



## **Ad-Hoc Query on the Number of Subsequent Applications**

**Requested by BG EMN NCP on 02 November 2011**

**Compilation produced on 26 January 2012**

**Responses from Austria, Belgium, Bulgaria, Czech Republic, Finland, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom (19 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.*

### **1. Background Information**









The Director of Methodology of Procedure and Legal Service Directorate of the State Agency for Refugees with the Council of Ministers – Bulgaria is interested in finding out MS practices regarding:

- 1) Are there any restrictions for the number of asylum applications lodged after the entry into force of the administrative act on a previous procedure for international protection? If there is - on what basis are restricted and how?

It would be very much appreciated if we could receive our answers by **18 November 2011**.

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## 2. Responses<sup>1</sup>

		Wider Dissemination? <sup>2</sup>	1) Are there any restrictions for the number of asylum applications lodged after the entry into force of the administrative act on a previous procedure for international protection? If there is - on what basis are restricted and how?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Belgium	Yes	<b>No limitations on the number of submitted applications. However, if there are no new elements, the application is not taken into consideration and the procedure is significantly shorter with only a non-suspending appeal.</b>
	Bulgaria	YES	<b>In the Republic of Bulgaria there are not limitations for the number of submitted applications.</b>
	Czech Republic	Yes	No, there is no limit of the number of subsequent applications.
	Finland	Yes	No. Finnish Aliens Act does not restrict the number of submitted asylum applications.
	Germany	Yes	No, we do not. In Germany, further asylum procedures on grounds of subsequent applications are to be carried out exclusively under the conditions of the resumption of administrative procedures (Section 71 German Asylum Procedure Act). These conditions are: changes in the factual or legal situation in favour of the asylum seeker concerned or new evidence is produced or certain grounds for resumption of proceedings under section 580 German Code of Civil Procedure; furthermore, the asylum seeker has to act without fault and file the application for resumption within three months (Section 51 German Administrative Procedure Act). If an asylum procedure has been negatively finalised in a safe third country, a further asylum procedure will be carried out only – given above mentioned conditions – if Germany's responsibility is allocated on grounds of the Dublin II Regulation (Section 71a German Asylum Procedure Act).
	Greece	Yes	<b>1.- The number of first applications is not restricted by any rule, apart from the fact that they must be submitted as soon as possible after the entry in the territory of the third country national. 2.- Subsequent applications are restricted in numbers. E.g. an alien submits an asylum application that is rejected with a final decision. A subsequent application (2<sup>nd</sup> application) is examined for admissibility (whether new and critical facts are included). If this application is rejected and a same 3<sup>rd</sup> application is submitted, the latter is not examined and is considered to be abusive (according to the provisions of administrative legislation).</b>
	Hungary	Yes	If the same applicant submits an application after the adoption of final and absolute decision of refusal or discontinuation with respect to his/her previous application and the Hungarian authority or court in its latest decision so decided that the prohibition of refoulement was





<sup>1</sup> 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.

<sup>2</sup> 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>not applicable,  a) the submission of the application shall have no suspensive effect  aa) on the execution of the expulsion;  ab) on the extradition of the foreign national;  b) the foreign national shall not be entitled to  ba) stay in the territory of the Republic of Hungary under the conditions set forth in the present Act and to a permit authorising stay in the territory of the Republic of Hungary as defined in separate legal rule;  bb) have provisions, benefits and accommodation,  bc) work within the reception centre within one year of the submission of the application for recognition and according to the general rules applicable to foreigners thereafter;</p> <p>It is unjustified to allow the right of stay in the territory of the Republic of Hungary until two final and absolute decisions of refusal have been taken (the regulation is in accordance with the Procedure Directive and the Dublin Regulation)</p>
	<b>Italy</b>	<b>Yes</b>	No, in Italy no limitation is applied.
	<b>Latvia</b>	<b>Yes</b>	<p>There are not limitations for the number of submitted applications after the final decision on the asylum application has been taken. According to the Asylum Law of the Republic of Latvia if an unfavourable decision for an asylum seeker has come into effect and become non-disputable, the relevant person is entitled to submit a repeated application in case when conditions which were the basis for taking of the decision have changed in his or her favour.</p> <p>A decision regarding leaving of a repeated application without examination (the first step in any asylum procedure) may be appealed. During examination of the complaint relating a repeated application the relevant person shall not be considered to be an asylum seeker. It means that person can be expelled to his/her country of origin.</p>
	<b>Lithuania</b>	<b>Yes</b>	<b>No, there are no limitations.</b>
	<b>Luxembourg</b>	<b>Yes</b>	In Luxembourg there are not limitations for the number of submitted applications. Nevertheless, once the first application is rejected a new application will be declared inadmissible by the Minister of Immigration if the applicant does not support his/her new application on new elements or facts, only if the applicant was unable to assert them (no fault of his own) in the previous procedure, including during the litigation phase. (art. 23 of the modified Law of 5 May 2006 on Asylum and other complementary forms of protection).
	<b>Netherlands</b>	<b>Yes</b>	No, there are no restrictions for the number of asylum applications
	<b>Portugal</b>	<b>Yes</b>	No, in the Portuguese legal framework there aren't any limitations for the number of subsequent asylum applications.
	<b>Slovak Republic</b>	<b>Yes</b>	the Slovak Republic there are no restrictions or limitations for the number of subsequent asylum applications. However, pursuant to Article 19 of the Asylum Act No. 480/2002 as amended Ministry of Interior of the Slovak Republic shall cease the asylum procedure when a final decision has already been issued in the asylum procedure and the application was dismissed as manifestly unfounded, granting of asylum was denied, asylum was withdrawn, subsidiary protection was not renewed or the subsidiary protection was revoked, while the facts of the case did not substantially change.

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	Slovenia	Yes	<p>The Slovenian International protection Act (<b>IPA</b>) in Article 56 (Subsequent application) lays down as follows:</p> <p>(1) A third country national or a stateless person whose application in Slovenia has already been finally rejected or who has explicitly withdrawn the application, may file a subsequent application only if he/she files a request for instigating a new procedure for granting the international protection and at the same time presents new evidence or submits new facts which essentially increase the probability that he/she meets the requirements for granting the international protection.</p> <p>(2) New evidence or facts must emerge after the previous decision has been issued or they may have existed already in the initial procedure but the person mentioned in the previous paragraph at that time did not invoke them for justified reasons.</p> <p>(3) Notwithstanding the provisions of paragraph (1) and (2) of this Article, a third country national or a stateless person who has explicitly withdrawn his/her application may file a subsequent application only if he/she establishes that the declaration of withdrawal his/her application was given under threat or duress.</p>
	Spain	Yes	In Spain there are not limitations , but if there are subsequent applications these can be considered as reiterated and can be rejected in the admissibility procedure, except if they present new relevant circumstances related COI, and particular circumstances of the asylum seeker
	Sweden	Yes	<b>There are no restrictions for the number of asylum applications.</b>
	United Kingdom	Yes	Individuals can only claim asylum once; however there is no limit to the number of further submissions that can be made subsequent to that claim, raising new issues.