Country factsheet Hungary

Based on its 2010 Work Programme, the European Union Agency for Fundamental Rights (FRA) carried out a study on access to justice for asylum seekers. This study illustrates the perspective of asylum seekers on two specific issues relating to the asylum procedure, namely information on the procedure itself and access to remedies against a negative decision.

The FRA interviewed almost 900 asylum seekers throughout the European Union. The information received has been analysed taking into account the relevant national legal provisions and the responses to a questionnaire on information received from national asylum authorities. The research has resulted in two comparative reports, the first on the duty to inform and the second on access to effective remedies.

This factsheet complements these two comparative studies by providing some basic background information, including statistics and relevant domestic legal provisions relating to the issues covered in the two reports.

1. Statistics

Statistics on asylum applications (Total and top 10 nationalities)

2009 Top 10 Nationalities		2008 Top 10 Nationalities	
Total	4,670	Total	3,175
Kosovo	1,785	Serbia	1,640
Afghanistan	1,195	Pakistan	245
Serbia	535	Somalia	205
Turkey	115	Georgia	160
Georgia	115	Iraq	130
Iran (Islamic Republic of)	85	Afghanistan	110
Somalia	75	Turkey	75
Vietnam	75	China (including Hong Kong)	60
Nigeria	65	Nigeria	55
Iraq	55	Macedonia, the former Yugoslav Republic of	50

Statistics on first instance asylum decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	**Subsidiary protection status**	**Humanitarian[1]**	**Rejected**	**Total number of decisions**	**Total positive decisions**	**Recognition rate[2] %**
Total	170	60	155	1,415	1,805	390	**21.6**
Afghanistan	5	25	115	175	320	145	**45.3**
Somalia	100	5	10	10	120	115	**95.8**
Iraq	10	10	15	20	55	35	**63.6**
Palestine	10	5	0	5	20	15	**75.0**
Iran (Islamic Republic of)	10	0	0	10	20	10	**50.0**

Statistics on final decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	**Subsidiary protection status**	**Humanitarian[1]**	**Rejected**	**Total number of decisions**	**Total positive decisions**	**Recognition rate[2] %**
Total	5	0	0	145	150	10	**6.7**
Kosovo	0	0	0	30	30	0	**0.0**
Serbia	0	0	0	15	15	0	**0.0**
Vietnam	0	0	0	15	15	0	**0.0**
FYR of Macedonia	0	0	0	10	10	0	**0.0**
Nigeria	0	0	0	10	10	0	**0.0**

Notes: These tables are based on categories used by Eurostat. The way Eurostat presents its data may not necessarily correspond to categories used at national level. This can particularly be the case with statistics provided under 'humanitarian status'. For more detailed understanding of the data, the reader is invited to consult national statistics at: http://www.bmbah.hu/statisztikak.php.

Data has been rounded to the nearest 5. Due to the rounding, the sum of individuals may not necessarily match the given total. 0 means less than 3; n.a. = not available. Kosovo (under United Nations Security Council Regulation 1244); the former Yugoslav Republic of Macedonia.

*[1] Covering persons granted authorisation to stay for **humanitarian reasons** under national law by administrative or judicial bodies. It includes persons who are not eligible for international protection as currently defined in the first stage legal instruments but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments.*

*[2] The **recognition rate** corresponds to the proportion of positive first instance or final on appeal decisions out of the total number of decisions in 2009. Positive decisions include the provision of refugee status, subsidiary protection and humanitarian protection.*

Source: Eurostat, Data extracted on 01 September 2010.

2. Background Information

Asylum act[1]

Act on Asylum (2007)

Asylum authorities

First instance authority
Office for Immigration and Nationality

Second instance authority
Metropolitan Court of Budapest

3. Duty to inform asylum seekers

Article 37 of the Act on Asylum guarantees to asylum seekers the right to be informed in writing by the refugee authority of their procedural rights and obligations as well as of the legal consequences for the violation of such obligations. This information must be provided in their mother tongue or in another language understood by them. The refugee authority will provide the information to the asylum seeker upon submission of his/her asylum application.

In March 2010, the Office of Immigration and Nationality provided the following information to the FRA as regards written information materials.

Written information materials	Information leaflet translated into 15 languages.
Provided when?	During the first instance interview.
Provided by whom?	During the first instance interview – by the decision maker.
Has an evaluation of information tools been carried out?	No.

4. Effective Remedy

Type of procedures

The asylum procedure is generally divided into (1) the preliminary assessment procedure and (2) the on-merits procedure.

(1) The preliminary assessment procedure is initiated following the submission of the asylum application. In this phase, the refugee authority examines whether Hungary is responsible to process the application in the light of the Dublin criteria (Article 49) and whether the application should be rejected as inadmissible. This could, for instance, be the case of subsequent applications in which no new factual grounds have been brought forward

[1] The legal information in this factsheets has been updated to reflect the situation on 1 September 2010.

(Article 51). The preliminary assessment procedure shall be completed within 15 days (Article 47(2)), except in cases submitted at the airport and processed following the special airport procedure foreseen in the law, in which case it should be completed within eight days (Article 72).

(2) The on-merits procedure follows once the asylum application has been considered as admissible (Article 55). It shall be completed within 60 days from the adoption of the decision, which started the on-merits procedure. An application may be declared unfounded, and subsequently may be rejected by the authority, if *inter alia* the applicant arrived from a safe third country (Article 59).

Duty to state reasons for rejection and procedure to appeal

If the refugee authority rejects the asylum application as unfounded, it shall inform the asylum seeker of his/her rights and obligations in his/her mother tongue or in another language understandable to him/her (Article 67).

Time limits for appeal

In the Dublin procedure, a request for review of the decision ordering the asylum seeker's transfer to the responsible Member State shall be submitted within three days of notification (Article 49(7)). An appeal against the refugee authority's decision on inadmissibility and/or on discontinuation of the preliminary assessment procedure (Article 52) may be lodged within three days of notification (Article 53(3)). An appeal against a decision issued in the on-merits procedure rejecting the asylum application shall be submitted within fifteen days of the communication of such decision (Article 68).

Type of procedure	Time limits	Right to remain
Regular procedure	15 days	Automatic suspensive effect of an appeal (with exception mentioned below).
Dublin procedure	3 days	No automatic suspensive effect, unless the court decides otherwise upon the application for suspension.
Other admissibility procedures (except Dublin)	3 days	Automatic suspensive effect of an appeal.
Subsequent applications	3 days	Automatic suspensive effect of an appeal in case of second application. No suspensive effect in case of third or further applications.

Right to remain in the country during appeal

An appeal against a decision issued in the on-merits procedure rejecting the asylum application has an automatic suspensive effect, except in cases when the same asylum seeker submits a new application after the adoption of final rejection or discontinuation in respect to two of his/her previous applications (Article 54). An appeal against a decision issued by the refugee authority in the Dublin procedure has no automatic suspensive effect. However, the court may grant the suspensive effect upon a request for suspension of the implementation of the decision concerned (Article 148(3), Act on the General Rules of Administrative Procedure).

There is an automatic suspensive effect granted in cases when an appeal is directed against the decision of inadmissibility and the decision on discontinuation of the preliminary assessment procedure (Article 53(3)).

Legal Aid

The asylum seeker shall be given the opportunity to use legal aid at his/her own expenses, or if in need, free of charge as set forth in the Act on Legal Aid, or to accept the free legal aid of a registered NGO engaged in legal protection (Article 37(3), Act on Asylum). Legal aid, where the state either covers or advances legal costs, is granted as a general rule based on a test of indigence. However, asylum seekers are automatically deemed indigent (Article 5, Legal Aid Act), and the state will cover legal costs in both, litigious and non-litigious civil court proceedings.

Within the appeal procedure, the asylum seekers as well as their legal representatives have the right to access the files without a specific permission at any phase of the procedure and can make copies thereof (Article 119(1), Civil Procedure Code).

Language assistance

There is a general provision on the language assistance provided for by the Civil Procedure Code, which guarantees the services of an interpreter during the judicial hearing if the heard person does not speak Hungarian (Article 184(1)).

Hearing

The Metropolitan Court of Budapest orders a personal hearing depending on the procedure and the kind of decision being appealed against by the asylum seeker. In ‘Dublin cases’, there is no personal hearing taking place (Article 49(8)). The personal hearing of the applicant is mandatory in the court procedure in cases of appeal against the decisions rejecting the asylum application in the on-merits procedure (Article 68).