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Section 4.1 Access to procedure



Effective access to the asylum procedure implies that people seeking international protection are able to reach the authorities of a Member State and are granted access to a fair and efficient process. The EU's recast Asylum Procedures Directive guides Member States on common procedures to undertake when an asylum application is submitted in the territory of a Member State, including at the border, in territorial waters or in transit zones.

The Directive outlines access to procedure as a three-step process:

- Making an application: A person expresses the wish to any national authority to apply for international protection.
- Registering an application: This is a procedural step where the competent authority officially records the application for international protection.
- Lodging an application: The application is formally lodged when all administrative formalities have been completed.

Time limits for the examination of an application start running when the claim is lodged.



COVID-19

Travel restrictions during the COVID-19 pandemic significantly affected the chances of asylum seekers reaching theEU's territory. Non-essential travel to the EU was restricted until 1 July 2020 and restrictions were recommended to be lifted at the end of the year only for eight third countries and two special administrative regions.[241] In addition,14 EU Member States re-introduced border checks within the Schengen area, further limiting access to territory.[242]

The European Commission's guidance outlined that people in need of international or humanitarian protection must be exempted from the travel restrictions. Nonetheless, many organisations and scholars noted that the restrictions impeded the journey for many to seek protection.[243] UNHCR emphasised that "measures should not result in closure of avenues to asylum, or of forcing people to return to situations of danger".[244]

National authorities were compelled to swiftly adjust to the new circumstances. Some offices suspended registrations for a short period during the first wave of the pandemic to re-organise

processes and the working environment. Others did not officially suspend the process but limited registration to basic information, sometimes in written form, and proceeded with the lodging of the application after a period of quarantine or testing. Thus, these measures slightly increased the period between the two procedural steps of registering and lodging an application.

Registration capacity was directly affected by the reduction in the number of registration staff due to shift work and the
re-organisation of waiting rooms and offices to ensure safe distancing between people. To limit the number of people physically present at the same time, national authorities introduced new systems to book appointments online, by e-mail or by phone. These measures could potentially increase the length of the process.

National courts were called to assess any infringement due to the newly-introduced methods. The time elapsed between expressing a wish to apply for international protection and having access material reception conditions was of particular concern.





Digitalisation

National administrations have been gradually automating the first steps of the asylum procedure for several years, culminating with developing digital solutions quickly to ensure business continuity during the pandemic. Registration and the verification of an applicant’s identity must typically be done in person, but some aspects of the identification and verification processes can involve electronic platforms, mobile phones and laptops.

The Netherlands has already been using a self-registration tool through which asylum applicants can provide personal data electronically, so registration staff become involved at a later stage more briefly for verification. Some Member States started to introduce and pilot systems to manage identification, similar to the Integrated Identity Management: Plausibility, data quality and security aspects (IDM-S) programme introduced by Germany in 2017.[245] Its components, such as the computer-based Dialect Identification Assisting System (DIAS) provide support in clarifying identity and citizenship. Many experts, civil society organisations and asylum authorities are closely following the developments in these innovations.[246]

Automated systems can, however, raise questions about an applicant’s right to private life and data protection in general. The first steps of the asylum procedure often involve several national authorities, which need to exchange and store information and personal data in a secure manner. Several Member States have passed legislation in recent years to provide a legal framework for this kind of cooperation or set up pilot projects on different communication methods and information-sharing platforms.

The implementation of the proposed Screening Regulation under the Pact on Migration and Asylum would also entail that the scope of and access to relevant EU information systems should be

extended, raising additional concerns by civil society organisations.[247] In addition, these organisations have already noted that the more extensive use of online tools can be challenging for some groups of applicants.[248]

Main developments in access to the asylum procedure in 2020 continued on the same path of previous years. Procedures continued to be finetuned so that authorities obtain as much information as possible at the beginning of the asylum process in an efficient manner and coordinated among the different stakeholders. The overarching goal is to better channel cases through the system and speed up the overall process.

The new proposal for a Screening Regulation based on the EU Pact on Migration and Asylum mirrors these efforts by introducing a pre-entry screening process for all people crossing the EU's external borders without permission *(see Section 2).* Academia and civil society organisations have outlined concerns about the proposal, citing some recent national experiences, for example in the hotspots in Greece and Italy.[249]



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[246] Deutsche Welle. (2017, March 17). *Automatic speech analysis software used to verify refugees' dialects* . https://www.dw.com/en/automatic-speech-analysis-software-used-to-verify-refugees-dialects/a-37980819

[247] See for example: European Council on Refugees and Exiles. (November 2020). *ECRE Comments on the Commission Proposal for a Screening Regulation COM(2020) 612: Proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, COM(2020) 612, 23 September 2020* . https://www.ecre.org/wp-content/uploads/2020/12/ECRE-Comments-COM2020-612-1-screening-December-2020.pdf

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