



EMN Ad-Hoc Query on Accelerated asylum procedure before first instance decision for nationals of safe countries of origin

Requested by Dennis WINKEL on 31st May 2017

Protection

Responses from Austria, Belgium, Croatia, Czech Republic, Finland, France, Germany, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Slovenia, United Kingdom, Norway (16 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.


Background information:


In your answer to AHQ no. 2016.1118 your NCP stated that you process applications from persons from safe countries of origin in an accelerated asylum procedure. With this ad-hoc query we would like to obtain more information on how this accelerated procedure differs from the standard asylum procedure. The replies of this and other AHQs will be used as input for the inform on Safe Countries of Origin



Questions

1. How long (number of calendar days) is the standard asylum procedure supposed to take as prescribed by your national law/policy (counting from lodging the application until the first instance decision is taken)?
2. In what way is the accelerated procedure for nationals of safe countries of origin shorter than the regular procedure as prescribed by your national law/policy? Is there a fixed amount of time (calendar days) or are certain steps omitted, combined or shortened in the accelerated procedure in order to make the procedure faster than the standard asylum procedure? If so, please elaborate (Note: any other form of shortening the procedure may be elaborated upon as well).
3. Are there any other differences between the accelerated procedure for nationals of safe countries of origin and the standard asylum procedure that you did not mention in your answers to the questions 1 and 2?
4. If there are grounds for protection found in the case of an applicant from a safe country of origin whose case is processed in an accelerated manner, is the positive decision granted in the accelerated procedure directly or is the case channelled into standard procedure? Please explain.


Responses

	Country	Wider Dissemination	Response
	Austria	Yes	<p>1. An asylum application has to be decided on by the first instance authority at the latest within 15 months (Art. 22 para 1 Asylum Act).</p> <p>2. In general, accelerated asylum procedures have to be decided at the latest within 5 months. If this is necessary for the proper and comprehensive examination of the asylum application, the time limit is 6 months (Art. 27a Asylum Act).</p>

			<p>3. Not to our knowledge.</p> <p>4. It lies within the discretion of the asylum authority whether an asylum procedure for a national from a safe country of origin is led as an accelerated procedure or not (Art. 27a Asylum Act). Accordingly, it is also within the discretion of the asylum authority whether the procedure is kept as an accelerated procedure or reclassified as a regular procedure.</p>
	Belgium	Yes	<p>1. The objective in the Coalition Agreement of the Belgian government is to handle all the asylum applications within 6 months. However, this was not possible for all applications lodged in 2015 and 2016. The Office of the Commissioner General for Stateless Persons (CGRS) found itself in an exceptional situation in 2015. In 2015, in Belgium 44,760 applications were filed, i.e. twice as many as compared to 2014. Within a short period of time, the number of pending asylum applications rose from 5,000 to 18,300 at the end of April 2016. The CGRS made every effort to keep waiting periods as short as possible and to reduce the backlog. Still, some asylum application have been waiting for an invitation to an interview for months to more than a year. For the CGRS, a qualitative, thorough and individual assessment remains a priority. Therefore, it is impossible to process all asylum applications at the same time. By the end of 2017, the CGRS wants to eliminate its backlog as much as possible. By the end of this year, the CGRS must be able to invite every asylum seeker (who currently has filed an asylum application) to an interview. Once the asylum seeker has been interviewed, he will receive his decision within three months, unless additional processing is needed.</p> <p>2. Yes, according to Article 57/6/1 of the Immigration Act, the Office of the Commissioner General for Stateless Persons (CGRS) has to take a decision for applicants from safe countries of origin within 15 days after notification by the Immigration Office that Belgium is the responsible authority for assessing the asylum application.</p> <p>3. The burden of proof lies more with the applicant, the asylum applicant will have to put forward substantial arguments to demonstrate that his country of origin cannot be considered as safe due to specific personal circumstances.</p>

			<p>4. Although the applications of applicants coming from safe countries of origin are treated in an accelerated procedure, all cases are assessed on the merits, and a protection status can be granted. There is no formal transfer from the accelerated procedure to the “standard procedure”.</p>
	Croatia	Yes	<p>1. 1. According to the Act on International and Temporary Protection the duration of the standard asylum procedure should last no more than 180 days starting with the day of submission of a duly completed application or a duly completed and admissible subsequent application.</p> <p>2. 2. According to the Act on International and Temporary Protection decision in accelerated asylum procedures has to be made within 60 days have from the day the application or an admissible subsequent application is lodged. Steps are the same as in regular procedure, only deadline is shorter than in regular procedure.</p> <p>3. 3. No, there are no other differences.</p> <p>4. 4. If there are grounds for international protection in the case of an applicant from a safe country of origin, decision maker is bound by article 38 section 2 of the Act on International and Temporary Protection which states that an application which may be approved on the basis of the established facts of the situation has priority in decision-making. Article 38 section 2 can be applied in cases where an applicant is from the safe country of origin but also in any other case in which, based on the established facts, application may be approved.</p>
	Czech Republic	Yes	<p>1. National law (Asylum Act) prescribes the duration of standard asylum procedure for maximum of 6 months from lodging an application for international protection. However, the law prescribes that the decision has to be issued without undue delay. The 6 months period is the maximum period. This time limit mirrors Asylum procedures directive 2013/32/EU.</p> <p>2. The application for international protection of the national from the safe country of origin may be rejected as manifestly unfounded within 30 days from the lodging of an application. The applicant is entitled to enjoy the same procedural standards therefore the accelerated procedure contains all steps of the standard procedure (lodging an application, interview, collection of COI</p>



			<p>etc.). No steps are omitted. If the 30 day time limit lapses, the decision has to be taken in the standard procedure, i.e. the status is granted or the application is rejected as unfounded with regard to refugee or subsidiary protection status.</p> <p>3. No. Only the time limit for the procedure as mentioned above. However there are differences in the appeals stage. There is no automatic suspensive effect in the case of some grounds for decisions to reject the application as manifestly unfounded (the applicant has misled the authorities by presenting false information or documents, the applicant has destroyed or disposed of an identity or travel document or has refused to comply with an obligation to have his or her fingerprints taken). Nevertheless the ground for rejection safe country of origin has automatic suspensive effect.</p> <p>4. If there are grounds for positive decision, such decision is issued in the standard procedure. Only manifestly unfounded decisions may be issued within mentioned 30 days period. However there is no administrative step for channelling the case into standard procedure.</p>
+	Finland	Yes	<p>1. As for now, Finnish legislation does not set a maximum length for the standard asylum procedure. However, new legislation (Aliens' Act 98 a §) will enter into force on 20 July 2018 setting the following time-lines: • Maximum length of the standard asylum procedure is prescribed to be 6 months (approx. 180 days). • The time limit for processing can be extended to 15 months (approx. 450 days) if 1) the asylum claim includes complicated factual or legal questions, 2) there is a large number of asylum seekers at a given time, or 3) if the applicant does not cooperate in the processing of the asylum application. • If the asylum claim requires still further investigation, the time limit can be extended to 18 months (approx. 540 days). • If the situation in the country of origin is uncertain, and no decision can be made within the mentioned time limits, a decision has to be made at the latest within 21 months (approx. 630 days).</p> <p>2. If the asylum seeker is from a safe country of origin, the application can be regarded as manifestly un-founded. (Aliens Act 101 §). If the application is regarded as manifestly unfounded, it can be processed in an accelerated procedure. When an asylum application is</p>



			<p>processed in an accelerated procedure, a decision on the application has to be made within five months (approx. 150 days) of receiving the application (Aliens Act 104 §).</p> <p>3. There is a difference regarding the enforcement of return decisions. For more information, see query II, questions 1 and 2.</p> <p>4. In terms of the legal basis of the decision, a positive decision would not be made in the accelerated procedure. The accelerated procedure only applies to manifestly unfounded applications. (There are other grounds for speeding up the decision-making procedure, but “accelerated procedure” as described in the Finnish Aliens Act 104 § / Article 31 (8) in the Asylum Procedures Directive 2013/32/EU is only applied if the application is manifestly unfounded.)</p>
	France	Yes	<p>1. As indicated in article R. 723-2 of the Code on Entry and Residence of Foreigners and Right of Asylum (CESEDA), the French Office for Immigration and Integration (OFPRA) decides on asylum application within the time limits laid down in Article 31 (3) and (4) of Directive 2013/32 /EU of the Parliament and of the Council of 26 June 2013 on common procedures for asylum application, and withdrawal of international protection. Article R. 723-2 of the CESEDA indicates that the examination procedure is completed within six months after the submission of the application. In accordance with the Directive 2013/32, France can extend this 6 months period for additional 9 months if the situation is particularly complex or if a large number of asylum seekers have arrived in France at the same time and then for another 3 months to ensure an appropriate and comprehensive examination of the application. When a decision cannot be taken within six months, the OFPRA shall inform the applicant concerned at least 15 days before the expiry of that period. If the applicant request it, the OFPRA must also inform him of the reasons for the delay and present to him the foreseeable time-limit within which a decision will be reached. In practice, the average processing time decreased from 216 days as on average as of 31 December 2015 to 159.5 days at the end of 2016. The average processing time for first applications under the standard procedure also continued to decline (262 days in 2015 to 220.5 days in 2016)</p>


			<p>2. The placement for accelerated procedures for a TCN of a safe country of origin is automatic as indicated in the law. There is no change in the procedure and the interview is maintained. The only difference with the regular procedure is the processing period which is reduced to 15 days. The OFPRA, can use the accelerated procedure in several cases in particular: the applicant is from a country considered as a safe country of origin; the applicant submits an inadmissible application for the review of his case; the applicant presented false identity or travel documents to the officers. The OFPRA informs the TCN of the placement of its application under the accelerated procedure. When the OFPRA examine an application under the accelerated procedure, it gives its decision within fifteen days after the application is lodged. This period is reduced to 96 hours if the TCN is placed in detention. When the OFPRA has not used the accelerated procedure within 15 days after the lodging of the application, it still have the possibility to use the accelerated procedure after the applicant's interview if the applicant provided false information, if the applicant only raised questions which are irrelevant to the asylum application during the interview or if he produced manifestly inconsistent and contradictory declarations. The OFPRA must present its decision within a period of fifteen days from the date of the interview.</p>
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3. NO


4. In any cases, the OFPRA carries out an individual examination of each application in compliance with the procedural guarantees provided in the Code on Entry and Residence of Foreigners and Right of Asylum. The OFPRA may decide not to proceed in accelerated procedure when it considers the regular procedure necessary to ensure an appropriate examination of the application, in particular if the applicant from a safe country of origin invokes serious grounds for believing that his country of origin should not be considered as safe regarding his personal situation. Thereby, the law allows the OFPRA to downgrade a regular application registered under the accelerated procedure, if it considers that the elements of the application require an in-depth investigation incompatible with the accelerated procedure and / or when it appears that the applicant has specific protection needs and should benefit from specific procedural conditions guarantees which cannot be fulfilled under the accelerated procedure.



	Germany	Yes	<p>1. There is no specified timeline for the asylum procedure.</p> <p>2. In case of an application from a safe country of origin, there is no fixed amount of time defined, nor are any steps omitted or combined. The faster proceeding of those cases is realized by establishing an optimized setting. Applicants are obliged to reside in a reception facility in close vicinity to the responsible branch of the Federal Office for Migration and Refugees, are not permitted to work and may only temporarily leave this area with permission from the Federal Office. Local authorities (aliens' registration office, police and public health department) are also present sur place and can thus provide their services more efficiently. Applicants are easily available for the interview and can directly be served with a decision; removals can be performed without obstacles. Should the application be denied as "manifestly unfound", the appeal deadlines are curtailed.</p> <p>3. In accordance with Art. 36 of the directive 2013/32/EU, the German Asylum Act establishes the default presumption that applicants from a safe country of origin are not at risk of persecution in their home country, which eases the Federal Office's workload to lay down grounds for a denial. Nonetheless, applicants have the opportunity during the interview to submit facts or evidence that they are at risk of persecution in their home country.</p> <p>4. As the procedure has no specified timeline, a more complex examination of possible grounds for protection is feasible within this procedure. It is however also possible to refer a case to another branch office.</p>
	Hungary	Yes	<p>1. The standard procedure takes 60 days with a possibility of a one-time 21 day extension.</p> <p>2. The case officer has to make his/her decision in 15 days after he/she becomes aware of the fact that the case should be decided upon in an accelerated procedure (in this case when he/she learns that the applicant is from a safe country of origin).</p> <p>3. No.</p>


			4. In this case the applications are channelled into standard procedure.
 	Latvia	Yes	<p>1. According to the Asylum Law standard asylum procedure is supposed to take approximately 5 months: - after submitting an asylum application - 10 working days for the registration, identification and initial interview + 10 working days for the decision to accept the application for examination + 1 month for the personal interview (not later than within one month from the day when a decision was taken to accept the application for examination, but due to the objective reasons 1 month period for the personal interview may be extended by another month) + 3 months for the 1st instance's decision (the application shall be examined and a decision to grant refugee or alternative status or to refuse to grant it shall be taken within three months from the day when the personal interview with the asylum seeker was conducted, but not later than within six months after registering the application); - 1 month for asylum seeker to appeal the 1st instance's decision and court decision shall be taken within 3 months from the date of taking the decision to accept the application and to initiate the matter.</p> <p>2. The Asylum Law does not provide possibility to omit any steps of procedure, but some time limits are shortened in the accelerated procedure: - 10 working days for the registration, identification and initial interview + 10 working days for the decision to accept the application for examination + 1 month for the personal interview + 20 working days for the 1st instance's decision; - 15 working days for asylum seeker to appeal the 1st instance's decision and court decision shall be taken within 20 working days from the date of taking the decision to accept the application and to initiate the matter.</p> <p>3. No, there are differences only in time limits, but no differences foreseen in the process of an examination of application or content of decision. Additionally - according to the Asylum Law an official shall examine the application of such asylum seeker who needs special procedural guarantees according to accelerated procedures and may take a decision to refuse to grant refugee or alternative status only in such case, if the asylum seeker has been provided corresponding and adequate support so that he or she could exercise the rights laid down in this Law and comply with the obligations laid down in this Law during the asylum procedure.</p>

			<p>4. When the decision to accept the application for examination is taken, the date of planned personal interview is mentioned and both possible time limits for the 1st instance's decision are pointed out (for the accelerated procedure or standard procedure). It is up to decision maker to decide which procedure to apply in particular case. The accelerated procedure can be applied only in cases where there are reasons to believe that there are no grounds for the refugee status or subsidiary protection.</p>
	Lithuania	Yes	<p>1. An application for asylum must be examined as soon as possible and not later than within three months from the adoption of a decision by the Migration Department to examine the application. This time limit may be extended by a decision of the Migration Department not longer than for three more months if it is necessary for the purpose of consideration of complex legal and/or factual circumstances. (The decision to examine the application is to be taken within 48 hours from the lodging of the application for asylum.)</p> <p>2. An application for asylum must be examined within the framework of accelerated procedure within seven working days from the adoption of a decision by the Migration Department to examine the application within the framework of accelerated procedure. This time limit may be extended by a decision of the Migration Department not longer than for three working days if it is necessary for the purpose of consideration of complex legal and/or factual circumstances. (The decision to examine the application as within the framework of accelerated procedure is to be taken within 48 hours from the lodging of the application for asylum.)</p> <p>3. No. Only the time limit. However, there are differences in the border procedures and in the appeals stage. Asylum applicants may not be held at border crossing points and in transit zones for longer than inter alia until the adoption of a decision to examine an application for asylum, except for the cases when a decision is adopted to examine the application for asylum within the framework of accelerated procedure. In these cases, asylum applicants are to be held at border crossing points and in transit zones until the adoption of the final decision regarding the application for asylum. The enforcement of the decision appealed against is suspended in the cases when inter alia the alien is refused asylum, except for the case when the decision is taken upon examining the application for asylum within the framework of accelerated procedure.</p>

			<p>However, the enforcement of that decision appealed against may be suspended by a ruling of a relevant administrative court regarding interim measures.</p> <p>4. Since the assessment is identical in both cases, the positive decision may be taken either in the framework of accelerated procedure or after channelling the application into standard procedure. The general rule is If, while examining the application for asylum within the framework of accelerated procedure, the grounds due to which the application is being accelerated disappear, the application is examined within regular time limits. If, however, all the necessary checks and procedural steps have been completed within the accelerated procedure and the positive decision can be taken on the basis of the facts already established, such decision is taken without channelling the application into standard procedure.</p>
	Luxembourg	Yes	<p>1. The law of 18 December 2015 on international protection and temporary protection (Asylum Law) establishes a maximum duration of six months for the standard international protection procedure for taking a decision. This deadline runs from the moment that the Minister determines that the Grand-Duchy of Luxembourg is competent to treat the application. However, if the deadline cannot be respected, the IPA must be informed of the delay and, on his/her request, of the the reasons of the delay and the expected timeframe when the decision will be taken. The deadline of six months can be extended up to nine months in cases where: a) there are complex factual or legal questions at stake; b) when there is a high number of IPAs; and c) the delay is due to the lack of respect of the IPA's legal obligations. This deadline can be extended for duly justified circumstances for an additional three months period. The maximum duration of the normal procedure within both the extensions is of 18 months. The examination of the application can be postponed up to a maximum of 21 months in cases where there is an uncertain situation in the country of origin of the IPA.</p> <p>2. a. Article 27 (1) b) of the Asylum law establishes that the accelerated procedure may be applied if the applicant comes from a safe country of origin. The decision of the Ministry evaluating the merits of the application has to be taken within a maximum delay of two months, but if needed, this maximum duration can be extended. b. Deadline for appealing a negative decision in the standard procedure. The IPA can file an appeal against a negative decision before</p>

			<p>the First instance Administrative Court within a deadline of one month after the decision is notified. If the decision of the First instance Administrative Court is negative, the IPA can file an appeal before the Administrative Court within a deadline of one month of the notification of the decision. In case of a negative decision of the accelerated procedure, the decision can only be appealed before the First instance Administrative Court and the deadline for the appeal is reduced to 15 days instead of 30 days in the standard procedure.</p> <p>3. No.</p> <p>4. If the Minister in charge of Asylum considers that there are grounds for international protection found in the case of an applicant from a safe country of origin whose case is processed in a fast-track procedure, a positive decision can be taken directly.</p>
	Netherlands	Yes	<p>1. Basically the Dutch standard asylum procedure lasts a total of 8 days. If a decision is not possible within the accelerated procedure, the applicant will be transferred to the extended procedure which usually takes 6 months and sometimes even more till 15 months.</p> <p>2. Asylum seekers from safe countries only pass identification and registration procedure. Rest and preparation period which takes 6 days s will be skipped within accelerated procedure. The applicant will also not get the standard medical examination.</p> <p>3. Please see the above answers.</p> <p>4. In some cases the applicant from safe country may need protection. The applicant can then substantiate this during the asylum procedure. The applicant will be transferred from the accelerated procedure to the normal procedure. The asylum seeker can still get a residence permit.</p>
	Slovak Republic	Yes	<p>1. 90 days with the possibility of extension</p>

			<p>2. 60 days, after 60 days the application cannot be processed within an accelerated procedure and automatically the same conditions as in the question no. 1 apply.</p> <p>3. The same procedures apply as in 1 and 2.</p> <p>4. The Slovak legislation does not allow for the provision of subsidiary protection within an accelerated procedure. A positive decision on granting of subsidiary protection can be issued only within a standard procedure while there has to be a precondition met that the beneficiary of subsidiary protection had not been granted asylum in the territory of the Slovak Republic. It is not possible to grant subsidiary protection and at the same time reject asylum within the accelerated procedure.</p>
	Slovenia	Yes	<p>1. In the procedure, the competent authority make a decision within the shortest time possible, unless this could have an impact on the adequacy and integrity of the examination. In the regular procedure, a decision is taken no later than within six months (according to Article 47 of International Protection Act).</p> <p>2. In the regular procedure, a decision is taken no later than within six months, and in the accelerated procedure, no later than two months after the application was filed.</p> <p>3. No.</p> <p>4. The case will be examined in the regular procedure (whereas it is necessary to examine the personal circumstances).</p>
	United Kingdom	Yes	<p>1. Asylum applications should be processed in 6 months (around 180 calendar days), although particularly complex cases may take longer.</p> <p>2. Where the claim is certified by the UK Home Office as clearly unfounded, there is no in-country appeal. These are called Non-Suspensive Appeal (NSA) cases. The majority of cases certified in this way are of applicants from a designated list of countries, but cases are may also be certified as clearly unfounded on an individual basis (irrespective of the nationality). The</p>

			<p>applicant may often be detained, though not always, and guidance to Home Office decision makers refers to the procedure as a detained Non-Suspensive Appeal (DNSA) There is no time limit for a decision to be made in such a case, although the Home Office guidance states that the aim is to decide within 14 calendar days.</p> <p>3. No</p> <p>4. The claim would be treated in the standard way.</p>
	Norway	Yes	<p>1. There is no prescribed maximum time for processing an application for protection by the first instance in the standard procedure.</p> <p>2. A conclusion on the case is to be reached within 48 (chronological) hours from the registration of the application. All steps in a normal procedure are to be followed, including the possibility for consultation with a lawyer and lodging an appeal in the case of a rejection of the application. An appeal may lead to delayed execution of the forced return to the country of origin.</p> <p>3. No</p> <p>4. The case is channelled into the standard procedure if/when it is found that there is a prima facia case to consider the case more closely.</p>