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4.1.4 Arranging the first steps of the asylum procedure

Organisational structure and roles



Some roles and tasks related to the registration process were redefined in EU+ countries over the course of the year. A CJEU judgment involving Spain provided guidance on interpreting the concept of 'other authorities' under the recast Asylum Procedures Directive's article on access to procedure, and the court found that the investigating judge *(juzgado de instrucción)* fell within the concept, even if the judge was not likely to receive asylum applications. As such, it was considered that the investigating judge should inform potential asylum applicants about the procedure for lodging an asylum application *(see Sections 2 and 4.8)*.

Following a legislative amendment in Greece, the Regional Services for Reception and Identification were considered to be competent receiving authorities for the full registration of applications for international protection.

The Danish Immigration Service took over some responsibilities of the registration process from the police. The police remains in charge of fingerprinting and registering the applicant in Eurodac, while the Danish Immigration Service staff provide information on the asylum procedure, issue the asylum ID card and record the necessary biometric data.

Luxembourg amended the law on international protection and temporary protection by extending the group of officers of the Grand-Ducal Police who are authorised to carry out the checks which are required when submitting an application for international protection. While at present, this task is exclusively undertaken by members of the judicial police service, it is proposed to expand this power to all members of the Grand-Ducal Police.[323]

Arrival centres receiving asylum seekers



The trend continued in 2020 to organise the first steps of the asylum procedure around the concept of initial or arrival centres, where all asylum and reception stakeholders are present in the same place. For example, a new arrival centre opened in Luxembourg City in Luxembourg,[324] and the arrival centre was re-organised in Norway to include multiply stakeholders within the same centre. New AnkER facilities were opened in Germany. In 2020, the model had been implemented in 8 out of 16

federal states:
7 AnkER facilities were set up in the state of Bavaria and 1 AnkER facility in each of the states of Saxony and Saarland. In addition, 7 ‘functionally-equivalent facilities’ exist nationwide. The functioning of these facilities was evaluated and the results were published in February 2021.

As a part of the health measures, Czechia introduced a quarantine centre where all new applicants for international protection undergo a PCR test, usually 5 days after arrival. This measure should ensure the full functionality of the migration infrastructure in Czechia. The Czech Organization for Aid to Refugees and the Forum for Human Rights highlighted in a joint contribution that the facility was originally a detention facility for women, families and vulnerable groups, which is difficult to access by public transport *(see Section 4.7).*[325]

Means for early identification



Member States continued throughout 2020 with efforts to swiftly establish an applicant’s identity and the circumstances of the asylum case in the first steps of the procedure. While the authorities aim to ensure the identity of an applicant, at times the new practices were questioned for violating human rights. For example, a series of amendments to the Hungarian Asylum Law and Asylum Decree gave enhanced rights to the asylum authority to seize and retain information from an applicant’s electronic devices, obtain and process their personal data and cooperate with other national authorities (such as the National Security Service) to confirm identity and other facts and circumstances considered to be relevant to the asylum case.[326] The Hungarian Helsinki Committee provided comments on the draft and assessed that the changes breach an applicant’s right to respect for private and family life and contradict the recast Qualifications Directive, Article 4(5).[327]

In the Netherlands, the Aliens Circular specified that an applicant is under the duty to provide all information that might potentially influence the asylum application, including one’s criminal past, acts that might fall under the Geneva Convention, Article 1F, and any measures that other Member States might have imposed on the person.[328] In addition, a draft decree proposed to revise and shorten the regular Dutch asylum procedure from 8 days to 6 days, by dropping the first personal interview which aims to clarify an applicant’s nationality, identity and travel route. This identification would shift to the registration phase where an interview would take place.[329]

A parliamentary initiative was put forward in 2020 to amend the Asylum Act in Switzerland that the duties of asylum applicants would include providing their mobile phones and tablets when their identity, nationality or itinerary cannot be established by other means.[330] UNHCR considered such an amendment to be a potential threat to the right to private life, which is not proportional to the aims of the amendment.[331]

The Finnish Immigration Service published a report on the duty of authorities to clarify and gather information on immigration matters in general, including for asylum applications. The report forms part of the MISEC project funded by the Asylum, Migration and Integration Fund (AMIF), which aims to strengthen the cooperation between immigration and security authorities.[332]

General identification and registration



After the first wave of the pandemic, national courts stepped in to assess some of the adaptive measures which were implemented for safety. In Belgium, the online appointment system for registrations came under scrutiny. Registrations were suspended between 17 March and 4 April 2020,[333] then applicants had to book an appointment online for their registration between April and October 2020.[333] The first instance tribunal of Brussels ruled that this practice was against the law, as applicants became entitled to material reception conditions only at the moment they booked their appointment, but they were effectively without reception in the period between the online booking and the appointment for registration. Hence, from 30 October 2020, registration in person started again at the arrival centre, without prior appointment.[334]

In another case in France, the Council of State ordered on 30 April 2020 to re-establish registration in the Ile-de-France region while respecting specific pandemic measures. Registration desks (GUDA) in the region were temporarily closed on 17 March 2020 (the GUDA in Paris closed on 27 March 2020), while the registration of vulnerable applicants continued in an emergency format, together with pre-registration of persons intending to apply for asylum by supporting associations and the first-contact orientation platforms (SPADA). The Council of State found that the emergency format cannot be considered as the continuation of registering vulnerable applicants and underlined that registration in the region could have continued while respecting specific pandemic measures.

Adjustments were introduced to the identification and registration process in the Netherlands in the framework of the Dutch Flexibility of the Asylum Chain Programme, which included the launching of the control board (*regietafel*), setting up a front portal (*voorportal*) in the central reception centre in Ter Apel and introducing the use of a common file structure available for all stakeholders of the asylum chain.[335]

In Germany, the Federal Ministry of the Interior, Building and Community submitted to the Federal Cabinet its evaluation report on the Data Exchange Improvement Act, which was adopted in 2016. The act introduced a comprehensive and standardised registration of applicants in the Central Registry of Foreigners (AZR).[336] The report noted that in the meantime the Second Data Exchange Improvement Act, which was adopted in 2019, addressed some of the gaps,[337] and it listed recommendations, for example, to address shortcomings in data retention and review processes.[338]

The timeline of the registration process was modified in Estonia by amending the Act on Granting International Protection to Aliens. The registration time limit can now be exceptionally extended to 10 working days in emergency situations.[339]

Two legislative amendments were passed in Sweden to improve data processing and the identification of third-country nationals. National authorities were enabled to take a foreigner's photo and fingerprints at entry, exit or during internal checks for the Schengen Information System (SIS), if the person's identity cannot be identified in another manner.[340] The Swedish Migration Agency, the police and Swedish diplomatic missions abroad were also given the right to process sensitive data, as described by the Aliens Data Act, and to test and develop existing IT systems for managing the personal data of third-country nationals, for example to participate in international

cooperation.[341]

Persisting delays were reported in Cyprus and Spain. In Cyprus, UNHCR and the Cyprus Refugee Council reported to FRA that there were delays in or lack of registration of newly-arriving asylum seekers, which prevented access to accommodation and food.[342] The Spanish Ombudsperson issued a recommendation to urgently adopt measures to facilitate access to the appointment system and reduce excessive delays in the various administrative procedures carried out by police units, which were seen to impede access to the asylum procedure and the reception system.[343] The Ministry of Inclusion, Social Security and Migration adopted an instruction on 18 March 2020 which remained in force until the end of the state of emergency on 21 June 2020. It allowed people who could not access the asylum procedure due to the COVID-19 measures to be included in the reception system.

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[329]??????? Besluit van *** tot wijziging van het Vreemdelingenbesluit 2000, in verband met het regelen van de aanmeldfase, het vervallen van het eerste gehoor in de algemene asielprocedure en het doorvoeren van enkele technische aanpassingen [Decision of *** amending the Aliens Decree 2000, in relation to the regulation of the registration phase, the withdrawal of the first interview in the regular asylum procedure and the introduction of some other technical adjustments]. https://www.internetconsultatie.nl/regelen_aanmeldfase/document/6303

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