary return of (i) Afghans with refugee status in Norway, (ii) Afghans with humanitarian residence permit in Norway, and (iii) rejected-asylum-seeker Afghans without protection needs/compelling humanitarian reasons opting for assisted return • Forced return available for others	Right of citizens to leave/return in UDHR and ICCPR International human rights and humanitarian standards, especially with regards to repatriation of persons who had fled persecution/armed conflict	Non-affection: Parties' other agreements, arrangements, mechanisms of cooperation (art 23) Other: Commitments upon repatriation (art 5) Freedom of choice of destination (art 6) Recognition of legal status, education etc. (art 7) Counselling by UNHCR (art 10) Preservation of family unity (art 11) Measures for vulnerable groups (art 12) Safety before/during/after return (art 14) Counselling re mine-awareness (art 18)
Iraq (2009)	Return/readmission of Iraqi nationals • Includes voluntary return of (i) Iraqis with permanent residency in Norway, (ii) Iraqis in asylum application process, and (iii) rejected asylum seeker Iraqis without protection needs/compelling	Right of citizens to leave/return in UDHR and ICCPR International human rights and humanitarian standards	Non-affection: Parties' other agreements, arrangements, mechanisms of cooperation (art 14) Other: Commitments upon repatriation (art 4) Freedom of choice of destination (art 5)

(*Continued*)

Table 1. Continued.

Country & date	Scope (i.e. personal scope & circumstances surrounding entry/stay & other connection to state parties)	Preambular references	Non-affection clause & other relevant provisions
	humanitarian reasons, opting for assisted return • Forced return available for others		Preservation of family unity (art 7) Measures for vulnerable groups (art 8)
Ethiopia (2012)	Return/readmission of Ethiopian nationals • Includes voluntary return of rejected-asylum-seeker Ethiopians without protection needs/compelling humanitarian reasons, opting for assisted return • Forced return available for others	Right to leave/return in UDHR/ICCPR, RC, international treaties concerning repatriation/transit/readmission of nationals seeking asylum International HR and humanitarian standards	Other: Commitments upon return (art 4) Preservation of family unity (art 6) Measures for vulnerable groups (art 7)
Sri Lanka (2000)	Return/readmission of Sri Lankan nationals	N/A	Other: Return in safety and dignity (art 1)
Burundi (2009)	Return/readmission of Burundi nationals	Right of citizens to leave/return in UDHR and ICCPR Consenting to adhere to standards in Annex 9 of Convention on International Civil Aviation	N/A

N: National.
FN: Former national.
TCN: Third-country national, i.e. national of a state other than Norway and the other contracting state in a given agreement.
NN: Non-national, covering both third-country nationals for purposes of a given agreement and stateless persons.