



DET KONGELIGE
JUSTIS- OG BEREDSKAPSDEPARTEMENT

Rundskriv

Directorate of Immigration

No.
GI-11/2022

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GI-11/2022 – Instruction on transfer to Norway of former local employees of Norwegian authorities in Afghanistan, in connection with NATO’s international operations in Afghanistan

1. INTRODUCTION

The Ministry of Justice and Public Security makes reference here to its general power of instruction as well as section 76 of the Act of 15 May 2008 No. 35 relating to the admission of foreign nationals into the realm and their stay here (Immigration Act), which authorises the Ministry to issue general instructions to the Directorate of Immigration on matters relating to legal interpretation, exercise of discretion and prioritisation of cases.

Under section 35 of the Immigration Act, concerning resettlement refugees, the Directorate of Immigration may make administrative decisions on the resettlement of foreign nationals to Norway ‘subject to the limits and in accordance with any guidelines laid down by higher authority’. Independently of the limitations described in section 76, second paragraph, the Ministry may issue instructions in entry permit cases under section 35.

Norway has had special procedures for admitting interpreters who have been employed by the Armed Forces in Afghanistan since 2012, and interpreters employed by the police contingent since 2015. During the period of June to August 2021, in connection with the conclusion of the Resolute Support Mission (RSM), Norway has resettled everyone who was locally employed by the Armed Forces and the embassy in Kabul at the time that RSM ended; see instructions GI-08/2017 and GI-04/2021.

In this instruction, the Ministry of Justice and Public Security provides further guidelines to clarify when former locally employed personnel of the Armed Forces or the Norwegian Embassy in Kabul may have an application for resettlement to Norway processed in accordance with specified criteria within the framework of the resettlement refugee quota.

2. BACKGROUND

Norway has contributed to international military operations in Afghanistan since the end of 2001, first through Operation Enduring Freedom (OED) (2001-2005), then in the International Security Assistance Force (ISAF) (2006-2014) and the Resolute Support Mission (RSM) (2015-2021). In the 2004-2012 period, Norway also sent police contingents to Afghanistan for service in the European Union Police Mission in Afghanistan (EUPOL) and in the bilateral collaboration between Norway and Afghanistan known as NORAF.¹ Norway had an embassy in Kabul from 2001 until its temporary closure in August 2021. In April 2015, Norway's embassy was co-located with Denmark's.

For information on previous schemes for the resettlement of interpreters to Norway, please see GI-06/2015 *Retningslinjer for overføring av personer som har vært ansatt av norske styrker i Afghanistan og som har deltatt i operativ tjeneste som tolk etter 01.01.2006, samt deres nærmeste familiemedlemmer* (Guidelines for resettlement of persons who have been employed by Norwegian forces in Afghanistan and who have participated in operational service as interpreters after 01.01.2006, as well as their immediate family members). That instruction was issued pursuant to Storting Petition Resolution No. 418 (2014-2015) of 17 February 2015:

“The Storting asks the Government to formulate guidelines, in the form of a dedicated scheme making it possible for combat interpreters used by the Armed Forces in Afghanistan from 2006 until November 2014 to obtain work and residence permits in Norway. The Storting asks the Government to ensure that the determination of whether to grant residence and work permits will be based on an individual assessment of each applicant and his or her situation. It is the Storting's request that the guidelines shall provide a low threshold for the granting of residence and work permits for this group, and that any refusals shall be based on exceptional and compelling reasons.”

The abovementioned instruction was replaced on 29 June 2017 by an instruction covering interpreters employed by the Armed Forces in connection with RSM; see GI-08/2017 *Overføring til Norge av tolker som har vært ansatt av Forsvaret i Afghanistan etter 1. januar 2015* (Resettlement to Norway of interpreters who have been employed by the Armed Forces in Afghanistan after 1 January 2015).

In connection with the end of RSM, the Armed Forces' interpreters were resettled to Norway in accordance with GI-08/2017, with an additional instruction that pertained to

¹ NORAF became EUPOL-A during the operational period.

accompanying family members. A separate instruction was issued to govern resettlement of the Armed Forces' locally employed cleaning staff at the time of RSM's conclusion and local employees of the embassy; see GI-04/2021. The local employees of the Armed Forces arrived in Norway on 21 June 2021. An evacuation of embassy staff, including the local employees and family members, was initiated in August 2021 as a result of the chaotic security situation and the Taliban's takeover of power. Various other groups and individuals were also evacuated, and a number of instructions were issued in this connection.

All Afghans who were directly employed by Norwegian authorities at the end of RSM have been resettled to Norway. It is believed that most interpreters of the ISAF period who were locally employed by either the Armed Forces or the police contingent have also come to Norway. All procedures and instructions since 2012 have been concerned personnel directly employed by Norwegian authorities. Contract personnel provided by staffing agencies have not been included.

Under applicable instruction GI-13/2010 *Instruks om utenriksstasjonenes forberedelse av saker som fremmes etter utlendingsloven § 35, jf. utlendingsforskriften §§ 7-6 til 7-8* (Instruction on foreign service missions' preparation of cases submitted pursuant to section 35 of the Immigration Act; see sections 7-6 to 7-8 of the Immigration Regulations), the Norwegian Embassy in Kabul may submit an application for resettlement to Norway under the resettlement refugee quota in accordance with specified criteria. In such cases, the immigration authorities shall conduct ordinary protection need assessments in accordance with applicable asylum practices for the country in question. In connection with the co-location of the Norwegian and Danish embassies on 1 April 2015, permission was granted for local employees who became redundant at the Norwegian Embassy to apply for resettlement to Norway in accordance with that instruction. No one was resettled as a result, however.

3. LEGAL BASIS

Under section 35, first paragraph, of the Immigration Act, the Directorate of Immigration's assessment of a case involving resettlement of a foreign national shall take place 'subject to the limits and in accordance with any guidelines laid down by higher authority'. The provision's second paragraph moreover authorises the Ministry – independently of section 76, second paragraph, of the Immigration Act – to issue instructions in entry permit cases under section 35. This means that the Ministry of Justice and Public Security has full instructional authority on matters concerning the granting of entry permits under the rules for resettlement of refugees.

Section 7-6 of the Immigration Regulations provides guidance as to which bodies may request that a foreign national be granted an entry permit under section 35 of the Immigration Act. This includes Norwegian foreign service missions. In the interest of effectively carrying out the instructions relating to Armed Forces interpreters and cleaners, the Ministry of Defence has been given the opportunity to submit applications for groups covered by the schemes/instructions dating from 2012 onwards. This principle

is hereby extended, and the Ministry of Defence may submit applications in accordance with this instruction. Because the police contingent's mission in Afghanistan ended in 2012, former employees of the police contingent will not be covered by this instruction; for applicable criteria, see below.

4. PERSONS COVERED – CONDITIONS FOR SUBMITTING AN APPLICATION

In order to have an application processed in accordance with this instruction, a local employee must meet the following criteria:

- be an Afghan national;
- have a valid travel document or other documentation that substantiates true identity;
- have been directly employed as an interpreter or a member of 'house staff' (such as a cleaner) by the Norwegian Armed Forces in Afghanistan, or been directly employed by the Norwegian Embassy in Kabul;
- have documentation from either the Armed Forces or the embassy in Kabul confirming the employment;
- have been employed after 31 December 2014.

This instruction applies only to persons who have had a direct employment with Norwegian authorities as specified above as well as their close family members (see section 6 in this instruction).

The opportunity to have an application processed in accordance with this instruction does not apply to:

- persons whose employment with the Armed Forces or the Embassy has been terminated due to security or behavioural reasons, or to persons who have not satisfactorily completed their probationary period;
- former local employees of the Armed Forces who received a negative response to applications submitted and/or ruled on in 2015 or under GI-06/2015;
- former local employees of the Norwegian Embassy in Kabul who were covered by the scheme in force at the time the embassy was co-located with Denmark's embassy in 2015;
- former local employees who may have worked for the authorities of multiple countries and have already been transferred to another country pursuant to resettlement schemes for former or present employees.

5. CONDITIONS FOR ENTRY AND RESIDENCE PERMITS

A former local employee does not qualify for an entry or residence permit under the provisions of this instruction if he or she:

- is known to have criminal behaviour or heavy substance abuse;

- has committed a crime against peace, a war crime, a crime against humanity or genocide;
- has committed a serious non-political crime outside Norway's borders;
- has committed acts contrary to the purposes and principles of the United Nations;
- could pose a threat to fundamental national interests; see section 126 of the Immigration Act; see section 5 of instruction GI-10/2022.

Before a case is sent to the Ministry of Justice and Public Security, the employment relationship underlying the local employee's work for Norwegian forces will be confirmed by the Ministry of Defence and the Ministry of Foreign Affairs in the context of the conditions specified in section 4 of this instruction. If the Ministry of Defence or the Ministry of Foreign Affairs has information that may be relevant to the assessment of criteria specified in section 5 of this instruction, this information is to be forwarded along with the case to the Ministry of Justice and Public Security. The Ministry of Justice and Public Security then forwards the case to the Directorate of Immigration for processing.

6. FAMILY MEMBERS

Under this instruction, entry and residence permits may also be granted to a local employee's spouse/cohabitant and children (see sections 40, 41 and 42 of the Immigration Act) at the time of application. No circumstances specified in section 5 of this instruction are permitted. A valid travel document or other documentation substantiating the identity of accompanying family members must be attached to the application. An entry permit and residence permit may be granted to only one spouse, inasmuch as bigamy is not permitted in Norway.

7. CONTENT OF APPLICATION

Former local employees who wish to be included in the special procedure must fill in a self-declaration form that will be sent to them, and must attach any copies/photos of travel/ID documents and any supporting or additional documents, such as confirmations of employment in the Armed Forces or the embassy or similar information. They must also attach digital passport photos, which may be self-taken, for example by use of a mobile telephone camera (ears must be visible).

8. PLACE OF APPLICATION AND CASE PROGRESSION

The deadline for former local employees to send an application in accordance with this instruction has been set at 1 September 2022. This is to be done in writing by means of an email sent by the former employee; see below.

Former local employees of the Armed Forces must contact the Ministry of Defence to apply for entry and residence permits in accordance with instruction.

Former local employees at the embassy must contact the Ministry of Foreign Affairs.

It is presumed that the Ministry of Defence and the Ministry of Foreign Affairs have an overview of former local employees and can determine who is eligible to apply; see section 4 of this instruction. In communications with former local employees it must be emphasised that they must arrange to travel legally to a neighbouring country for onward travel from there – which is to say they must have a valid travel document and may also have to apply for a visa/transit visa to the country in question.

If the Ministry of Defence or the Ministry of Foreign Affairs finds that a person is not eligible to apply, the relevant ministry is to communicate this finding directly to the person involved.

If the Ministry of Defence or the Ministry of Foreign Affairs deems a person eligible to apply (see section 4 of this instruction), an application may be submitted formally to the Ministry of Justice and Public Security.

The Ministry of Justice and Public Security forwards the applications that it receives from the Ministry of Defence and the Ministry of Foreign Affairs to the Directorate of Immigration for administrative decision; see section 9 of this instruction.

The Directorate of Immigration issues notifications as decisions are reached. If an application is granted, notification is made to the Ministry of Defence in the case of former Armed Forces employees and to the Ministry of Foreign Affairs in the case of former embassy employees. The ministries then ensure that the decision is communicated to the applicant. In the case of a rejection, the Directorate of Immigration sends an encrypted e-mail directly to the applicant.

Section 35, fourth paragraph, of the Immigration Act states: 'Chapters IV and V of the Public Administration Act concerning preparation of cases and administrative decisions apply only to decisions made after entry. Chapter VI of the Public Administration Act concerning appeal and reversal apply in cases where an administrative decision regarding a residence permit has been made under sections 28 or 38.' This means, among other things, that decisions made pursuant to section 35 of the Immigration Act are not to be regarded as individual decisions, and that entry permit decisions cannot be appealed. If an application is granted, the applicant's status designation can be appealed; a person granted residence under section 38 of the Immigration Act can appeal if he or she believes the conditions for obtaining refugee status under section 28 have been met. Such an appeal will be heard by the Immigration Appeals Board.

Practical matters related to case preparation and resettlement to Norway are to be handled collaboratively by the Ministry of Justice and Public Security, the Ministry of Defence, the Ministry of Foreign Affairs and the Ministry of Labour and Social Inclusion (due to its responsibility for settlement issues). Because planning for arrivals well ahead of time is expected to be difficult, it has been determined that Afghans resettled to Norway under the terms of this instruction must be accommodated in reception centres during the arrival phase. Matters of practical execution are to be addressed as

needed in separate written guidelines. For reasons of security and supervision, these will not be public.

9. REFERRAL OF CASES TO THE MINISTRY OF JUSTICE AND PUBLIC SECURITY

If the Directorate of Immigration determines that an applicant meets the conditions for residence in accordance with this instruction, the Directorate approves the application without referring the case to the Ministry of Justice and Public Security.

The Directorate of Immigration shall forward cases to the Ministry of Justice and Public Security if:

- the Directorate is in doubt as to whether the conditions specified in this instruction have been met, or the Directorate recommends rejecting an entry permit application and/or residence permit application, or
- aspects of the case suggest possible involvement of fundamental national interests as described in section 5 of instruction GI-10/2022.

10. INSTRUCTION

Pursuant to section 35, second paragraph, of the Immigration Act, the Directorate of Immigration is hereby instructed to grant entry permits to persons who meet the conditions set forth in this instruction, unless a case is to be referred to the Ministry in accordance with section 9 of this instruction. The Directorate of Immigration then makes a status determination in the case in the usual way; see section 35, third paragraph, of the Immigration Act.

11. ENTRY INTO FORCE

This instruction enters into force immediately.

With regards,

Siw Lexau (by authority)
Deputy Director General

Marit Rosenvinge
Ministry Adviser

Document is certified and sent without signature

Copies to:

Directorate of Integration and Diversity
National Police Directorate
National Police Immigration Service

Norwegian Police Security Service
Ministry of Defence
Ministry of Labour and Social Inclusion
Ministry of Foreign Affairs