

## Country factsheet Romania

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	965	Total	1,180
Moldova, Republic of	145	Pakistan	255
Pakistan	110	Bangladesh	175
Afghanistan	90	Iraq	175
Iraq	90	India	140
Turkey	85	Turkey	80
China (including Hong Kong)	65	China (including Hong Kong)	55
Bangladesh	50	Georgia	55
India	50	Serbia	25
Georgia	40	Cameroon	25
Congo, the Democratic Republic of the	25	Moldova, Republic of	20

### 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	50	10	55	430	540	115	21.3
Iraq	25	5	50	15	95	80	84.2
Afghanistan	10	0	0	15	25	15	60.0
Moldova, Republic of	5	0	0	80	85	5	5.9
Somalia	5	0	0	0	5	5	100.0
Turkey	0	5	0	45	50	5	10.0

### 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	30	0	575	670	95	14.2
Iraq	25	15	0	35	70	40	57.1
Afghanistan	15	5	0	15	35	20	57.1
Moldova, Republic of	5	0	0	85	90	5	5.6
Cameroon	5	0	0	10	15	5	33.3
Turkey	0	5	0	55	65	5	7.7

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://ori.mai.gov.ro/detalii/pagina/ro/Statistici-si-publicatii/147>.

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.

<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 07 September 2010.

## 2. Background Information

### Asylum act<sup>1</sup>

[Law on Asylum in Romania \(2006\)](#)

### Asylum authorities

#### First instance authority

[Romanian Office for Immigration](#)

#### Second instance authority

Local court with material competence (in the region where the Regional Centre of the Romanian Office of Immigration is located)

## 3. Duty to inform asylum seekers

Article 17(f) of the Law on Asylum guarantees to the asylum seeker the right to be informed on the rights and obligations, which he/she is entitled to throughout the asylum procedure. The information must be provided in a language he/she understands or is reasonably presumed to understand. The article indicates also other rights of the asylum seekers, which are at their disposal throughout the duration of the procedure, such as the right to remain in Romania until the expiry of 15 days from the finalization of the asylum procedure (with certain exceptions), and the right to have an interpreter free of charge in any phase of the asylum procedure.

In August 2010, the Office for Immigration provided the following information to the FRA as regards written information materials.

<b>Written information materials</b>	Information leaflet translated into 14 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 officer receiving the application. At the registration of the application – by the officer performing the preliminary interview. During the first instance interview – by the officer performing the interview and deciding on the merits of the application.
<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.

## 4. Effective Remedy

### Type of procedures

The Law on Asylum regulates several types of asylum procedures: (i) the regular procedure, which has to be completed within 30 days from its initiation (with the possibility of extension by 30 days at most); (ii) the accelerated procedure used in cases of manifestly unfounded applications, safe country of origin and cases posing a threat to national security or public order (within which the authority shall issue a decision within three days from its commencement); (iii) the border procedure dealing with asylum applications submitted at the state border checkpoints (the authority is expected to render decision within three days from the reception of the asylum application); (iv) the admissibility procedure for subsequent applications; (v) the procedure on a safe third country, as well as (vi) the Dublin procedure.

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

The decision on the asylum application issued by the immigration authority shall contain the reasons in fact and in law, as well as information regarding the appeal procedure including the deadline for the submission and the authority to which the appeal against a negative decision has to be submitted (Article 14). Only the information regarding the appeal procedure including the deadline and the designation of the competent authority is translated into a language an asylum seeker is reasonably presumed to understand. In case of a safe third country procedure, the immigration authority after having decided to send back the asylum seeker without considering his/her application on merits will issue a motivated decision, which it shall communicate to the applicant (Article 95).

### Time limits for appeal

The asylum seeker can lodge an appeal against a negative decision issued in the regular procedure within 10 days from the date of receipt of the confirmation of delivery of the decision to the asylum seeker (Article 55(1)). The same time limit applies in cases of subsequent applications deemed inadmissible (Article 93). A decision on a safe third country may be appealed within five days from the communication of the decision to the asylum seeker (Article 95 in conjunction with Article 66).

The time limit of two days for lodging an appeal applies to cases when the immigration authority rejects the application in the accelerated procedure (Article 80), and in case of a negative decision issued in the border procedure (Article 85). In both cases, the time limit starts from the communication of the decision. A decision adopted in the Dublin procedure may be appealed within two days from communication of the decision to the applicant (Article 121).

Type of procedure	Time limits	Right to remain
Regular procedure	10 days	Automatic suspensive effect of an appeal.
Subsequent applications	10 days	No suspensive effect, unless the court decides otherwise on the request of the applicant to remain in the country.
Safe 3 <sup>rd</sup> country procedure	5 days	Right to remain at the territory until the court takes final decision on the appeal.

Type of procedure	Time limits	Right to remain
Accelerated procedure	2 days	Right to remain in the territory until the court takes final decision on the appeal.
Border procedure	2 days	Right to remain in the territory until the court takes final decision on the appeal.
Dublin procedure	2 days	Right to remain in the territory until the court takes final decision on the appeal.

## Right to remain in the country during appeal

After the asylum seeker has submitted an appeal against a negative decision issued within the regular procedure, he/she has the right to remain in the territory of Romania for the duration of the adoption of the decision on the appeal (Article 55(2)). The same applies in case of an appeal against a negative decision issued in the accelerated procedure (Article 80). The asylum seeker lodging an appeal against a negative decision issued in the border procedure has the right to remain in the country until the asylum procedure has been finalized (Article 86 in conjunction with Article 17(1)(a)). Exercising a right of appeal against a subsequent application deemed inadmissible does not entail permission to remain in the country (Article 93(3)). Transfer of the asylum seeker to the responsible Member State, based on a decision issued in the Dublin procedure, is suspended until the lapse of the legal deadline for lodging an appeal against that decision (Article 121).

## Legal Aid

Pending the decision on the asylum application at the state border, the asylum seeker is entitled to legal and social assistance (Article 87(6)). More generally, there is a right of the asylum seeker to be assisted by a lawyer in any phase of the asylum procedure (Article 17(b)). However this kind of assistance is not provided free of charge. In the appellate procedure, the court generally admits the asylum seekers' request for *pro bono* lawyers (Article 74-81, Code of Civil Procedure).

## Language assistance

There is a general provision on language assistance established by Article 142 of the Code on Civil Procedure guaranteeing every party to the dispute a translator in case the person does not have a command of Romanian language. The Asylum Act regulates the right of the asylum seeker to have an interpreter, free of charge, in any phase of the asylum procedure (Article 17(1)(c)).

## Hearing

In the appellate procedure against a negative decision issued in the regular procedure, the court can order a hearing when it considers it as useful for taking a decision on the merits of the case (Article 63). The same applies in safe third country procedures (Article 95). There is no hearing taking place before the court in cases when the court decides on appeals against inadmissible subsequent applications (Article 94).