



# **European Migration Network**

## Ad-Hoc Query on asylum targets and removals

Requested by UK EMN NCP on 26<sup>th</sup> January 2009

Responses from Austria, Belgium, Bulgaria, Estonia, Spain, Latvia, Lithuania, Hungary, Netherlands, Poland, Portugal, Slovenia, Slovak Republic, Finland, Sweden, UK (16 in Total)

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### **1. Background Information**

The UK Border Agency is currently reviewing our most recent available data on conclusion of asylum cases and removals. As part of this process, we would like to know what targets other Member States set, regarding the processing of asylum claims, and we would also like to know your most recent figures for removals.







If possible, we would like to receive your responses by Monday 9<sup>th</sup> February. Many thanks.

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

		<b>Wider Dissemination?<sup>2</sup></b>	1. Does your Member State set any target timescales within which asylum cases should be concluded (i.e. either granted or removed)?
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<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.

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			<ul style="list-style-type: none"> <li>• (a) <u>If yes</u>, what are these targets? And can you provide any statistical data relating to these targets?</li> <li>• (b) <u>If no</u>, do you have any other types of target for asylum claims (e.g. timescales within which initial decisions should be made)? And can you provide any statistical data relating to these targets?</li> </ul>
	<b>Belgium</b>		The current target from the Belgian authorities is to handle the asylum files within 1 year after application (including suspensive appeals). This refers only to a positive or negative (final) asylum decision, but not to the possible effective removal (in case of negative decisions). Although no official data could be obtained, we assume that this goal is reached in the majority of the cases. Furthermore we refer to the answer of the BE ad hoc query of 30th April 2008 ("length of asylum applications").
	<b>Bulgaria</b>	<b>Yes</b>	<p>According to the Law on Asylum and Refugees, Chapter six-PROCEEDINGS, within three days from the institution of the proceedings the interviewing body shall take a decision for:</p> <ol style="list-style-type: none"> <li>1. rejection of the application as manifestly unfounded;</li> <li>2. termination of the proceedings;</li> <li>3. institution of proceedings by the general order.</li> </ol> <p>If, within the period of three days, a decision is not taken, proceedings by the general order are initiated.</p> <p>Within two months from the institution of the proceedings by the general order the interviewing body works out a statement which, together with the personal file, is presented to the Chairman of State Agency for Refugees for decision.</p> <p>The Chairman of the State Agency for Refugees, in case of insufficiency of the gathered data for the concrete case can extend the period up to three months, whereas the foreigner is advised personally or by an acknowledged receipt notification.</p>
	<b>Czech Republic</b>		
	<b>Denmark</b>		
	<b>Germany</b>		
	<b>Estonia</b>	<b>Yes</b>	<p>Estonian Citizenship and Migration Board (CMB) hasn't set any target timescales within which asylum cases should be concluded.</p> <p>According to the Act on Granting International Protection to Aliens the CMB should make a decision concerning an application for asylum within six months as of submission of the application for asylum. This date can be extended if necessary.</p> <p>In the CMB the average duration of asylum procedure in 2008 was 2-3 months.</p> <p>The alien also has the right to file an appeal in the administrative court. The court, itself cannot decide whether to grant asylum or not, but can only agree with the decision made by the CMB or send it back to the CMB for review. There are altogether three levels of court.</p>

<sup>2</sup> A clear "YES", your response may be circulated further (i.e. to national network members) or "NO" should be added here. In case of "NO", then 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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			Unfortunately we don't keep the statistics for appeals procedure, but it can last quite long (a year or more).
	<b>Ireland</b>		
	<b>Greece</b>		
	<b>Spain</b>	<b>NO</b>	In the case of asylum applications submitted at border posts, the Asylum and Refugee Office ( <i>Oficina de Asilo y Refugio – OAR</i> ) has 72 hours to grant the application leave to proceed. Should the OAR not respond within said timescale, the application shall be given leave to proceed. Should the response be negative, there is a 24-hour timescale to seek a re-examination of the case. The general timescale to conclude asylum applications is of six months. No statistical data is available on these targets.
	<b>France</b>		
	<b>Italy</b>		
	<b>Cyprus</b>		
	<b>Latvia</b>	<b>Yes</b>	<p>1. Yes.</p> <ul style="list-style-type: none"> <li>• According to the Asylum Law the decision on asylum application (if case is examined under regular procedure) has to taken within three month of the day of submission of the application. The State Secretary of the Ministry of Interior may for substantiated reasons extend the time period for examination of an application up to twelve months.</li> <li>• The special time limits are set up for accelerated procedure. If the asylum application is examined in the accelerated procedure the decision has to be taken within five working days.</li> </ul> <p>In all case during 2008 the particular time limits set up by the Asylum Law had been kept.</p>
	<b>Lithuania</b>	<b>Yes</b>	<p>The Law on the Legal Status of Aliens of the Republic of Lithuania sets a clear timeframe for the examination of asylum cases.</p> <ul style="list-style-type: none"> <li>- Within 48 hours from the lodging of the request for asylum, the decision on granting a temporary territorial asylum must be taken. This term can be extended by 24 hours in cases where the asylum applicant is returned to Lithuania from another EU Member State;</li> <li>- The whole asylum case must be examined and the decision must be taken (to grant the asylum or a subsidiary protection or not) within 3 months from the day of granting the temporary territorial asylum. Due to objective reasons, the term of the examination of the asylum case can be prolonged, but in all cases the examination of the case cannot last more than 6 months from the day of granting the temporary territorial asylum.</li> </ul> <p>These deadlines are always met. Only once in 2007 the examination of the asylum case, because of its difficulty, lasted more than 6 months (in 2007, 453 asylum cases were closed, 32 cases were dismissed).</p>
	<b>Luxembourg</b>		
	<b>Hungary</b>	<b>Yes</b>	According to the new Act LXXX of 2007 on Asylum which entered into force on 1 <sup>st</sup> of January 2008, the asylum procedure is divided into two parts. The first part is called preliminary assessment procedure and shall be completed within fifteen days. This time limit shall not be




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			<p>extended. The second part is the in-merit procedure which shall be finished within sixty days from the adoption of the resolution ordering the in-merit procedure. It can be extended by thirty days once if it is justified. The asylum authority consequently follows the deadlines prescribed and assesses the asylum applications generally in two or two and a half month.</p> <p>A court review of a decision rejecting the application may be requested. The statement of claim shall be submitted to the asylum authority within fifteen days of the communication of the decision. The submission of the statement of claim shall have a suspensive effect on the execution of the decision of the refugee authority except when the same applicant submits an application after that two of his/her previous applications were finally and absolutely rejected or the procedures were discontinued and the prohibition of refoulement was not applicable. The court shall decide on the statement of claim in a litigious procedure within sixty days of the receipt of the statement of claim. In practice the judicial procedure lasts 12-18 months.</p> <p>Some rulings of the asylum authority are reviewed by the court in a non-litigious procedure.</p> <p>a) The ruling on the transfer of the applicant to the responsible Member State according to Dublin Regulation may be subject to judicial review. The petition for judicial review shall be submitted to the asylum authority within three days following the date of delivery of the ruling. The asylum authority shall forthwith forward the petition for judicial review to the competent court together with the documents of the case and any cross-complaint attached. The petition for judicial review shall be adjudged by the court within eight days following receipt of the petition for judicial review in non-litigious proceedings, relying on the available documents. In the proceedings personal interviews may not be conducted. The court's decision is final, and it may not be appealed. Pending judicial review, implementation of the ruling for transfer shall not be suspended upon receipt of a request therefor.</p> <p>b) The ruling adopted for the outright refusal of an application without any substantive investigation may be subject to judicial review. The petition for judicial review shall be submitted to the asylum authority within three days following the date of delivery of the ruling. The asylum authority shall forthwith forward the petition for judicial review to the competent court together with the documents of the case and any cross-complaint attached. Upon receipt of the petition for judicial review, enforcement of the ruling of the asylum authority shall be suspended. The petition for judicial review shall be adjudged by the court within eight days following receipt of the petition for judicial review in non-litigious proceedings, relying on the available documents. In the proceedings personal interviews may be conducted if deemed necessary. The court may alter the decision of the asylum authority. The court's decision is final, and it may not be appealed. These non-litigious court proceedings take 40-50 days in practice.</p> <p>If the obligation of non-refoulement does not apply, the asylum authority shall provide for - in its decision for the refusal of the application for recognition - the withdrawal of the alien's residence permit that was granted on humanitarian grounds, and shall order the person in question to exit the territory of the Republic of Hungary. The time limit prescribed for compliance with the obligation to leave the territory of the country shall be minimum ten and maximum thirty days. (An obligation to leave the territory of the Republic of Hungary shall not be imposed in some exceptional cases.) We have no statistical data on the real time-limit of fulfilling the obligation to leave the territory of the country.</p>
	<b>Malta</b>		


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	<b>Netherlands</b>	<b>Yes</b>	The initial assessment of application for asylum takes place in an application centre. This initial assessment has to take place within 48 hours (which adds up to 3 to 5 working days). After the initial assessment a detailed interview follows. This detailed interview should take place within 3 to 5 working days. After this second phase, an application can be denied or granted. If further investigation is needed, this has to be finished within 6 months.
	<b>Austria</b>	<b>No</b>	Yes, there are target, or better timescales for different stages of the asylum procedure set out by the Asylum Act and the General Administration Act. Generally, distinction is made between admission procedure and actual asylum procedure: In terms of <b>admission procedure</b> , a decision must be taken within 20 days. (Art 28 AsylG). However, this timescale can be extended up to 18 months for Dublin cases, according to the Dublin Regulations. If an application is admissible the decision at first instance has to be taken within 6 months (Art 73 (1) General Administration Act, AVG). The same applies for decision on the second instance, by the Asylum Court (Asylgerichtshof). Cases involving asylum seekers in detention pending deportation must be handled with priority, namely within 3 months, both at 1 <sup>st</sup> and 2 <sup>nd</sup> instance. However, due to a large backward in practice the procedures last longer. The data published by the Austrian Ministry of the Interior does not refer to the actual duration of the procedures only to the decisions taken in a certain year.
	<b>Poland</b>		1. No such targets were set up in Poland, however there are time limits specified for the asylum procedures: a) Statutorily (Act on granting protection to foreigners on the territory of the Republic of Poland of 13 June 2003), the decision (I instance – Head of the Office for Foreigners) in refugee cases should be issued within 6 months from the day when the application was submitted. In cases of manifestly unfounded applications, the decision should be issued within 30 days from the day when the application was submitted. The I instance decision can be appealed against to the Council on Refugees (II instance) – according to the Code for Administrative Procedures, the Council has 30 days to examine the appeal and issue the decision. Council's decision can be complained on to Voivodeship and then to Supreme Administrative Courts. Again, according to the Code for Administrative Procedures, the Courts have each 30 days to examine the complaint and issue the decision.  There are no statistics available on this subject.
	<b>Portugal</b>	<b>Yes</b>	1. No, Portugal doesn't have such a model. 1.b) The time frames for completing an examination of an asylum application at first instance in accordance with Portuguese national legislation are: The decision of the director's of the Portuguese Immigration Service has to be pronounced on the inadmissibility or admissibility of the application within twenty days from the closing date of the notification on the report on the statements of the asylum applicant. Then the fact-finding process shall take place within 60 days, extendable for an equivalent period, until the limit of 180 days, whenever necessary.
	<b>Romania</b>		
	<b>Slovenia</b>	<b>Yes</b>	Slovene International Protection Law determines that a competent first instance authority decides the case in the procedure within the shortest possible time unless this would affect an adequate and complete examination. If the competent authority cannot take a decision

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			<p>within six months, the applicant concerned shall be informed of the delay in writing and shall receive an information on the time-frame within which the decision on his/her application is to be expected.</p> <p>The Administrative Court shall decide upon the action against the decision taken in a regular procedure within 30 days after receiving it, or within 7 days if the decision has been taken in an accelerated procedure. The Supreme Court shall decide upon the appeal within fifteen days after the receipt of the appeal.</p> <p>Arising from these provisions our aim is to decide the case (i.e. final decision - granted or removed) within 6 months (instructive time limit). This time limit is met in accelerated procedures, but it is not always met in regular procedures. Further we would like to explain that the competent body does not keep the statistics on the average duration of the procedures for granting the international protection in our country.</p>
	<b>Slovak Republic</b>	<b>No</b>	<p>1. No.</p> <p>1b) According to the Slovak Act on Asylum No. 480/2002 Coll., the Ministry of Interior has to decide on the asylum claim within 90 days. This period may be extended in justifiable cases. The asylum claim may be denied as inadmissible or unsubstantiated within the period of 60 days. After this period the Ministry cannot deny the claim due to the above reasons.</p>
	<b>Finland</b>		<p>1. Yes. Finland has set targets for average processing times for the different types of asylum cases.</p> <ul style="list-style-type: none"> <li>• 1(a) In 2008 the objective for the normal procedure was set at less than 210 days (realized 176 days), accelerated procedure: less than 90 days (realized 57 days), Dublin-procedure: less than 35 days (realized 50 days), manifestly unfounded applications: less than 90 days (realized 90 days). The average processing time of all the asylum applications was 127 days in 2008. The objective for unaccompanied minors was set at 90 days without tracking and 180 with tracking (realized 115 days, no figure for how many tracking cases available).</li> <li>• 1(b) No other published targets.</li> </ul>
	<b>Sweden</b>	<b>Yes</b>	<p>1. (a) In Sweden there is no set target timescale within which an asylum seeker should be removed or take up residence. There is however a target which states that the time spent in the process should be shorter in 2009 than 2008. The mean time for 2008 was 409 days.</p> <p>(b) There are targets set for when decisions should be made. For the Migration Board (i.e. the initial decision) the target is six months from application to decision. The Migration court has a target of four months in median and the Migration court of appeal a target of two months in median.</p> <p>In 2008 31 % of the applications received by the Migration Board was concluded within six months, the mean time was 267 days. The median time for cases tried at the Migration court during 2008 was 4.4 months and for the Migration court of appeal</p>














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			1.6 months.
	<b>United Kingdom</b>	<b>Yes</b>	<p>1. Yes. The UK's Asylum Conclusion Target requires that a certain percentage of new asylum claimants will be granted or removed within 6 months.</p> <ul style="list-style-type: none"> <li>• 1(a) In December 2007, the Asylum Conclusion Target was set at 40% (i.e. 40% of new asylum claimants received in June 2007 would be granted or removed within six months). This target rose to 60% for June 2008. Our most recent published data is for December 2007: By the end of December 2007, 46% of new applications received in June 2007 were concluded within six months.</li> <li>• 1(b) The UK has no other published targets at the moment, although in the past we have set targeted timescales within which initial decisions should be made.</li> </ul>

		Wider Dissemination? <sup>3</sup>	<b>2. Can you supply any data on the number of asylum applicants removed from your MS in 2007 and 2008?</b>
	<b>Belgium</b>		
	<b>Bulgaria</b>	<b>Yes</b>	No. The Migration Directorate within the Ministry of Interior is responsible for the removal of third country nationals with imposed compulsory administrative measures. At present the statistical data for the executed removals do not include information whether the alien removed has unsuccessfully applied for asylum. Neither the State Agency for Refugees collects data about the removals of the asylum seekers that have been rejected.
	<b>Czech Republic</b>		
	<b>Denmark</b>		
	<b>Germany</b>		
	<b>Estonia</b>	<b>Yes</b>	2007- 2 asylum applicants were removed. 2008- 3 asylum applicants were removed.
	<b>Ireland</b>		
	<b>Greece</b>		
	<b>Spain</b>		
	<b>France</b>		





<sup>3</sup> A clear "Yes", your response may be circulated further (i.e. to national network members) or "No" should be added here.

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	Italy		
	Cyprus		
	Latvia		In 2007, 4 asylum applicants were removed and 4 asylum applicants left country with return decision. In 2008, 5 asylum applicants were removed and 6 asylum applicants left country with return decision.
	Lithuania		In 2007, 21 asylum applicants were removed from Lithuania, in 2008 – 18.
	Luxembourg		
	Hungary	Yes	<p>Before 1st of January 2008 (the entering into force of the new Asylum Act) lodging of a subsequent application for recognition had a suspensive effect on the execution of removal. At that time most of the applicants submitted subsequent applications, therefore in 2007 there wasn't any asylum applicant who was removed from Hungary. Those asylum applicants whose applications were rejected by a final decision and who wanted to return to their country of origin, returned voluntarily by the assistance of IOM and the Office of Immigration and Nationality.</p> <p>From 1st of January 2008 the new Asylum Act stipulates that if the same applicant has submitted an application after having two previous applications refused or dismissed by final decision, and the asylum authority did not apply the obligation of non-refoulement, implementation shall not be suspended upon receipt of the application pertaining to expulsion of the applicant or pertaining to the applicant's obligation to leave the country. In 2008 21 rejected asylum applicants were removed by air.</p>
	Malta		
	Netherlands	No	<p>1<sup>st</sup> half 2007: 13.950; 2<sup>nd</sup> half 2007: 5700; 1<sup>st</sup> half 2008: 15.550.</p> <p>Please note that these numbers have to be completed. Until then, please do not disseminate further.</p>
	Austria	No	In 2007, 455 rejected asylum applicants were removed. Additionally, there were 904 removals according to the Dublin Regulation. In 2008, 328 rejected asylum applicants were removed, and there were 1380 removals according to the Dublin Regulation.
	Poland		For the moment, I can only provide you with the data on decisions to leave the territory of the Republic of Poland, issued to rejected asylum seekers by the Head of the Office for Foreigners in 2007 and 2008 (more statistics will follow, if necessary): 2007: 1,369 2008: 1,080
	Portugal		2. Data are not available on the number of asylum applicants removed from Portuguese territory
	Romania		
	Slovenia		In 2007 a competent body issued 276 meritory negative decisions and 291 other non – status decisions (decisions not on the merits, such as withdrawal of applications). In 2008 a competent body issued 145 negative decisions and 163 other non – status decisions (such as



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			withdrawal of applications). All these applicants have to leave Slovenia immediately after the decision has become final. The person accommodated in Asylum Home or its branch shall be transferred to the custody of the police when the decision of the competent authority is enforceable, or after the decision becomes final. However, we don't have the number of the persons actually removed.
	<b>Slovak Republic</b>		
	<b>Finland</b>		
	<b>Sweden</b>	Yes	2. In 2007, 6 670 asylum applicants were removed (this figure includes dependants). In 2008, 9 080 asylum applicants were removed.
	<b>United Kingdom</b>	Yes	2. In 2007, 13,705 asylum applicants were removed (this figure includes dependants). Our provisional figures for 2008 will be published in February.

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