First instance determination - Hungary

Overview of first instance procedures

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Relevant EU legislation

Hungary is bound by the recast Asylum Procedures Directive (APD), the recast Reception Conditions Directive and the Dublin III Regulation and has transposed their provisions through Law LXXX of 2007 on asylum (Asylum Law).

National legislation

Border procedure: Asylum Law, Articles 71/A-72

Declaring an application inadmissible: Asylum Law, Article 51(1)-(6).

Accelerated procedure: Asylum Law, Article 51(7)-(10)

Subsequent applications: Asylum Law, Articles 6(3), 43(2)(b), 51(2)(d), 51(7)(f), 54, 68(3), 80/K(11)

Dublin procedure: Asylum Law, Articles 49-50, 70

Regular procedure: Asylum Law, Chapter VII and VIII

Competent authority and other stakeholders

National authorities: National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF). According to Government Decree No 126/2019. (V.30.), Article 3, the NDGAP is divided into a central body and regional directorates. The organisational chart is available on the website. The NGDAP is responsible for the entry, stay and integration of foreign nationals.

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The NGDAP is partly responsible for the registration and lodging of applications for international protection and for fingerprinting and identity verification. It is not responsible for the provision of legal aid to asylum applicants. It also not responsible for proposing the list of safe countries of origin and safe third countries.

Staff: The officers who conduct the interview also carry out the assessment of applications.

Other actors: Other actors may include NGO counsellors present in selected cases, as well as interpreters.

Based on the Asylum Law, Article 38 a representative of UNHCR may participate in the asylum procedure. The representative may – with the agreement of the applicants - be present during the personal interview, get access to documents related to the asylum procedure and make copies of them and be informed about the progress and decisions made within the procedure. In addition, they can present their opinion on the application at any stage of the procedure and may enter reception and detention facilities.

NDGAP may also involve other specialised authorities for examining and issuing a statement which falls within their competence (for example, on age assessment or on medical issues) (Asylum Law, Article 57).

Types of procedures and case processing

The Asylum Law includes the following procedures:

- Two types of border procedures: the airport procedure and the “procedure conducted at the border”.
- Dublin procedure;
- Inadmissibility procedure;
- Accelerated procedure;
- Regular procedure.

There is no separate procedure defined for subsequent applications, but the law establishes procedural rules that should be applied differently from the regular procedure.

Time limit for a decision and length of the procedure

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The NDGAP delivers its decision on the application within 60 days (Asylum Law, Article 47(3). This may be extended once with 21 days (Asylum Law, Article 32/G(2)). However, several periods do not count within this time limit, according to Asylum Law, Article 32/G(3) and (3a):

- periods when the procedure is suspended,
- periods for remedying deficiencies and making statements,
- periods needed for the translation of the application and other documents,
- periods required for expert testimony,
- duration of the special authority's procedure,
- periods required to comply with a request,
- the period between the moment the NDGAP sends the invitation for a personal interview and the return of the post receipt acknowledging the receipt of the invitation.

Asylum Decree, Article 87 states that when no decision is taken within 6 months, the NDGAP must inform the applicant about the delay, the reasons for delay, and approximately when a decision can be expected.

The time limit for decision is 15 days both within the inadmissibility and accelerated procedures.

Measures to enforce the legal time limit for processing an application: There are no special measures to enforce the legal time limit for processing applications.

Penalty payment for exceeding processing time: Applicants cannot claim penalty payments if the NDGAP exceeds the legal time limit.

Prioritisation policies: The Asylum Law notes that the NDGAP should prioritise:

- cases of unaccompanied minors (Asylum Law, Article 35(7))
- applications from detention (Asylum Law, Article 35/A)
- admissibility decisions for applications in the border procedure (Asylum Law, Article 71/A(3)).

Quality assurance of first instance procedures

An internal unit review the procedure.

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The AIDA report on Hungary for 2024 references information provided by the NDGAP: “According to the NDGAP, quality control is continuous and in addition, decisions are sometimes evaluated in the context of quality assurance projects.”

Interinstitutional cooperation

There are currently no meetings organised between the determining authority and other organisations involved in the asylum procedure.

Regular asylum procedure at first instance

Legal basis

Relevant provisions of the law for regular asylum procedure at first instance:

Asylum Law, Chapter VII and VIII

Competent authority and stakeholders

The National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF) is responsible in matters related to the regular first instance asylum procedure

Personal interview

Asylum Law, Article 43 states that the personal interview is obligatory in the asylum procedure, unless there is an exception provided for by law. Article 43(2) lists the circumstances, when the interview can be omitted. Children under the age of 14 are interviewed only, when this is necessary for the clarification of the case. Remote interviews may be organised. In this case, the applicant’s legal advisor can be present at the interview’s location. Asylum Decree, Article 82(2) states that the interview should take place as soon as possible after the lodging of an application, but does not provide a specific timeframe.

Assessment of an application

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Asylum Law, Articles 58-65 and Asylum Decree, Articles 90-93 provide some guidance on the assessment of an application.

Scope and outcomes of a decision

NDGAP may take the following decisions:

- Granting refugee status;
- Granting subsidiary protection status;
- Granting tolerated status (*befogadott*);
- Rejecting the application as inadmissible;
- Rejecting the application on its merits.

The NDGAP also examines the principle of non-refoulement as part of the decision, and when there is no prohibition to return, it includes it orders the expulsion of the rejected applicants, or, in certain cases, it orders the deportation, (Asylum Law, Article 45(5)).

Withdrawal of an application

Competent authority to withdraw an application

The National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF) is the competent authority in cases of implicit and explicit withdrawals.

Implicit withdrawal

Grounds for implicit withdrawal: According to Asylum Law, Article 66(2)(b)-(f), the following grounds apply:

- the applicant refuses to make a declaration and thereby prevents the application from being considered,
- the applicant fails to appear at the personal interview following the written notification and fails to properly justify the absence,
- the applicant left the accommodation or place of residence assigned for more than 48 hours without permission, left for an unknown location and does not properly justify the absence,

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- the applicant was expulsed or deported, or
- prevents or makes it impossible to capture the fingerprints or facial image.

Consequences of implicit withdrawal: The NDGAP can either take a decision based on available information or end the procedure. In the first two circumstances, the applicant may ask in-person for the continuation of the procedure within 9 months. In other cases, if the applicant submits a new application, this is considered to be a subsequent application.

Appeal against a decision to discontinue the examination due to an implicit withdrawal: In the first three circumstances, the decision to end the procedure cannot be appealed (Asylum Law, Article 66(4)). The last two circumstances may be appealed. (Asylum Law, Article 66(5)). The appeal must be submitted within 7 days from the decision to the NDGAP, who submits the case file to the court. The court decides within 8 days, from the arrival of the case file. The court cannot change the authority's decision but may refer it back for a new decision. There is no further appeal.

Explicit withdrawal

Grounds for explicit withdrawal: The applicant can withdraw the application in written. (Asylum Law, Article 66(2)(a)).

Consequences of explicit withdrawal: The NDGAP can either take a decision based on available information or end the procedure. The NDGAP decides on ending the permit allowing the person to stay based on humanitarian considerations (end of the applicant status), and orders the expulsion or deportation of the person. In case of a deportation, the NDGAP also decides on the period for an entry ban.

Appeal against a decision to discontinue the examination due to an explicit withdrawal: There is no possibility to appeal the NDGAP's decision based on the applicant's explicit withdrawal. (Asylum Law, Article 66(4)).

Personal interview

Competent authority: Interviewers

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There are no specific qualifications or specialisations required for interviewers, however, depending on the case and the applicant, an experienced interviewer is preferred (for example, a person who has experience in interviewing UAMs).

Special procedural guarantees during the interview

Minors: Children above the age of 14 can be interviewed in the presence of their legal guardian or a child protection guardian. (Asylum Law, Article 43(3), Asylum Decree, 74(1)). The interview must be adapted to the child's age and maturity and need to take into account the child's gender and cultural background (Asylum Decree, Article 74(1a)). Accompanied children under the age of 14 can only be interviewed, if this is necessary for the clarification of the case (Asylum Law, Article 43(3)). The interview in this case should preferably be conducted in a child-friendly interview location (Asylum Decree, Article 74(1c). The case officer conducting the interview must have acquired the necessary knowledge to interview a child (Asylum Decree, Article 74(1d)). In case another interview is necessary, the same case officer must conduct this interview as well. (Asylum Decree, Article 1b). When the presence of the legal guardian is deemed to hinder the procedure, the NDGAP is obliged to appoint a child protection guardian (Asylum Decree, Article 74(3)).

Unaccompanied minors: All children above the age of 14 are interviewed, and unaccompanied minors below the age of 14 should be interviewed as well. The same guarantees apply, as for accompanied children:

- Unaccompanied children can only be interviewed in presence of their child protection guardian.
- The interview must be adapted to the child's age and maturity and need to take into account the child's gender and cultural background (Asylum Decree, Article 74(1a)).
- Unaccompanied children under the age of 14 should be interviewed preferably in a child-friendly interview location (Asylum Decree, Article 74(1c).
- The case officer conducting the interview must have acquired the necessary knowledge to interview a child (Asylum Decree, Article 74(1d)). In case another interview is necessary, the same case officer must conduct this interview as well. (Asylum Decree, Article 1b)

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The child protection guardian must inform the child about the interview, the way to prepare for it, and its consequences (Asylum Decree, Article 74(2)).

Victims of trafficking or other forms of violence: The law does not include specific measures, beyond the general obligation that the NDGAP must take into account an applicant's social background, personal circumstances, gender and age, when assessing whether the acts (potentially) against the applicant may be considered persecution or serious harm (Asylum Decree, Article 90).

Applicants with disabilities or other health issues: The law does not include specific measures, beyond the general obligation that the NDGAP must take into account an applicant's social background, personal circumstances, gender and age, when assessing whether the acts (potentially) against the applicant may be considered persecution or serious harm (Asylum Decree, Article 90).

Possibility to omit the personal interview

The personal interview can be omitted in two circumstances, as defined by the Asylum Law, Article 43(2):

- The applicant is not in a state to be interviewed, Asylum Decree, Article 77 adds that the interview can only be omitted, if the applicant is unfit for a long time due to reasons beyond their control. In case of doubt, the NDGAP may ask an opinion from an expert doctor or psychologist. The NDGAP must use all possible means to clarify the facts and circumstances of the reason for applying for international protection. In particular, it must provide the opportunity for the applicant to make a statement in writing and it may interview the applicant's family members residing in Hungary, or other persons who arrived with the applicant.
- The applicant submitted a subsequent application, but did not bring up facts or did not provide pieces of proof, that would substantiate the recognition. However, a personal interview must still be organised, if the subsequent application is submitted by a person, whose earlier application was submitted on their behalf, either as a dependent person or as an unmarried child.

Modalities of carrying out the interview

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Interviews take place at the offices of NDGAP, but they can also be conducted remotely through videoconferencing. This is usually used when an applicant is in detention, or the case officer and the applicant are in different locations. During remote interview, applicant must be present in the nearest dedicated NDGAP office and they are not allowed to use their own phone, computer etc.

Choice of gender of the interviewer/interpreter

The applicant can request an interviewer or interpreter of the same gender, when the application is based on gender-related persecution (Asylum Decree, Article 66(3)). If it does not hinder the procedure, the applicant may request an interviewer or interpreter of a certain gender, based on gender identity different from the officially registered one (Asylum Decree, Article 66(3a)).

Objecting to the interviewer/interpreter

The applicant can object to a particular interviewer or interpreter following the general rules of administrative procedural law (Law on the General Administrative Procedure, Articles 22-24). This means that the applicant needs to submit a request for the exclusion of the interviewer or interpreter from the procedure, when it is considered that they cannot remain impartial. If the authorities considers that the applicant’s request for exclusion is manifestly unfounded, or if the applicant makes repeated unfounded requests against the same case interviewer or interpreter, a fine may be applied.

Language and interpretation

Applicants can request an interpreter when registering the application. The NDGAP may also request the assistance of an interpreter ex officio, based on a contract with the interpreter. It is not obligatory to appoint an interpreter, when the case officer speaks the applicant’s mother tongue or another language they understand, and the applicant confirms in written that they do not require assistance from an interpreter.

There is a list of interpreters who are contracted with NDGAP. Interpreters undergo a security check before signing a contract.

Sometimes, when a language is very rarely spoken and there is no interpreter of the language on the above-mentioned list, an individual application must be filed to the dedicated unit of NDGAP to employ an interpreter outside of the list. There is also a mandatory security check.

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Persons present during the interview

People present during the interview may include:

- Case officer;
- Applicant;
- Interpreter (if needed);
- Legal guardian of an accompanied minor or a dependent person;
- Child protection guardian for an unaccompanied minor or an accompanied minor, when the presence of the legal guardian may hinder the process;
- Guardian ad litem for a dependent person;
- UNHCR representative;
- Witness summoned by the NDGAP;
- Lawyer or legal adviser;
- Family members (with permission from NDGAP);
- Psychologist or a person of trust (with permissions from NDGAP).

There are interview templates and an interview follows a structured format with mandatory questions, but depending on the case, additional questions and parts are required. The interview template is to be renewed in Q4 2025, taking some EUAA operational experiences into account as well.

General information and introduction are provided in the beginning of the interview, information about the next steps are usually in the closing part.

The applicant has the opportunity to provide additional information during the phase when the whole protocol is reviewed. The applicant can also submit further evidence.

Depending on the case, an interview can last long, but there is a possibility of breaks, and also a possibility to have multiple interviews, in case the interview would last too long, exceeding working hours and would be very tiring for all participants.

Audio/Video recording and written report

The personal interview is not recorded. Asylum Decree, Article 74(9) states that a report must be prepared on the personal interview. This report is a verbatim written transcript of the interview. The applicant, its representative or the representative of UNHCR has the right to make observations on the interview report. The interview report is read back to the applicant, when necessary, with the help of an interpreter. Persons present during the interview sign the final

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version of the report.

Postponing the personal interview

There is the possibility to postpone the personal interview when the applicant provides serious reasons for it. The interview must be postponed, when the guardian does not appear (Asylum Decree, Article 76(2)). The interview is postponed once, if the legal guardian does not appear. If the guardian does not appear for a second time, the NDGAP orders the appointment of a guardian (Asylum Decree, Article 76(3)). The interview can still take place, when the applicant's authorised representative does not appear following a correct notification (Asylum Decree, Article 76(4)).

If the applicant does not attend the personal interview and does not provide a valid reason for the absence to the NDGAP, this will be considered as a ground for implicit withdrawal (Asylum Law, Article 66(1)(c)), Failure to appear at the personal interview may also entail the reduction or – in exceptional cases - the withdrawal of material reception conditions (Asylum Law, Article 30(1)(d)).

Failure to appear

If the applicant does not attend the personal interview and does not provide a valid reason for the absence to the competent authority, it is considered as an implicit withdrawal and the authority may take a decision to discontinue the application or to reject it.

Other aspects

Second or follow-up personal interview: The NDGAP may invite the applicant for a second interview, when the collection of additional information is necessary for the assessment of the case, especially to clarify some of the contradictions remaining following a first interview.

Special asylum procedures at first instance

Admissibility procedure

Legal basis and grounds: The Asylum Law uses the term "inadmissibility procedure". The relevant legal provisions are the following: Asylum Law, Articles

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47(1)-(2), 51(1)-(6), 53, 71/A(3), 72(5)(a), 80/K.

An application is declared inadmissible in the following cases:

- The applicant is an EU citizen;
- The applicant was granted international protection or a national form of protection by another EU Member State;
- The applicant is recognised as a refugee by a third country and protection exists at the time of the assessment of the application and the third country is prepared to readmit the applicant;
- The application is a subsequent one and no new circumstance or fact occurred that would suggest that the applicant's recognition as a refugee or beneficiary of subsidiary protection is justified;
- There exists a country in connection with the applicant which qualifies as a safe third country for them.

The "safe third country" concept may only be applied as an inadmissibility ground where the applicant (a) stayed or (b) travelled there and had the opportunity to request effective protection; (c) has relatives there and may enter the territory of the country; or (d) has been requested for extradition by a safe third country.

Competent authority and other stakeholders: National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF)

Procedural aspects

The NDGAP decides on the admissibility of an application after it concludes that the Dublin procedure is not applicable.

In the event of applying the "safe third country" concept, the applicant, when this fact is communicated, can declare immediately but within 3 days by the latest the reason why in their individual case, the specific country does not qualify as a safe third country (Asylum Law, Article 51(11)). In case the application is declared inadmissible on safe third country grounds, the NDGAP issues a certificate in the official language of that third country to the applicant that their application for asylum was not assessed on the merits (Asylum Law, Article 51(6). Where the safe third country fails to take back the applicant, the refugee authority withdraws its decision and continue the procedure (Asylum Law, Article 51/A). When an application is declared to be inadmissible, the NDGAP is not obliged to obtain COI (Asylum Decree, 72(2)).

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Decision and time limits to decide

When an admissibility ground applies, the NDGAP rejects the application with a procedural decision (végzés) (Asylum Law, Article 53(1)). This decision needs to be taken within 15 days from the determination of the specific ground, that gives rise to the application of the inadmissibility procedure. In the border procedure (both for the airport procedure and the procedure at the border), the authority must prioritise decisions on the admissibility of an application and must decide within 8 days. The decision is notified as soon as possible. The time limits cannot be extended.

Appeal

The legal basis for appeals under admissibility procedure is outlined by Sections 53, 68 and 80/K of the Asylum Law. Regional courts | Törvényszékek examine the case in both facts and law (Section 68(4), Asylum Law). The time limit to lodge an appeal is 3 days (Section 80/K, Asylum Law). There is no automatic suspensive effect. Civil society organisations report that, in practice, removal procedures are not started before appeals are decided upon. According to Section 52 of the Code of Administrative Court Procedure, suspensive effect may be ordered by the court. The procedure on appeal consist of a personal hearing held by the trial court in the transit zone. The personal hearing can also be held via a telecommunications network, if the presiding judge conducts the personal hearing from the seat of the court or from another place outside the transit zone. In this case, the directness of the connection is ensured by the device that transmits the moving picture and the sound simultaneously (Section 80/K(5), Asylum Law). Legal assistance is provided as in the regular procedure. The time limit for decision is 8 days (Section 53(4), Asylum Law). The court cannot change the decision of the asylum authority, it can only uphold or annul any administrative decisions found to be against the law and will revert the case back to NDGAP (Section 68(5), Asylum Law). There is no legal remedy against the substantive decision of the court ending the proceedings (Section 53(5), Asylum Law).

Impact on reception conditions

No specific impact on reception conditions.

Accelerated procedure

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Legal basis and grounds

The relevant legal provisions are the following: Asylum Law, Articles 41(1)-(2), 51(1),(7),(8),(9), 53(2), 72(5)(a), 80/K.

The accelerated procedure can be applied in the following cases:

- The applicant has only shared information that is irrelevant to the examination of qualification for international protection;
- The applicant is from a country which features on the EU or national list of safe countries of origin;
- The applicant has mislead the authorities on their identity or nationality:
- by providing false information;
- by handing over false documents;
- by withholding important information or documents that may have negatively impacted the authority’s decision;
- It is likely that, in bad faith, the applicant has destroyed or disposed of an identity or travel document that would have helped establish their identity or nationality;
- The applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict sufficiently verified country-of-origin information, thus making the claim clearly unconvincing in relation to whether he or she qualifies as a beneficiary of international protection;
- The applicant submitted an admissible subsequent application;
- The applicant made an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in their removal;
- The applicant entered the territory of Hungary unlawfully or prolonged their stay unlawfully and, without good reason, has either not presented themselves to the authorities or not made an application for international protection as soon as possible, given the circumstances of the entry;
- The applicant refuses to comply with the obligation to take their fingerprints;
- The applicant may, for serious reasons, be considered a danger to the national security or public order of Hungary, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.

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Competent authority and other stakeholders: National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF)

Procedural aspects

The NDGAP decides on the possibility to apply the accelerated procedure after it concludes that the Dublin procedure is not applicable.

With the exception of cases when the applicant comes from a safe country of origin, the NDGAP examines the application on its merits (Asylum Law, Article 51(9)). In the event of applying the safe country of origin as a ground for acceleration, after this fact is communicated to the applicant, they can make statement either immediately or within 3 days about the reason why in their individual case, the specific country does not qualify as a safe country of origin (Asylum Law, Article 51(11)). If the safe country of origin fails to take back the applicant, the NDGAP withdraws its decision on rejection and continues the procedure (Asylum Law, Article 51/A). The NDGAP is not obliged to obtain COI for its assessment, when the acceleration is based on the first four circumstances. (Asylum Decree, 72(2)).

Decision and time limits to decide

The NDGAP may take the same decisions in an accelerated procedure as in the regular procedure, and in case of rejection, it also includes a decision on return. This decision needs to be taken within 15 days from the determination of the specific ground, that gives rise to the application of the accelerated procedure. In the airport procedure, when it is concluded that no acceleration grounds may apply, the applicant may enter the territory of Hungary and the procedure continues as a regular procedure. The decision is notified as soon as possible. The time limits cannot be extended.

Appeal

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held by the trial court in the transit zone. The personal hearing can also be held via a telecommunications network, if the presiding judge conducts the personal hearing from the seat of the court or from another place outside the transit zone. In this case, the directness of the connection is ensured by the device that transmits the moving picture and the sound simultaneously (Section 80/K(5), Asylum Law). Legal assistance is provided as in the regular procedure. The time limit for decision is 8 days (Section 53(4), Asylum Law). The court cannot change the decision of the asylum authority, it can only uphold or annul any administrative decisions found to be against the law and will revert the case back to NDGAP (Section 68(5), Asylum Law). There is no legal remedy against the substantive decision of the court ending the proceedings (Section 53(5), Asylum Law).

Impact on reception conditions

There is no specific impact on reception conditions.

Border procedure

Legal basis and grounds

There are two types of border procedures:

- Procedure at the border: Asylum Law, Article 71/A
- Airport procedure: Asylum Law, Article 72, Asylum Decree, Article 97

The procedure at the border can be applied, when a person makes an application either before entering the territory of Hungary, or - after apprehension in the 8 km zone of the border – in a transit zone.

The airport procedure applies when a person makes an application before entering the territory of Hungary at an international airport.

These procedures cannot be applied, when the government declares a crisis situation due to mass migration (Asylum Law, Article 80/I(i)). In that case, applications are only processed in transit zones (Asylum Law, Article 80/J). According to the currently applicable temporary rules on the asylum procedure (“embassy procedure”), the measures related to the border procedure are not applicable. (Government Decree 361/2024. (XI. 28.), Article 7(a)).

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Competent authority and other stakeholders: National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF)

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Procedural aspects

Procedure at the border: The NDGAP must prioritise cases in this procedure. The decision must be notified as soon as possible. When the NDGAP rules out the inadmissibility of an application, the applicant may enter the territory of Hungary and the procedure continues according to the regular rules. This procedure cannot be applied when an applicant has special procedural or reception needs. The procedure does not allow for the involvement of an expert, specialised authority. The personal interview is conducted in the transit zone or through videoconferencing.

Airport procedure: This procedure cannot be applied when an applicant has special procedural or reception needs. Their family members are also exempted. When the NDGAP rules out the inadmissibility of an application and the applicability of the accelerated procedure, the applicant may enter the territory of Hungary. The personal interview must be conducted as soon as possible. It can take place in the transit zone or through videoconferencing. The NDGAP notifies the decision as soon as possible.

Decision and time limits to decide

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Procedure at the border: The NDGAP must decide with priority, within 8 days from the registration. If no final decision is made within 4 weeks, the applicant may enter the territory of Hungary and the procedure continues according to the regular rules.

Airport procedure: The NDGAP must decide within 8 days from the registration. If no final decision is made within 8 days, the applicant may enter the territory of Hungary and the procedure continues according to the regular rules.

Appeal

Section 71A of the Asylum Law outlines the appeal system under border procedures.

The personal hearing is held by the trial court in the transit zone. The personal hearing can also be held via a telecommunications network, if the presiding judge conducts the personal hearing from the seat of the court or from another place outside the transit zone. In this case, the directness of the connection is ensured by the device that transmits the moving picture and the sound simultaneously (Section 71A(10) of the Asylum Law) The decision of the court terminating the proceedings must be communicated to the applicant by means of a notice, if the applicant did not provide a delivery address, or delivery to the given address is ineffective for any reason, or the application of delivery already appears to be ineffective. The notice must be published in such a way that it must be posted for fifteen days on the notice board of the transit zone in which the appeal was submitted. The announcement must be published in the applicant's native language or in another language he understands. In case of service of the court's decision terminating the proceedings by notice, the document shall be considered served on the fifteenth day after the notice is posted on the notice board of the transit zone (Section 71A(11) and (12) of the Asylum Law). The court cannot change the decision of the asylum authority, it can only uphold or annul any administrative decisions found to be against the law and will revert the case back to NDGAP (Section 68(5), Asylum Law). Decisions made by the court must be communicated to the applicant in his native language or in another language he understands (Section 71A(15) of the Asylum Law)

Impact on reception conditions

The applicant cannot enter the territory of Hungary and is kept in a transit zone at the border or at the international airport. The applicant does not have the right to undertake paid community work.

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Subsequent application procedure

Legal basis and grounds

Several articles form the legal basis: Asylum Law, Articles 6(3), 43(2)(b), 51(2)(d), 51(7)(f), 54, 68(3), 80/K(11)

An application is considered to be a subsequent one, if the applicant submits a new application after a final decision on a previous applications, which either rejected the application or ended the procedure.

Competent authority and other stakeholders: National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF)

Procedural aspects

An admissible subsequent application may be processed in an accelerated procedure. The NDGAP examines, whether there is new circumstance or new fact following its earlier decision, which may give rise to the applicant’s recognition as a beneficiary of international protection. The NDGAP may omit the personal interview, when the applicant submitted a subsequent application, but did not bring up facts or did not provide pieces of proof, that would substantiate the recognition. However, a personal interview must still be organised, if the subsequent application is submitted by a person, whose earlier application was submitted on their behalf, either as a dependent person or as an unmarried child.

There are limitations on the right to remain in certain specific cases:

- when the NDGAP rejects a subsequent application, which was submitted immediately prior to the execution of an expulsion, as inadmissible, or
- when the applicant makes again an application, after a final decision on a previous subsequent application, the applicant cannot benefit from the following rights

Decision and time limits to decide

A subsequent application, which does not include new circumstance or fact occurred that would suggest that the applicant’s recognition as a refugee or beneficiary of subsidiary protection is justified, is rejected as inadmissible. An admissible subsequent application may be processes as an accelerated procedure. In each of these cases, the corresponding time limits and scope of

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decisions apply.

The applicant making a subsequent application may not be recognised as a refugee, when the risk of persecution is based on circumstances that were created after leaving the country of origin, and the rejection is not in breach of the Geneva Convention (Asylum Law, Article 6(3)).

Appeal

Section 54(4) of the outlines the appeal system under subsequent application procedure. Regional courts | Törvényszékek examine the case in both facts and law (Section 68(4), Asylum Law). The time limit to lodge an appeal is 3 days (Section 80/K, Asylum Law). There is no automatic suspensive effect. According to Section 52 of the Code of Administrative Court Procedure, suspensive effect may be ordered by the court. TA court hearing is mandatory if the applicant is in asylum detention but the court may waive the personal hearing if the case concerns a repeated asylum application based on the same factual basis as the previous one (Section 68(3) of the Asylum Law). The time limit for decision is 8 days (Section 53(4), Asylum Law). The court cannot change the decision of the asylum authority, it can only uphold or annul any administrative decisions found to be against the law and will revert the case back to NDGAP (Section 68(5), Asylum Law). There is no legal remedy against the substantive decision of the court ending the proceedings (Section 53(5), Asylum Law).

Impact on reception conditions

When the NDGAP rejects a subsequent application, which was submitted immediately prior to the execution of an expulsion, as inadmissible, or when the applicant makes again an application, after a final decision on a previous subsequent application, the applicant cannot benefit from the following rights:

- Right to remain in Hungary;
- Material reception conditions;
- Right to paid community work.

Last-minute application pending removal

The concept of last-minute applications does not exist in law in Hungary. However, for the purposes of this section, applications made by foreigners waiting for the enforcement of a return decision is considered, as well as

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subsequent applications submitted before the enforcement of a return decision.

Last-minute applications lodged by first time applicants pending a removal

Asylum Law, Article 51(7)(g) states that the application may be assessed in the accelerated procedure, when the applicant made an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in their removal. The law also underlines that making an application in order to delay the implementation of a return decision is also a sign that indicates the lack of need for international protection (Asylum Law, Article 59(1)). This is also a circumstance, which may be considered when deciding on the detention of an applicant (Asylum Law, Article 31/A(b)).

Last-minute applications lodged as subsequent applications pending a removal

The rules for last-minute application by first time applicants pending removal remain relevant in this case as well. In addition, according to Asylum Law, Article 54(2), when the applicant submits a last-minute application as a subsequent one imminently before the implementation of a removal, the applicant is not entitled to the following rights:

- Right to remain in Hungary;
- Material reception conditions;
- Right to paid community work.

In this circumstance, the NDGAP either makes a decision on the subsequent application based on the available information, or ends the procedure (Asylum Law, Article 66(1)(e).

NDGAP is also the authority responsible for implementing the return decision.

When a last minute application is lodged, there is communication between Asylum Unit and other units regarding this matter and the possibilities.

Safe country concept

Safe country of origin

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The concept of a safe country of origin is defined in the Asylum Law, Articles 2 and 9. This concept is applied in practice within an accelerated procedure.

The responsibility for drafting and updating the list lies with the Government of Hungary.

The list was last updated on 1 April 2016 by Government Decree No 63/2016 (III. 31) to determine safe countries of origin and safe third countries at the national level.

The first list was adopted on 22 July 2015 by Government Decree No 191/2015. (VII.21). In 2015, Türkiye was excluded although it is a candidate country. No such reference was made in 2016. The Decree refers to EU Member States, candidate countries, and Member States of the European Economic Area.

National list of safe countries of origin:

1. Albania
2. Australia
3. Bosnia and Herzegovina
4. Canada
5. EU countries
6. Iceland
7. Kosovo
8. Liechtenstein
9. Montenegro
10. New Zealand
11. North Macedonia
12. Norway
13. Serbia
14. Switzerland
15. Türkiye
16. United States of America (states that do not apply the death penalty)

The criteria according to the law are the following:

- No persecution is experienced in general and in a systematic manner in that country or in a part of that country;
- There is no threat of general violence in either international or internal armed conflict situations, no torture, cruel, inhuman or degrading treatment or punishment is applied; and

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- An efficient system of legal remedy is in place to address any injury of such rights or freedoms.

Safe third country

The concept of a safe third country is defined in the Asylum Law, Article 2. This concept is applied in practice within an admissibility procedure. The responsibility for drafting and updating the list lies with the Government of Hungary.

The list was last updated on 1 April 2016 by Government Decree No 63/2016 (III. 31) to determine safe countries of origin and safe third countries at the national level. The Decree refers to EU Member States, candidate countries, and Member States of the European Economic Area.

National list of safe third countries:

1. Albania
2. Australia
3. Bosnia and Herzegovina
4. Canada
5. EU countries
6. Iceland
7. Kosovo
8. Liechtenstein
9. Montenegro
10. New Zealand
11. North Macedonia
12. Norway
13. Serbia
14. Switzerland
15. Türkiye
16. United States of America (states that do not apply the death penalty)

Based on Asylum Act, Article 2(i):

- The applicant's life is not under threat, or the applicants is not exposed to the risk of serious harm on the grounds of his/her race, religion, nationality, membership of a social group or political opinion;
- The principle of *non-refoulement* is respected in accordance with the Geneva Convention;

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- The rule of international law is recognised and applied, according to which the applicant may not be expelled to the territory of a country where he/she would be exposed to death penalty, torture, cruel, inhuman or degrading treatment or punishment; and
- The applicant has the possibility to apply for asylum and, if recognised, is able to enjoy protection in accordance with the Geneva Convention.

According to the Asylum Law, Article 51/A, the NGDAP withdraws the decision and continues the asylum procedure when the third country considered to be safe for the applicant does not take over or take back the person.

First country of asylum

The concept of first country of asylum is defined in the Asylum Law, Article 51(2c). This concept is applied in practice within an admissibility procedure.

Based on the Asylum Law, Article 51(2)(c): The applicant already received international protection from a third country, the status is still maintained, and the third country will readmit the person.

European safe third country

The concept of European safe third country is not defined in the Law.

Assessment of an application at first instance

Legal provisions relevant for an assessment

Asylum Law, Articles 58-65

Competent authority for the assessment

The national authority involved to carry out the first instance assessment and determination is the National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF). Typically, the assessment is done by the case officer who conducted the personal interview.

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Required qualifications: Minimum qualification is university degree. Communication skills, knowledge in law and international politics (not mandatory but is an advantage), language skills.

Training: Training sessions are held for the asylum staff (intercultural trainings, training of interview techniques, etc.).

Grounds

According to Asylum Law, Article 60 defines acts of persecution as acts which, by their nature, repetition or accumulation, are so serious that they seriously breach fundamental human rights, in particular the right to life, the prohibition of torture, the prohibition of slavery or servitude, and the obligation of punishment to be prescribed by law. The law provides examples of acts which may amount to acts of persecution, corresponding to the recast APD, Article 9.

Guidelines for case officers

Guidelines and instructions are available for staff members. There are also text samples to support the drafting of the decision, interview, contacting with other authorities etc.

Credibility assessment

Asylum Law, Article 59, Asylum Decree, Article 75 defines the credibility assessment.

The Asylum Law states reason that suggests the lack of protection needs:

- The applicant’s country of origin is considered to be a safe country of origin;
- The applicant does not disclose facts and circumstances causing the flight; or their statements are inconsistent or incoherent in such a manner, that it cannot be concluded that they were or they are at risk of persecution or serious harm;
- The applicant intentionally provides false information on personal data or citizenship;
- The applicant intentionally uses a false or falsified document for identification or for trying to enter Hungary and insists on the validity of the document’s content;

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- The applicant hides from the NDGAP or destroys the identity or travel document, or intentionally hinders the authorities' activities for identification;
- The applicant tries to mislead the NDGAP by withholding important information or documents;
- The applicant makes an asylum application only to delay or frustrate the enforcement of a return order.

Assessment of facts and circumstances when aspects of the applicant's statements are not supported by documentary or other evidence

Asylum Decree, Article 75(1b) states that the applicant does not have to prove facts that are not supported by documentary or other evidence, when it would be unreasonable to expect the applicant to acquire these documents and:

- The applicant has visibly done everything to substantiate the application;
- The applicant has handed over all proofs, and has given a satisfactory explanation when other significant evidence is lacking;
- The applicant's statements are logically coherent, plausible and do not contradict general and specific information known in relation to the application;
- The applicant has submitted an application for international protection at the first available opportunity, unless they can demonstrate a good reason for not doing so;
- The applicant's credibility has generally been established.

Asylum Law, article 59(2) states that inconsistency, incoherence or not disclosing facts and circumstances giving rise to the flight cannot be taken as a sign of lack of protection needs, when a medical expert concludes that this is caused by the health or psychological state of the applicant.

Time limit for submitting evidence during credibility

The applicant must submit all evidence that may substantiate the application by the latest during the personal interview (Asylum Law, Article 75(1)).

COI research

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In Hungary, the NDGAP is responsible for providing country of origin information (COI) service. The COI unit of the NDGAP, called the Documentation Centre, is directly under the General-Director of the NDGAP. Six staff members are employed at the Documentation Centre: 1 head of Centre and 5 COI researchers, who are specialised in different countries relevant to the NDGAP.

The main task of the Documentation Centre is to provide answers to COI queries submitted mainly by decision-makers and also by the aliens policing authority and courts.

The Documentation Centre regularly monitors the situation in crisis areas in order to identify main priorities and the Centre makes flash reports on countries where significant political and/or security changes take place. The Documentation Centre uses a wide range of sources during the research process: sources of governmental organisations, nongovernmental organisations, international and intergovernmental organisations and foreign and domestic media.

The Centre has a standard list of sources. ACCORD's ecoi.net and UNHCR's Refworld databases are useful starting points for research.

All COI replies and reports are uploaded to the COI database of the Office, which is accessible to all NDGAP staff. Flash reports are carried out in case of significant changes in political and/or security situation of countries of origin relevant to the work of NDGAP.

Decision and outcomes

NDGAP may take two types of decisions: decisions on the merits of the case (határozat) and other decisions (végzés). Decisions on the merits are notified in person and in a written form as well, when possible. Other decisions are only in written format. Decisions must be notified within 8 days in the mother tongue of the applicant or in another language the applicant can understand.

The NDGAP takes the following decisions on the case:

- Granting refugee status;
- Granting subsidiary protection status;
- Granting tolerated status (*befogadott*);
- Rejecting the application as inadmissible;
- Rejecting the application on its merits.

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The NDGAP also examines the principle of non-refoulement as part of the decision, and when there is no prohibition to return, it includes it orders the expulsion of the rejected applicants, or, in certain cases, it orders the deportation, (Asylum Law, Article 45(5)).

The decision is notified to the applicant, the person to whom the provisions apply (e.g. family member), the specialised authority and the representative. It is notified in person (if it is a decision on the merits of the case), sent electronically, by post or communicated through an announcement.

The decision is communicated by an announcement, if:

- The applicant's residence is unknown;
- The delivery of the decision is not possible due to insurmountable obstacles or attempting its delivery appears to be not possible.

In this case, a notice is placed on the notice board of the asylum authority inviting the applicant to receive the decision within 8 days. The decision is deemed to be communicated on the eighth day. The addressee may object to this within 15 days from becoming aware of the announcement, but not later than 45 days of the notification.

If the decision is sent by post, it is deemed to be notified on the day when it is delivered or when the applicant refuses to accept the delivery. If the decision is returned to NDGAP as "not sought", the decision is deemed to be notified on the fifth day after the day of the second delivery attempt. If it is returned as "unknown" or "moved", the decision is deemed to be notified on the fifth day after the day of the first delivery attempt.

The decision must include the following elements:

- Data necessary to identify the asylum authority and the case;
- All data necessary to identify the client;
- The authority's decision;
- The reasoning of the decision, including the established facts, the evidence and the circumstances considered by the asylum authority;
- The evidence submitted by the applicant, but disregarded by the NDGAP, and the reasons for not taking into account this piece of evidence;
- The legal provisions related to the decision;
- The specialised authority's statement. However, if this statement includes classified information, it cannot be included in the decision;

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- Information on the possibility to appeal;
- Settling procedural costs.

Different rules apply when an emergency situation is declared due to mass migration. In this case, the decision is notified within 3 days. On appeal, when the applicant had already left the transit zone before the court's decision, the decision is notified through an announcement, on the notice board of the transit zone. The decision is then deemed to be delivered on the day the notification is displayed on the notice board.

Minors and unaccompanied minors: For unaccompanied children, the guardian is also notified. Otherwise, there are no specific rules on the notification for minors and unaccompanied minors.

COI units

Background information

COI unit: The COI Unit, the Documentation Centre (DC), operates within the National Directorate-General for Aliens Policing (NDGAP) under the Ministry of Internal Affairs.

Legal basis: The NDGAP has been operating as a law enforcement agency since 1 July 2019. Asylum Decree, Article 70 designated the NDGAP as the organisation responsible for the provision of country information.

Structure and capacity

Organisation: The DC is currently lead by a Head of Unit ranked as a Deputy Head of Department. There are no hierarchical differences between the staff members of the DC staff although they have different job titles or ranks. Also given the DC's relatively small size and the diverse types of queries it deals with, it is not subdivided into smaller specialised units (e.g. according to countries of origins).

Mandate and tasks: The Rules of Organisation and Operation of the NDGAP designated the DC as its own internal organisation responsible for preparing COI reports and defines the DC as a functionally independent, autonomous organisational unit under the authority of the Director-General, headed by a Head

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of Unit or a Head of Unit ranked as a Deputy Head of Department. The Rules of Organisation and Operation of the NDGAP mentions the following as the tasks of the DC:

- Collection and storage of information concerning the countries of origin of persons seeking recognition, refugees, subsidiary protection holders, temporary protection holders, and persons with tolerated stay, as well as third countries relevant in terms of granting or withdrawing recognition;
- Preparing country information reports;
- Carrying out data processing from the data it collects and holds in its records, and contributing to the preparation of professional publications and information materials;
- Operation of the special library of the Directorate-General, and ensuring the systematic expansion of the library's collection and providing access to the library’s services;
- Maintenance of the Directorate-General's COI database, making available the latest and relevant COI reports and materials;
- Providing trainings in its area of expertise and providing trainings concerning priority countries of origin;
- Participation in the planning and the implementation of EU and national projects falling within its professional competence.

In addition, the DC was given the task of adapting OSINT methods to – among others – asylum procedures and such methods have already been used this year during a so-called test phase. Therefore, the section on the DC in the Rules of Organisation and Operation of the NDGAP is expected to be supplemented soon with the task of open-source information gathering in order to assist – among others – asylum procedures.

Staff capacity: Currently, the DC comprises of six employees, including the head of the DC, although during the present year owing to the situation as a result of the war in Ukraine and other issues many of the DC’s staff were temporarily assigned to other units of the NDGAP to assist them.

Requirements: Staff members of the DC have different academic qualifications (ranging from the humanities through international studies to law enforcement trainings) and different language skills (e.g. English, German or Spanish). The knowledge of the English language and at least a BA/BSc degree are basic requirements to apply for a position at the DC.

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Regular training and updates: The DC used to organise COI related lectures regularly, but these have become less frequent due to the transformation of the Office to a law enforcement agency in 2019 (which came with a number of tasks) then to the pandemic, and currently to the situation caused by war in Ukraine. Two persons from the DC were given the task of conducting / preparing to conduct the so-called OSINT research, and there is a designated person to manage the special library and the COI database.

COI products

Type of COI products produced and frequency: The DC produces the following materials:

- Responses to COI queries (answers to information requests in individual cases, this constitutes the largest part of the DC’s work).
- Thematic reports (detailed COI reports on topics of special interest).
- Country reports (short summaries on relevant countries, mainly for the Aliens Policy Directorate, updated on a semi-annual basis).
- Credibility tests (a list of specific questions to assist decision makers in asylum procedures).
- Press monitoring.

In addition, the results of the so-called opensource investigations conducted so far were supplemented to the responses to individual queries. These were either requested or initiated by the COI researchers. According to future plans the results of these investigations will be submitted on a separate document.

All documents are provided in digital format and stored in the DC's COI database. They are not disseminated publicly.

DC produces thematic reports on issues of particular interest (e.g., two reports on the partial mobilization campaign in Russia).

Languages: All documents of the DC are prepared in Hungarian. Regarding the input language there is no restriction in place. If a COI researcher comes across a source which is of high relevance to the individual case at hand, and she/he does not speak the particular language in which the source was written, staff from other units with knowledge of the particular foreign language is asked for support, or digital translation tools are used which is then indicated in the produced document.

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Methodology and sources: Government Decree No 301/2007 (XI.9.) on the implementation of Law No LXXX of 2007 on asylum stipulates that the country information centre shall perform COI collection and provision in an objective and balanced manner, impartially and accurately. To achieve this, it shall use:

- various sources of information
- governmental, non-governmental and international information sources equally and as widely as possible

In practice COI research depends on the nature of the given case. Generally, the COI Unit starts gathering information from the so-called standard sources i.e. the sources that can be found on the EUAA's COI portal or at ecoi.net and then proceeds to other sources. During its work the DC staff members use objective, reliable sources and try to cross-check or corroborate the information they find. In case of lesser-known sources, a brief source description is provided. If possible, the usage of secondary sources is avoided. If contradictory information is found in the sources, the DC tries to help the decision-maker in deciding how to consider them. Generally, the COI Unit starts gathering information from the so-called standard sources i.e. the sources that can be found on the EUAA's COI portal or at ecoi.net and then proceeds to other sources. During its work the DC staff members use objective, reliable sources and try to cross-check or corroborate the information they find. In case of lesser-known sources, a brief source description is provided. If possible, the usage of secondary sources is avoided. If contradictory information is found in the sources, the DC tries to help the decision-maker in deciding how to consider them.

With the aim of helping the decision makers DC staff members do quote Country Guidance or Policy documents but do not comment on the decision guidance parts of these documents. Comments are only made if a DC staff member finds the COI summaries in these documents problematic (in the case of UNHCR's Eligibility Guidelines it happened a couple of times). Similarly with the aim of helping the decision makers the DC does provide translations from relevant judgments of the ECHR or other European courts.

The DC upon request prepares reports for other governmental organizations. However, these reports are also not disseminated publicly and sometimes classified.

The DC especially its head regularly participates in professional or scientific conferences by giving presentations or lectures.

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Quality check: There is an internal and informal quality control mechanism within the DC to review each other's work and the head of the DC proofreads all outgoing COI documents.

Other aspects of COI units

Information is not currently available.

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