First instance determination - Iceland

Overview of first instance procedures

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Relevant EU legislation

Iceland is not bound by the recast Asylum Procedures Directive (APD) or the recast Reception Conditions Directive. However, provisions of the Dublin III Regulation apply under specific procedures. The country has not yet decided on accession to the Pact on Asylum and Migration, which would require adoption by the national Parliament. A similar national legal framework governs the processing of international protection applications at the first instance, as outlined in the Foreign Nationals Act, the Regulation on Foreigners and the Regulation on conditions for a special asylum procedure – accelerated procedure, No. 830/2014.

National legislation

Foreign Nationals Act, No. 80/2016 | Lög um útlendinga 2016 nr. 80 16. júní and subsequent amendments. The grounds for international protection are outlined under Article 28 of the Foreign Nationals Act.

Regulations on Foreigners, No. 540/2017 | Reglugerð um breytingu á reglugerð um útlendinga nr. 540/2017. and subsequent amendments.

Regulation on conditions for a special asylum procedure – accelerated procedure, No. 830/2014 | Reglugerð um skilyrði fyrir sérstakri málsmeðferð umsókna um hæli – flýtimeðferð, nr. 830/2014 specifies the modalities and the circumstances where an accelerated or prioritised procedure is applicable in Iceland.

Dublin Regulation

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Administrative Law No. 37, 30 April 1993, | Stjórnsýslulög 1993 nr. 37 30. Apríl and subsequent amendments sets the procedural rules on handling and processing cases at administrative level including provision of information and interpretation.

Competent authority and other stakeholders

National authorities: The Directorate of Immigration | Útlendingastofnun under the Ministry of Justice is responsible for examining and processing applications for international protection in the regular asylum procedure (so called material substantive treatment) and in special procedures.

The Directorate of Immigration is organised into two divisions and the administrative sectors.

Permit division is responsible for:

- Processing and service centre
- Residence permits
- Citizenship
- Travel document issuance
- Deportations

Protection division is responsible for:

- Applications for international protection
- Voluntary return
- Family reunification of refugees
- Renewal and revocation of protection
- Travel certificates and passports for foreigners

The organisational chart is available here.

Staff: The department of international protection has between 50-60 staff. In some cases, the same officials who conduct the interviews also assess and decide the applications. However, not every interviewer is also the decision-maker.

Other actors: An advocate (spokesperson) is a lawyer who represents applicants for international protection and safeguards their interests vis-à-vis in

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Icelandic authorities while their cases are being processed. The advocate is responsible for:

- attending an interview with the applicant when called,
- submitting documents and statements on behalf of the applicant, as necessary,
- assisting the applicant in gathering health information, if necessary for the processing of the case,
- receiving decisions from the authorities on behalf of the applicant and
- giving guidance on the possible continuation of the case, such as appeal or possibility of voluntary return.

The role of an advocate begins upon appointment by the Directorate of Immigration during application lodging and ends with a final decision.

Advocacy services are provided free of charge to applicants for protection. However, if an applicant chooses a different advocate than the one appointed, s/he must cover the cost themselves.

Types of procedures and case processing

Legal provisions under the Foreign Nationals Act specify the following types of procedures:

- Admissibility interview (Article 36)
- Dublin procedure
- Accelerated and prioritised procedures (Article 29 and special act)
- Material substantive treatment (Regular procedure) (Article 37)

Dublin procedure: When an application for international protection is submitted, it is first examined whether the criteria of the Dublin Regulation are relevant. Before the Directorate of Immigration makes a final decision based on the Dublin Regulation, the applicant is interviewed by the Directorate of Immigration.

If no other Dublin Member State or Nordic state under the EEA Agreement is responsible for processing the application for international protection, the Directorate of Immigration may decide to either channel the application through the regular or through an accelerated procedure.

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Accelerated and prioritised procedures: The Directorate of Immigration may prioritise applications for international protection under Icelandic national legislation in specific cases, such as:

- When an application is likely to be approved or if special circumstances justify it
- When an application is considered manifestly unfounded
- When an applicant provides insufficient or misleading information that does not indicate a need for protection.
- When an application is resubmitted after being rejected or withdrawn.
- When an application is made solely to delay expulsion.

The **general substantive procedure (regular procedure)** is carried out to determine whether the applicant qualifies for protection. This includes assessing refugee status, eligibility for subsidiary protection, statelessness, or the possibility to be granted humanitarian residence permit. If protection is denied, the applicant may appeal the decision to the Immigration Appeals Board (KNU).

Specificities for people with special procedural needs (excluding unaccompanied minors): According to Article 25 of the Foreign Nationals Act, an applicant for international protection shall undergo a medical examination and an individual assessment to understand whether the applicant is in a particular position of vulnerability as soon as possible after the submission of the application.

Specificities for unaccompanied minors: In cases concerning unaccompanied or accompanied minors, the assessment includes the evaluation of the child's best interests, the possibilities for family reunification, his/her safety, wellbeing and social development. In addition, his/her views shall be taken into account in accord with his/her age and maturity. In cases of minors, the Directorate of Immigration shall consult the child protection authorities, and in the case of unaccompanied minors, the opinion of the National Agency for Children and Families must be elicited before a decision is made. Arrangements for the personal interview of a minor are made according to Article 28 and Article 31 of the Foreign Nationals Act.

Time limit for a decision and length of the procedure

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Article 23 of the Foreign Nationals Act specifies that applications for international protection under the regular procedure shall be processed within six (6) months with a possibility of extending the deadline up to eighteen (18) months.

In practice, according to information published by the OECD, the average processing time for the regular and special procedures are the following:

- Dublin procedure (average processing time 115 days)
- Priority procedure (average processing time 5 days)
- General substantive procedure (average processing time 220 days)

Measures to enforce the legal time limit for processing an application:

Under the Dublin procedure, the consequences set out in the Dublin Regulation apply. For the general procedure, the 18-month time limit remains in force. To ensure timely decisions, strict quality controls and well-defined workflows are applied so that all applications are processed well within the given time limits.

Quality assurance of first instance procedures

The Code of Conduct for Staff in the Government Offices of Iceland sets clear standards for workplace relations, professional behaviour, and handling conflicts of interest, requiring staff to separate personal and official roles, protect confidentiality, avoid misuse of position or resources, and act with impartiality and respect for human rights

The Parliamentary Ombudsman in Iceland monitors the fairness and legality of asylum procedures by ensuring that the Directorate of Immigration and related authorities handle cases in accordance with administrative law, human rights standards, and good governance principles.

Quality control at the Directorate of Immigration, is carried out by experienced staff, with all outputs reviewed by senior staff. Procedures and standard templates are regularly updated, and random quality checks are also conducted to ensure consistency and accuracy. When considered necessary, the Directorate of Immigration may also seek the advice of external experts such as the EUAA, UNHCR and others.

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Guidelines and work procedures in Iceland outline how child protection services, the Directorate of Immigration, and the National Agency for Children and Families handle cases involving unaccompanied children and coordinate support as they reach adulthood. The quality-control division of the National Agency for Children and Families provides general advice on the implementation of legislation related to children and families with children.

Interinstitutional cooperation

Pursuant to the provisions of Article 9, of the Foreign Nationals Act, the Refugee Committee, appointed by the Minister for Social Affairs for a five-year term, consists of three members nominated by the Ministers for Social Affairs, Justice, and Foreign Affairs. The chairperson, who must have expertise in refugee matters, is appointed by the Minister for Social Affairs. The committee is supported by observers nominated by the Directorate of Immigration, the Icelandic Red Cross, and the Association of Icelandic Local Authorities. Its main responsibilities are to advise the government on refugee policy and reception arrangements, oversee how refugee groups are received, comment on individual cases when asked, and work in consultation with UNHCR. The Committee must report annually to the government and may receive additional tasks through regulation. Moreover, according to Article 23 of the Foreign Nationals Act the Icelandic authorities must cooperate with the UNHCR in implementing the provisions of the Article 35 of the International Convention on Refugee Status into the national legislation.

The Directorate of Immigration is working closely with the Child Protection Committees of the National Agency for Children and Families, for the processing of applications of unaccompanied children, ensuring their best interest.

Finally, the Ministry of Justice and the Directorate of Immigration, participates in experts' networks of the EU Agency for Asylum (EUAA), FRONTEX and Europol for information exchange and capacity building.

Regular asylum procedure at first instance

Legal basis

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Article 36 and Article 37 (Chapter IV of the Foreign Nationals Act) specify the grounds for international protection and the basis for accepting an application for international protection to be processed under substantive examination (Regular Procedure).

Chapter III of the Foreign Nationals Act and Article 43 of the Regulations for Foreigners provides the general rules for processing an application for international protection.

Pursuant to Article 10 of the Foreign Nationals Act, the Administrative Law No. 37, of 30 April 1993 and subsequent amendments, sets the procedural rules on handling and processing cases at administrative level including provision of information and interpretation.

Competent authority and stakeholders

The Directorate of Immigration is the responsible authority which registers, processes and decides on whether an individual is entitled to international protection when an application for international protection is accepted for substantive examination (Article 36 and Article 37 of the Foreign Nationals Act and Article 43 of the Regulation on Foreigners).

Appeals against decision of the Directorate of Immigration can be brought against the Immigration and Asylum Appeals Board, which may uphold, modify, or overturn the decisions at administrative level. The decisions of the Board cannot be appealed to a higher administrative authority.

Personal interview

When Iceland is responsible for examining an asylum application under the Dublin III Regulation, the Directorate of Immigration must carry out a thorough personal interview in line with Article 28 of the Foreign Nationals Act.

The interview must take place promptly after registration, with the applicant's representative present and able to advise them in advance. The process must ensure that all relevant circumstances are revealed, address any special needs, and provide an interpreter unless declined by the applicant.

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At the beginning, the applicant must be told that their information will be used to decide their case and asked for consent to gather information abroad if necessary.

The Directorate of Immigration assesses the claim using the interview, submitted documents, and credible country information, such as UNHCR reports, and may request age or language tests to verify details under Article 25. If an applicant fails to appear without valid reason, the Directorate may decide the case without further action. When interviewing a child, a qualified specialist must lead the interview with support from the child's advocate and child protection experts if needed. Interviews can be recorded with prior notice, and the Minister may set further rules for interviewing vulnerable applicants.

Assessment of an application

Pursuant to the provisions of Article 25 of the Foreign Nationals Act, when processing an application for international protection, the Directorate of Immigration must promptly conduct an individual assessment, with the assistance of relevant experts, to determine whether the applicant is in a particularly vulnerable situation.

If the applicant is identified as vulnerable, an evaluation must be carried out to assess any special needs that should be considered during case processing, such as access to specific healthcare services. This assessment is not limited to the time of application; an applicant's right to special assistance remains valid even if their needs emerge later in the process.

For cases involving children, their best interests must be prioritised, and a special best interests' assessment must always be conducted. Children who can express their views must be given the opportunity to do so in matters affecting them, and their opinions should be considered according to their age and maturity, as outlined in Article 25 of the Foreign Nationals Act. Decisions should take into account the child's safety, well-being, social development, and potential for family reunification. If the case concerns an unaccompanied child or another particularly vulnerable person, efforts should be made to assign a caseworker with appropriate expertise and experience.

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If an unaccompanied child applies for international protection, the competent authorities must ensure that the child receives services suited to his/her age and maturity. The Directorate of Immigration must also ensure that the child's application is processed accordingly and according to the child's best interest.

Once the application is lodged, a spokesperson must be appointed for the applicant and the child as soon as possible, in accordance with Article 30 of the Foreign Nationals Act. For children applicant, the case must be referred to the child protection services. Additionally, the Children and Family Office must be informed as per Article 31 of the Foreign Nationals Act.

Scope and outcomes of a decision

Every application examined under substantive procedure is initially examined on the grounds of refugee status based on the criteria of Geneva Convention. If those criteria are not fulfilled, then the application is examined on the grounds of persecution (subsidiary protection) or on the possibility of granting protection on humanitarian grounds (Article 37, Article 38, Article 39 of the Foreign Nationals Act).

Possible outcomes may include:

1. A decision with positive result in the applicant's case for international protection which is communicated to the applicant upon publication of the decision. A positive decision denotes:

    - Granting international protection
    - Granting subsidiary protection
    - Granting a residence permit on humanitarian grounds

    If international protection, subsidiary protection, or a residence permit on humanitarian grounds is granted, the relevant residence permit is issued, and the individual is provided with instructions and information on his/her rights and obligations and the next steps.

2. Negative decision (Refusal) results in a return order. If the decision is to deny the applicant's request for international protection, it will be communicated to the applicant with the publication of the decision (Article

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21 of the Administrative Procedures Act).

The Directorate of Immigration provides detailed reasoning along with the decision. When detailed reasoning is not provided, an applicant for international protection may request further written reasoning if his or her claim has not been fully considered.

A request for reasoning must be submitted within 14 days of the notification of the Directorate of Immigration's decision to the applicant. According to UNHCR the full decision will be communicated to the applicant or the legal representative in a language that an applicant understands with support of an interpreter. The Directorate of Immigration has a adopted a language policy, according to which *'decisions regarding residence permits and international protection shall be in Icelandic and English, whereas non-standard letters and decisions shall be well and clearly phrased in Icelandic'.*

National legislation specifies that the time limits for decision under the regular procedure is approximately 6 months with possibility of extension up to 18 months.

Withdrawal of an application

Competent authority to withdraw an application

The Directorate of Immigration is the competent authority to handle cases of implicit and explicit withdrawals at first instance.

The Immigration and Asylum Appeals Board is the competent body for appeals against first-instance decisions by the Directorate of Immigration, including decisions to discontinue cases. (Article 109 of the Foreign Nationals Act).

Implicit withdrawal

The national legislation does not specify separate grounds for implicit or explicit withdrawal. Article 48 of the Foreign Nationals Act specifies that the Directorate of Immigration may withdraw international protection if an individual no longer meets the conditions for refugee or protection status. This includes situations where the person voluntarily uses the protection of their country of nationality, regains a lost nationality, acquires new citizenship with effective protection,

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returns voluntarily to their home country, or if the circumstances that justified their protection status have fundamentally changed. For stateless persons, protection may be withdrawn if they can safely return to their former habitual residence.

However, according to the law, protection will not be withdrawn on these grounds if the individual can show compelling reasons for refusing to return, due to past persecution. Additionally, protection can be withdrawn if it emerges that the person should have been excluded from protection under relevant exclusion clauses.

Before any withdrawal decision is made, the Directorate must inform the individual in advance and explain the reasons. If protection is withdrawn, the authorities must assess whether the person may still qualify for a residence permit on humanitarian grounds or under other relevant provisions.

Explicit withdrawal

The national legislation does not specify grounds for explicit withdrawal.

In practice, according to information available by the Directorate of Immigration, an applicant may withdraw an application for international protection before the Directorate of Immigration any stage before a decision is issued and with the assistance of the applicant's representative. The later, will notify the Directorate of Immigration of the withdrawal. Withdrawal can be also submitted personally by the applicant to the Directorate of Immigration.

An explicit withdrawal of an application for international protection must be submitted in writing via email to return@utl.is. The statement should include the applicant's full name and date of birth.

Consequences for withdrawal: If an applicant withdraws an application for international protection, s/he is required to leave the country voluntarily. In this case, the applicant has the right to remain until procedural arrangements are in place for his/her voluntary return. Failure to return voluntarily may result in expulsion or deportation.

Appeal: Applicants have 15 days to lodge an appeal to the Immigration and Asylum Appeals Board, against decision to discontinue an asylum claim due to withdrawal (Article 109 of the Foreign Nationals Act). The decision letter of the Directorate of Immigration must state this right and deadline. For the

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examination of the appeal, the applicant must explain in writing why the withdrawal should not stand, for instance, if it was invalid or misunderstood. The Appeals Board will review the case and can either confirm the discontinuation or overturn it and instruct the Directorate of Immigration to resume processing the protection claim.

Personal interview

Competent authority: Interviewers

Case workers of the Directorate of Immigration are responsible to carry out interviews under material substantive treatment with applicants for international protection.

An application for international protection is handled under substantive examination if Iceland is responsible for processing it under the Dublin III Regulation. During the personal interview, authorities assess whether the applicant qualifies for refugee status under the criteria of Refugee Convention and the grounds specified under the Foreign Nationals Act.

The legal grounds for personal interview are laid under the Article 28 of the Foreign Nationals Act. According to the national legislation, the Directorate of Immigration must ensure that applicants for international protection are interviewed promptly after their application is registered. Interviews must take place in the presence of the applicant's appointed representative, who must have an opportunity to speak with and advise the applicant beforehand.

Interview must be conducted in a manner that maximizes the likelihood of uncovering all relevant circumstances and must take into account any special needs the applicant may have due to personal circumstances. An interpreter must be provided unless the applicant explicitly rejects this right.

At the beginning of the interview, the applicant must be informed that the information provided will form the basis of the decision in his/her case and will be asked whether s/he provides consent to authorities gathering information from his/her home country or other foreign authorities if needed.

During the interview, the Directorate of Immigration assesses the applicant's claim, submitted documents, and relevant country information reports from reliable sources such as the United Nations High Commissioner for Refugees

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(UNHCR) that describe conditions in the applicant's home country. The Directorate also makes use of the EUAA COI products and takes them into account in its work. Additionally, the Directorate of Immigration may request an age assessment or a language assessment and local knowledge test, to verify the applicant's age or country of origin respectively, when required. (Article 25, Foreign Nationals Act).

If an applicant fails to attend an interview without valid justification (despite proper notice about the consequences), the Directorate of Immigration is authorised to decide on the case without further action.

When interviewing a child, a person with specialist knowledge on children's issues must conduct the interview, and the child's advocate must be given time to advise and prepare the child beforehand. The Directorate of Immigration may involve Child Protection Service's experts to support this process.

Interviews may be recorded or filmed, and applicants must be informed of this in advance. The Minister responsible may also issue further detailed rules on how interviews must be conducted, especially when dealing with children or other groups of people who may require additional protection or assistance.

Special procedural guarantees during the interview

In Iceland, all applicants for international protection subject to an interview. The Directorate of Immigration assess whether any special considerations are needed based on the applicant's personal circumstances, such as vulnerability due to medical, psychological, or other factors.

Minors:

Usually, accompanied children under the age of 10 are not interviewed unless something some elements in the case suggests it would be necessary for the investigation.

In the case of minor applicants accompanied or unaccompanied, the person conducting the interview must have specific expertise in handling cases involving children. In such cases, the Directorate of Immigration may also request assistance of additional experts from children welfare services, to ensure the child's needs and rights are properly considered. The child's advocate, as defined

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under Article 30 of the Foreign Nationals Act, will also be allowed to speak with the child and offer guidance before the interview takes place.

If a minor child is accompanied by one or both parents or another family member who is supporting the child, it shall be generally recognized that the best interests of the child are served by safeguarding the family as a whole and its right to be together. This assessment shall include consideration of whether removal from the country to the receiving country would entail or would entail a risk of family separation.

Victims of trafficking or other forms of violence: The Directorate of Immigration seeks to ensure that cases involving victims of trafficking or other forms of violence are handled by staff with specific expertise and experience in these matters, and the procedure and services are tailored to their special needs.

Applicants with disabilities or other health issues: Before the personal interview takes place in Iceland, there is an assessment of the needs and abilities of the applicant based on the initial information gathered by the Directorate of Immigration and/or the police during the lodging of the application or other information which can be requested. Every asylum seeker is required to attend a medical assessment for their overall physical and mental health. The case officer preparing the personal interview in Iceland consults experienced team leaders for specific guidance and other relevant organisations and stakeholders with special knowledge and expertise on the applicant's disability on how to conduct the interview.

Possibility to omit the personal interview

The personal interview can be omitted under certain circumstances, as defined under the Article 28 of the Foreign Nationals Act. If the applicant refuses to attend the interview, the Directorate of Immigration may proceed with a decision based on the available information, without conducting further actions or interviews. According to the national legislation, this option can only be used if the applicant has been adequately informed about the potential consequences of not attending, and the invitation to the interview was made in a way that ensures proper documentation and in a verifiable manner.

In principle, all applicants are called in for personal interview. The decision to omit the personal interview is taken by the Directorate of Immigration. The decision is documented in the file and the reasoning for omitting a personal

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interview is mentioned in the decision.

Positive decision	No, the applicant is still called in for a personal interview
Previous meeting - essential information	No, the applicant is still called in for a personal interview
Issues raised are not relevant or of minimal relevance	No, the applicant is still called in for a personal interview
Safe country of origin	No, the applicant is still called in for a personal interview
Safe third countries	No, the applicant is still called in for a personal interview
Inconsistent, contradictory, improbable, insufficient representations	No, the applicant is still called in for a personal interview
Subsequent application	No, the applicant is still called in for a personal interview
Application to merely delay/frustrate enforcement	No, the applicant is still called in for a personal interview
Not reasonably practical to conduct it	No, the applicant is still called in for a personal interview
Applicants unfit or unable to be interviewed	Only in case the applicant refuses to attend the interview

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Organisational aspects

Preparation and timing of the interview: Applicants are informed about their personal interview when receiving the invitation. Prior to the interview, they typically have a brief private meeting with their ‘spokesperson’ (legal representative), during which they are thoroughly briefed about the upcoming interview process.

The interviewers go through available data and documents to familiarize with the case and set up the interview beforehand with tailored questions. Our internal guidelines are not publicly available. The interviewers can access files as soon as the application is registered in our IT system. All relevant COI reports and information is accessible before interviews.

According to the national legislation the Ministry responsible for Immigration issues may issue regulations or guidelines to establish additional provisions regarding the conduct of interviews, particularly in cases involving children or individuals who may have greater protection, or assistance needs due to their specific situations.

Information provision (before the personal interview)

Applicants are informed by the competent authority, either in person or through written communication. Once the interview is scheduled, applicants are informed about the date and location of the interview. This information is shared through their spokesperson.

At the beginning of the interview, the applicant is provided information about the interview and its purpose, their rights and obligations including the consequences of non-cooperation and non-compliance with the obligations, the right to an interpreter, the roles of those present during the interview and on the procedure after the interview. The information is provided in written form, on more than one occasion and is communicated in a language determined by the asylum authority based on the applicant’s indication.

Modalities of carrying out the interview

Personal interviews take place on the premises of the directorate. Directorate of Immigration, but they may also be conducted remotely, for example if applicants are located in other parts of the country.

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Choice of gender of the interviewer/interpreter

The applicant can make that request and the directorate. Directorate of Immigration strives to fulfil the applicant’s wishes. Reasons for the request are not mandatory.

Objecting to the interviewer/interpreter

The applicant can object to a particular interviewer/interpreter.However, it is up to the directorate to decide on the issue.

Language and interpretation

Provided at the lodging of the application. The assistance of an interpreter is a standard part of this process, and it is only in exceptional cases that an applicant does not request such support. Performance of the interpreters is evaluated by staff of the Directorate. If an interpreter cannot be found in the language requested by the applicant, efforts are made to provide an interpreter in a language the applicant understands well enough to complete the procedure.

Persons present during the interview

According to the Foreign Nationals Act, Article 28, the interview is conducted in the presence of an advocate to obtain information on the circumstances which may be significant to the application. The advocate is appointed according to Article 20 of the Foreign Nationals Act and is a lawyer with knowledge of issues concerning international protection and refugees. The advocate is given the opportunity to speak and advise the applicant prior to the interview.

An interpreter is also present at the interview, unless the applicant declines such service. A person interviewing a minor shall have special expertise in children’s affairs. The Directorate of Immigration may call upon the assistance of an expert in children protection services.

Structure/steps of the interview

All interviews follow a structured format, using detailed templates divided into the phases outlined in the question. The duration may vary from around one hour to several hours. Applicants are provided with all necessary information on their rights and obligations either at the beginning of or prior to the interview, and they also receive personal guidance from their legal representative. Validation of personal details takes place early in the interview. Applicants are always given

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the opportunity to provide additional information at the closing phase, and they are informed about the possibility to submit further evidence within a set timeframe. If an applicant requests a break during the interview, it is granted.

Audio/Video recording and written report

The Icelandic legislation foresees audio and video recordings during interviews. The applicant is informed about such recordings beforehand.

The report is shown to the applicant at the end of the interview and the applicant is offered to read through it with the help of an interpreter. If the applicant feels that the report does not incorporates their narrative sufficiently and wants to clarify their story further, they are allowed to make amendments and clarifications.

Postponing the personal interview

The interview can be postponed for valid reasons for instance, illness etc.

Failure to appear

If an applicant twice fails to comply with a request from the Directorate of Immigration to attend an interview, the Directorate may proceed with a decision in the case without further action. This step may only be taken on condition that, when the second request was made, the Directorate of Immigration made fully clear to the applicant the consequences of failing to attend, and that the failure to attend was without just cause. The invitation to the second interview has to be sent by verifiable means.

Other aspects

A second or follow-up personal interview may be conducted if additional information or further clarification is needed for the case to be considered sufficiently substantiated.

Special asylum procedures at first instance

Admissibility procedure

Legal basis and grounds:

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According to Article 36 of the Foreign Nationals Act, an application for international protection shall be admitted for substantive examination unless the applicant has already received effective protection in another state, another Nordic country is obliged to take responsibility under the Nordic Passport Control Agreement or the Iceland-Faroe Islands return arrangement, or a state participating in an applicable international agreement is designated as responsible for examining the claim.

Additionally, an application may be rejected if the applicant maintains significant ties to another safe country where it is reasonable for them to reside, travel, or request protection in accordance with the Refugee Convention, without risk of persecution.

Notwithstanding these grounds, an application must be examined in substance if the application has been pending for over 12 months due to delays not caused by the applicant and if the refusal would result in a breach of Article 42, such as a risk of return to persecution or serious harm.

An application will still be accepted if the applicant has special ties to Iceland or if other circumstances make it reasonable to grant protection.

Competent authority and other stakeholders

The Directorate of Immigration | Útlendingastofnun is the responsible authority to assess if an application for international protection shall be processed in Iceland.

Procedural aspects

As per Article 36 of the Foreign Nationals Act, an application for international protection shall be accepted for prepossessing even in cases Dublin regulation or safe country concept are applicable, but even in cases when a foreign national has special ties to Iceland of such a nature that it appears reasonable that he/she should be granted protection, or if other special circumstances support such action.

Iceland participates in the Dublin Cooperation, which includes all EU Member States along with Norway, Switzerland, and Liechtenstein, to ensure that only one state is responsible for examining an application for international protection, enabling applicants to access a procedure without unnecessary delay.

The Dublin Regulation sets binding criteria to determine responsibility, such as whether the applicant is an unaccompanied minor, has family in another state,

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holds a visa or permit elsewhere, crossed an external border irregularly, or previously applied for protection in another Member State.

Fingerprints are taken and checked in the Eurodac system to help identify any prior applications. If no other state is found responsible, Iceland processes the claim. Before any transfer, an independent assessment must confirm that the receiving state can guarantee the applicant's rights; if not, Iceland retains responsibility. Notably, transfers to Greece have been suspended due to human rights concerns.

Decision and time limits to decide

Procedures under the Dublin Regulation are subject to certain time limits set out in the Dublin Regulation. If more than 12 months have passed since the application for international protection was first submitted to the Icelandic authorities and the delays in its process are not caused by the applicant, the application shall be processed. Additionally depending on the conditions to which the applicant would be sent -if for instance situation entails violation- then the application is processed by Iceland.

Appeal

If an applicant for international protection is issued a decision ordering transfer to another member state, they have the right to appeal this decision to the Immigration Appeals Board and may also request that the decision's legal effect be suspended while the appeal is considered.

Impact on reception conditions (restricted for some countries)

There is no impact on reception conditions when an applicant is channeled into this procedure.

- Applicants get reception/accommodation until a decision is rendered.
- Applicants are accommodated in the same facilities as other applicant's.
- The impact on material conditions is limited up to this point.
- Applicants are housed in the same type of facility. Usually they receive reception conditions in full until they are transferred to the receiving country.

Accelerated procedure

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Legal basis and grounds

Accelerated and prioritised procedure in Iceland are regulated under Article 29 of the Foreign Nationals Act and under the Articles 1 and 2 of the Regulation on conditions for a special procedure for asylum applications – accelerated procedure.

According to Article 29 of the Foreign Nationals Act, the accelerated and prioritised procedures are applicable in the following cases:

- Approval is likely or special circumstances apply, such as if the applicant is an unaccompanied child or requires special protection or assistance.
- The application is clearly unfounded, meaning:
- The applicant is from a safe country where they are not at risk of persecution or harm under Article 38 of the Foreign Nationals Act.
- A stateless applicant previously had legal residence in a safe country.
- The applicant can be relocated to a safe country where they face no risk under Article 38 of the Foreign Nationals Act.
- The applicant has given incomplete or contradictory information, making their claim unfounded.
- The application is a repeat request after a previous rejection or withdrawal.
- There are clear indications that the application was filed solely to delay deportation.

An asylum application may be prioritised if there are reasonable grounds to believe it was submitted primarily to delay deportation. This applies when a deportation order was issued before the asylum request was filed. However, in all cases, authorities must consider the principle of non-refoulement under Article 45 of the Foreign Nationals Act, ensuring that no person is deported to a country where their life or freedom would be at risk.

Article 3 specifies that when assessing whether an application for asylum is likely to be approved, consideration shall be given, among other things, to whether the asylum applicant comes from a country whose citizens the United Nations High Commissioner for Refugees has recommended should generally enjoy protection based on the Refugee Convention. In this regard the application is treated under prioritised procedure.

According to Article 4 an asylum application may be also prioritised if there are special reasons related to the applicant. Factors that may justify expedited

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processing include if the applicant is an unaccompanied child, has serious health issues (either physical or mental), is particularly vulnerable due to reasons such as gender, sexual orientation, disability, age, or suspected torture, or if there are other exceptional personal circumstances. When evaluating whether expedited processing is warranted, both mental and physical health should be considered. A healthcare or relevant professional must provide confirmation of the applicant's condition or circumstances.

Article 5 outlines the conditions under which an asylum application may be processed through an expedited procedure if it is deemed manifestly unfounded. This occurs when the applicant is from a country where they do not face persecution or treatment that violates their human rights. Specifically, it applies if the applicant has citizenship in a state where persecution is not a risk, or if they come from a country where they previously resided without fearing such treatment.

The Directorate of Immigration may consider a country "safe" for the applicant based on information from international organizations and human rights reports. Additionally, a list of countries considered safe may be maintained and updated regularly by the Directorate of Immigration. However, the individual circumstances of the asylum applicant must always be taken into account, ensuring that the assessment is comprehensive and considers whether the country has a stable democracy, respects international human rights treaties, has an independent judiciary, and avoids serious human rights violations.

Competent authority and other stakeholders

The Directorate of Immigration | Útlendingastofnun is the authority responsible for processing an application under the accelerated or prioritised procedure.

Procedural aspects

An expedited procedure (accelerated procedure) means that a full, in-depth review of an asylum application is not required. Instead, the application is prioritized over others, and the processing time is shortened, particularly in cases where extensive data collection is unnecessary.

The Directorate of Immigration may conduct an early interview with the applicant upon arrival to determine if the case qualifies for expedited processing.

When deciding whether to apply an accelerated procedure (under Articles 5-8), special consideration is given to vulnerable applicants, such as those with serious

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physical or mental health conditions or those who may be victims of human trafficking. If these factors strongly argue against expedited processing, the case may follow the standard procedure.

The asylum seeker will be informed if their case is subject to expedited processing, including what this means for deadlines and decision speed. The Directorate must also notify the applicant if the procedure changes at any stage.

Decision and time limits to decide

Decisions are issued and include a return decision. Usually on the same day as the interview. Processing time can vary based on the case. If an investigation reveals the application is not manifestly unfounded it is channeled to the regular procedure.

Appeal

The Immigration and Asylum Appeals Board is the competent authority to process appeals for decisions submitted in the accelerated procedure. According to the rules of procedure of the Appeals Board, when a negative decision is issued for a clearly well-founded application the deadline for applicants to submit an appeal is 15 days. In the event the negative decision is issued on any other ground of the accelerated procedure the applicant has 5 days to submit an appeal. The law does not specify a time limit for the competent authority to issue a decision on the appeal.

Impact on reception conditions

All applicants are in the same type of facility and the conditions are not impacted. An applicant loses the right to reception conditions a few days after a decision is made. They are given a period to leave voluntarily and remain in reception conditions within that period. An appeal against a decision of a manifestly unfounded application does not suspend the legal effect of the decision.

Border procedure

Legal basis and grounds

Iceland does not apply border procedure.

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Competent authority and other stakeholders

Iceland does not apply border procedure.

Procedural aspects

Iceland does not apply border procedure.

Decision and time limits to decide

Iceland does not apply border procedure.

Appeal

Iceland does not apply border procedure.

Impact on reception conditions

Iceland does not apply border procedure.

Subsequent application procedure

Legal basis and grounds

Article 3(7) of the Foreign Nationals Act provides the definition of repeated application as follows: *When a foreigner who has applied for international protection submits further documents in his case or applies for international protection again after he has received a decision in his case.*

According to article 7 of the Regulation on conditions for a special procedure for asylum applications – accelerated procedure, "*an application for asylum may be processed expeditiously in the case of a repeat application after an application for asylum has been rejected or when an application for asylum has been withdrawn".*

When making this assessment, it must always be considered whether any new information or changed circumstances have emerged since the application was rejected or withdrawn that could influence the outcome (for example, if the applicant returned to their country of origin and has now come back to Iceland).

Competent authority and other stakeholders

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The Directorate of Immigration | Útlendingastofnun is the competent authority to process and decide on subsequent (repeated) applications at first instance.

Procedural aspects

According to the national legislation, a repeat application for international protection shall generally be dismissed. However, if the applicant is present in Iceland and submits new information that significantly increases the likelihood of approval under Article 24, the repeat application must be reconsidered.

In such cases, the review of the application will focus primarily on the new facts or evidence provided. A repeat application is not treated as a continuation of an earlier application under Article 36(2) on international protection or Article 74(2) on the residence permit for protection. If an applicant leaves the country voluntarily while a repeat application is pending, and the legal effect of the prior decision has not suspensive effect and the unprocessed application will stop.

The law specifies that repeat applications must be submitted to the same authority that issued the original decision, and filing a repeat application does not automatically suspend the legal effect of that decision.

However, the Directorate of Immigration may grant a suspension if the applicant requests it at the time of submission and demonstrates an urgent need for it.

If the applicant left Iceland in compliance with the prior decision but later returned, the repeat application must be submitted to the Directorate of Immigration. It should be noted that the provisions on re-admission under Article 24 of the Administrative Procedure Act do not apply to decisions on international protection cases.

In Iceland there a policy and system in place for subsequent applications. In each case, it is assessed whether new elements or findings significantly increase the likelihood of a different outcome compared to the previous application. If an applicant has submitted multiple applications, this may lead to shorter processing times, although this depends on the scope of the case and the new grounds presented. Applicants lodging repeated subsequent applications are generally not entitled to reception conditions.

The Directorate of Immigration has confirmed the decision to reject a repeat application for international protection submitted by an unaccompanied minor from Colombia. This clarification follows public discussion surrounding the case and a ruling by the Immigration Appeals Board.

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Decision and time limits to decide

A decision is always issued on the dismissal of the application, which may be accompanied by a removal order and an entry ban. The processing time depends on the scope of the case. There are no formal consequences if time limits are not met, but efforts are always made to handle cases as efficiently as possible.

Appeal

The Immigration and Asylum Appeals Board is the competent authority to process appeals for repeated applications. According to the rules of procedure of the Board, no set deadline for submitting a request to suspend the legal effects of a decision, for lodging a repeat application for international protection, or for appealing the Directorate of Immigration's rejection of a repeat application. Additionally, requests for suspensive effect may be rejected. Specific cases treated by the Refugee Appeals Board are available here.

Impact on reception conditions

If an applicant remains in reception conditions and If a decision has been issued in accelerated procedure the applicant will lose rights to reception conditions.

Last-minute application pending removal

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

According to Article 8 of the Regulation on the Conditions for Special Procedures for Asylum Applications (expedited procedure), an application for asylum may be processed under an expedited procedure if it is reasonably believed that the application was submitted primarily to delay the enforcement of a deportation order.

In this context, it must be established that a deportation decision was issued before the asylum application was filed. When determining whether an application should be fast-tracked under this rule, authorities must always respect the principle in Article 45 of the Foreign Nationals Act, which prohibits deporting or returning a person to a place where their life or freedom would be at risk.

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Last-minute applications lodged as subsequent applications pending a removal

An application may be rejected if it is clearly submitted with the sole purpose of preventing removal, in accordance with the provisions of the Foreigners Act. It has not been a significant concern.

Safe country concept

Safe country of origin

Iceland is not bound by the recast Asylum Procedures Directive. A similar national legal framework applies. The concept of a safe country of origin is described in Article 29 of the Foreign Nationals Act. This concept is applied in accelerated procedure.

The responsibility for drafting a list of safe country of origin lies with the Directorate of Immigration, meanwhile the Ministry of Justice is the authority that adopts it. The Directorate of Immigration must maintain such list, update it regularly and publish it on its website.

National list of safe countries of origin:

1. Albania
2. Australia
3. Bosnia and Herzegovina
4. Canada
5. EU countries
6. Georgia
7. Japan
8. Kosovo
9. Liechtenstein
10. Moldova
11. Monaco
12. Montenegro
13. New Zealand
14. North Macedonia
15. Norway
16. Serbia

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17. Switzerland
18. United States of America
19. United Kingdom

The list was last updated on 24 February 2022, where Ukraine was removed.

According to the Foreign Nationals Act, Article 29, a safe country of origin refers to a country in which individuals are not generally at risk of being persecuted or subjected to serious human rights violations. In assessing whether a country is considered a safe country of origin, account shall be taken, for instance, of whether it has a stable form of government based on recognised principles of the rule of law. Consideration may be given to the experience and practice of other Schengen states in assessing which countries of origin are considered safe. The Directorate of Immigration must maintain such a list, update it regularly and publish it on its website.

According to Regulation on conditions for special procedures for applications for asylum – Expedited processing, No 830/2014, when assessing whether a state is considered to be safe, the following considerations should be considered:

- whether the state has a stable democracy.
- whether the state has ratified the main international human rights treaty, including the European Convention on Human Rights, and whether it is enforced.
- whether the judicial system in the State is independent and unwilling and whether a fair trial is guaranteed within the judicial system; and
- whether serious human rights violations occur in the state.

Safe third country

The concept of a safe third country is not explicitly defined in the national legislation of Iceland.

First country of asylum

The concept of a first country of asylum is defined in Article 36, Foreign Nationals Act. The concept is applied in practice on the grounds of admissibility.

According to Article 36 of the Foreign Nationals Act, an asylum application will not be processed if the applicant has already received effective international

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protection in another country or if another country, under an agreement with Iceland, is responsible for processing the application.

European safe third country

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

Assessment of an application at first instance

Legal provisions relevant for an assessment

Articles 37, 38, 39 of the Foreign Nationals Act, specify the criteria for assessment an asylum application.

Competent authority for the assessment

The Directorate of Immigration is the competent authority to carry out the first instance assessment and determination.

Child Protection Services exerts also provide an opinion in assessment of cases by unaccompanied children.

Case officers are carefully selected through a hiring process. A university degree is required for the role. Extensive training is provided in all aspects of the job.

Grounds

Grounds for protection are outlined in Article 37 of the Foreign Nationals Act. An applicant may be granted refugee status, subsidiary protection or the right to remain. To be eligible for refugee status, an applicant must demonstrate that there must be a connection between the reasons for persecution and the acts of persecution or the absence of protection.

Acts of persecution are defined in the Foreign Nationals act under Article 38. Persecution refers to serious violations of fundamental human rights, either

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through individual acts or a pattern of discrimination that causes significant harm. It includes:

- Violence (mental, physical, or sexual)
- Discriminatory laws and policies enforced by governments, police, or courts
- Unfair or excessive punishment
- Denial of legal protections leading to disproportionate consequences
- Punishment for refusing military service in situations where serving would involve committing crimes

A person can be considered persecuted even if they do not actually belong to a certain group, as long as their persecutors believe they do. Persecution may be based on:

- Race (shared physical or social traits)
- Religion (beliefs, practices, or choosing not to participate in religious activities)
- Nationality (citizenship, cultural identity, or ties to a particular ethnic or political group)
- Social group (e.g., gender identity, former victims of human trafficking, or those perceived as different)
- Political opinions (views on government policies, whether publicly expressed or not)

Persecution can be carried out by:

- The government
- Groups or organisations that control part of a country
- Other actors if the government is unwilling or unable to provide protection

Stateless Persons (Article 39):

A stateless person is someone who is not recognized as a citizen by any country under its national laws. According to the 1954 Convention on Stateless Persons, such individuals may qualify for international protection if they are in Iceland and do not meet the criteria for refugee status under Article 37.

The Directorate of Immigration evaluates these applications. If a person applies for both refugee status and protection as a stateless person, the authorities must first determine if they qualify as a refugee before considering their stateless status.

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Guidelines for case officers

National guidelines for case officers are not available.

Iceland uses UNHCR and EUAA guidelines in the assessments. National internal guidelines also exist and are inspired by the EUAA country guidance/UNHCR policy notes. Additional internal national instructions, guidance and other material are made available to case officers.

Credibility assessment

Legal grounds: Regulation on Foreigners (Article 38) and Foreign Nationals Act (Article 116)

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

According to information available by the Directorate of Immigration on credibility assessment, information is collected from the asylum seeker, *'either in the form of a narrative or submitted documents – and examining it in light of other available information about the applicant and so-called credibility markers in the applicant's narrative'.*

Such information may include travel, identity and other documents, personal details, travel routes, and information provided during the interview. During the assessment, the Directorate of Immigration is also authorised to request that the applicant undergo an age assessment, as well as language or knowledge tests, to help verify their age and country of origin. Based on this, a determination is made as to whether the applicant's current situation can be considered credible, and to what extent the statements and supporting evidence provided may serve as the basis for granting refugee status or other forms of protection.

According to the Directorate of Immigration, the circumstances asylum seekers often face, strict requirements are generally not imposed regarding their statements and supporting evidence. Applicants are usually given the benefit of

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the doubt when uncertainty exists. Nevertheless, it remains the shared responsibility of the authorities and the asylum seeker to clarify all relevant aspects of the case.

When assessing credibility, the Directorate of Immigration follows the guidelines of the United Nations High Commissioner for Refugees (UNHCR), as described in the report Beyond Proof – Credibility Assessment in the EU Asylum System (2013) . This report outlines certain credibility indicators that help determine whether an applicant's account can be regarded as credible such as:

- The accuracy and level of detail in the applicant's statements.
- Consistency within the statement itself and between the statement and other information about the applicant and his/her country of origin.
- The applicant's account must not appear implausible or far-fetched.

The applicant's attitude, behaviour, circumstances and other relevant factors may be also considered during assessment; However, they cannot be decisive in determining the credibility of the applicant.

Time limit for submitting evidence during credibility

Normally applicants bring the required evidence to the second interview, as they have been advised at their first interview. If not, they have 2 weeks from the day of the interview to submit the relevant documentation.

COI research

Iceland does not have a COI unit. Decision makers have the duty to investigate every case using newest COI information available.

The Directorate of Immigration carries out research on available information about the situation in the applicant's own country (country information). The concept country information refers to reports that are prepared by widely acknowledged authorities and other parties about the situation in an applicant's own country, for example, by the Office of the United Nations High Commissioner for Refugees or the EUAA.

The Directorate of Immigration also seeks information from the database of the Office of the United Nations High Commissioner for Refugees, in human rights reports by the U.S. Department of State, in reports by Amnesty International,

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Landinfo and other parties.

Decision and outcomes

Article 45 of the Foreign Nationals Act specifies the legal effects of international protection.

The Directorate of Immigration completes its case procedure by issuing a decision. A decision in the case of an applicant for international protection is notified to him/her at a special meeting. If international protection, subsidiary protection or a residence permit on humanitarian grounds is granted, the appropriate residence permit is issued, and the applicant is informed of the next steps.

If the application for international protection, subsidiary protection, or a humanitarian residence permit is refused, the individual must leave the country voluntarily or deported.

In cases processed under the Dublin Regulation, if it is determined that Iceland is not responsible for examining the application, the applicant will be transferred to the state that has accepted responsibility for the case and will be transferred to the respective country.

The Directorate of Immigration generally provides detailed justification for its decisions according to Article 21 of the Administrative Procedures Act. If a detailed argumentation does not accompany a decision an applicant for international protection may request further written justification if his/her application has not been accepted in full. A request for justification shall be submitted within 14 days from the date the applicant was notified of the decision by the Directorate of Immigration.

A person granted international protection or recognised as stateless under Articles 37 and 39 is given refugee or stateless status and receives a residence permit under Article 73 for refugee or stateless status. Their legal status is based on Icelandic law and relevant international agreements.

Additional legal grounds for family reunification are also stipulated under the Foreign Nationals Acts and deduced rules including definition urgent care needs and eligibility conditions are available by the Directorate of Immigration.

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Decisions are considered published when they reach the applicant's spokesperson. There are no standard operating procedures or complementary methods of notification if the decision cannot reach the applicant. According to the Directorate of Immigration, this scenario rarely happens.

Minors and unaccompanied minors: If an unaccompanied child is undergoing examination of an application for international protection, child protection services must take custody immediately and ensure their safety, potentially placing them in foster care. The specific rules are applicable for both accompanied and unaccompanied minors.

In cases of family reunification:

- The spouse, cohabiting partner, and children under 18 (including adopted and stepchildren) of a person with international protection are also entitled to protection and a residence permit, unless there are specific reasons to deny it.
- If the family member’s application is based on a person granted temporary protection under Article 37(2), that person must first renew their residence permit. Exceptions can be made for urgent care needs or if they have lived in Iceland for at least a year and meet specific work, financial, language, and housing requirements.
- Family relationships formed after an application for international protection is submitted are governed by Chapter VIII of the Foreign Nationals Act.
- If a child under 18 is granted protection, their parents also have the right to protection if they have custody and plan to live with the child in Iceland.
- If only one parent has custody, they alone receive this right.
- The child’s unmarried siblings under 18 who live with the parents are also eligible for protection.

The National Agency for Children and Families has published handbooks:

- Handbook on implementing children's prosperity laws for municipalities and agencies.
- Determinations and classifications in child protection (SOF) (in Icelandic)
- Handbook on processes in child protection cases (in Icelandic) which is currently under review inline with the latest legislative amendments.

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COI units

Background information

COI unit: Iceland does not have a COI unit. Decision-makers have the duty to investigate every case using the latest COI available.

Legal basis: The national legislation does include relevant provisions.

Structure and capacity

Organisation: Iceland does not have a COI unit.

Mandate and tasks: Not applicable

Staff capacity: Iceland does not have a COI unit.

Requirements: Not applicable

Regular training and updates: Not applicable

COI products

Type of COI products produced and frequency: Iceland does not have a COI unit. The decision-makers use sources such as online databases, landinfo, ecoi.net, lifos, refworld.org, COI products of the EUAA and other researchers and countries.

Languages: Iceland does not have a COI unit.

Methodology and sources: Iceland does not have a COI unit.

Quality check: Iceland does not have a COI unit.

Other aspects of COI units

Country Guidance is produced by decision-makers. A COI annex produced by the COI unit supports Country Guidance.

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