



The length of asylum procedures in Europe

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Introduction*

Time is a critical, yet uncertain factor in asylum proceedings. Given their heterogeneity and complexity, refugee status determination processes are by nature difficult to reconcile with prescriptions of administrative clarity and convenience. While there may be indications that an asylum procedure is too short or too long, determining the appropriate, or “right” length of such a procedure seems almost impossible *in abstracto*.

From a legal perspective, fundamental rights pose constraints both on unduly short asylum procedures and unduly lengthy ones.¹ The right to good administration and to a fair hearing within a reasonable time² is infringed by asylum procedures leaving an asylum seeker in a state of prolonged uncertainty and limbo. On the other hand, extremely truncated procedures may violate the individual’s right of access to asylum and to an effective remedy.³

The recent rise in large-scale arrivals in Europe has fuelled debates on the rapidity and efficiency of the Common European Asylum System (CEAS) and Member States’ migration management efforts. The impact of the so-called “refugee crisis” of 2015 continues to be felt in the workload of the continent’s asylum systems,⁴ as the 28 Member States of the European Union (EU) had a total 1,036,762 pending asylum applications at the end of August 2016.⁵ As explained by the European Commission, an efficient asylum system is needed “to process quickly and effectively asylum claims lodged in the EU”.⁶ The underlying aim of rapid refugee status determination procedures has been highlighted as the effort to ensure “that persons who are in need of protection get their status recognised quickly while swiftly returning those not in need of protection.”⁷

However, the term ‘efficiency’ has too readily been conceptualised as a straightforward and uncontroversial objective. As a rhetorical tool, efficiency can have different meanings and serve as a basis for a range of measures in asylum policy,⁸ yet often without sufficient clarity. On 3 June 2015, for example, the Minister of Interior of **Austria** described the national asylum system as an overly attractive “asylum express” compared to other European countries, referring to procedures lasting four months.⁹ From the aforementioned passage of the Asylum Procedures Regulation proposal tabled on 13 July 2016, the EU’s discourse also seems to equate the speed of an asylum procedure with efficiency. Shorter periods of application processing could undoubtedly be cost-effective for asylum administrations, while also minimising uncertainty and waiting for asylum seekers. Yet when it comes to

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¹ ECRE and Dutch Council for Refugees, *The application of the EU Charter of Fundamental Rights to asylum procedural law*, October 2014, Chapter 7.

² Article 47 EU Charter of Fundamental Rights.

³ Articles 18, 19 and 47 EU Charter of Fundamental Rights.

⁴ Note that the actual number of asylum applications made in the EU last year has been recently adjusted. Germany, for example, has revised its 1.1 million figure to 890,000 applications: German Ministry of Interior, ‘Bundesinnenminister de Maizière gibt aktuelle Flüchtlingszahlen bekannt’, 30 September 2016, available in German at: <https://goo.gl/av7fza>.

⁵ EASO, *Latest asylum trends – August 2016*, available at: <https://goo.gl/au60oy>.

⁶ European Commission, *Proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union* (hereafter “proposal for an Asylum Procedures Regulation”), COM(2016) 467, 13 July 2016, Explanatory Memorandum, 2.

⁷ *Ibid*, 4.

⁸ For a discussion, focusing on the “efficiency” of extra-territorial processing, see A Betts, ‘What does “Efficiency” Mean in the Context of the Global Refugee Regime?’ (2006) 8 BJPIR 148.

⁹ ÖVP, ‘Mikl-Leitner zu Flüchtlingen: Asyl-Express stoppen, Österreich entlasten’, cited in AIDA Country Report Austria: Fourth Update, December 2015, 20.

securing correct and quality outcomes, enhancing compliance of affected individuals with decisions and reducing appeals, efficiency requires quality. In the words of then Commissioner for Home Affairs, Cecilia Malmström, during a Ministerial Conference on Quality and Efficiency in the Asylum Process organised by the Belgian Presidency,¹⁰ “the best way to ensure efficiency and fight against so-called abuses is to invest in an asylum process which provides robust and qualitative decisions in a rapid manner.”¹¹

It is therefore doubtful whether speed is appropriate, or even realistic, as a yardstick to assess the efficiency of an asylum procedure, in isolation from questions of quality. Different factors have an impact on the quality of an asylum procedure and its outcomes, not least when states opt for keeping asylum seekers in detention with a view to swiftly assessing their claims. As discussed elsewhere,¹² the examination of applications in detention severely undermines asylum seekers’ ability to effectively exercise the procedural rights bestowed upon them by the Charter of Fundamental Rights.

The need for a balance between speed and quality is reflected in the implementation of the recast Asylum Procedures Directive across European countries.¹³ While the Directive has regulated time limits in asylum procedures to some extent, practice from administrations across Europe seems to illustrate that deadlines for examining an asylum claim are not strictly observed. At the same time, it should be borne in mind that the time limits foreseen in the Directive are not applicable to all countries, as the **United Kingdom** and **Ireland** are only bound by its 2005 predecessor,¹⁴ while non-EU countries **Switzerland**, **Serbia** and **Turkey** are not bound by EU rules in this context.

This briefing provides an overview of practice in the 20 European countries covered by the Asylum Information Database (AIDA), on the basis of publicly available sources, as well as information provided by civil society organisations in these countries.¹⁵ It examines the transposition and implementation of time limits for completing the regular asylum procedure, special procedures applicable to specific caseloads, as well as appeals against negative decisions. Overall, European practice confirms the non-binding character of procedural deadlines, which do not seem to be followed by asylum authorities in most cases.

Time limits for processing an asylum application

The rules provided in the recast Asylum Procedures Directive in relation to the maximum duration of an asylum procedure are far from straightforward. The Directive in principle binds Member States to “ensure that the examination procedure is concluded within six months of the lodging of the application.”¹⁶

Triggering the time limit: the lodging of an application

One preliminary *nuance* to the principle of 6-month asylum procedures concerns the starting point of the time limit. As Article 31(3) of the Directive refers to the “lodging of the application” as the stage

¹⁰ See Belgian Presidency of the Council of the European Union, *Ministerial Conference “Quality and Efficiency in the Asylum Process” 13-14 September 2010*, available at: <http://goo.gl/zP8ZKi>.

¹¹ European Commission, ‘Establishing the Common European Asylum System by 2012 – an ambitious but feasible target’, SPEECH/10/425, 14 September 2010, available at: <http://goo.gl/2Nrcqs>.

¹² ECRE, *The legality of examining asylum claims in detention from the perspective of procedural rights and their effectiveness*, AIDA Legal Briefing No 4, October 2015, available at: <http://goo.gl/5vZi0N>.

¹³ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ 2013 L180/60.

¹⁴ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, OJ 2005 L326/13.

¹⁵ For a copy of the questionnaire submitted to experts, see AIDA, *Admissibility, responsibility and safety in European asylum procedures*, September 2016, available at: <http://goo.gl/Kf9JhT>, Annex IV.

¹⁶ Article 31(3) recast Asylum Procedures Directive.

triggering the deadline, it excludes the time period lapsed from the moment a person makes an asylum claim until he or she has formally lodged it.¹⁷ While the Directive only states that a claim must be registered within 3 working days and lodged “as soon as possible”,¹⁸ recent practice has shown much longer delays before asylum seekers are able to register or formally lodge their applications.

Over the past year, European countries have faced severe delays in the completion of registration of asylum claims. In **Greece**, the time lag between pre-registration and full registration of asylum applications was estimated at an average period of one year in May 2016,¹⁹ though in practice many appointments for full registration are scheduled within months of pre-registration.²⁰ In **Germany**, asylum seekers have received a “confirmation of having reported as an asylum seeker” (BÜMA) and have reportedly waited for several weeks up to months before being registered.²¹ Though in theory this document should give holders access to the same benefits as those available to registered applicants, the uncertainty of the legal effects of the BÜMA has led to disparities in the provision of reception conditions in practice, with some BÜMA holders receiving only reduced cash allowances.²² On the other hand, asylum seekers in **Austria** have faced delays of several months even for getting an appointment for the first stage of registration with the police. It should be noted that, whereas pre-registered asylum seekers have access to most reception conditions, access to the labour market is only granted upon the lodging of the application.

Similar problems persist in **France**, leading to successful litigation before the Administrative Tribunal of Paris to order Prefectures to register asylum applications of persons unsuccessfully trying to access the procedure.²³ In practice, asylum seekers who have not been able to lodge an application have encountered difficulties in securing accommodation, leading most to destitution. In the areas of Paris, Auvergne, Rhone-Alpes, Eastern and Northern France, asylum seekers waiting to lodge an application did not have access to health care either.²⁴ In other cases in Paris, asylum seekers have been at risk of detention,²⁵ or deportation as a result of the congestion of registration services.²⁶

In light of this, the reality of delays facing those seeking international protection in Europe seems far different from the notion of 6-month asylum procedures envisioned by the Directive.

Time limits in national law and practice

The majority of European countries that have laid down a time limit for completing the asylum procedure at first instance have espoused the deadline of 6 months in their legal frameworks, as indicated in the following table:

¹⁷ See ECRE, *Information Note on Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast)*, December 2014, available at: <http://goo.gl/3c9jKZ>, 34, fn. 130.

¹⁸ Article 6 recast Asylum Procedures Directive.

¹⁹ Recital 7 Greek Asylum Service Director Decision oik. 8097/2016, Official Gazette 1542/B-31-5-2016. For a discussion, see ECRE and AIRE Centre, *With Greece: Recommendations for refugee protection*, July 2016, available at: <http://goo.gl/aBtK6f>, 14.

²⁰ Greek Asylum Service, *Full registration: Where and when*, available at: <https://goo.gl/wDw2ze>.

²¹ AIDA Country Report Germany: Fourth Update, November 2015, 15.

²² *Ibid.*, 49.

²³ See e.g. AIDA, ‘France: Authorities under court order to register asylum applications’, 25 April 2016, available at: <http://goo.gl/SzfrTg>. See also the European Database of Asylum Law (EDAL) case-summaries at: <http://goo.gl/6M27xg>.

²⁴ Information provided by Forum Réfugiés-Cosi, 29 September 2016.

²⁵ *Ibid.* The Administrative Tribunal of Paris ordered the release of two asylum seekers in such cases, in rulings of 25 May 2016 and 5 August 2016.

²⁶ See a Letter by 7 NGOs, *Opérations policières visant les réfugié.e.s à Paris : des associations demandent au Préfet d’abroger les OQTF*, 21 September 2016, available in French at: <https://goo.gl/HSaIM1>.

General maximum duration of regular procedure (calendar days)	
8	NL
14	CH
33	IT
60	HU, SR
180	AT, BE, BG, CY, ES, FR, GR, HR, IE, MT, NL, PL, TR
-	BE, DE, SE, UK

Source: AIDA Country Reports. Switzerland calculates its time limit as 10 working days. The Netherlands provides for a six-month time-limit for its extended asylum procedure.

A number of countries (**Netherlands, Switzerland, Italy, Hungary** and **Serbia**) have laid down deadlines shorter than 6 months for processing asylum applications under the regular procedure. These have often proved difficult to comply with in recent practice, however. In **Switzerland**, despite a formal time limit of 10 working days for deciding on asylum applications, the State Secretariat for Migration (SEM) has reported an average processing time of 243.5 days in the first half of 2016.²⁷ The first instance procedure lasts on average 4-5 months in **Hungary**,²⁸ contrary to its 2-month deadline, while similar difficulties to comply with deadlines are reported in **Serbia**.²⁹ Due to the large number of applications received in **Italy**, the Territorial Commissions for International Protection have also failed to observe the time limit of 33 days for deciding on asylum claims.³⁰ More generally, however, European countries do not seem to strictly abide by the 6-month deadline envisioned by the recast Asylum Procedures Directive. By way of example, many asylum seekers in **Austria** have waited for over a year for their personal interview in **Austria**,³¹ or six months in **Sweden**.³²

Crucially, neither the Directive nor its transposition in domestic legal frameworks entail procedural consequences for the authorities' potential failure to comply with the time limit for completing the procedure. Reference is only made to the duty of authorities to inform asylum seekers of the date when a decision should be expected.³³ Pressure may, however, be exerted on asylum authorities through political and institutional channels to process applications faster. In **Sweden**, for instance, unduly long procedures may give rise to criticism by the Parliamentary Ombudsman (JO) appointed by the Swedish Parliament to ensure public authorities' compliance with their legal obligations. Such a critique was addressed to the Migration Agency in December 2014,³⁴ while the Agency was requested by the government in December 2015 to take steps towards shortening the duration of the asylum procedure. The Migration Agency is expected to deliver an action plan to that effect and report on its implementation.³⁵ Conversely, in **Greece** and **Italy**, recent debates on the duration of the asylum procedures have driven proposals to reform the appeal system.³⁶ More recently, in **Germany**, legal

²⁷ Information provided by the Swiss Refugee Council following communication with SEM, 19 August 2016.

²⁸ Information provided by the Hungarian Helsinki Committee, 16 August 2016.

²⁹ Information provided by the Belgrade Centre for Human Rights, 15 July 2016.

³⁰ Information provided by ASGI, 22 August 2016.

³¹ Information provided by Asylkoordination Österreich, 19 August 2016.

³² Information provided by Lisa Hallstedt, 29 August 2016.

³³ Article 31(3) recast Asylum Procedures Directive.

³⁴ Swedish Parliamentary Ombudsman, *Kritik mot Migrationsverket för långa handläggningstider i tillståndsärenden och för att regeringsformens krav inte har beaktats när webbansökningar prioriterats*, 17 December 2014, available in Swedish at: <http://goo.gl/9C7fXP>.

³⁵ Swedish National Financial Management Authority, *Regleringsbrev för budgetåret 2016 avseende Migrationsverket*, 17 December 2015, available in Swedish at: <http://goo.gl/Kvt5rD>.

³⁶ AIDA, 'Greece: Asylum reform in the wake of the EU-Turkey deal', 4 April 2016, available at: <https://goo.gl/M4RCfH>, namely as regards the introduction of the fast-track border procedure; 'Italy: Plan for curtailment of onward appeal to expedite asylum procedures', 24 August 2016, available at: <http://goo.gl/CDZDkT>.

action has been brought before administrative courts to challenge the failure of the Federal Office for Migration and Refugees (BAMF) to decide on asylum applications within reasonable time.³⁷

The nationality of the applicant as a factor

The duration of asylum procedures has also varied depending on the nationality of the applicant in some countries, while in others such as **Hungary** nationality has had no incidence on the duration of the process.³⁸ Available information for the first half of 2016 suggests differential treatment for specific nationalities in several European countries:

Average processing time (days) and recognition rate (%) at first instance: 1 January – 30 June 2016								
*	Afghanistan		Syria		Iraq		All caseloads	
	Time	Rate	Time	Rate	Time	Rate	Time	Rate
DE	381	60.4%	102	99.5%	153	92.2%	219	75.2%
PL	381	100%	109	100%	169	100%	75	10.3%
SE	220	62%	289	99%	206	48%	293	86%
CH	141	84.1%	302	94.5%	133	49.4%	244	74.3%

Source: Federal Government of Germany, Information Request 18/9146, 17 August 2016 (Q2 2016 only) / BAMF; Helsinki Foundation for Human Rights / Eurostat; Swedish Migration Agency; SEM and Swiss Refugee Council (rounded).

While **Switzerland** has reported longer processing times for claims by Syrian nationals, caseloads from Afghanistan have taken longer than other nationalities in **Germany** and **Poland**. During the first half of 2016 in **Serbia**, the average processing time of claims by Afghan nationals represented by the Belgrade Centre for Human Rights, between the registration of the application and the first instance decision, was 104 days in the first half of the year.³⁹ Claims by Syrian and Iraqi nationals are still pending.⁴⁰ Nevertheless, from a comparison of average processing times and recognition rates in the aforementioned countries, there does not seem to be any strong indication of shorter processing periods leading to lower numbers of positive asylum decisions.

Nationals of countries other than Afghanistan, Syria and Iraq may face even longer processing times in Europe. While **Germany** has an average processing time of 7.3 months for all caseloads, Somali applicants wait on average 21.9 months before receiving a first instance decision.⁴¹ Similarly in **France**, the increase in asylum applications from persons originating from the Horn of Africa, as well as West and Sub-Saharan Africa, has led to longer procedures before the French Office for the Protection of Refugees and Stateless Persons (OFPRA).⁴² In other countries such as **Cyprus**, the first instance procedure has often taken 2 to 3 years for nationalities that are not prioritised,⁴³ thereby raising serious questions of compliance with the right to good administration enshrined in the Charter.

Despite evident difficulties to implement the time limit in practice, the Commission proposal for an Asylum Procedures Regulation has maintained 6 months as the general deadline for deciding on an

³⁷ See BR, 'Asylverfahren dauern zu lange', 14 September 2016, available in German at: <https://goo.gl/edMe1Y>.

³⁸ Information provided by the Hungarian Helsinki Committee, 16 August 2016.

³⁹ Information provided by the Belgrade Centre for Human Rights, 15 July 2016.

⁴⁰ *Ibid.*

⁴¹ See ProAsyl, 'Asylverfahren dauern länger, Ausbildung der Entscheider wird immer kürzer', 25 August 2016, available in German at: <http://goo.gl/2QD1Cc>.

⁴² Information provided by Forum Réfugiés-Cosi, 19 August 2016.

⁴³ Information provided by Future Worlds Center, 22 August 2016.

asylum application.⁴⁴ Similar to the current Directive, the proposed Regulation would not attach any consequences to a failure to observe the deadline.

Extensions and postponement

The recast Asylum Procedures Directive permits Member States a number of derogations from the general 6-month rule:

- ❖ An extension of 9 months may be applied in complex cases, in the event of large numbers of applications, or due to non-cooperation of the applicant;⁴⁵
- ❖ This extension may last 12 months in exceptional cases where it is deemed necessary for “an adequate and complete examination of the application”;⁴⁶
- ❖ A postponement is allowed in the case of “an uncertain situation in the country of origin which is expected to be temporary.”⁴⁷

These derogations from the general deadline are permissible insofar as Member States do not exceed the overall deadline of 21 months.⁴⁸

On one hand, the discretion to extend the duration of the asylum procedure has been differently incorporated by several European countries in their domestic law:

Maximum duration of regular procedure, including extensions (months)	
15	AT, PL, NL
18	FR, GR, HR, IT
21	BG, MT

Source: Asylkoordination Österreich; Bulgarian Helsinki Committee; AIDA Country Report France; Greek Council for Refugees; Croatian Law Centre; ASGI; aditus foundation / JRS Malta; Dutch Council for Refugees; Helsinki Foundation for Human Rights.

On the other hand, the possibility to postpone the examination of applications, which raises critical questions of compliance with the recast Qualification Directive⁴⁹ and the right to good administration guaranteed in the Charter,⁵⁰ seems at the moment to be applied by **Spain** in respect of specific countries of origin such as Côte d’Ivoire, Mali, the Democratic Republic of Congo (DRC), Iraq and Ukraine.⁵¹ The Spanish Ombudsman has criticised this practice, especially given that Spain has not yet transposed the recast Asylum Procedures Directive and the Office for Asylum and Refuge (OAR) has frozen the processing of applications from nationals of DRC, Iraq and Ukraine without complying with the duty to inform applicants accordingly.⁵² Last year, the **Netherlands** prolonged a moratorium on the processing of claims by Iraqis from seven regions, as well as claims from Yemenis, Somalis and Uyghurs from

⁴⁴ Article 34(2) proposal for an Asylum Procedures Regulation.

⁴⁵ Article 31(3) recast Asylum Procedures Directive.

⁴⁶ *Ibid.*

⁴⁷ Article 31(4) recast Asylum Procedures Directive.

⁴⁸ Article 31(5) recast Asylum Procedures Directive.

⁴⁹ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ 2011 L337/9.

⁵⁰ ECRE, *Information Note on Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast)*, December 2014, 35.

⁵¹ AIDA Country Report Spain, April 2016, 35; Spanish Ombudsman, *El asilo en España: La protección internacional y los recursos del sistema de acogida*, June 2016, available in Spanish at: <http://goo.gl/7qoNfE>, 64.

⁵² Spanish Ombudsman, *El asilo en España: La protección internacional y los recursos del sistema de acogida*, June 2016, 64.

China,⁵³ while **Belgium** postponed the examination of claims by Iraqis from Baghdad in addition to an information campaign aimed at encouraging them to withdraw their asylum applications.⁵⁴

In this regard, the Commission proposal for an Asylum Procedures Regulation foresees a reduction of the length of possible extensions from 12 to 3 months,⁵⁵ while maintaining the possibility of postponing the processing of claims in cases of an uncertain situation in the country of origin. Accordingly, the overall permitted duration of an asylum procedure would not exceed 15 months, as opposed to 21 months.⁵⁶

The duration of special procedures

The fragmentation of asylum procedures embodied in the recast Asylum Procedures Directive, providing for special procedures applicable to different categories of asylum seekers,⁵⁷ has led to separate rules and time limits for these processes. Efficiency remains the underlying aim of this fragmentation. As explained by the Court of Justice of the European Union (CJEU) in *Diouf*, these provisions

“[A]re intended to ensure that unfounded or inadmissible applications for asylum are processed more quickly, in order that applications submitted by persons who have good grounds for benefiting from refugee status may be processed more efficiently.”⁵⁸

The various procedures envisaged by the Directive have been differently incorporated by Member States, leading to far from uniform procedural frameworks and practice.

Accelerated procedure

Article 31(9) of the recast Asylum Procedures Directive grants discretion to Member States as to the definition of time limits for deciding on applications under the accelerated procedure, which is designed for the treatment of ostensibly unfounded or security-related claims.⁵⁹ The only requirement imposed by EU law is for such time limits to be “reasonable”.

European countries that apply accelerated or otherwise expeditious procedures⁶⁰ for specific caseloads have in fact introduced specific time limits for the examination of asylum applications channelled therein. These deadlines vary considerably, however:

Maximum duration of accelerated procedure (days)	
2	CH
3	BG
6	MT
7	DE
8	TR

⁵³ AIDA Country Report Netherlands: Fourth Update, November 2015, 48. Information provided by the Dutch Council for Refugees, 26 September 2016. As of 1 July 2016, claims from Burundians have also been subject to postponement.

⁵⁴ AIDA Country Report Belgium: Fourth Update, December 2015, 57; CIRE, ‘Le droit d’asile des Irakiens en danger’, 14 October 2015, available in French at: <http://goo.gl/pXhNnr>.

⁵⁵ Article 34(3) proposal for an Asylum Procedures Regulation.

⁵⁶ Article 34(5) proposal for an Asylum Procedures Regulation.

⁵⁷ See AIDA, *Admissibility, responsibility and safety in European asylum procedures*, September 2016, 8-9.

⁵⁸ CJEU, Case C-69/10 *Brahim Samba Diouf*, Judgment of 28 July 2011, para 65.

⁵⁹ Article 31(8) and Recital 20 recast Asylum Procedures Directive.

⁶⁰ This includes the urgent procedure in **Spain**, the procedure for manifestly unfounded cases in **Sweden**, the 48-hour procedure in **Switzerland**.

9	IT
15	FR, HU
30	CY, PL
60	HR
90	ES, GR, SE
150	AT

Source: AIDA Country Reports; Article 70(1) Bulgarian Law on Asylum and Refugees. Malta calculates its time limit as 3 working days for a recommendation of the Refugee Commissioner, followed by 3 working days for the Refugee Appeals Board to take a decision on the recommendation.

In some countries, the accelerated procedure is foreseen to last no more than two or three days. This deadline creates considerable tension with procedural rights given the extremely short timeframe left to asylum seekers to prepare their case; the absence of legal assistance is also a relevant factor in this regard. However, failure to comply with the time limit foreseen in the accelerated procedure bears no procedural consequences in most countries. **Germany, Sweden and Turkey** are exceptions, where the authorities are required to process the application under the regular procedure if the time limit of the accelerated procedure is not respected.⁶¹

Through the proposal for an Asylum Procedures Regulation, the European Commission has sought to regulate the duration of accelerated procedures at EU level by introducing mandatory time limits. The accelerated procedure would have to be conducted within a deadline of two months, subject to a stricter deadline of 8 working days in cases concerning asylum applications made for the sole purpose of frustrating a return procedure.⁶² The two-month deadline for completing the accelerated examination of claims would be more generous compared to the rules introduced in most countries using such a procedure, with the exception of **Spain, Greece, Sweden and Austria**.

Admissibility procedure

The examination of the admissibility of asylum applications in Europe, allowing the rejection of claims without any assessment of their merits,⁶³ is more ambiguous and heterogeneous in terms of procedures. Not all countries foresee a dedicated procedure for the assessment of admissibility, as some may declare a claim inadmissible at any point in the procedure. Moreover, the recast Asylum Procedures Directive does not set out rules as regards time limits for issuing an inadmissibility decision, although such a measure is envisaged in the recent proposal for an Asylum Procedures Regulation.⁶⁴ European countries foreseeing such a rule in domestic law have laid down the following deadlines:

Maximum duration of admissibility procedure (days)	
7	CH
14	BG
15	HU
20	AT
30	ES, FR
90	DE

Source: AIDA Country Reports.

⁶¹ Information provided by Informationsverbund Asyl und Migration, 24 August 2016; FARR, 17 August 2016; Refugee Rights Turkey, 30 August 2016.

⁶² Article 40(2) proposal for an Asylum Procedures Regulation.

⁶³ Article 33 recast Asylum Procedures Directive.

⁶⁴ Article 34(1) proposal for an Asylum Procedures Regulation.

In practice, however, these time limits too are not always respected by asylum administrations. For instance, the 15-day time-limit for completing the admissibility procedure in **Hungary** is not respected in practice, as the process takes from 1 to 1.5 months on average.⁶⁵ In **Croatia**, however, the authorities have indicated that the admissibility procedure is completed within the 15-day deadline in practice.⁶⁶

The Commission proposal for an Asylum Procedures Regulation envisages a general deadline of one month for deciding on the admissibility of asylum applications.⁶⁷ However, against the backdrop of a proposed reform of the Dublin Regulation, the inadmissibility grounds of “first country of asylum” and “safe third country” will be examined before the Dublin procedure.⁶⁸ In such cases, the Member State of first application assessing the applicability of these grounds prior to a Dublin procedure would have to issue a decision within 10 working days instead of one month.

Appeal

The duration of appeal procedures is underpinned by greater divergences between European countries compared to the first instance procedure. Against that backdrop, a comparison of the duration of appeal procedures in Europe becomes highly difficult for a number of reasons. Firstly, this is due to the fact that different institutional arrangements are put in place for first-level appeals bodies hearing asylum cases across Europe. As far as the regular asylum procedure is concerned,⁶⁹ five countries (**Greece, Malta, Poland, Serbia** and **Turkey**) have established a dedicated administrative authority responsible for examining first-level appeals,⁷⁰ while appeals against first instance decisions are heard by judicial or quasi-judicial authorities in **Austria, Belgium, Bulgaria, Cyprus, Germany, Spain, Croatia, Hungary, Ireland, Italy, the Netherlands, Sweden, the United Kingdom** and **Switzerland**.⁷¹

Secondly, not all countries have introduced maximum deadlines for examining an asylum appeal, as this was left to EU Member States’ discretion by the recast Asylum Procedures Directive.⁷² For countries that regulate this issue in domestic law, time limits may range from one month in **Poland** or two months in **Hungary** and **Serbia**,⁷³ to five months in **France** and six months in **Greece** and **Italy**,⁷⁴ and to fifteen months in **Austria**.⁷⁵ These time limits, binding on appeal authorities, are distinct from deadlines for asylum seekers to lodge an appeal, which are not covered by this briefing.⁷⁶

Thirdly, the operation of appeal authorities in practice may vary considerably across the continent, or even within the same country. In **France**, for instance, the duration of the procedure depends on the type of decision rendered by the National Court of Asylum, given that judgments without a hearing (“*ordonnance*”) are delivered much faster than others.⁷⁷ However, limited available information suggests a lengthy process in certain countries: civil society organisations have referred to average processing

⁶⁵ Information provided by the Hungarian Helsinki Committee, 16 August 2016.

⁶⁶ Information provided by the Croatian Law Centre, 26 July 2016.

⁶⁷ Article 34(1) proposal for an Asylum Procedures Regulation.

⁶⁸ Article 3(3) proposal for a Dublin IV Regulation.

⁶⁹ Different appeal rules apply in certain countries for admissibility, Dublin and accelerated procedures.

⁷⁰ AIDA Country Reports.

⁷¹ *Ibid.*

⁷² Article 46(10) recast Asylum Procedures Directive.

⁷³ Information provided by the Hungarian Helsinki Committee, 16 August 2016; Belgrade Centre for Human Rights, 15 July 2016.

⁷⁴ Information provided by Forum Réfugiés-Cosi, 19 August 2016; Article 62(6) Greek Law 4375/2016; Article 19(9) Italian Legislative Decree 150/2011.

⁷⁵ Section 22 Austrian Asylum Act, as amended on 1 June 2016.

⁷⁶ On time limits for lodging an appeal against inadmissibility decision for example, see AIDA, *Admissibility, responsibility and safety in European asylum procedures*, September 2016.

⁷⁷ Information provided by Forum Réfugiés-Cosi, 19 August 2016.

times of 18 months in **Italy**,⁷⁸ one to two years in **Spain**,⁷⁹ or two years for well-founded cases in **Cyprus**.⁸⁰

Rules and practice with regard to the duration of appeal procedures are another key element envisaged by the Commission's proposal for an Asylum Procedures Regulation. Contrary to the current EU rules, the proposal foresees a maximum time limit of six months for deciding on appeals under the examination procedure, two months for appeals under accelerated and border procedures and one month for appeals against inadmissibility decisions.⁸¹ The proposal also leaves the possibility of an extension of three months for appeals presenting complex factual or legal questions.⁸²

Conclusion

Strict time limits for completing the examination of an asylum application seem difficult to follow without taking into account the individual circumstances of the claim. While European countries have introduced varying deadlines for processing an application, some (**Netherlands, Switzerland, Italy, Serbia, Hungary**) opting for significantly shorter indicative timeframes to the 6-month rule laid down in the recast Asylum Procedures Directive, practice reveals an indicative rather than binding character for these time limits. Regulating procedural deadlines meets further complexity in the context of special procedures, designed to process ostensibly unfounded claims or examine the admissibility of applications. European countries' frameworks and practice indicate more disparities, with extremely truncated deadlines for accelerated procedures in certain countries.

On the other hand, undue delays in the processing of specific caseloads may raise questions relating to good administration: the broad use of the "postponement" clause of the Directive to suspend the examination of claims by specific nationalities in **Spain**, or significantly longer processing periods for certain nationalities in **Germany** or **France** are recent examples. Rights-based and efficiency perspectives should both militate against an unduly lengthy asylum procedure.

⁷⁸ Information provided by ASGI, 22 August 2016. See also AIDA, 'Italy: Plan for curtailment of onward appeal to expedite asylum procedures', 24 August 2016, available at: <http://goo.gl/CDZDKT>.

⁷⁹ AIDA Country Report Spain, April 2016, 19.

⁸⁰ AIDA Country Report Cyprus: Second Update, November 2015, 22.

⁸¹ Article 55(1) proposal for an Asylum Procedures Regulation.

⁸² Article 55(2) proposal for an Asylum Procedures Regulation.

THE ASYLUM INFORMATION DATABASE (AIDA)

The [Asylum Information Database](#) is a database containing information on asylum procedures, reception conditions and detention across 20 European countries. This includes 17 European Union (EU) Member States (Austria, Belgium, Bulgaria, Cyprus, Germany, Spain, France, Greece, Croatia, Hungary, Ireland, Italy, Malta, Netherlands, Poland, Sweden, United Kingdom) and 3 non-EU countries (Switzerland, Serbia, Turkey).

AIDA started as a project of the European Council on Refugees and Exiles (ECRE), running from September 2012 to December 2015 in partnership with Forum Réfugiés-Cosi, the Hungarian Helsinki Committee and the Irish Refugee Council, and is now developing into a core activity of ECRE. The overall goal of the database is to contribute to the improvement of asylum policies and practices in Europe and the situation of asylum seekers by providing all relevant actors with appropriate tools and information to support their advocacy and litigation efforts, both at the national and European level. These objectives are carried out by AIDA through the following activities:

- ❖ **Country reports**
AIDA contains [national reports](#) documenting asylum procedures, reception conditions and detention in 20 countries.
- ❖ **Comparative reports**
Comparative reports provide a thorough comparative analysis of practice relating to the implementation of asylum standards across the countries covered by the database, in addition to an overview of statistical asylum trends and a discussion of key developments in asylum and migration policies in Europe. Beyond the annual reports [2012/2013](#), [2013/2014](#) and [2014/2015](#), thematic reports on [reception](#) and [asylum procedures](#) were published in March and September 2016 respectively.
- ❖ **Fact-finding visits**
AIDA includes the development of fact-finding visits to further investigate important protection gaps established through the country reports, and a methodological framework for such missions. Fact-finding visits have been conducted in [Greece](#), [Hungary](#) and [Austria](#) so far.
- ❖ **Legal briefings**
Legal briefings aim to bridge AIDA research with evidence-based legal reasoning and advocacy. Six [briefings](#) have been published so far, covering: the legality of detention of asylum seekers under the Dublin Regulation; key problems in the collection and provision of asylum statistics in the EU, the concept of "safe country of origin"; the way the examination of asylum claims in detention impacts on procedural rights and their effectiveness; age assessment of unaccompanied children; and duration and review of international protection status.

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