

## Country factsheet Denmark

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                      | 3,775 | Total                      | 2,375 |
| Afghanistan                | 1,045 | Iraq                       | 560   |
| Syrian Arab Republic       | 380   | Afghanistan                | 415   |
| Russian Federation         | 335   | Iran (Islamic Republic of) | 195   |
| Iran (Islamic Republic of) | 320   | Russian Federation         | 180   |
| Iraq                       | 310   | Serbia                     | 125   |
| Somalia                    | 180   | Syrian Arab Republic       | 105   |
| Serbia                     | 145   | Palestine                  | 85    |
| Kosovo                     | 120   | Somalia                    | 55    |
| Palestine                  | 80    | Sri Lanka                  | 55    |
| Sri Lanka                  | 70    | Turkey                     | 40    |

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

| 2009                       |                          |                              |                           |          |                           |                          |                                 |
|----------------------------|--------------------------|------------------------------|---------------------------|----------|---------------------------|--------------------------|---------------------------------|
|                            | Geneva Convention Status | Subsidiary protection status | Humanitarian <sup>1</sup> | Rejected | Total number of decisions | Total positive decisions | Recognition rate <sup>2</sup> % |
| Total                      | 350                      | 345                          | 95                        | 880      | 1,675                     | 790                      | 47.2                            |
| Afghanistan                | 5                        | 185                          | 20                        | 165      | 380                       | 210                      | 55.3                            |
| Syrian Arab Republic       | 120                      | 15                           | 0                         | 60       | 195                       | 135                      | 69.2                            |
| Iran (Islamic Republic of) | 120                      | 10                           | 0                         | 75       | 210                       | 130                      | 61.9                            |
| Iraq                       | 35                       | 50                           | 25                        | 100      | 210                       | 110                      | 52.4                            |
| Russian Federation         | 30                       | 40                           | 0                         | 30       | 100                       | 70                       | 70.0                            |

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

| 2009                       |                          |                              |                           |          |                           |                          |                                 |
|----------------------------|--------------------------|------------------------------|---------------------------|----------|---------------------------|--------------------------|---------------------------------|
|                            | Geneva Convention Status | Subsidiary protection status | Humanitarian <sup>1</sup> | Rejected | Total number of decisions | Total positive decisions | Recognition rate <sup>2</sup> % |
| Total                      | 65                       | 70                           | 0                         | 310      | 440                       | 130                      | 29.5                            |
| Iraq                       | 30                       | 30                           | 0                         | 70       | 135                       | 60                       | 44.4                            |
| Afghanistan                | 5                        | 15                           | 0                         | 55       | 75                        | 20                       | 26.7                            |
| Iran (Islamic Republic of) | 15                       | 5                            | 0                         | 20       | 35                        | 15                       | 42.9                            |
| Palestine                  | 5                        | 0                            | 0                         | 10       | 15                        | 5                        | 33.3                            |
| Russian Federation         | 0                        | 5                            | 0                         | 15       | 25                        | 5                        | 20.0                            |

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.nyidanmark.dk/en-us/statistics/Immigration\\_family\\_reunification\\_asylum/asylum\\_family\\_reunification\\_immigration.htm](http://www.nyidanmark.dk/en-us/statistics/Immigration_family_reunification_asylum/asylum_family_reunification_immigration.htm).

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).

<sup>1</sup> 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.

<sup>2</sup> 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 (where data is available).

Source: Eurostat, Data extracted on 01 September 2010.

## 2. Background Information

Asylum act<sup>1</sup>

[Aliens \(Consolidation\) Act](#)

Asylum authorities

**First instance authority**

[The Immigration Service](#)

**Second instance authority**

[The Refugee Appeals Board](#)

## 3. Duty to inform asylum seekers

There are no provisions within the Aliens (Consolidation) Act with respect to authorities' duty to give information to asylum seekers.

However, pursuant to the [Danish Public Administration Act](#), an administrative authority shall, to the extent required, give guidance and assistance to any person who enquires on matters within their purview (Part 3, Section 7(1)). With respect to asylum cases, the Immigration Service provides information on its official homepage about the asylum procedure as well as other necessary information concerning the stay in Denmark. The Immigration Service has further published a booklet containing necessary information for asylum seekers.<sup>2</sup> It also provides information sheets in different languages with general information about the asylum procedure to newly arrived asylum seekers.

In March 2010, the Danish Immigration Service provided the following information to the FRA as regards written information materials.

|   |  |
|---|--|
| <b>Written information materials</b>                            | Information booklet translated into 28 languages.  |
| <b>Provided when?</b>   | At the time of lodging the application, at the registration of the application and during the first instance interview.  |
| <b>Provided by whom?</b>  | At the time of lodging the application – by the National Police. At the registration of the application – by the National Police. During the first instance interview – by the Danish Immigration Service. |
| <b>Has an evaluation of information tools been carried out?</b> | No.  |

<sup>1</sup> The legal information in this factsheets has been updated to reflect the situation on 1 September 2010.

<sup>2</sup> *Asylum Seekers in Denmark*, Published by the Danish Immigration Service, April 2008.

## 4. Effective Remedy

### Type of procedures

There are three types of procedures: (i) Dublin, (ii) regular and (iii) accelerated procedures.

(i) Before an asylum claim can be examined on its merits, the National Police is responsible to carry out an investigation with a view to determine the travel route of the asylum seeker (Part VIII, Section 48e (2)). The Immigration Service will then determine Denmark's responsibility for examining the claim under the Dublin II Regulation. If the Immigration Service comes to the conclusion that another Member State is responsible for handling of the application, the alien may be refused entry, transferred or retransferred to another Member State of the European Union (Part Va, Section 29a).

(ii) A regular asylum procedure is initiated when the alien submits an application (Part I, Section 7(1) Aliens (Consolidation) Act). The Immigration Service is the authority empowered to take decisions in asylum cases (Part VIII, Section 46 (1)).

(iii) When the Immigration Service assesses that the applicant is clearly not eligible for asylum, it can resort to an accelerated procedure for manifestly unfounded cases. An expedited version of the manifestly unfounded procedure has further been set up for asylum seekers who come from a country where, according to the most up-to-date information available, it is unlikely that he/she would risk persecution.

### Duty to state reasons for rejection and procedure to appeal

Pursuant to the Danish Public Administration Act, a decision shall be communicated in writing accompanied by the grounds (Part 6, Section 22). The grounds given for a decision shall further set out references to the rules of law on which the decision is based (Part 6, Section 23 (2)). A decision shall moreover be accompanied by written guidance on the right to appeal, stating where to appeal and informing of the procedure for lodging of appeal, including any limit for so doing (Part 7, Section 25 (1)).

A decision on refusal of an asylum application must state a time-limit for departure from Denmark and must also refer to the legal ground for the decision (Aliens (Consolidation) Act, Part VI, Section 33 (1)).

### Time limits for appeal

In the regular procedure, appeals against a decision made by the Danish Immigration Service are automatically referred to the Refugee Appeals Board (Part VIII, Section 53a (1)). Furthermore, when the Immigration Service assesses that an asylum application is considered to be manifestly unfounded, it shall forward it to the Danish Refugee Council, which shall provide a statement on the case following an interview with the applicant. If the Danish Refugee Council (NGO) agrees with the Immigration Service that the application is manifestly unfounded, the claim will be rejected and may then not be appealed. If the Danish Refugee Council instead disagrees with the decision that the application is manifestly unfounded, the Immigration Service will refer the case to the Refugee Appeals Board for a final ruling (Part VIIIa, Section 53b (1)).

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The decision of the Immigration Service in Dublin II cases can be appealed to the [Minister of Refugee, Immigration and Integration Affairs](#) (Part VIII, Section 48d).

| Types of procedure   | Time limits  | Right to remain   |
|----------------------|--|---|
| Regular              | Automatic referral of all cases to the appeals authority.  | Automatic suspensive effect.  |
| Manifestly unfounded | Automatic referral to the appeals authority only in cases where the Danish Refugee Council disagrees with the Immigration Service. | Automatic suspensive effect if the case is pending before the Refugee Appeal Council. |
| Dublin cases         | No time limit foreseen.  | No suspensive effect.   |

### Right to remain in the country during appeal

Regardless of the procedure, the asylum seeker has the right to remain in Denmark until the Refugee Appeals Board has determined the outcome of the case.

The appeal under the Dublin procedure is reviewed by Ministry for Refugee, Immigration and Integration Affairs and not by a court. It does not have suspensive effect (Part VIII, Section 48d). Transfer to another Dublin country is also not suspended in the individual case.

### Legal Aid

The Refugee Appeals Board may if necessary assign a counsel to the asylum seeker (Part VIII, Section 55 (1)). The counsel's fee is subject to the rules applying when legal aid is granted (General provisions on legal aid, [Administrative of Justice Act](#), Chapter 31). Pursuant to these rules, the question whether free legal aid should be granted depends on the individuals' economic condition. Asylum seekers are not granted a counsel during the Dublin procedure.

### Language assistance

Pursuant to a general provision of the Administrative of Justice Act, the hearing of a person who does not have a command in the Danish language may be done, as far as possible, with the help of an interpreter (Chapter 16, Paragraph 149).

### Hearing

At the request of the asylum seeker or the counsel acting on behalf of him/her, the asylum seeker must be allowed to plead his/her case orally before the Refugee Appeals Board. The Refugee Appeals Board shall also otherwise decide whether the proceedings should be heard orally (Part VIII, Section 56(2)).