First instance determination - Latvia

Overview of first instance procedures

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Relevant EU legislation

Latvia is bound by the recast Asylum Procedures Directive (APD/APR), the recast Reception Conditions Directive and the Dublin III Regulation (AMMR) and has transposed their provisions through the Asylum Law.

National legislation

Latvia transposes the recast Asylum Procedures Directive (APD), the recast Reception Conditions Directive and the Dublin III Regulation through the Asylum Law.

Competent authority and other stakeholders

National authorities:

The competent authority is the Office of Citizenship and Migration Affairs (OCMA) | Pilsonības un migrācijas lietu pārvalde (PMLP).

Staff:

Asylum Affairs Division of the Office of Citizenship and Migration Affairs

Other actors involved:

State Border Guard (SBG) | Valsts robežsardze

Types of procedures and case processing

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The Asylum Law provides for the following procedures:

- The regular procedure
- Admissibility procedure
- Accelerated procedure
- Border procedure
- Subsequent application procedure

Time limit for a decision and length of the procedure

Applicable time limits for taking a decision:

The regular procedure: The application is examined and a decision to grant refugee or alternative status or to refuse to grant it shall be taken within 3 months from the day when the personal interview with the asylum seeker was conducted, but not later than within 6 months after registering the application.

The State Secretary of the Ministry of the Interior or his or her authorised person may extend the time limit for another 9 months, if the assessment of the application is related to complex factual or legal issues or if applications have been simultaneously submitted by a large number of third country nationals or stateless persons and it is not possible to conform to the deadline of 6 months.

If members of one family are included in one decision, the time limit shall be counted from the day when personal interview with all family members of legal age was conducted (Section 29 (2), (3) and (5) of the Asylum Law).

Admissibility procedure (Section 30 and Section 31 of the): The Office of Citizenship and Migration Affairs issues a decision to accept the application for examination or to leave it without examination within 5 working days, if the application was submitted at the border crossing point or in the border crossing transit zone; or within 10 working days, if the applicant is located in the territory of the Republic of Latvia.

Accelerated procedure (Section 33): The Office of Citizenship and Migration Affairs issues a decision in 20 working days from the day the personal interview.

Border procedure (Section 29 (1) 1) of the Asylum Law): The Office of Citizenship and Migration Affairs issues a decision in 5 working days upon receipt of the case file from the State Border Guard.

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Subsequent application procedure (Section 35 of the Asylum Law): The Office of Citizenship and Migration Affairs issues a decision in 5 working days, if the application was submitted at the border crossing point or in the border crossing transit zone; or within 10 working days, if the applicant is located in the territory of the Republic of Latvia.

Measures to enforce the legal time limit for processing an application: Not applicable.

Penalty payment for exceeding processing time: According to the Administrative Procedural Law, compensation may be claimed during an appeal of a decision. The principles of civil law are applied in determining any financial loss and personal harm and the amount of the compensation.

Quality assurance of first instance procedures

According to the laws and regulations.

Interinstitutional cooperation

According to the laws and regulations.

Regular asylum procedure at first instance

Legal basis

The Asylum Law outlines regular asylum procedure at first instance.

Competent authority and stakeholders

The Office of Citizenship and Migration Affairs (OCMA) | Pilsonības un migrācijas lietu pārvalde (PMLP).

Personal interview

Requirements for the initial interview and personal interview are defined by the Section 25 of the Asylum Law.

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Assessment of an application

The assessment of an application is defined by Section 32 of the Asylum Law.

Scope and outcomes of a decision

The application is examined and a decision to grant refugee or alternative status or to refuse to grant it shall be taken. The decision is issued by an authorized official of the Head of the Office of Citizenship and Migration Affairs.

A separate voluntary return decision or a removal order is issued in accordance with the procedures specified in the Immigration Law, except in the case when the rejected applicant has another lawful basis to reside in the Republic of Latvia (Section 10 of the Asylum Law).

Withdrawal of an application

Competent authority to withdraw an application

The Office of Citizenship and Migration Affairs is responsible for implicit and explicit withdrawals.

Implicit withdrawal

Grounds for implicit withdrawal: Section 34 of the Asylum Law provides that an implicit withdrawal is considered when there is a substantial reason to assume that the applicant has indirectly withdrawn his or her application or abandoned it, because he/she has not fulfilled his/her obligations, in particular:

- to co-operate with the State Border Guard when taking fingerprints, photograph or in identifying him or her, and also with the Office of Citizenship and Migration Affairs and other institutions involved in the procedure;
- to participate in the initial interview and personal interview, answer the questions asked in person and, as soon as possible, provide all information necessary to examine the application and take a relevant decision, even if a representative of the asylum seeker or a representative of an

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unaccompanied minor is participating in the initial interview and personal interview. The duty to provide all information as soon as possible also applies to the representative of the asylum seeker;
- to inform the Office of Citizenship and Migration Affairs and the State Border Guard regarding the address of the place of residence and its change, if the asylum seeker has not been accommodated at the accommodation centre for asylum seekers or has not been detained. The last address of the place of residence indicated by the asylum seeker is deemed the address to be used for communication with him or her;
- left the accommodation centre without prior warning or has absconded from the State Border Guard accommodation premises.

Consequences of implicit withdrawal: A decision to discontinue the examination of the application is taken no later than within 3 months from the day the aforementioned circumstances became known, unless the applicant proves in a timely manner that it has happened due to circumstances beyond his/her control.

The applicant has the right, within 9 months from the day the decision to discontinue examination of the application entered into effect, to request that examination of his or her application is resumed. This time period does not apply to cases when Latvia, in accordance with Regulation 604/2013, is accepting back an asylum seeker who has withdrawn his or her application during its examination, prior to taking of a decision to grant refugee or alternative status or to refuse to grant it, and has lodged an application in another Member State or is residing in the territory of another Member State without a residence permit.

If the applicant requests more than once to resume examination of his/her application, it is examined in accordance with the procedures foreseen in case of repeated application, except when Latvia, in accordance with Regulation 604/2013, is accepting back an asylum seeker who has withdrawn his or her application during its examination, prior to taking a decision to grant refugee or alternative status or to refuse to grant it, and has drawn up an application in another Member State or is residing in the territory of another Member State without a residence permit.

Individuals, who have requested more than once the continuation of their application and have been deemed as doing so for the sole purpose of hindering or delaying the implementation of an expulsion decision, are not considered asylum seekers during the examination of the application.

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An official authorised by the head of the Office of Citizenship and Migration Affairs decides to resume the examination of the application or to refuse the resume of the examination of the application within 10 working days upon receipt of the said request.

Examination of the application is resumed and continued from the same stage of the asylum procedure, that it was discontinued.

Explicit withdrawal

Grounds for explicit withdrawal: Section 34 of the Asylum Law provides that the applicant may withdraw his/her application at any time during the procedure. The request to discontinue examination of the application is received by the Office of Citizenship and Migration Affairs.

Consequences of an explicit withdrawal: The same as in case of implicit withdrawal.

Personal interview

Competent authority: Interviewers

The competent authority for carrying out personal interviews is the Office of Citizenship and Migration Affairs (OCMA) | Pilsonības un migrācijas lietu pārvalde (PMLP).

Under Section 24(2) of the Asylum Law, if a large number of applicants apply concurrently, making it impossible to conduct personal interviews simultaneously, officials of the State Border Guard may be involved in the process, provided they have received appropriate training, including by the European Union Agency for Asylum. This training must also cover issues that may negatively impact an asylum seeker's ability to participate effectively in a personal interview. During the personal interview, the State Border Guard official does not wear a service uniform.

Special procedural guarantees during the interview

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In accordance with the Section 25 of the Asylum Law, the State Border Guard, in conducting an initial interview, and the Office of Citizenship and Migration Affairs, in conducting a personal interview, shall ensure that:

1. it takes place without the presence of family members of the asylum seeker, unless the State Border Guard or the Office of Citizenship and Migration Affairs deems that the presence of other family members is necessary for examination of the application;
2. it takes places in conditions guaranteeing corresponding confidentiality and allowing the asylum seeker to provide comprehensive justification for his or her application, and also to express an opinion on the possible deficiencies or inconsistencies in his or her allegations;
3. it is conducted by officials who are sufficiently competent to take into account the personal and general circumstances of the asylum seeker, which are related to the application, including his or her origin, sex, sexual orientation, gender identity or vulnerability;
4. if it is possible and it is requested by the asylum seeker, the official interviewing him or her and the interpreter are a person of the same sex, except the case when the State Border Guard or the Office of Citizenship and Migration Affairs have the grounds of assuming that the reasons for such request are not related to the difficulties, due to which the asylum seeker might not be able to clearly outline the reasons for his or her application;
5. with a minor asylum seeker it is conducted by an official, who has the necessary knowledge regarding needs of minor persons, in the presence of a representative;
6. with a minor asylum seeker it takes place in a way appropriate for children.

The initial interview and personal interview shall be recorded using sound or video technical means, informing the asylum seeker thereof in advance. If the interview is recorded using technical means, it is appended to the file of the asylum seeker.

A representative of the asylum seeker shall be permitted to participate in the initial interview and personal interview.

Absence of a representative of the asylum seeker, except the case when the initial interview or personal interview with an unaccompanied minor is intended, shall not preclude the State Border Guard from conducting the initial interview and the Office of Citizenship and Migration Affairs - the personal interview.

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Possibility to omit the personal interview

The personal interview can be omitted under certain circumstances, as defined by Section 24(3) of the Asylum Law.

Positive decision	Yes (Section 24(3) item 1, Asylum Law).
Previous meeting - essential information	No
Issues raised are not relevant or of minimal relevance	No
Safe country of origin	No
Safe third countries	No
Inconsistent, contradictory, improbable, insufficient representations	No
Subsequent application	No
Application to merely delay/frustrate enforcement	No
Not reasonably practical to conduct it	No
Applicant unfit or unable to be interviewed	Yes (Section 24(3) item 2, Asylum Law).

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Organisational aspects

Preparation and timing of the interview

As per Section 24(1) of the Asylum Law, the Office of Citizenship and Migration Affairs shall conduct the personal interview no later than one month from the date the decision to accept the application for examination is made. If it is not possible to conduct the personal interview within this time frame, the head of the Office of Citizenship and Migration Affairs may extend the period by an additional month.

Information provision (before the personal interview)

At the stage of registering an asylum application, applicants are informed of the personal interview by the State Border Guard. According to the Section 24 of the Asylum Lawand no later than within one month from the day an application is accepted for examination, the Office of Citizenship and Migration Affairs takes responsibility for informing applicants about their personal interview. This notification is provided in writing, typically via an official letter. The communication includes the aim of the interview, the date, time, and location, and whether the interview will take place in person or remotely. Applicants are reminded to bring relevant documents to the interview, and they are informed of their rights and obligations, including the potential participation of legal representatives or other third parties, if applicable.

Modalities of carrying out the interview

Interviews are mainly conducted remotely.

Choice of gender of the interviewer/interpreter

Under Section 25 (1) (4), upon the applicant's request and if possible, the official conducting the personal interview and the interpreter shall be of the same gender, unless the Office of Citizenship and Migration Affairs has grounds to believe that the request is not related to difficulties preventing the applicant from clearly explaining the reasons for their application.

Language and interpretation

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According to the Section 11 (2) 1) an applicant has the right to express a wish to acquire refugee or alternative status, to provide explanations and clarifications during the initial interview and personal interview in a language which he or she understands or is reasonably supposed to understand. If necessary, the State Border Guard and the Office of Citizenship and Migration Affairs shall invite an interpreter, whose services are paid for from the State budget funds provided for such purpose.

Persons present during the interview

According to Section 25 (3) and (4) of the Asylum Law, the legal representative of the applicant is allowed to participate in the personal interview. Absence of a representative doesn't preclude the Office of Citizenship and Migration Affairs to conduct the personal interview, except if the applicant is an unaccompanied minor.

Under Section 25 (1) 1) of the Asylum Law the personal interview takes place without the presence of family members of the applicant, unless the Office of Citizenship and Migration Affairs deems the presence necessary for the examination of the application.

Structure/steps of the interview

According to Section 26 of the Asylum Law an official authorised by the head of the Office of Citizenship and Migration Affairs shall draw up a report on the personal interview. The report shall contain all the essential information, which is necessary to take a decision to grant refugee or alternative status or to refuse to grant it.

The asylum seeker has the right, until the end of the personal interview, to express considerations that a safe third country cannot be deemed a safe third country in his or her individual situation and circumstances and in relation to him or her being recognised as a refugee or a person who has the right to alternative status, and the possibility to express remarks and provide clarifications in relation to any inaccurate translation or misunderstandings in the content of the deed. At the end of personal interview the official authorised by the head of the Office of Citizenship and Migration Affairs shall make the asylum seeker acquainted with the report and ask him or her to confirm that its content is a correct representation of the interview. If the asylum seeker refuses to confirm that the content of the report is a correct representation of personal interview, his or her reasons for refusal shall be indicated in the report.

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The right to submit written remarks on the report shall not apply to cases when the course of the personal interview is completely recorded, using technical means.

Audio/Video recording and written report

Audio/Video recording and written report of the personal interview is defined under Section 26 of the Asylum Law.

Postponing the personal interview

Not foreseen by the law.

Failure to appear

If an applicant fails to appear, the interview is postponed to another date and time. Repeated failure to appear can be considered as an unwillingness to co-operate with institutions involved in asylum procedure and be substantiated as a reason of implicit withdrawal.

Other aspects

Information is currently not available.

Special asylum procedures at first instance

Admissibility procedure

Legal basis and grounds:

According to the Section 30 of the Asylum Law, a decision to leave the application without examination is issued, if at least one of the following conditions are met:

1. another Member State has granted international protection to the asylum applicant;
2. a country, which is not a Member State, is regarded as the first country of asylum of the asylum applicant;
3. a country, which is not a Member State, is regarded as the safe third country for the asylum applicant;

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4. the asylum applicant has submitted a repeat application after a decision to refuse to grant refugee or alternative status has entered into effect, and such circumstances are not referred to therein, which would have significantly changed for the benefit of the asylum applicant and might serve as justification for granting refugee or alternative status.

According to the Section 31 of the Asylum Law an official authorised by the head of the Office of Citizenship and Migration Affairs shall take a decision to accept an application for examination, if one of the following conditions exists:

1. the conditions above-mentioned in Section 30, Paragraph one of the Asylum Law do not exist;
2. information has been received from the competent authority of another Member State in accordance with Regulation No 604/2013 regarding refusal to take responsibility for examination of the application or the Republic of Latvia is responsible for examination of an application submitted in another Member State and the asylum seeker has been admitted back to the Republic of Latvia;
3. it is not possible to ensure the fulfilment of the conditions of Section 30, Paragraph two of the Asylum Law.

Competent authority and other stakeholders

Office of Citizenship and Migration Affairs | Pilsonības un migrācijas lietu pārvalde (OCMA | PMLP) is responsible in matters related to admissibility procedure.

Procedural aspects

When the application is lodged, the State Border Guard submits all the information regarding the asylum seeker (information obtained in negotiation and the initial interview) and the application to the Office of Citizenship and Migration Affairs within 10 working days or within 2 working days, if the application has been submitted at the border crossing point or in the border crossing transit zone, and there are grounds for assuming that any of the conditions to leave the application without examination exist.

Decision and time limits to decide

The Office of Citizenship and Migration Affairs issues a decision to accept the application for examination or to leave it without examination within 5 working days, if the application was submitted at the border crossing point or in the border crossing transit zone; or within 10 working days, if the asylum seeker is

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located in the territory of the Republic of Latvia.

Appeal

According to the Section 48 of the Asylum Law, the asylum seeker or his or her representative may appeal the following decisions of an official authorised by the head of the Office of Citizenship and Migration Affairs to the Administrative District Court according to the address of accommodation of the asylum seeker or in the case referred to in Section 12 (1) 5) of the Asylum Law - according to the address of the place of residence:

- to transfer to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013;
- to leave the application without examination;
- to grant or refuse to grant refugee or alternative status
- to discontinue examination of the application or to refuse to discontinue examination of application.

The asylum seeker or his or her representative may appeal the decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to the District Administrative Court according to the address of the place of detention of the asylum seeker, if the asylum seeker has been detained in the cases and in accordance with the procedures laid down in the Asylum Law and accommodated in the State Border Guard accommodation premises for asylum seekers.

During examination of the application (case) the person shall be deemed an asylum seeker who has the right to reside in the Republic of Latvia until the moment when the District Administrative Court takes a decision, except the case above-mentioned in Section 34 (5) and Section 35 (6) of the Asylum Law.

The asylum seeker or his or her representative shall submit to the Office of Citizenship and Migration Affairs an application addressed to the District Administrative Court regarding:

- a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to leave the application without examination, to refuse to grant refugee or alternative status, if the application was examined according to accelerated procedures, to discontinue examination

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of the application or to refuse to discontinue examination of application - within 15 working days from the day when the decision has entered into effect;
- a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to transfer the asylum seeker to the responsible Member State, which will examine the application, or to leave the application without examination, if the asylum seeker has been detained - within five working days from the day when the decision has entered into effect;
- a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to grant or refuse to grant refugee or alternative status - within one month from the day when the decision has entered into effect.

The Office of Citizenship and Migration Affairs shall forward the application together with the documents and proof at its disposal to the court within one working day after receipt thereof.

The asylum seeker shall be exempted from the State fee for the submission of an application to the court.

Impact on reception conditions

During the examination of the application, the person shall be deemed an asylum seeker who has the right to reside in the Republic of Latvia until the moment when the District Administrative Court takes a decision, except the case mentioned in Section 34 (5) and Section 35 (6) of the Asylum Law.

Accelerated procedure

Legal basis and grounds

The accelerated procedure is provided in Section 33 of the Asylum Law.

An application is examined under the accelerated procedure when:

1. submitting the application, the asylum applicant has indicated only such circumstances, which may not be the grounds for taking a decision to grant refugee or alternative status;
2. the asylum applicant is from a safe country of origin;

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3. the asylum applicant has misled the institutions involved in the asylum procedure, providing false information or documents or also not submitting corresponding information or documents confirming his or her identity or nationality;
4. it is possible that the asylum applicant has maliciously destroyed or left a personal identification document or travel document, which could have helped to determine his or her identity or nationality;
5. the asylum applicant has provided inconsistent, controversial, obviously false or obviously incredible information, which is in contradiction with sufficiently verified information of the country of origin and causes which leads to an assumption that his or her claim in relation to persecution or threats of serious harm is not convincing;
6. the asylum applicant has submitted a repeat (subsequent) application, which has been accepted for examination;
7. the asylum applicant has submitted the application mainly in order to hinder or prevent his or her removal from Latvia;
8. the asylum applicant has illegally entered or illegally extended his or her residence in Latvia and has not submitted the application sooner without justified reason;
9. the asylum applicant does not agree to taking of fingerprints;
10. the asylum applicant causes threat to national security or public order and safety or has been removed from Latvia, because he or she has caused threat to national security or public order and safety and, in accordance with the provisions of the Immigration Law, has been included in the list of such foreigners who are prohibited from entering in Latvia.

Competent authority and other stakeholders

Office of Citizenship and Migration Affairs | Pilsonības un migrācijas lietu pārvalde (OCMA | PMLP) is responsible in matters related to accelerated procedure.

Procedural aspects

When the application is lodged, the State Border Guard submits all the information regarding the asylum seeker (information obtained in negotiation and the initial interview) and the application to the Office of Citizenship and Migration Affairs within 10 working days or within 2 working days, if the application has been submitted at the border crossing point or in the border crossing transit zone, and there are grounds for assuming that any of the conditions to leave the application without examination exist.

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Decision and time limits to decide

In accordance with Section 29(4) of the Asylum Law, when examining an application under the accelerated procedure, an official authorised by the head of the Office of Citizenship and Migration Affairs takes a decision within 20 working days from the day the personal interview was conducted. If the time limit for processing an application in the accelerated procedure takes longer than foreseen in the law, the application is channeled for assessment in the regular procedure (in practice it does not happen).

Appeal

According to the Section 48 of the Asylum Law, the asylum seeker or his or her representative may appeal the following decisions of an official authorised by the head of the Office of Citizenship and Migration Affairs to the Administrative District Court according to the address of accommodation of the asylum seeker or in the case referred to in Section 12 (1) 5) of the Asylum Law - according to the address of the place of residence:

- to transfer to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013;
- to leave the application without examination;
- to grant or refuse to grant refugee or alternative status;
- to discontinue examination of the application or to refuse to discontinue examination of application.

The asylum seeker or his or her representative may appeal the decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to the District Administrative Court according to the address of the place of detention of the asylum seeker, if the asylum seeker has been detained in the cases and in accordance with the procedures laid down in the Asylum Law and accommodated in the State Border Guard accommodation premises for asylum seekers.

During examination of the application (case) the person shall be deemed an asylum seeker who has the right to reside in the Republic of Latvia until the moment when the District Administrative Court takes a decision, except the case above-mentioned in Section 34 (5) and Section 35 (6) of the Asylum Law.

The asylum seeker or his or her representative shall submit to the Office of Citizenship and Migration Affairs an application addressed to the District

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Administrative Court regarding:

- a decision of an official authorised by the head of the Office of Citiznehsip and Migration Affairs to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to leave the application without examination, to refuse to grant refugee or alternative status, if the application was examined according to accelerated procedures, to discontinue examination of the application or to refuse to discontinue examination of application - within 15 working days from the day when the decision has entered into effect;
- a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to transfer the asylum seeker to the responsible Member State, which will examine the application, or to leave the application without examination, if the asylum seeker has been detained - within five working days from the day when the decision has entered into effect;
- a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to grant or refuse to grant refugee or alternative status - within one month from the day when the decision has entered into effect.

The Office of Citizenship and Migration Affairs shall forward the application together with the documents and proof at its disposal to the court within one working day after receipt thereof.

The asylum seeker shall be exempted from the State fee for the submission of an application to the court.

Impact on reception conditions

During examination of the application (case) the person shall be deemed an asylum seeker who has the right to reside in the Republic of Latvia until the moment when the District Administrative Court takes a decision, except the case mentioned in Section 34 (5) and Section 35 (6) of the Asylum Law.

Border procedure

Legal basis and grounds

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If the asylum application is submitted at the border or transit zone before entering the territory, a decision on admissibility/inadmissibility of the application should be taken by the Office of Citizenship and Migration Affairs if grounds for leaving an application without examination in accordance with the Section 30 (1) of the Asylum Law exist.

According to Section 30 (2), if the application has been submitted at a border crossing point or in the border crossing transit zone and the issue regarding acceptance of the application for examination or leaving without examination is being decided, the State Border Guard shall ensure corresponding and appropriate support to the asylum seeker who has special procedural or reception needs so that he or she could exercise the rights laid down in the Asylum Law and comply with the obligations laid down in the Asylum Law during the asylum procedure.

Competent authority and other stakeholders

Office of Citizenship and Migration Affairs | Pilsonības un migrācijas lietu pārvalde (OCMA | PMLP) is responsible in matters related to border procedure.

Procedural aspects

When the application is lodged, the State Border Guard submits all the information regarding the asylum seeker (information obtained in negotiation and the initial interview) and the application to the Office of Citizenship and Migration Affairs within 10 working days or within 2 working days, if the application has been submitted at the border crossing point or in the border crossing transit zone, and there are grounds for assuming that any of the conditions to leave the application without examination exist.

Decision and time limits to decide

A decision to accept the application for examination or to leave it without examination is taken by the Office of Citizenship and Migration Affairs within 5 working days upon receipt of the case file from the State Border Guard.

A decision to leave the application of an unaccompanied minor without examination, if a country, which is not a Member State, is regarded as the safe third country for the asylum seeker, may be taken, if it conforms to the best interests of such minor.

Appeal

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According to the Section 48 of the Asylum Law, the asylum seeker or his or her representative may appeal the following decisions of an official authorised by the head of the Office of Citizenship and Migration Affairs to the Administrative District Court according to the address of accommodation of the asylum seeker or in the case referred to in Section 12 (1) 5) of the Asylum Law - according to the address of the place of residence:

1. to transfer to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013;
2. to leave the application without examination;
3. to grant or refuse to grant refugee or alternative status;
4. to discontinue examination of the application or to refuse to discontinue examination of application.

The asylum seeker or his or her representative may appeal the decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to the District Administrative Court according to the address of the place of detention of the asylum seeker, if the asylum seeker has been detained in the cases and in accordance with the procedures laid down in the Asylum Law and accommodated in the State Border Guard accommodation premises for asylum seekers.

During examination of the application (case) the person shall be deemed an asylum seeker who has the right to reside in the Republic of Latvia until the moment when the District Administrative Court takes a decision, except the case above-mentioned in Section 34 (5) and Section 35 (6) of the Asylum Law.

The asylum seeker or his or her representative shall submit to the Office of Citizenship and Migration Affairs an application addressed to the District Administrative Court regarding:

1. a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to leave the application without examination, to refuse to grant refugee or alternative status, if the application was examined according to accelerated procedures, to discontinue examination of the application or to refuse to discontinue examination of application - within 15 working days from the day when the decision has entered into effect;

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2. a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to transfer the asylum seeker to the responsible Member State, which will examine the application, or to leave the application without examination, if the asylum seeker has been detained - within five working days from the day when the decision has entered into effect;
3. a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to grant or refuse to grant refugee or alternative status - within one month from the day when the decision has entered into effect.

The Office of Citizenship and Migration Affairs shall forward the application together with the documents and proof at its disposal to the court within one working day after receipt thereof.

The asylum seeker shall be exempted from the State fee for the submission of an application to the court.

Impact on reception conditions

During the application of border procedure including the stage of appeal when the application is submitted at the border or transit zone the applicant is detained and accommodated in premises specially equipped for this purpose in a unit of the State Border Guard. It means that the applicant can be transferred to the State Border Guard Accommodation Centre for detained asylum applicants in the territory.

Subsequent application procedure

Legal basis and grounds

Section 35 of the Asylum Law provides that a person in relation to whom the final decision to refuse to grant refugee or alternative status has been taken may submit a repeat application to the State Border Guard. The person is obliged to indicate in the repeated application evidence showing that the circumstances on which the relevant decision was based have changed significantly.

Competent authority and other stakeholders

Office of Citizenship and Migration Affairs | Pilsonības un migrācijas lietu pārvalde (OCMA | PMLP) is responsible in matters related to subsequent application

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procedure.

Procedural aspects

The person has an obligation to indicate proof that circumstances, on which the previous decision was based, have changed significantly.

If the person submits a repeat application after a decision has been taken to transfer him or her to the responsible Member State under Regulation No 604/2013, the application will be assessed by the Member State responsible for examination of the application.

After assessing the circumstances referred to in the repeat application, the official authorised by the head of the Office of Citizenship and Migration Affairs decides to accept the application for examination or to leave it without examination in conformity with the admissibility procedure. If a decision to accept the repeat application for examination is taken, an official authorised by the head of the Office of Citizenship and Migration Affairs processes the application according the accelerated or regular procedure.

If a person has submitted a repeat application for the first time primarily in order to delay or prevent the execution of a decision that would immediately result in his or her removal from the Republic of Latvia, this person shall not be considered an asylum seeker during the examination of the application.

If a repeat applicant is submitted by a person who has acquired alternative status, after the final decision to refuse to grant refugee status has been taken, such person is not deemed an asylum seeker during examination of the application.

Decision and time limits to decide

According to the Section 29 (1) of the Asylum Law a decision to accept the application for examination or to leave it without examination shall be taken after the documents above-mentioned in Section 23 (6) of the Asylum Law have been received from the State Border Guard:

- within five working days, if the application was submitted at the border crossing point or in the border crossing transit zone;
- within 10 working days, if the asylum seeker is located in the territory of the Republic of Latvia.

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If the application is accepted for examination, it processed under regular or accelerated procedure.

Appeal

According to the Section 48 of the Asylum Law, the asylum seeker or his or her representative may appeal the following decisions of an official authorised by the head of the Office of Citizenship and Migration Affairs to the Administrative District Court according to the address of accommodation of the asylum seeker or in the case referred to in Section 12 (1) 5) of the Asylum Law - according to the address of the place of residence:

- to transfer to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013;
- to leave the application without examination;
- to grant or refuse to grant refugee or alternative status;
- to discontinue examination of the application or to refuse to discontinue examination of application.

The asylum seeker or his or her representative may appeal the decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to the District Administrative Court according to the address of the place of detention of the asylum seeker, if the asylum seeker has been detained in the cases and in accordance with the procedures laid down in the Asylum Law and accommodated in the State Border Guard accommodation premises for asylum seekers.

During examination of the application (case) the person shall be deemed an asylum seeker who has the right to reside in the Republic of Latvia until the moment when the District Administrative Court takes a decision, except the case above-mentioned in Section 34 (5) and Section 35 (6) of the Asylum Law.

The asylum seeker or his or her representative shall submit to the Office of Citizenship and Migration Affairs an application addressed to the District Administrative Court regarding:

- a decision of an official authorised by the head of the Office of Citiznehsip and Migration Affairs to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to leave the application without examination, to refuse to grant refugee or alternative status, if the application was

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examined according to accelerated procedures, to discontinue examination of the application or to refuse to discontinue examination of application - within 15 working days from the day when the decision has entered into effect;
- a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to transfer the asylum seeker to the responsible Member State, which will examine the application, or to leave the application without examination, if the asylum seeker has been detained - within five working days from the day when the decision has entered into effect;
- a decision of an official authorised by the head of the Office of Citizenship and Migration Affairs to grant or refuse to grant refugee or alternative status - within one month from the day when the decision has entered into effect.

The Office of Citizenship and Migration Affairs shall forward the application together with the documents and proof at its disposal to the court within one working day after receipt thereof.

The asylum seeker shall be exempted from the State fee for the submission of an application to the court.

Impact on reception conditions

During the examination of the application, the person shall be deemed an asylum seeker who has the right to reside in the Republic of Latvia until the moment when the District Administrative Court takes a decision, except the case above-mentioned in Section 34 (5) and Section 35 (6) of the Asylum Law.

Last-minute application pending removal

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

Processed as first time applications. According to the Asylum Law, the State Border Guard has a right to detain an asylum seeker if there are grounds for assuming that, within the scope of the removal procedure, the detained person submitted an asylum application to hinder the execution of a voluntary return decision or a removal order or to make it impossible, and it is detected that the relevant person did not have any obstacles for submitting such application

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earlier. At the same time submission of asylum application mainly in order to hinder or prevent the removal from the country may become a ground to examine the application in accelerated procedure.

Last-minute applications lodged as subsequent applications pending a removal

Processed as repeated applications. According to the Asylum Law, the submission of asylum application mainly in order to hinder or prevent the removal from the country may become a ground to examine the application in accelerated procedure.

Safe country concept

Safe country of origin

The concept of a safe country of origin is defined in the Section 1 2) of the Asylum Law. A safe country of origin as a country other than a Member State and where, according to the legal situation, the application of legal acts in a democratic system and general political conditions, persecution, torture, an inhuman or degrading attitude or an inhuman or degrading punishment, and also threats of violence in case of international or domestic armed conflicts do not exist in general and consistently.

Safe third country

The concept of a safe third country is defined in the Section 1 3) of the Asylum Law. A safe third country is defined as a country where an asylum seeker has resided prior to arrival in Latvia and where, as it is laid down in the international legal acts, his/her life and freedom are not threatened due to race, religion, nationality, membership of a specific social group or political views, where the prohibition to return the asylum seeker to a country where his/her life and freedom are threatened due to race, religion, nationality, membership of a specific social group or political views and where he or she might be tortured, and also exposed to a cruel, inhuman and degrading attitude or an inhuman and degrading punishment is observed, and where the asylum seeker has the opportunity to request refugee status and, if he/she is recognised as a refugee, to acquire protection in accordance with the Convention Relating to the Status of Refugees adopted on 28 July 1951, and where the asylum seeker has the

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grounds.

First country of asylum

The concept of a first country of asylum is defined in the Section 1 12) of the Asylum Law. The first country of asylum is considered a country which will take back an asylum seeker, where he or she is recognised as a refugee and may continue to benefit from such protection or enjoy other sufficient protection and where also a prohibition to return the asylum seeker to such country where his or her life and freedom are threatened due to his or her race, religion, nationality, membership of a specific social group or his or her political views is observed.

European safe third country

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

Assessment of an application at first instance

Legal provisions relevant for an assessment

The legal provisions relevant for the assessments are defined in the Asylum Law.

Competent authority for the assessment

The Office of Citizenship and Migration Affairs is responsible to carry out the first instance assessment and determination.

Required qualifications and training

Information is currently not available.

Grounds

Conditions for granting refugee status or subsidiary status are are defined under Chapter VII of the Asylum Law.

Guidelines for case officers

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UNHCR Handbook and guidelines, besides the EUAA Practical tools.

Credibility assessment

The criteria to be taken into account in examining the application are defined in the Asylum Law (Section 32).

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

According to Section 32 (6) of the Asylum Law, the claim of the asylum seeker is regarded credible, even if it's not justified with documents or other evidence, if the following conditions exist:

1. the asylum seeker has submitted all information at his or her disposal;
2. the explanations of the asylum seeker are plausible, not contradictory and conform to the information at the disposal of the Office of Citizenship and Migration Affairs;
3. the asylum seeker submitted the application as soon as it was possible, unless he or she cannot confirm that he or she had justified reasons, due to which the application was not submitted earlier;
4. it has been established that the asylum seeker may be trusted at large.

Time limit for submitting evidence during credibility

Not defined by the law.

COI research

According to the Section 32 (1) of the Asylum Law, the application of each asylum seeker shall be examined individually, objectively and fairly, using accurate and updated information from different sources, for example, from the EUAA and UNHCR, and from relevant international human rights organisations, regarding general situation in the country of origin of the asylum seeker, and, if necessary, in countries, which he or she has crossed.

Decision and outcomes

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The Office of Citizenship and Migration Affairs may decide to grant or refuse to grant refugee or alternative status within regular or accelerated procedure. According to the Section 28 (1) of the Asylum Law, an official authorised by the head of the Office of Citizenship and Migration Affairs shall take a decision to:

1. accept the application for examination or to leave it without examination;
2. grant or refuse to grant refugee or alternative status;
3. transfer the asylum seeker to the responsible Member State, which will examine the application submitted in the Republic of Latvia in accordance with the procedures laid down in Section 6, Paragraph two of this Law, according to Regulation No 604/2013;
4. discontinue examination of the application;
5. resume examination of the application or to refuse to resume examination of application.

Minors and unaccompanied minors

If the asylum seeker is an unaccompanied minor, the decisions are drawn up by an official of the Office of Citizenship and Migration Affairs, who has the necessary knowledge regarding needs of minors.

The official may include the asylum seeker and his or her family members in one decision, if the applications of such persons are based on the same facts and if thus the special circumstances of the asylum seeker are not disclosed, which may endanger his or her interests, particularly in cases which are related to persecution due to sex, sexual orientation, gender identity or age.

COI units

Background information

Information is currently not available.

Structure and capacity

Information is currently not available.

COI products

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Information is currently not available.

Other aspects of COI units

Information is currently not available.

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