

Country factsheet Slovak Republic

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	820	Total	905
Pakistan	170	Georgia	120
Georgia	100	Moldova, Republic of	115
Moldova, Republic of	75	Pakistan	110
Russian Federation	70	Russian Federation	100
Vietnam	55	India	90
India	55	Afghanistan	70
Afghanistan	50	China (including Hong Kong)	40
China (including Hong Kong)	40	Vietnam	40
Serbia	20	Iraq	40
Sri Lanka	20	Bangladesh	35

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	15	135	30	140	320	180	56.3
Afghanistan	0	45	0	5	50	45	90.0
Pakistan	0	15	0	35	50	15	30.0
Iraq	0	10	0	0	15	10	66.7
Russian Federation	0	5	5	0	10	10	100.0
Iran (Islamic Republic of)	0	5	0	0	15	10	66.7

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	10	0	20	35	15	42.9
Armenia	0	5	0	0	5	5	100.0
China	0	0	0	5	5	0	0.0
Vietnam	0	0	0	5	5	0	0.0
Pakistan	0	0	0	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.minv.sk/?statistiky-20>.

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. China (including Hong Kong).

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 07 September 2010.

2. Background Information

Asylum act¹

[Law on Asylum \(2002\)](#)

Asylum authorities

First instance authority

[Migration Office, Ministry of Interior](#)

Second instance authority

Regional Court

3. Duty to inform asylum seekers

The Law on Asylum guarantees to asylum seekers the right to be informed about their rights and obligations during the asylum procedure, the possible consequences of not fulfilling or violating their obligations, the possibility of being represented in the procedure, and about the access to a legal aid (Article 4(2)). The Ministry of Interior shall provide the asylum seeker with the information on non-governmental organisations who provide care to asylum seekers and persons who have been granted asylum; the information is provided in writing and, if possible, in a language which is supposed to be understood by the persons concerned. The information shall be provided to the asylum seekers prior to filling in the questionnaire in the course of the first interview with the authorities, latest within 15 days after the start of the procedure.

In August 2010, the Migration Office of the Ministry of the Interior provided the following information to the FRA as regards written information materials.

Written information materials	Information leaflet on international protection in the Slovak Republic, translated into 11 languages.
Provided when?	As soon as possible, after lodging of the application, at the latest within 15 days after commencement of the procedure.
Provided by whom?	As soon as possible, provided by authorized officials of the Ministry ('reception workers' or 'decision makers').
Has an evaluation of information tools been carried out?	Yes (not publicly available). An evaluation was done of the effectiveness of the Migration Office's (MO) written information for asylum seekers within the UNHCR ASQAEM project funded under ERF and directed towards improvement of quality of the asylum procedure. One of the main findings was that current version of MO instructions is written in a legalistic way and mostly not understandable for asylum seekers. Also the quality of the translations of some of the language versions was questioned. UNHCR and MO agreed that action is needed on a joint remake.

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

4. Effective Remedy

Type of procedures

There are several types of procedures: (i) the airport procedure; (ii) Dublin procedure; (iii) the admissibility procedure, and (iv) the regular procedure. After the arrival of the foreigner, who does not fulfil the conditions for entering the territory, to the airport, he/she is placed in the admission centre and asked to fill in a questionnaire. If the migration authority does not decide on the asylum application within seven days of filling in the questionnaire, the asylum seeker is placed in the reception centre and the application shall be examined under the regular procedure (Article 4(3)).

Before the asylum application is reviewed in substance, the migration authority examines whether Slovakia is competent to deal with the application (so called ‘procedure on determination of responsibility’)², about the execution of which it informs the asylum seeker (Article 11 (3)); during the process of this determination the time period for making a decision shall not be running. If the Slovak Republic is not competent to deal with the application, the Ministry of Interior shall specify in its decision the competent state.

As part of the admissibility procedure, the Migration Office examines whether the asylum seeker comes from a safe third country (Article 11 (1)). In this case a decision has to be taken within 60 days. The same time limit applies for decisions rejecting applications as manifestly unfounded (Article 12). Otherwise, the application has to be processed within the regular time limit of 90 days and cannot be rejected as inadmissible on grounds that the applicant comes from the safe third country or manifestly unfounded after 60 days from the start of the procedure (Article 11(2), 12).

Duty to state reasons for rejection and procedure to appeal

All rejection decisions, as any other administrative decision, have to have certain essentials prescribed by the [Administrative Procedural Code](#); the verdict, the reasoning, and the instruction on the right of appeal. The instruction on the right of appeal includes the information on the possibility to lodge legal remedy; the time limit for doing so; whom to address the legal remedy, together with the information regarding postal address, as well as whether the decision may be examined by the court. At the time of receiving the decision, the asylum seeker has to be informed of its content in a language he/she understands (Article 20a (2)), Law on Asylum).

If an application is rejected pursuant to Article 11(1)(b) Law on Asylum (safety in a third country), a confirmation will be issued to the applicant in the official language of the state to which the applicant will be returned certifying that the asylum application has not been examined in its merits.

² The procedure on determination of responsibility (known as Dublin procedure) is laid down in separate provisions in Articles 6 – 9 of the Regulation of the Minister of Interior of the Slovak Republic of 11 January 2007 on procedures of the Migration Office of the Ministry of Interior of the Slovak Republic and Police Force departments in respect of execution of the law No 480/2002 on asylum and amendments to particular laws.

Time limits for appeal

Pursuant to Article 21 of the Law on Asylum, an appeal shall be lodged within 30 days from the receipt of a written first instance decision. There are certain exceptions to this general rule depending on the type of the decision, as listed in the table below.

Type of procedure	Time limits	Right to remain
General rule ³	30 days	Automatic suspensive effect as a general rule, except of cases when the applicant can be reasonably considered as a danger to the security of the country or when the asylum seeker has been convicted of a particularly serious crime and constitutes a danger to society.
Admissibility procedure ⁴ (including Dublin cases)	20 days	No suspensive effect unless the competent court decides otherwise in the individual case.
Subsequent applications ⁵	20 days	Appeal against a decision, which may be filed with the Ministry of Interior does not have suspensive effect.
Discontinuance of procedure ⁶	7 days	Appeals filed with the Ministry of Interior have suspensive effect.

Right to remain in the country during appeal

As a general rule, an appeal against a negative decision has automatic suspensive effect (Article 21). However, the law introduces a number of exceptions to this rule (see the table above). This is for instance in cases when the Ministry rejected the asylum applications as manifestly unfounded or inadmissible, or when the asylum seeker is considered by the migration authorities as a danger to the security of the country or to the society.

The court dealing with the legal remedy may postpone the enforcement of the contested decision requested by the appellant if the nature of the matter does not exclude it, and the court is of the opinion that by enforcing the contested decision the purpose of the investigation could be circumvented (Article 250n of the Code of Civil Procedures).

Legal Aid

Asylum seekers have the right to be in contact with the Office of UNHCR and non-governmental organisations during the procedure (Article 17 (1)); to be represented by an attorney or by any other representative he/she chooses (Article 17a (1)); to use the language he/she can communicate in during the procedure and the right to the interpreter (Article 18). They have also the right of inspection of the files concerning their case (Article 17 (2)).

³ The general rule concerns decisions of the Migration Office not to grant asylum and to withdraw asylum, except for the decisions when the person granted asylum failed to file an application for granting asylum for an indefinite period of time within the statute of limitation.

⁴ The time limit of 20 days applies in cases when the Migration Office rejects the application for asylum as inadmissible (e.g. Dublin procedure, safe third country) or as manifestly unfounded.

⁵ This concerns cases when the asylum procedure was discontinued by reason of already existent final decision in the asylum procedure and the application was dismissed as manifestly unfounded, granting of asylum was denied, or asylum was withdrawn and the facts of the case have not substantially changed (Art. 19(1)(i) of the Law on Asylum).

⁶ The time limit of seven days applies in cases of discontinuance of the asylum procedure explicitly mentioned in Art. 19 (1) of the Law on Asylum.

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Asylum seekers are entitled to enjoy legal assistance provided by the [Centre for Legal Aid](#) in cases when the Migration Office issues decision on denial of asylum; withdrawal or rejection of an application for asylum as manifestly unfounded or as inadmissible, and on discontinuance of asylum procedure due to the fact that the application had been already decided before and the facts of the case did not substantially change (Article 24a(1), Law on Legal Aid).

Language assistance

Within the first instance procedure, asylum seekers may use their own language in case they do not have command of Slovak language. During the appeal procedure, the principle of equal standing of the parties to the dispute entitles the asylum seeker to act before the court in a language he/she understands (Article 18 of the Code of Civil Procedures). In case the asylum seeker decides to enjoy legal assistance of the Centre for Legal Aid, the centre shall deliver documents to the applicant in a language he/she is supposed to understand (Article 24b (5) of the Law on Legal Aid).

Hearing

The court dealing with the appeal of the asylum seeker may order a hearing. It may hear new evidence, which it considers essential for the investigation of the contested decision (Article 250(q) of the Code of Civil Procedures).

There are two regional courts that are competent to deal with the legal remedies in asylum cases, one placed in the capital, Bratislava, and one placed in Eastern Slovakia, in Košice.