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icon for quality improvement at first instance decisions

EU+ countries analysed the quality of first instance decisions by examining sample decisions, the share of decisions which were overturned on appeal and divergences between national and international interpretations of asylum concepts. They identified aspects that need improvement and ways to provide asylum applicants with quality decisions on first instance applications.

In collaboration with the Croatian Law Centre, UNHCR published an analysis of the quality of first instance decisions in Croatia, based on a sample of 40 decisions from 2017-2019. UNHCR organised a workshop in collaboration with the Croatian Law Centre and the Croatian Ministry of the Interior to discuss the findings of the report.

The Finnish Immigration Service published an update in May 2021 to the analysis of the rate of first instance decisions which were overturned by courts between January to March 2021. The Immigration Service noted that the standards had improved and the number of errors in interpreting law and procedural shortcomings were much lower. The majority of cases which were returned for a re-examination concerned the submission of new evidence by the applicant or changes in the situation of the applicant since a first instance decision was pronounced.545

The Helsinki Committee noted that the Hungarian legal provisions and practices on exclusion decisions did not comply with EU law. Decisions to refuse international protection based on exclusion due to being considered a threat to national security were not adequately reasoned as the information provided by the security agencies, which is the basis for the decision to exclude from international protection, is classified. The Hungarian immigration authority does not have access to the information and the opinion of the security agencies is binding.546 On this issue, the Budapest High Court made a reference for a preliminary ruling to the CJEU seeking interpretation of the relevant provisions of the recast Asylum Procedures Directive and the recast Qualification Directive (the pending case is registered under C-159/21).

Specific implementation guidelines were sent to police headquarters *(questure)* and territorial commissions in Italy in July 2021 by the National Commission.547 The guidelines were sent after

a monitoring report on the implementation of the new legislation in 15 Italian cities was prepared by immigration offices of the police headquarters and the territorial commissions, which highlighted several procedural issues and the lack of communication at the central level which led to failures in the application of legislative provisions.548

For the first time, IPA in Malta held reflective meetings on the quality of the international protection procedure, whereby lessons learned are captured and included in bulletins shared with case officers. Furthermore, regular meetings are held with the Quality Control Unit to discuss and identify solutions to issues faced by case officers. The IPA introduced confidential psychological services to case workers during working hours, which require the written approval of the supervisor and a confirmation of attendance.

In July 2021, the National Audit Office of Malta published the report “Performance Audit: Fulfilling obligations in relation to asylum seekers”, which assesses the efficacy of each asylum process. The report identified inadequacies, including a lack of resources at first instance, and proposed strategic and operational recommendations.549 In August 2021, the recruitment process was initiated for additional case officers.

Malta introduced a new practice to optimise case management, a so-called 3+3 principle, whereby each case officer has a weekly quota of interviewing three applicants and submitting three draft decisions (not corresponding to the interviews performed in the same week), with exceptions for case officers who may need to engage in other tasks or by extension by the line manager.

UNHCR published a study on the application in Switzerland of the definition of refugee according to the Geneva Convention. The study highlighted that the most important divergences between Swiss practice and international asylum law concern: i) the requirement of targeted persecution, which requires, with limited exceptions, that the persecution be ‘specifically’ directed against the person; and ii) the restrictive practice of requiring causality between motive and persecution, so that a subjective motive for persecution and sometimes of a main reason for the persecution were necessary. It also noted that there is a divergence in the assessment of applications from particularly vulnerable groups, such as women, children or LGBTIQ applicants *(see Section 5)*.550

In Norway, the UDI commissioned in April 2021 an assessment of the quality of 150 asylum interviews and decisions in order to use the findings to draft guidelines and policy instructions to case officers who decide on asylum claims. The study found that case officers believe that interviews do not provide sufficient information to take a decision. The study also noted that the rules of evidence should be defined to apply them uniformly in asylum cases.

To improve the quality of decisions, training was a priority for case officers in EU+ countries. In Cyprus, the majority of staff deployed by the Cyprus Asylum Service and the EUAA completed compulsory training in the EUAA training curriculum core modules. Italy trained 177 interim workers under the AMIF Emergency Assistance grant scheme (EMAS) and Romania organised a national face-to-face training session on inclusion, offered by experts of the General Inspectorate of Immigration to case officers and legal counsellors.

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