

Country factsheet Latvia

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 | 60 | Total | 55 |
| Afghanistan | 20 | Georgia | 15 |
| Uzbekistan | 10 | Afghanistan | 10 |
| Bangladesh | 5 | Bangladesh | 5 |
| Iran (Islamic Republic of) | 5 | Russian Federation | 5 |
| Russian Federation | 5 | Syrian Arab Republic | 5 |
| Syrian Arab Republic | 5 | | |
| Palestine | 5 | | |

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 | 0 | 5 | n.a. | 35 | 40 | 10 | 25.0 |
| Afghanistan | 0 | 0 | n.a. | 5 | 10 | 0 | 0.0 |
| Georgia | 0 | 0 | n.a. | 10 | 10 | 0 | 0.0 |
| Bangladesh | 0 | 0 | n.a. | 5 | 5 | 0 | 0.0 |
| Russian Federation | 0 | 0 | n.a. | 5 | 5 | 0 | 0.0 |
| Syrian Arab Republic | 0 | 0 | n.a. | 5 | 5 | 0 | 0.0 |

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 | n.a. | 10 | 15 | 5 | 33.3 |
| Russian Federation | 5 | 0 | n.a. | 0 | 5 | 5 | 100.0 |
| Georgia | 0 | 0 | n.a. | 5 | 5 | 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 a more detailed understanding of the data, the reader is invited to consult national statistics at: <http://www.pmlp.gov.lv/en/statistics/asylum.html>.

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.

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 (where data is available).

Source: [Eurostat](#), Data extracted on 01 September 2010.

2. Background Information

Asylum act¹

[Asylum Law \(2009\)](#)

Asylum authorities

First instance authority

[Office of Citizenship and Migration Affairs](#) (OCMA) within the Ministry of Interior – Asylum Affairs Division

Second instance authority

Administrative District Court

3. Duty to inform asylum seekers

Pursuant to Section 10(2) of the Asylum Law, an asylum seeker has the right to receive information from the State Border Guard and the Office of Citizenship and Migration Affairs regarding the asylum procedure, his or her rights and duties during the procedure and the competence of the institutions involved in the asylum procedure. The asylum seeker has the right to receive this information in a language, which he/she should understand and in which he/she is able to communicate.

In August 2010, the Office of Citizenship and Migration Affairs provided the following information to the FRA as regards written information materials.

| | |
|---|---|
| Written information materials | Information leaflet translated into 6 languages. |
| Provided when? | At the time of lodging the application and during the first instance interview. |
| Provided by whom? | At the time of lodging the application – by the State Border Guard. During the first instance interview – by the State Border Guard. |
| Has an evaluation of information tools been carried out? | No. |

4. Effective Remedy

Type of procedures

According to the Asylum Law a person can apply for asylum either at the border of Latvia or within the country. Each application is first checked whether it is admissible or not. The

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

Office of Citizenship and Migration Affairs takes a decision on admissibility within five working days after receipt of all relevant documents from the State Border Guard (Article 13(1)). According to the Asylum Law (Article 14) an application is inadmissible in four cases: when the person is granted refugee status by another European Union Member State; when another country outside the EU is the first country of asylum; when the asylum seeker comes from a safe third country, as well as in cases of subsequent applications, which do not contain new information that might serve as justification for granting refugee or alternative status.

If an asylum application is considered to be admissible it can be examined under an accelerated or a regular procedure. Decisions in the accelerated procedure are taken within 10 working days (Article 13(3)) and such procedure is applied when (Article 19):

- an asylum seeker is from a safe country of origin;
- an asylum seeker entered Latvia, crossing a country, which is not a Member State and is regarded as a safe third country for him/her;
- an asylum seeker has submitted another application, indicating other personal data;
- an asylum seeker, without justified reason, has not submitted an application earlier, although he/she had such opportunity, including in order to delay or prevent his or her deportation from the Republic of Latvia, or
- an asylum seeker poses a threat to national security or public order and safety.

The regular procedure should be concluded within three months with the possibility to extend the time period for examination up to 12 months (Article 13(2)).

Duty to state reasons for rejection and procedure to appeal

An asylum seeker has the right to receive an explanation of the grounds of the decision, and the procedure to appeal, in a language that he/she should understand and in which he/she is able to communicate, except in case where the asylum seeker is represented by an authorised person or is provided with free legal aid (Asylum Law, Article 10(5)).

Time limits for appeal

Appeals against negative decision in all cases (inadmissibility, accelerated or regular procedure) have to be lodged within 10 working days from the date the decision comes into effect. Appeals are examined by the Administrative District Court. The adjudication of the court is final and may not be appealed.

The time limit to appeal a Dublin II decision, as stipulated by the Administrative Procedure Law, is one month. Subsequent applications can be submitted in cases when conditions that were the basis for taking the decision have changed in favour of the applicant. After evaluation of the conditions referred to in the subsequent application, an official authorised by the head of the Office of Citizenship and Migration Affairs shall take an admissibility / inadmissibility decision.

| Type of procedure | Time limits | Right to remain |
|-------------------------|-----------------|--|
| Regular procedure | 10 working days | Automatic suspensive effect. |
| Admissibility procedure | 10 working days | Automatic suspensive effect except in case of subsequent applications. |

| Type of procedure | Time limits | Right to remain |
|-----------------------|-----------------|------------------------------|
| Dublin II | 1 months | Automatic suspensive effect. |
| Accelerated procedure | 10 working days | Automatic suspensive effect. |

Right to remain in the country during appeal

Asylum seekers have the right to remain in the country during the appeal procedure, including in appeals against Dublin II decisions. The only exception concerns persons who submitted a subsequent application and the Office of Citizenship and Migration Affairs took a decision on inadmissibility. In such case the person has a right to appeal but he/she has no right to stay in the country.

Legal Aid

If the asylum seeker does not have sufficient funds, he/she has the right to legal aid ensured by the State in the amount and according to the procedures specified in the State Ensured Legal Aid Law. State ensured legal aid is provided only for the appeals procedures (i.e. after first instance negative decision).

According to Section 18(4) of the [Administrative Procedure Law](#), in complicated administrative matters, pursuant to a decision of an institution or court, and taking into account the financial circumstances of the person concerned remuneration to a representative of that person shall be paid from the State budget.

Language assistance

According to the Asylum Law appeals against negative decisions taken by the Office of Citizenship and Migration Affairs can be submitted in a language the asylum seeker knows. The Office shall, within one working day from receipt of the translation of the application, send the submitted application to the court, along with the official translation (in Latvian), as well as all the documents and evidence at the disposal of the Office. The Office must normally ensure the translation of the application into the official language within one month from the date of receipt of the application.

Judicial proceedings shall take place in the official language. Participants in an administrative proceeding shall submit documents in a foreign language by attaching translations into the official language certified in accordance with the prescribed procedures. A court may also allow individual procedural actions in another language, if the other participants agree. A court shall ensure the right of a participant in an administrative proceeding who lacks fluency in the official language to become acquainted with the materials of the matter and to participate in procedural actions with the aid of an interpreter (Section 110, Administrative Procedure Law).

Hearing

According to Article 31 of the Asylum Law asylum appeals are examined by the Court. Such cases are examined under a written or oral procedure.

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According to Section 107 of the [Administrative Procedure Law](#), the court shall determine the facts of the case by adjudicating the matter by way of oral or written procedure. In an oral procedure, a trial of an administrative matter shall take place at a court sitting. Persons called and summoned to court shall give their testimony and explanations orally (Section 113, Administrative Procedure Law).