



Ad-Hoc Query on asylum procedure

Requested by EE EMN NCP on 20 June 2011

Compilation produced on 8 August 2011

Responses from Austria, Belgium, Bulgaria, Estonia, Finland, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Netherlands, Portugal, Romania, Slovak Republic, Slovenia, Sweden, United Kingdom (19 in Total)

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1. Background Information

Estonia's Police and Border Guard Board is interested in finding out MS practices regarding some specifics of asylum procedure.

- 1) Are the asylum application processing hours in anyway limited? For example if an applicant arrives at midnight is he allowed to have a rest and will be processed only in the morning or will the initial processes be made immediately (e.g. photo, fingerprints, filling the forms) at the border point or at the reception centre?
- 2) Does any of the Member States determine a safe third country or a safe country of origin directly at the external border point?
- 3) Have there been any cases in the practice of Member States where Russian Federation has been determined as a safe third country? Is the percentage high?

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2. Responses¹

		Wider Dissemination? ²	<ol style="list-style-type: none"> 1) Are the asylum application processing hours in anyway limited? For example if an applicant arrives at midnight is he allowed to have a rest and will be processed only in the morning or will the initial processes be made immediately (e.g. photo, fingerprints, filling the forms) at the border point or at the reception centre? 2) Does any of the Member States determine a safe third country or a safe country of origin directly at the external border point? 3) Have there been any cases in the practice of Member States where Russian Federation has been determined as a safe third country? Is the percentage high?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Bulgaria	Yes	<ol style="list-style-type: none"> 1) RSD Procedure is not carried out on the border. 2) No, see 1). 3) No, see 1).
	Estonia	Yes	<ol style="list-style-type: none"> 1) At the border the processing hours of an application (including fingerprints, filling the application, photo etc) have been previously limited to 08.00 a.m. until 21.00 p.m. Currently no such limitation exists. 2) It is determined by Estonian legislation that the procedure of determining a safe country of origin or a safe third country must take place at the border control by the Police and Border Guard Board. The border control official decides if the person should be allowed to enter Estonia or sent back to the safe country. 3) So far no such determination has been made.
	Finland	Yes	<ol style="list-style-type: none"> 1) Yes, according to Act on Preliminary Investigation 449/1987, Section 22, hearing may not take place between 22.00p.m. and 7.00 a.m. 2) No. 3) No.
	Germany	Yes	<ol style="list-style-type: none"> 1) An alien seeking asylum at a border authority is directed to the next accommodation centre in charge. Subsequently, the asylum application is to be lodged at the subsidiary of the Federal Office which is assigned to the accommodation centre in charge. This procedure naturally leads to some timely delays. In the course of the airport procedure the lodging of the asylum application at the Federal Office and the interview take place within the transit area of the airport. Even this extraordinarily accelerated procedure provides sufficient scope to consider the




¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."






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			<p>applicant's physical and psychological state having undergone a long journey or showing signs of fatigue and exhaustion for other reasons – making time limits expressively set by law unnecessary.</p> <p>2) The airport procedure is applied if the applicant comes from a safe country of origin. According to German legislation, these are presently the countries of Ghana and Senegal. If the applicant intends to enter from a safe third country, the border authority may deny entry. Safe third countries are at present all member states of the European Union as well as Norway and Switzerland.</p> <p>3) No.</p>
	Greece	Yes	<p>1) Where applications for international protection are lodged at the border or at transit zones of ports or airports, the accelerated procedure shall be followed, that is when these applications are manifestly unfounded or when the applicant is a national of a safe country of origin or comes from safe third country. The procedure is carried out by the responsible police authorities at the border points (e.g. Athens International Airport Security Department) between 07.30 until 15.00 or/and 15.00 until 21.00.</p> <p>2) The screening application and the interview take place there. It is examined whether the application is manifestly unfounded and /or whether the applicant is a national of a safe country of origin or comes from a safe third country.</p> <p>3) From the statistical data regarding cases with applicants from the Russian Federation, it results that the vast majority of them is rejected and the decision is based on the fact that their claims do not meet the conditions of article 1A of the Geneva Convention.</p>
	Hungary	Yes	<p>1) The service is at all Hungarian frontier crossing point continuous, 24 hours daily all year round. It means, that the initial process be made immediately at the border point.</p> <p>2) The competent authority for determining a safe country of origin or safe third country is the Office of Immigration and Nationality, who investigate the case of non-refoulement. The OIN's decision shall be binding on the Police. In most cases the irregular migrants submit at the border an asylum request, thus the ban on entry is only laid down in the asylum process.</p> <p>3) So far the Hungarian Police has been sent 5 Russian citizens back to Russia.</p>
	Italy	Yes	<p>1) The asylum application processing hours are limited according to border point shifts.</p> <p>2) Italy does not currently have a list of safe third countries.</p> <p>3) Not applicable.</p>
	Latvia	Yes	<p>1) The internal normative acts of the State Border Guard define the time limits (24 hours) for the initial processing of the asylum application. The initial proceedings must be provided immediately after the person applied for asylum at the border crossing point. Namely, to admit the asylum application, to take the fingerprints and a photos of the person and to perform inspection of an asylum seeker and possessions thereof, as well as to seize objects and documents, if they may have a significance in examination of an application or if they may pose a threat to the asylum seeker or the other persons. In emergency cases if a person feels bad and need to have some extra needs, it is allowed to postpone the initial proceedings for a short time.</p> <p>2) No, the determination of a safe third country or a safe country of origin for an individual asylum applicant is not taken directly at the external border point. According to the Asylum Law of the Republic of Latvia, any decision relating to an asylum application is taken by the Office of Citizenship and Migration Affairs (hereinafter – OCMA). After individual examination of asylum application OCMA takes:</p> <p>i) a decision regarding leaving an application without examination if a country, which is not a Member State, is regarded as the safe third country for an asylum seeker or</p> <p>ii) a decision under the Accelerated Procedure if an asylum seeker is from a safe country of origin or an asylum seeker has</p>


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			<p>entered the Republic of Latvia, crossing a country which is not a Member State and is regarded as a safe third country in relation to the asylum seeker.</p> <p>3) So far no such determination has been made relating to Russian Federation.</p>
	Lithuania	Yes	<p>1) The first steps of the asylum procedure, which are related to the lodging of the asylum application, are carried out at any time – whenever the asylum seeker lodges the application. Those are the following steps:</p> <ol style="list-style-type: none"> i) accepting the written asylum request; ii) writing an act of accepting the asylum request; iii) inspecting personal belongings of the asylum seeker and the asylum seeker himself; iv) taking all personal documents of the asylum seeker and travel tickets, evaluating if they are not falsified; v) conducting an initial interview of the asylum seeker and writing a protocol of this interview; vi) if possible, establishing identity of the asylum seeker and his travel route; vii) making photographs of the asylum seeker; viii) taking fingerprints of the asylum seeker, if he's not younger than 14 years; ix) if technically possible, entering relevant data into national database; x) transferring all the data to the Migration Department. <p>All these steps must be done within 24 hours since the lodging of the asylum request.</p> <p>2) No. All decisions related to the asylum request are taken by the Migration Department. The fact that the asylum seeker arrived from a safe third country must be established within 48 hours since lodging of the asylum application (if it is established that (s)he didn't arrive from such country, the asylum procedure continues).</p> <p>3) No.</p>
	Malta	Yes	<p>1) A distinction has to be made between the remit of the Immigration Police and that of the Office of the Refugee Commissioner. On arrival (for the majority of arrivals in Malta this is usually by boat from North Africa) the Police will see to the collection of basic information about the person involved, take photo and fingerprints, before being provide with accommodation in the reception centres. As soon as possible after arrival the Office of the Refugee Commissioner will ensure that the asylum seeker is given all the information needed, as regards the Asylum process. This is done through a personal meeting, an audio visual presentation and printed material (both available in 11 languages). If the client confirms that he wants to apply for asylum he is helped by our interpreter to fill in the application form.</p> <p>2) No decisions about safe countries of origin are taken at the frontier. It is felt that all asylum seekers should be given the appropriate possibilities to make their case as fully as possible.</p> <p>3) No such considerations have ever been made by the Maltese asylum authorities.</p>
	Netherlands	Yes	<p>1) In the Netherlands the asylum processing hours are limited to daytime. If the applicant arrives at midnight, he will stay in the reception centre or - in case of arrival at the external border - in the airport lounge until the initial processing is starting next day.</p> <p>2) No, this is not determined directly at the external border point.</p> <p>3) No information available, though in individual cases the Russian Federation will be determined as a safe third country. This will be the case when a foreigner national had resided in this country and the foreign national has not demonstrated that it is failing to fulfil its convention obligations in relation to him.</p>

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	Portugal	Yes	<ol style="list-style-type: none"> 1. Yes. Asylum proceedings are not conducted during night /rest hours. 2. Asylum applications are analysed, on a case by case basis, at central level. 3. No. Any case of this type occurred, so far.
	Romania	Yes	<ol style="list-style-type: none"> 1) In case when a person applies for asylum outside office hours, the application is registered and the person is allowed to stay in the accommodation center. The necessary formalities (photos, fingerprints etc.) are done in the very next day. In case there are indices that the applicant would evade the procedure, the necessary measures to watch him/her are taken up to the moment of completion of the formalities. When the application is lodged at the border, the formalities are done immediately. 2) No. 3) No.
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1) No. 2) No. A police unit accepts every asylum application. A police unit is not entitled to determine a safe third country or a safe country of origin directly at the external border point. Migration Office of the Ministry of Interior of the Slovak Republic is the competent body deciding on asylum applications. 3) The Slovak Republic has not considered the Russian Federation a safe third country.
	Slovenia	Yes	<ol style="list-style-type: none"> 1) An applicant is always given enough time to have a rest. The procedure of filing an international protection (IP) application is conducted by the Operative Service (a part of Asylum Home) staff but the applicant is in any case previously dealt with by the police who refer him to Asylum Home where the person is photographed, taken fingerprints and then assisted by person in charge and interpreter to submit an IP application on the record. Before that the applicant has a medical check-up and is provided with information on the IP procedure and on IP seeker's rights and obligations, and is given enough time to choose a refugee counsellor free of charge if he/she so wishes. Each IP seeker is also asked at the beginning of submitting the IP application whether he/she feels OK and whether he/she is ready for the procedure. In case he/she is tired or for other justified reasons the submission of application can be postponed. 2) No. 3) No. Up to this time, only the Republic of Croatia has been proclaimed as a safe third country by the Government of the Republic of Slovenia (in 2008). The implementation started only recently (in December 2010).
	Sweden	Yes	<ol style="list-style-type: none"> 1) Asylum applications at every external border crossing point are forwarded by the local Border Police to the nearest Asylum Application Unit of Swedish Migration Board (SMB). Outside office hours the Asylum Examination Unit at Arlanda International Airport is the national point of contact. Thus, there is a possibility of a procedure 24 h a day. The Unit responsible considers what steps to take (e.g. photo, fingerprints, filling the forms) through the assistance by local Border Police. In some cases there is an SMB decision on detention until an SMB Official can interview the asylum seeker during office hours (might also be other reasons for a decision on detention). Otherwise the alien will be transported to a Reception centre. The asylum seeker is always entitled to an interview with SMB staff before an SMB decision in an asylum case at the border. Nowadays it is rare that longer/complete interviews are taking place night-time in respect of the asylum seeker. 2) The SMB may decide not to grant asylum in Sweden and at the same time decide upon immediate deportation to a safe third country at the border. (Most often at the border at Arlanda International Airport). 3) 2011 so far there are 28 decisions on a safe third country (of a grand total 15 712 decisions in asylum cases). It is not possible to

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			<p>identify how many of these that were decided while the alien was still at the border, neither is it possible to see if the Russian Federation was considered to be safe third country. In principal RF could very well be a considered a safe third country of asylum and the Russian Federation could also be considered a safe country of origin after a procedure at the border. The evaluation of evidence is free in the asylum case and if the claims are found to be manifestly unfounded the rejected asylum case may be connected with a decision on immediate deportation. But there are probably very few cases ended by this short border procedure (harbours/airports) towards the Russian Federation if any at all.</p>
	<p>United Kingdom</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1) There is no time limitation on when an asylum applicant can register their application. The majority of applications are made to the asylum screening unit which will receive applicants from 08:00 to 13:00 (exceptionally people will be admitted until 16:00). For individuals who claim asylum at night at a port or who are picked up by enforcement activity then the decision on how much of the registration process should be completed at night will depend upon staffing levels, accommodation limitations and the fitness of the applicant. For the individuals in-country that voluntarily come forward to claim asylum outside of office hours, there is provision for those who are destitute and are thought to be particularly vulnerable to be given overnight accommodation without the need to register an asylum application. Accommodation will only be provided for one night after which they will be expected to complete the registration 'screening' process the following day. 2) An assessment of a person's country of origin would take place at the Border point when deciding whether to grant leave to enter. However, once a claimant states s/he wishes to claim asylum there is little more that can be assessed at the border point and the case is transferred for routing to a regional office for consideration. The country of origin, as assessed at the border, will be taken into consideration (among other things) when deciding if the applicant is suitable for the detained Non Suspensive-Appeal process. Following routing Case Owners will then carry out further consideration of whether the applicant is from a safe country of origin and whether their claim is 'clearly unfounded' it is at this point that a decision to certify the case as one which is from designated state (safe country of origin) is made. 3) We are not aware of any returns to Russia as a safe third country, although further investigation of our databases would be needed in order to confirm this. The percentage is therefore not high.