Please cite as: EUAA, '7.6 Procedures at first instance' in *Asylum Report 2020*, Enero 2022.

7.6 Procedures at first instance

CEAS is based on the principle of common standards for fair and efficient procedures for granting and withdrawing international protection across Member States. The standards set in the recast Asylum Procedures Directive aim to ensure that decisions on applications for international protection are taken on the basis of facts and by persons with appropriate knowledge and training, after an adequate and complete examination undertaken without undue delay. Within this framework, Member States have established their asylum systems and procedures in various ways to reflect the standards in the directive.



7.6.1 New approaches and measures in asylum systems

Some EU+ countries proposed new approaches to asylum and migration in 2019, announcing new packages of measures. The package presented in Austria on 25 February 2019 and implemented as of
1 March 2019 included measures related to reception; further acceleration of the asylum procedure to
20 days; and taking steps at the European and national levels on the withdrawal of the asylum status for certain criminal offences.

Linked to a rising number of asylum applications and, thus, pressure on the asylum and reception systems in Belgium, the Council of Ministers approved several measures in March and November 2019 to speed up the procedures for international protection by hiring more staff in asylum authorities, increasing reception capacity to accelerate outflow and cooperating closer with all federal government departments.

The Swiss State Secretariat for Migration (SEM) published in November 2019 a list of measures to optimise the functioning of their asylum system, including closing two federal asylum centres without processing facilities, speeding up the processing of asylum applications lodged under the previous legislation and increasing the efficiency of returns. This followed the entry into force of the new Swiss asylum law in March 2019.

In Greece, a new Asylum Law 4636/2019 was adopted by the Hellenic Parliament on 31 October 2019 and entered into force on 1 January 2020. The new law brings changes in several areas: specific profiles will be prioritised; subsequent applications should be examined within five days (or two days for a removal procedure); the vulnerability assessment is only intended to trigger the provision of reception needs and prioritise the application but does not exempt the applicant from specific procedures; and the reception and identification procedures were organised into five stages.

A civil court in Italy assessed mental illness and degrading and inhuman treatment of people. The court granted international protection to a Gambian national due to discriminatory laws and the lack of medical structures in the country of origin.

Adequate protection of minors in Afghanistan was reviewed by the CALL in Belgium in the case of two brothers. The Court granted them refugee status based on country of origin information and the vulnerability of the applicants given their young age.

Claims based on sexual orientation represent a vulnerability factor for asylum seekers. In this context, the Tallinn Court of Appeals assessed the credibility of a Namibian applicant for international protection and accepted the lack of detailed statements, while noting that ignorance of LGBT groups does not necessarily indicate the applicant's lack of credibility. FGM practices and forced marriages in countries of origin were also assessed by the courts in France and Switzerland.

7.6.2 Amendments to existing legislation

An amendment to the Aliens Act in Finland, which came into force on 1 June 2019, clarified when an asylum applicant's right to work ends, granted the Finnish Immigration Service the right to seize the applicant's travel document for the length of the process and introduced a limit on the number of times an applicant could reapply (FI LEG 01). In addition, a decision of the Ministry of the Interior clarified that from 1 January 2020 residence permit applications submitted in parallel to an asylum application would be processed separately and no longer together with the application.

In France, on 1 January and 1 March 2019 several provisions of Law No. 2018-778 of 10 September 2018 came into effect for managed immigration, an effective right of asylum and successful integration
(FR LEG 06). The amendments aimed to reduce the general processing time of asylum applications, improve the functioning of the national reception scheme, strengthen measures to deter irregular migration and implement prompt processing of residence permit applications by asylum seekers.

In Lithuania as of 1 July 2019, information related to lodging and the examination of an application for international protection may be classified in accordance with the procedure established by the Law of the Republic of Lithuania on State Secrets and Official Secrets (prior to that change all such information was classified). Among other changes, a separate decision on issuing or renewing a foreigner's registration certificate is no longer required. Similarly, no separate justification in the Migration Department's decision is required when extending the period for examination of an application (up to six months). In addition, certain categories of intermediate decisions do not require a separate written decision of the Migration Department (LT LEG 01).

Ministerial decisions were issued in Greece on several matters, including Decision 1139/2019 on the procedure for issuing travel documents to refugee beneficiaries (EL LEG 01), Decision 1140/2019 on the restriction of movement of applicants of international protection and

subsidiary protection recipients
(EL LEG 02), and Joint Decision 1333/2019 on the implementation of exceptional border procedures
(EL LEG 03).

In September 2019, the Hungarian government extended Government Decree 41/2016 (III. 9.) [403] by six more months, stating that there is a continued state of crisis caused by mass migration (HU LEG 02).

7.6.3 Institutional changes

There were several institutional changes reported by EU+ countries concerning determining authorities, including internal reorganisation, redefined mandates and changes in the authorities which handle first instance procedures.

Bulgaria, Croatia, France and Sweden made changes to the internal organisation of their asylum agencies in 2019. In Bulgaria, a separate Social Adaptation Department was established in the Registration and Reception Centre in Harmanli.

The Croatian Ministry of the Interior formed the Directorate for Immigration, Citizenship and Administrative Affairs with a sector for foreigners and international protection and a sector for administrative affairs and citizenship. The sector for foreigners and international protection has three services: service for international protection, service for the reception and accommodation of applicants for international protection and service for foreigners. The service for international protection is responsible for three sections: the section for international protection section, the section for Dublin procedure and the section for integration section). The service for reception and accommodation of applicants for international protection is responsible for reception centres in Zagreb and Kutina.

As of May 2020, the Swedish Migration Agency and its head office will be restructured and the number of regions will be reduced from six to three. Decentralised missions in French cities outside of the Paris region doubled in 2019 in order to accelerate the examination of claims.

In Estonia, migration-related services were transferred from the Ministry of Social Affairs to the Social Insurance Board, while the mandate for policy-making on those services remained with the Ministry of Social Affairs. On 1 July 2019, the Immigration and Asylum Office of Hungary was transformed into the National Directorate-General for Aliens Policing and became a law enforcement body (while remaining under the Ministry of the Interior) with policing, rather than civilian, functions. The legal basis of the asylum procedures did not change. On 1 January 2019, regional asylum offices were closed and the central department based in Budapest took over all asylum procedures.

In Greece, The Ministry of Citizen Protection and the Ministry of Migration Policy were merged into a new Ministry of Citizen Protection in July 2019. On 15 January 2020, the Ministry of Migration and Asylum was re-established. The role of a national coordinator was introduced to manage migration and refugee matters. A new Asylum Unit Nikaia was established to process

pending cases.

Belgium, Cyprus, France, Germany, Malta and Spain reinforced the number of staff working on asylum and provided introductory training.

ECRE's report, *Asylum Authorities: An Overview of Internal Structures and Available Resources*, published in October 2019, provides a comprehensive overview of the structure, composition and functioning of asylum authorities at first instance.

7.6.4 New working methods and policies

Sweden and Belgium applied revised methodologies for case management. Sweden extended the "Asylum360" pilot projects of 2018 to more regions, combining the accommodation of asylum seekers and the examination of their applications into one continuous process to handle as many cases as possible without interruptions. This project contributed to reduce the handling time of new applicants by approximately 220 days during 2019.

In Belgium, an integrated approach (chain management) was set up to reinforce cooperation among various asylum institutions (Fedasil, CGRS and the Immigration Office) and budgetary provisions. A key component of the approach concerns prioritising several categories of cases (detention, persons who obtained protection in another Member State, applications from safe countries of origin, applications by minors accompanied by their parents, withdrawals based on a danger to national security or society, subsequent applications, already pending cases, unaccompanied minor applicants, applications for which the first instance decision was cancelled by the court, and applications by applicants who are in a prison). The remainder of the workload focused on older and already ongoing cases (first-in, first-out principle).

Changes in interviewing practices were introduced in France and Ireland. Based on a decision of 2 July 2019 by OFPRA's Director General, interviewing practices were adjusted whereby the presence of only one lawyer or representative of an accredited association is authorised, and trainee lawyers and interns are prohibited from accompanying their supervisor. An exception may be granted in the case of disabled applicants.

In Ireland, a pilot project allows for some substantive regular interviews now to take place through teleconference or videoconference in Cork and from video suites in courthouses.

Interviews were also a subject of court deliberations in 2019. For instance, the French Council of State specified the conditions under which the recording of an interview could be requested by an applicant and submitted to CNDA. The Supreme Court in Slovakia reviewed a request for an additional personal interview and ruled the request as redundant, as the previously conducted interview and subsequent evidence included in the administrative file (e.g. country of origin information) did not result in any inconsistencies that needed clarification in an additional interview.

Policies related to family applications changed in Belgium and Lithuania. In line with CALL

jurisprudence, the Belgian CGRS changed its policy in April 2019 on applications for international protection submitted by parents in the name of a daughter who fears female genital mutilation. Parents are no longer granted a derived refugee status on the basis of the principle of family unity; instead they can submit a request for regularisation based on the Immigration Act and granted by the Immigration Office). In Lithuania as of
1 July 2019, the Migration Department may take joint decisions on asylum applicants of the same family (previously they were always taken jointly), provided that a joint decision does not disclose personal circumstances of an applicant which could pose a threat to best interests (LT LEG 01).

Latvia made improvements to the efficiency of the Asylum Seekers Register, aiming to reduce paper files and process data on applicants more efficiently. The country is also transitioning to fully digitalised documents. In late 2019, the Office of the Refugee Commissioner in Malta started implementing changes to reporting on case allocation and backlog.

As of September 2019, the PBGB in Estonia started to issue “3 in 1 decisions”. Together with a negative asylum decision, a person receives a return decision and a decision to impose an entry ban with the same administrative act. After a final decision on international protection, the court still has the right to suspend the enforcement of the return decision as an interim measure.

As of September 2019, Executive Officers in the International Protection Office (IPO) in Ireland were granted the authority for single sign-off on certain cases. In addition, some legal panel members and case workers are assigned to handle caseloads from specific countries to improve their knowledge for swift decision-making.

7.6.5 New technologies

To increase efficiency and the quality of asylum procedures, some EU+ countries introduced new technologies for case processing. For example, BAMF in Germany implemented the XAVIA project that enables real-time electronic exchange of case-related information between different public entities (municipalities, states and the federal office), replacing communication by post or fax. The Norwegian Directorate of Immigration launched the LOS system to book interpreters for interviews, order translations and undertake age assessments. The system also manages logistics and finances.

The Ministry of the Interior in Czechia joined the Videoconferences for Identification project, which focuses on creating and supporting a national and European network for return cases, asylum and residence procedures. In Estonia, a new information system for international protection procedures is being developed and should go live at the end of 2020.

7.6.6 Monitoring and quality assurance

EU+ countries continuously implement projects to monitor and improve the quality of asylum procedures. The programmes are implemented by the asylum authority or external stakeholders, such as UNHCR.

Previously at BAMF in Germany, quality assurance employees were located in every branch office, with a central quality assurance unit in Nuremberg. In 2019, this was changed to rotate quality assurance employees across branch offices to gain more homogeneity in decisions. In Croatia, the project “Monitoring the conduct of the Ministry of the Interior police officers in the area of irregular migration and asylum” was launched to monitor that the rights of irregular migrants and potential applicants for international protection were consistently protected. A Quality Control Unit was established in Cyprus in the Asylum Service, with the participation of the Asylum Service, EASO and UNHCR experts.

New and updated quality guidance was issued in several EU+ countries in 2019. The Belgian CGRS developed and published several quality tools (job descriptions for supervisors, indicators for work output, an updated quality guide and monitoring tools for gender-based cases). Indicators to monitor and assess cases lodged by minors were developed, with random checks of 100 files by the children coordinator. Lithuania implemented internal guidelines on the conduct of interviews and information-gathering in the asylum procedure.

Malta continued to review and update guidance and launched new internal standard operating procedures for radicalisation and extremism and an internal guide on the application of internal protection alternatives. Following an internal review of national processes and consultations with EASO, the decision template was also updated. Spain issued case-handling guidelines (for example related to gender issues, credibility assessments and the assessment of medical reports).

Other specific monitoring and evaluation activities were implemented by various actors. In Finland, an independent survey report of the asylum procedure was published in June 2019 on the standards and efficiency of the asylum procedure and the applicant’s legal protection. The survey, examining the entire procedure and all authorities involved, was the first of its kind, commissioned in 2018 by the Finnish Ministry of Interior to identify developmental needs, examine the cooperation between different authorities and assess the practices of the administrative courts for dealing with asylum-related issues.

In the Netherlands, the State Secretary for Justice and Security gave a formal response to the WODC report, published in early 2020. The WODC conducted a study on assessing the credibility of LGBTI and conversion-motivated asylum applications.[404] The findings of the WODC will not lead directly to a policy change, but to a further evaluation of recent policy measures that the IND has made.[405]

The Austrian Court of Audit performed an audit of the Federal Office for Immigration and Asylum, examining its organisation, strategies, procedures related to the Asylum and Aliens Law, quality management, and internal control systems.[406] With regard to procedures, the Court of Audit made recommendations on reviews of individual cases involving applicants convicted of criminal offences, specifically to stress accelerated procedures and to harmonise the system to handle procedures in the provinces. To ensure a uniform standard of training, a new training model for procedural assistants and special training for quality assurance staff was developed in line with the Court of Auditors’ recommendation.

The Estonian PBGB organised a large-scale exercise, “HotSpot 2019”, by which it rehearsed the mass influx of thousands of migrants at the border checkpoint located in Koidula, south-eastern part of Estonia. The exercise tested the performance of initial procedural acts in an emergency situation (screening of health issues, vulnerability assessment,s security checks, identification, fingerprinting, photographing, etc.) with the participation of nearly 400 PBGB officials. The exercise was evaluated by local experts, and partners from Finland and Frontex.

UNHCR appointed an independent expert to perform an external quality assessment on a selection of first instance decisions in Luxembourg. Courts also looked into the main principles to be observed in asylum procedures. For instance, the objectivity of decision-making in conjunction to the four-eye principle was contested before the Dutch Council of State. According to its ruling, not applying the dual control principle in all asylum cases does not contradict with a legal provision or the due care principle.

Existing challenges reported by civil society organisations



Concerns raised by civil society organisations often pointed to exceedingly long first instance procedures, going beyond legal limits, and the detrimental effect it had on applicants. For example in Cyprus,[407] Greece[408] and Spain,[409] delays were frequent in the regular procedure, while improvements were noted in the duration of fast-track cases. In Switzerland, swifter procedures and access to legal aid were welcomed, but it was pointed out by Amnesty International[410] and the Swiss Refugee Council [411] that fast processing and very strict deadlines can lead to less robust assessments and decision-making, illustrated by a higher number of cases remitted by the court for re-examination.[412]

Issues in interviewing were raised in Switzerland as a side effect of strict timelines under new procedural deadlines[413] and in Bulgaria due to the absence of standard questions during eligibility interviews and lack of guidelines or a code of conduct. The Hungarian Helsinki Committee flagged the presence of armed security guards during asylum interviews in transit zones in Hungary.[414]

Civil society organisations continued to advocate for transparent asylum procedures. In Spain a concern was raised about incomplete information-gathering and case assessments that rely excessively on the personal interview as the main source, while no reference is made to evidence produced during the procedure.[415] The asylum authority in Spain responded that it undertakes second interviews when required and takes into consideration all submissions by the applicant as per administrative legal provisions before taking a final decision on a case. Also related to transparency and compliance, in Bulgaria the case worker’s superior can request a re-examination of an asylum claim if he/she disagrees with the proposed decision without any written procedure or documentation in the file.[416]

Related to institutional arrangements, NGOs criticised that the Greek Ministry of Migration Policy no longer has a separate portfolio,[417] in addition to the division of tasks between the police and the BFA in Austria.[418] The Swedish Refugee Law Centre examined which indicators the Swedish Migration Agency used in its credibility assessment in decisions where the application was

rejected.[419] In the United Kingdom, a coalition including Freedom from Torture published a report, Lessons not Learned: The Failures of Asylum Decision-Making in the UK, based on findings from 50 publications issued in the last 15 years.[420]

Related analysis was also provided by several actors. MPI Europe-Bertelsmann Stiftung published a report on operational changes made by Member States in their national systems, making an argument for the policy changes and stating that implementing tools was key in achieving efficiency.[421]

l This includes decisions on admission into the territory of the Republic of Lithuania; provision with accommodation or permission to reside at a place of one's choice; and procedural decisions for examining an application and the steps involved (examination of the application as to substance; examination of the application as a matter of urgency; determination of the responsible EU Member State; extension of the period for taking of a decision; extension of the period for examination of the application; suspension of examination of the application; and resumption of examination of the application)

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403 See: EASO. (2017). *Annual Report on the Situation of Asylum in the European Union 2016*. /sites/default/files/Annual-Report-2016.pdf

404 Ministry of Justice and Security. (2019). *De geloofwaardigheidsbeoordeling van asielaanvragen met een LHBTI- of bekeringsmotief: Een inventarisatie van (on)mogelijkheden tot verbetering*. https://www.rijksoverheid.nl/onderwerpen/asielbeleid/documenten/rapporten/2019/09/06/tk-bijlage-de-geloofwaardigheidsbeoordeling-van-asielaanvragen-lhbti

405 Ministry of Justice and Security. (2019). *Kamerbrief met beleidsreactie op memorandum WODC over geloofwaardigheidsbeoordeling asielaanvragen LHBTI's en bekeerlingen*. https://www.rijksoverheid.nl/onderwerpen/asielbeleid/documenten/kamerstukken/2019/09/06/tk-beleidsreactie-wodc-memorandum-over-de-geloofwaardigheidsbeoordeling-van-asielaanvragen-van-lhbti

406 Court of Audit. (2019). *Bundesamt für Fremdenwesen und Asyl Bericht des Rechnungshofes*. https://www.rechnungshof.gv.at/rh/home/home/Asyl_2019_46.pdf

407 Cyprus Refugee Council. (2020). *Input to "EASO Asylum Report 2020: Annual Report on the Situation of Asylum in the European Union"*. /sites/default/files/easo-annual-report-2019-Cyprus-Council-for-Refugees-contribution.pdf

408 Danish Refugee Council Greece. (2020). *Input to "EASO Asylum Report 2020: Annual Report on the Situation of Asylum in the European Union"*. /sites/default/files/easo-annual-report-2019-Danish-Refugee-Council-contribution.pdf

409 Fundación Cepaim. (2020). *Input to "EASO Asylum Report 2020: Annual Report on the Situation of Asylum in the European Union"*. /sites/default/files/easo-annual-report-2019-Fundacion-Cepaim-contribution.pdf

410 Amnesty International Suisse. (2020, February 28). *Un régime rigide dans les centres fédéraux et des délais très courts*. https://www.amnesty.ch/fr/pays/europe-asie-centrale/suisse/docs/2020/un-regime-rigide-dans-les-centres-federaux-et-des-delais-tres-courts

411 Swiss Refugee Council. (2020, February 4). *L'accélération ne doit pas prétériter l'équité et la qualité*. https://www.osar.ch/medias/communiques-de-presse/2020/lacceleration-ne-doit-pas-preteriter-lequite-et-la-qualite.html

412 Swiss Refugee Council. (2020). *Nouvelle procédure d'asile: Bilan de l'OSAR*. https://www.osar.ch/assets/medien/2020/200129-nouvelle-procedure-dasile-bilan-de-losar.pdf

413 AsyLex. (2020). *Input to "EASO Asylum Report 2020: Annual Report on the Situation of Asylum in the European Union"*. /sites/default/files/easo-annual-report-2019-AsyLex-Switzerland-contribution.pdf

414 AIDA Hungary. (2020). *Country Report: Hungary - 2019 Update*. Edited by ECRE. Written by Hungarian

Helsinki Committee. https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2019update.pdf

415 Fundación Cepaim. (2020). *Input to "EASO Asylum Report 2020: Annual Report on the Situation of Asylum in the European Union"* . /sites/default/files/easo-annual-report-2019-Fundacion-Cepaim-contribution.pdf

416 AIDA Bulgaria. (2020). *Country Report: Bulgaria - 2019 Update*. Edited by ECRE. Written by Bulgarian Helsinki Committee. https://www.asylumineurope.org/sites/default/files/report-download/aida_bg_2019update.pdf

417 AIDA Greece. (2020). *Country Report: Greece - 2019 Update.* Edited by ECRE. Written by Greek Refugee Council. https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf

418 AIDA Austria. (2020). *Country Report: Austria - 2019 Update*. Edited by ECRE. Written by asylkoordination österreich. https://www.asylumineurope.org/sites/default/files/report-download/aida_at_2019update.pdf

419 AIDA Sweden. (2020). *Country Report: Sweden - 2019 Update*. Edited by ECRE. Written by Swedish Network of Refugee Support Groups (FARR). https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf

420 Freedom from Torture, JRS United Kingdom, UK Lesbian and Gay Immigration Group, The Joint Council for the Welfare of Immigrants, Refugee Council, Refugee Action and Helen Bamber Foundation. (2019). *Lessons Not Learned: The failures of asylum decision-making in the UK* . https://www.freedomfromtorture.org/sites/default/files/2019-09/FFT_LessonsNotLearned_Report_A4_FINAL_LOWRES_0.pdf

421 MPI-Europe, Bertelsmann Stiftung. (2019). *Chasing Efficiency. Can operational changes fix European asylum systems?* https://www.migrationpolicy.org/research/operational-changes-european-asylum-systems

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