First instance determination - Luxembourg

Overview of first instance procedures

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Relevant EU legislation

Luxembourg transposed the provisions of the recast Asylum Procedures Directive (APD/APR) and the recast Reception Conditions Directive, into national law. It also implemented the provisions of the Dublin III Regulation.

National legislation

Amended Law of 18 December 2015 on international protection and temporary protection (hereafter amended Asylum Law) | Loi modifiée du 18 décembre 2015 relative à la protection internationale et à la protection temporaire (Chapter 2, Section 2 – procedures at first instance).

Amended Law of 18 December 2015 on the reception of applicants for international protection and temporary protection | Loi modifiée du 18 décembre 2015 relative à l'accueil des demandeurs de protection internationale et de protection temporaire

Law of December 18, 2009 organising social assistance | Loi du 18 décembre 2009 organisant l'aide sociale.

Competent authority and other stakeholders

The Ministry of Home Affairs, General Department of immigration, Department for Refugees | Ministère des Affaires intérieures, Direction générale de l'immigration - Département Réfugiés is the competent authority for the first instance procedure.

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Other actors involved in the first instance procedure are the Detention Center, the Retention Center or the Grand-Ducal Police, in case the applicant expresses the wish to apply for international protection at any of these facilities.

Types of procedures and case processing

In Luxembourg, the international protection procedure may lead to different types of decisions. The following types of decisions are provided for under Luxembourg law:

- Decisions under the Regular Procedure: pursuant to Article 26 of the amended Asylum Law.

Decisions under Special Procedures:

- Admissibility Procedure: Article 28(2) of the amended Asylum Law.
- Accelerated Procedure: Article 27(1) of the amended Asylum Law.
- Subsequent application: Article 32 of the amended Asylum Law.

Time limit for a decision and length of the procedure

Article 26 of the amended Asylum Law stipulates that the minister having Immigration and Asylum within their responsibilities (hereafter the Minister) shall ensure that the international protection procedure is completed as soon as possible and at the latest within six months from the lodging of the application, without prejudice to a proper and thorough examination.

When an application is subject to the procedure established by Regulation (EU) No. 604/2013, the six-month period begins from the moment it has been determined, in accordance with that regulation, that the Grand Duchy of Luxembourg is responsible for examining the application and the applicant is present on the territory and has been taken in charge by the Minister.

When a decision cannot be made within six months, the applicant concerned shall be informed of the delay and shall receive, upon request, information regarding the reasons for the delay and the estimated time within which a decision on the application is likely to be taken.

The aforementioned six-month period may be extended by a period not exceeding an additional nine months where:

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complex factual or legal issues are involved;

due to the fact that a large number of third-country nationals or stateless persons are simultaneously applying for international protection, it is very difficult in practice to conclude the procedure within the six-month period;

the delay can clearly be attributed to the failure of the applicant to comply with their obligations.

Exceptionally, the prescribed time limits may, in duly justified circumstances, be exceeded by a maximum of three months when necessary to ensure a proper and thorough examination of the application for international protection.

(3) The conclusion of the examination procedure may be deferred when it cannot reasonably be expected that the Minister will take a decision within the aforementioned time limits, due to an uncertain situation in the country of origin that is expected to be temporary. In such a case, the minister shall:

review the situation in that country of origin at least every six months;

inform the applicants concerned, within a reasonable period, of the reasons for the postponement.

In any event, the examination procedure shall be concluded within a maximum period of twenty-one months from the lodging of the application.

If the time limits for processing applications are not respected, the applicant and/or their legal representative has the right to be informed of the reasons for the delay. Furthermore, the Department for Refugees may be required to provide a justification. However, the applicant cannot claim a penalty payment where processing times exceed the legal time limit.

Quality assurance of first instance procedures

In Luxembourg, there is no dedicated unit or section specifically responsible for overall quality management. However, once a caseworker has concluded the interview or drafted a decision, it undergoes a peer review by another caseworker. Additionally, the caseworker's superior provides feedback on the decision to enhance its quality, if necessary. In general, the whole international protection procedure is centralised in Luxembourg and all interviews and decisions go through the hands of the supervisor of the Interview Unit or the

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Decisions Unit, which allows for a certain consistency, coherence and the maintenance of a line of conduct (as described above, in Luxembourg caseworkers are divided into two distinct roles: interviewers and decision-makers). This structure is intended to uphold a high degree of neutrality in the evaluation process. Decision models are drawn up and are communicated to every caseworker, who are physically located on the same floor, so that communication is easy and the implementation of a given line of conduct is very straightforward.

The EASO guidelines and quality matrix are applied within the framework of internal quality monitoring. Each draft decision is systematically reviewed by a supervisor, who assesses its quality. The EASO interview checklist is also utilized. Occasionally, decision-makers assess the quality of the interview before it is concluded by the interviewer. In addition, the "four-eyes principle" is implemented, meaning that every draft decision is reviewed by a second person before it is finalized and communicated to the applicant.

Furthermore, a quality assessment is conducted by UNHCR every few years. For these assessments, UNHCR is granted access to a case sample comprising a selection of both positive and negative decisions issued during a defined period. Various elements of the respective case files are subject to analysis. Particular attention is given to the individual decision, the procedural steps undertaken, including the observance of procedural guarantees and the factors considered in reaching the final decision.

The case file typically includes registration forms, interview transcripts, relevant Country of Origin Information (COI), vulnerability assessments, and the reasoned decision.

In summary, internal quality assessment is carried out on a daily basis, while ad hoc quality evaluations by an external body are conducted every few years, the most recent of which took place in 2019/2020.

Interinstitutional cooperation

Information is currently not available.

Regular asylum procedure at first instance

Legal basis

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Section 2, Article 26 of the amended Asylum Law regulates the asylum procedure at first instance.

Competent authority and stakeholders

The Ministry of Home Affairs, General Department of immigration, Department for Refugees | Ministère des Affaires intérieures, Direction générale de l'immigration - Département Réfugiés is the competent authority for the processing of applications at first instance.

Personal interview

All adult applicants will be invited to an in-depth interview that will take place in person at the scheduled date and time at the Department for Refugees (article 13 of the amended Asylum Law).

Each adult of the same family will be interviewed separately. Applicants are allowed to be assisted by an interpreter if the interview is being held in a language they do not understand. They may also be assisted by a lawyer (free of charge if they do not have sufficient income)

During the interview applicants will explain in detail the reasons for their application and also the reasons why they have left their countries. They may present original documents or any other documents to proof their identity, nationality, marital status, reasons to apply, etc.

Interviews are confidential. A report will be produced out of the interview that will be signed by the applicants, as well as other persons present during the interview. In case an audio/ recorded interview is produced, no signature is required, but applicants can submit their comments in writing within 8 days of submission of the report.

Assessment of an application

Grounds: The asylum applications for which Luxembourg is responsible are handled by the Ministry of Home Affairs, General Department of immigration, Department for Refugees to be examined on their merits.

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Procedural aspects and consequences: As described above, Article 26 of the amended Asylum Law prescribes that individual examination of the application for international protection is conducted in accordance with procedural safeguards. The Minister must ensure that the procedure is completed as soon as possible and no later than six months after the lodging of the application, without prejudice to an appropriate and exhaustive examination. The period of 6 months may be extended but, in any case, the examination procedure shall be concluded within a maximum period of 21 months from the date of lodging the application.

In Luxembourg there are several types of decisions in the international protection procedure.

The analysis of the application may result in:

- a decision to grant international protection: refugee status or subsidiary protection status;
- a decision to deny international protection (this may be in the regular procedure or the accelerated procedure) ; or
- a decision of inadmissibility.

International protection: If the applicant is granted international protection, they will be informed by registered letter which will be sent to their habitual residence or their elected place of residence. A copy of the decision will be sent to their lawyer. In the absence of a habitual residence or an elected place of residence, the decision will be notified by public notice.

Denial of international protection: If the applicant does not meet the criteria to be granted international protection, a decision to deny international protection will be taken. This decision will be sent via registered post to their habitual residence or their elected place of residence.

The decision to deny international protection is taken either as part of a regular procedure or as part of an accelerated procedure.

Regular procedure: If the application for international protection is examined as part of a normal procedure, a decision is generally taken within the time limits described above.

As soon as a decision is taken, the applicant will be informed by registered letter sent to their habitual residence or their elected place of residence.

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A decision to deny international protection is equivalent to an order to leave Luxembourg. The order to leave the territory includes a deadline for leaving the territory, as well as the country of destination to which the applicant will be returned in the event of enforcement.

Within 30 days from the notification of a negative decision, an action for annulment may be brought before the Administrative Tribunal against decisions refusing or withdrawing international protection and against the order to leave the territory. The remedy must be lodged within one month from the date of notification. An appeal can be lodged following the decision of the administrative tribunal. If they lodge an appeal against the decision of the Minister, they have the right to remain in Luxembourg until the final ruling of the administrative courts.

When the applicant has exhausted all avenues of appeal and the decision regarding their case is final, they are no longer legally entitled to stay in the country and are obliged to leave within 30 days to their country of origin, or any other country where they have the right to reside. They have the option to register for a voluntary return.

Accelerated procedure: The Minister may also decide to process the application for international protection as part of an accelerated procedure. If the application is processed as part of an accelerated procedure, the Minister is obliged to take a decision no later than two months from the moment all necessary elements are available to conclude that the accelerated procedure as set out in Article 27 of the amended Asylum Law (more details under the section on the accelerated procedure under the “Special asylum procedures at first instance”) is applicable in the specific case.

As soon as a decision is taken, the applicant is informed by registered letter sent to their habitual residence or their elected place of residence.

A decision to deny international protection is equivalent to an order to leave Luxembourg. The order to leave the territory includes a deadline for leaving the territory, as well as the country of destination to which they will be returned in the event of enforcement.

A remedy for a refusal decision taken in the accelerated procedure must be brought within fifteen days from the date of notification against the Minister’s decision. If they lodge a remedy against the decision of the Minister, they have the right to remain in Luxembourg until the final ruling of the administrative

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courts.

In the accelerated procedure, the decision of the Administrative Tribunal is not subject to appeal.

When the applicant has exhausted all avenues and the decision regarding their case is final, they are no longer legally entitled to stay in the country and are obliged to leave within 30 days to your country of origin, or any other country where they have the right to reside. They also have the option to register for a voluntary return.

Decisions of inadmissibility: The Minister may also take a decision of inadmissibility on the application for international protection in line with article 28 (2) of the amended Asylum Law (more details under the section on the admissibility procedure under the “Special asylum procedures at first instance”).

As soon as an inadmissibility decision is taken, the applicant will be notified in person. They may also be notified by registered letter sent to their habitual residence or elected place of residence or notified by public notice at the Ministry.

This decision of inadmissibility includes information relating to avenues of remedy, and may under certain conditions include an order to leave the territory.

This decision may be appealed against before the Administrative Tribunal in order to annul the decision. This appeal must be lodged by remedy signed by a lawyer within 15 days of the notification of the decision.

The Administrative Tribunal's decision is final; thus, a further appeal will not be possible.

See more in the EUAA Case Law Database - Asylum Appeals System section - ‘Second instance determination – Luxembourg’.

Right to enter (at the border)/remain: Within 3 days of lodging their application, applicants will receive a document issued in their name and certifying their status as an applicant of international protection. This document allows them to remain on the territory of Luxembourg during the processing of their international protection application, as well as to move freely in the country. However, pursuant to Article 7 of the amended Asylum Law, this document certifying the status as an applicant of international protection is not issued to the applicant who is held in detention. If the holder is placed under house arrest, the document certifies this fact.

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Scope and outcomes of a decision

Decision on the admissibility or inadmissibility of the application. If admissible, the outcome could be:

- positive - granting of protection (refugee or subsidiary protection); or
- negative - rejection of protection (no protection is granted, expulsion decision)

In general, the decision to reject an application for international protection is deemed a return decision (except for cases under Article 28 (2) (a), (d) and (f) of the amended Asylum Law). The order to leave the territory issued therein specifies the time limit for departure as well as the country to which the applicant will be returned in the event of enforced removal. To comply with the order to leave the territory, the applicant has a period of thirty days from the date on which the return decision becomes final and may, for this purpose, request access to a return assistance program. By way of exception of the foregoing, the applicant is required to leave the territory without delay from the date on which the return decision becomes final if their behaviour poses a threat to public order, public security, or national security. Also, no deadline is granted to an applicant who has previously been notified of a return decision under Article 111 of the amended Immigration Law.

Withdrawal of an application

Competent authority to withdraw an application

The Ministry of Home Affairs, General Department of immigration, Department for Refugees | Ministère des Affaires intérieures, Direction générale de l'immigration - Département Réfugiés is the competent authority for the withdrawal of an application.

Implicit withdrawal

According to article 23 (2) of the amended Asylum Law, an application is considered as implicitly withdrawn when:

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a) the applicant has not responded to requests to deliver essential information in respect of his/her application and/or does not show up for the personal interview and does not provide a valid reason within the subsequent eight days;

b) the applicant has fled or left the place where he was assigned to live/was detained without permission and without contacting the Minister within the following twenty-four hours; or the applicant has not, within one month, complied with his/her obligation to report to the Ministry, unless he demonstrates that his absence was due to circumstances beyond his or her control.

If a decision to discontinue the examination of the application is issued, since the applicant's address is often unknown, the Minister generally gives notice by public posting. To this end, a notification is posted at the Ministry for a period of thirty days. After these thirty days, the decision is considered as being notified. If the applicant does not request that the file be reopened within nine months of notification of the first decision, the Minister will notify the applicant by public posting of the decision to definitively discontinue the examination of the application. An appeal against the latter decision may be lodged with the Administrative Tribunal within one month of notification by means of a motion signed by a lawyer.

However, if, within nine months of the closure decision, the applicant applies for the reopening of their file, the Minister reopens the file and resumes the examination of the application at the stage at which it was discontinued. The file of an applicant may be reopened only once. After the nine-month period, the closure decision is final, and the new application must be considered as a subsequent application.

The Minister may also decide to reject an applicant's application, instead of discontinuing the examination, if there is enough evidence to conclude that it is unfounded on the merits, or inadmissible. An appeal against this decision may be lodged with the Administrative Tribunal by means of a motion signed by a lawyer within a period of fifteen days or one month respectively from notification of the decision.

Explicit withdrawal

According to article 23 (1) of the amended Asylum Law, an applicant who wants to withdraw an application before the end of the procedure fills in a form officially declaring that they are withdrawing their application. Applicants withdraw the

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application under their own responsibility at any time during the procedure and have to indicate the reason(s) for the withdrawal.

The Minister ends the asylum procedure immediately after receiving the applicant's declaration of withdrawal without taking a decision. Moreover, a note is put into the applicant's file, indicating that the applicant withdrew their application explicitly.

If, after explicitly withdrawing their application, an applicant wants to apply again for international protection, this will be considered a subsequent application.

Personal interview

Competent authority: Interviewers

Interviewers are part of the Ministry of Home Affairs, General Department of immigration, Department for Refugees | Ministère des Affaires intérieures, Direction générale de l'immigration - Département Réfugiés.

Training is standard for all interviewers and generally, starts within a few days of the person joining the team. All of them are trained in the core EUAA training modules (e.g. evidence assessment, inclusion, interview techniques, interviewing vulnerable persons, interviewing children, gender, gender identity and sexual orientation, fundamental rights and international protection in the EU), as well as on the internal processes (on-the-job-training).

Special procedural guarantees during the interview

In Luxembourg, all adult applicants, as well as unaccompanied minors for whom Luxembourg has been designated as the responsible state for processing their asylum application, are required to undergo a personal interview. Each adult in the same family is interviewed separately. While applicants may be accompanied by a lawyer, the absence of a lawyer does not prevent the personal interview from taking place. At the end of the interview, the lawyer is given the opportunity to make observations.

For unaccompanied minors, Luxembourg ensures that a specialized caseworker, trained in interviewing children, conducts the interview. The questions are tailored to the minor's age, and it is not possible to conduct the interview without

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the presence of the minor's ad hoc administrator. The ad hoc administrator can attend the interview, ask questions, and make observations, but the unaccompanied minor must be present during the interview.

In the case of accompanied minors, typically, the minors themselves are not interviewed. Instead, the parents or guardians are invited to provide information regarding the reasons or fears of the accompanied children.

Applicants with special needs or vulnerabilities are given procedural safeguards and special conditions. If an applicant is identified as needing such support, they are provided with adequate assistance, including sufficient time to ensure that the conditions are met for them to access the asylum proceedings and present the necessary information to substantiate their claim.

Special attention is given to ensure that applicants with vulnerabilities have the necessary support throughout the interview process to ensure fairness and the effective exercise of their rights.

Possibility to omit the personal interview

It can be decided on the omission of the personal interview in specific and exceptional cases. According to Article 13 (4) of the amended Asylum Law, the personal interview on the merits of the application may not take place where:

(a) the Minister can make a positive refugee status decision on the basis of the evidence available; or

b) the Minister considers that the applicant is unable or unwilling to be interviewed due to enduring circumstances beyond the applicant's control. If in doubt, the Minister will consult a health professional to determine whether the circumstances that make the applicant unfit or unable to be interviewed are temporary or permanent.

Furthermore, Article 13 (5) of that same law stipulates the absence of a personal interview does not prevent the Minister from deciding on an application for international protection and, when deciding on an application for international protection, the Minister may consider the fact that the applicant did not attend the personal interview, unless the applicant had good reason for not attending. Subparagraph 2 of this paragraph stipulates that where no personal interview is conducted under paragraph (4)(b), reasonable efforts shall be made to allow the

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applicant or, where appropriate, the dependant to provide further information. In such cases, the absence of a personal interview shall not adversely affect the Minister's decision.

However, it should be noted that, in principle, every applicant for international protection must undergo a personal interview, and only in very exceptional circumstances will a decision be issued without the applicant having been heard in a personal interview. The only exception to this is newborn children of beneficiaries of international protection in Luxembourg, who are granted the same protection as their parents without the parents being heard in a personal interview on behalf of their children. The reasoning for the omission is documented in the file.

Positive decision	According to Article 13(4) of the amended Asylum Law , the personal interview on the merits of the application may not take place where the Minister is able to make a positive refugee status decision based on the evidence available.
Previous meeting - essential information	Not foreseen in the law
Issues raised are not relevant or of minimal relevance	No
Safe country of origin	No
Safe third countries	Yes
Inconsistent, contradictory, improbable, insufficient representations	No

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Subsequent application	Yes, it can be omitted when the applicant has not raised any relevant new elements with respect to the applicant's personal circumstances and to the situation in the country of origin.
Application to merely delay/frustrate enforcement	Yes
Not reasonably practical to conduct it	Only medical reasons can justify the omitting of the personal interview. In these cases, the applicant has the possibility to submit the grounds for the asylum requests in a written form.
Applicant is unfit or unable to be interviewed	The applicant has to justify his absence by presenting without delay a medical certificate issued by a general practitioner or a specialist. In case of doubt, the Ministry can request a health professional's opinion to determine whether the applicant is fit to participate in the interview or not.

Organisational aspects

Preparation and timing of the interview:

Interviews are normally scheduled by case officers who are managing their own schedules. After checking the availability of an interpreter (if necessary), they determine an interview date which is inscribed in the database.

The Ministry sends the invitation to the usual place of residence or designated domicile of the applicant upon lodging his/her application. The invitation letter may also be delivered in person. In the absence of a usual place of residence or the election of domicile, the applicant is deemed to have elected domicile at the Ministry of Home Affairs. The invitation to the personal interview will be displayed at the Ministry in this case.

The interview generally must take place at least eight working days after the date of the invitation (as indicated by the postmark). However, in cases involving

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inadmissibility or accelerated procedures, this time frame may be shortened. In some of these instances, the applicant may even be summoned through direct notification, or the interview may be conducted on the very day the application is lodged. The lawyer – and for unaccompanied minors also the ad-hoc administrator – receives a copy of all correspondence between the Ministry and the applicant.

Applicants must present themselves in person at the scheduled date and time with their invitation and the document for applicants for international protection at the General Department of immigration, Department for Refugees.

The interviews of applicants detained in prison or detention center are carried out on site. By calling the visitor reception of the prison or detention center, the interviewer schedules an appointment and books a visitor's room. In case an interpreter is needed, her/his name must be provided as well. The interviews are either recorded and transcribed later, or the interview report can be typed instantly on a laptop. In this case, the report is printed on the spot and signed by the applicant and the lawyer (if present).

Location of Interview

The interview takes place in the offices of the General Department of immigration. If the applicant is being detained in a detention centre, or in prison, a case worker of the Ministry will go to the detention centre/prison to conduct the interview. If the applicant is in the hospital, the interview may also take place there if the applicant's health allows for it.

Information provision (before the personal interview)

When an application for international protection is lodged, the applicant is provided with an information brochure, written in a language they understand or can reasonably be expected to understand, to explain the procedure. The brochure is available in 10 languages. An interpreter can also translate the information if not available in a language the applicant understands.

A chapter concerning the personal interview explains in detail the purpose of the personal interview, the arrangements, the rights and obligations of the applicant during the interview, the principle of confidentiality as well as the roles of the different actors. The lawyer, as well as the social workers in the reception centers and in case of an unaccompanied minor, the ad-hoc administrator, are assisting the applicants throughout the procedure and help prepare the applicant for the

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interview. Finally, the personal interview starts with mandatory information concerning the conduct of the interview.

Modalities of carrying out the interview

Every applicant is interviewed individually. There is no time limit set for the duration of the personal interview. To ensure that all interviews follow the same structure an interview template is systematically used. This template starts with mandatory information concerning the conduct of the interview. An introduction is given, and everybody present is introduced to each other, the purpose of the interview is explained, the role of the interpreter is laid out (confidentiality, objectivity, neutrality), and the importance of honesty is stressed. After that, the protection officer makes sure the applicant sufficiently understands the interpreter. In the next phase, specific questions on personal information, personal documents, information on family members and the travel route are asked. Then the part on the grounds for asylum follows. In this phase, the caseworker starts with open questions about the "nature" of the persecution, the reasons for the persecution, the parties involved ("actors"), the fear in case of a return and the evidence for this. Should any uncertainty about the country of origin remain, COI questions might be asked. The interview template ends with a couple of mandatory questions (the caseworker asks the applicant and the lawyer or representative if they would like to clarify certain points). The interview document is signed by the interpreter and the caseworker as well as by the lawyer and the applicant or by the ad hoc administrator if the applicant is an unaccompanied minor. The signature of the interview takes place after the proofreading of the interview which gives the applicant the opportunity to clarify certain points and to adjust. The interview of an unaccompanied minor under the age of 16 is always recorded and later written down. During the interview, the applicant must do everything possible to prove his/her identity, origin, travel route, and statement, including producing all supporting documents as proof of his/her identity or asylum application. If needed, the caseworker may decide to take a break (e.g.: if the situation gets too emotional, for the applicant to calm down, etc.).

In Luxembourg, all the caseworkers must complete the EUAA training course on Asylum Interview Method, and most of them have also completed the course on Interviewing Vulnerable Persons and Interviewing Children. For this purpose, Luxembourg has its national trainers, but they also follow other EUAA training modules. Furthermore, all the interpreters working for the Department for Refugees have to sign and follow a code of conduct.

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If an interview cannot be carried out in person, the Ministry can send the applicant a letter with a "request for information". With this letter, the Ministry asks for additional information about the asylum application. If there is no reaction or valid answer within 15 days, the Ministry may decide to reject the application. Luxembourgish authorities don't conduct personal interviews remotely by telephone or via teleconference.

Choice of gender of the interviewer/interpreter

For specific reasons, the applicant may choose the gender of the caseworker. However, if the applicant wishes to be interviewed by an agent of the same gender, he needs to give valuable reasons, and his lawyer has to send an official request to the Ministry which will take a decision on that topic.

Objecting to the interviewer/interpreter

In case of communication problems, the applicant can object to a particular interpreter. A new one will be appointed.

Language and interpretation

A service contract is concluded with free-lance interpreters that fulfill minimum requirements such as a security clearance made with a police check. An interview is conducted before a contract and a code of conduct, in which many rules like behaviors, manners and a confidentiality obligation are indicated, are signed. In case no professional interpreter is available to conduct the personal interview in the language preferred by the applicant, the interview might be held in another language that the applicant can reasonably be expected to understand. If the situation requires, the authorities may cooperate with other MS (cooperation with Belgium, France and Germany to find interpreters), as in Luxembourg the interviews can be conducted and transcribed in French, English or German, or the procedure is suspended/prolonged until an interpreter is available.

The applicant is given the opportunity to object to a particular interpreter in case of communication problems.

Persons present during the interview

The only persons allowed to be present during the interview are the caseworker, the applicant, the interpreter, the ad hoc administrator if the applicant is an unaccompanied minor, and the lawyer. The presence of a lawyer is allowed but

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not required. The lawyer is not allowed to intervene during the interview but is allowed to present his/her remarks at the end of the interview. In exceptional cases, a social worker may be present during the interview, e. g. if an unaccompanied minor or an applicant with special needs requests it and the Ministry deems it necessary to conduct a proper interview. The caseworker conducts the interview. In line with article 14 (1) of the amended Asylum Law, the interview is normally conducted without the presence of family members, unless the Minister considers that the presence of other members of the family is necessary to carry out an adequate examination.

Audio/Video recording and written report

The interviewer writes down the entire conversation (questions, answers and any problems that may occur) in the interview report. The applicant or the lawyer can ask to see the full asylum file and/or to receive a copy.

Statements made during the interview are noted to draw up a written, detailed and factual report. Applicants are entitled to read over the report or to have it read out loud, and to request additions or corrections which will be noted in the report.

They are invited to sign the report, as well as all other persons that were present during the interview. If the applicant refuses to sign the report, the reasons must be noted.

No signature is required in the case of audio recorded interviews. Applicants can then submit their comments in writing within 8 days of submission of the report.

Interviews are confidential.

If any doubts remain concerning the applicant's origin, linguistic tests can be undertaken. In the same manner, if the applicant claims to be a victim of persecution or serious harm to body or health, a medical examination can be undertaken.

Postponing the personal interview

If the applicant cannot attend the interview for a reason beyond his control, he has to inform the Ministry as quickly as possible and at the latest after eight days. The applicant must send a document to the Ministry that proves he/she is unable to attend. If the applicant does not inform the Ministry, it may be considered as a lack of will to cooperate. The absence of the lawyer at the

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interview is not a valid reason for postponing the interview. If the ad-hoc administrator of an unaccompanied minor cannot be present, the Ministry will set a new date for the interview.

Failure to appear

If the applicant fails to appear without a valid justification, he/she will be given another opportunity to attend the personal interview. If the applicant fails to appear for the second date of the interview, his/her absence might be interpreted as an implicit withdrawal of his/her application and the file can be closed. However, in this case the applicant has the possibility to have his/her file reopened within the following 9 months.

Other aspects

The Ministry may invite the applicant for a second interview to collect more information. This second interview will follow the same principles as in the first interview.

Special asylum procedures at first instance

Admissibility procedure

According to article 28 of the amended Asylum Law, a decision of inadmissibility may be taken, without assessing whether the conditions for granting international protection are met, in the following circumstances:

a) international protection has been granted by another EU Member State;

b) the applicant has a first country of asylum that is not an EU member state;

c) a country that is not a Member State is considered a safe third country for the applicant;

d) the applicant has presented a subsequent application that contains no new elements or findings that would affect the assessment if whether they qualify for international protection;

e) a dependent of the applicant introduces an application, after having consented to have their case handled within the framework of an application made on their

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behalf, and there are no circumstances justifying a separate application on their part;

f) the applicant is an EU citizen.

Competent authority and other stakeholders

The Ministry of Home Affairs, General Department of immigration, Department for Refugees | Ministère des Affaires intérieures, Direction générale de l'immigration - Département Réfugiés is responsible for the admissibility procedure.

Procedural aspects

Right to enter (at the border)/remain: Applicants have the right to stay in Luxembourg from the moment they lodge an application for international protection. Within 3 days of lodging their application, they generally receive a document issued in their name and certifying their status as an applicant of international protection. This document allows them to remain on the territory of Luxembourg during the processing of the application, as well as to move freely in the country. However, pursuant to Article 7 of the amended Asylum Law, this document certifying the status as an applicant of international protection is not issued to the applicant who is held in detention. If the holder is placed under house arrest, the document certifies this fact.

Furthermore, article 9 (2) of the amended Asylum Law provides for some exceptions in which the right to remain on the territory is waived, including, among others the case where a person may be surrendered or extradited, as applicable, either to another Member State of the European Union pursuant to obligations arising from a European arrest warrant or for other reasons, to a third country, or to an international criminal court or tribunal; the case where a person has lodged a first subsequent application considered inadmissible only in order to delay or prevent the execution of a decision which would result in his or her imminent removal from the territory; or the case where a person submits another subsequent application for international protection following the adoption of a final decision declaring a first subsequent application inadmissible or following a final decision rejecting that application as unfounded.

The rights and obligation of the applicant during the admissibility procedure, are the same as for the normal procedure.

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Personal interview: If the information received from the written statements given by the applicant during the lodging of the application; from the documents submitted by the applicant, from the criminal police, or during the Dublin interview gives any indication for a possible inadmissibility decision (e.g.: EU citizens, first country of asylum, etc.), the applicant undergoes an interview on admissibility, where they are informed about the possibility of the application being declared inadmissible. S/They are asked their point of view and given the opportunity to explain for what reasons they applied for international protection in Luxembourg. This does not apply to subsequent applications. In particular, article 13 of the amended Asylum Law introduces the personal interview provided for in Article 34 of Directive 2013/32/EU on asylum procedures. See more in section 'Personal interview within regular procedure - Luxembourg'.

Specificities for people with special procedural needs (excluding unaccompanied minors): The amended Asylum Law does not provide for specificities for people with special procedural needs regarding the admissibility procedure.

Specificities for unaccompanied minors: According to article 21 (2) of the amended Asylum Law the application of an unaccompanied minor may only be considered inadmissible if a country that is not a Member State is considered to be a safe third country for the applicant pursuant to article 31 of the amended Asylum Law, provided that the best interests of the minor so requires.

Decision and time limits to decide

The amended Asylum Law does not provide for a specific time limit within which the admissibility procedure should be completed. Nonetheless, the procedure should be conducted as promptly as possible and, in general, is completed within a few days to one week.

If the application is admissible, authorities will continue its examination through the regular procedure.

If a decision on inadmissibility is issued, the applicant will be subject to a return decision or a departure decision respectively.

Appeal

The decision on inadmissibility based on Article 28 (2) a), b), d), e), f) of the amended Asylum Law, may be the subject of an appeal seeking annulment ("recours en annulation") before the Administrative Tribunal. The appeal must be introduced within 15 days from the date of the notification and has no suspensive

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effect. However, if the decision of inadmissibility is based on article 28 (2) c) (the applicant can return to a safe third country), the appeal procedure has suspensive effect. The Administrative Tribunal shall deliver its ruling within two months from the lodging of the appeal.

In all the admissibility cases, no appeal can be lodged against the decision of the Administrative Tribunal.

Impact on reception conditions

Not applicable

Accelerated procedure

Legal basis and grounds

Article 27 (1) of the amended Asylum Law adopted the ten grounds mentioned under article 31(8) of Directive 2013/32/EU on asylum procedures on the basis of which the Minister may examine the merits of the application in the framework of an accelerated procedure:

1. The facts provided by the applicant are not relevant to the assessment of whether they meet the conditions required to qualify for international protection;
2. The applicant’s country is considered a safe country of origin;
3. The applicant misled the authorities regarding their identity or nationality by providing false information or documents, or by concealing relevant information or documents that could have negatively influenced the decision;
4. It is likely that that the applicant has deliberately destroyed or disposed of identity or travel documents that could have helped establish tehir identity or nationality;
5. The applicant has made clearly inconsistent and contradictory, manifestly false, or implausible statements that contradict sufficiently verified information from the country of origin, rendering the application clearly unconvincing with respect to eligibility for international protection;
6. The applicant has presented a subsequent application for international protection which is not inadmissible;
7. The only purpose of applying for international protection is to delay or prevent the execution of an earlier or imminent decision that would result in

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the applicant being forced to leave Luxembourg;
8. The applicant entered or prolonged their stay on the territory unlawfully and, with no valid reason, has not presented themselves to the authorities or has not presented an application for international protection as soon as possible, considering the circumstances of their entry;
9. The applicant refuses to provide fingerprints;
10. There are serious grounds for considering that the applicant poses a threat to national security or public order, or the applicant has been subject to a removal order on serious grounds of national security or public order.

Competent authority and other stakeholders

The Ministry of Home Affairs, General Department of immigration, Department for Refugees | Ministère des Affaires intérieures, Direction générale de l'immigration - Département Réfugiés is the competent authority for the accelerated procedure.

Procedural aspects

Right to enter (at the border)/remain: Applicants have the right to stay in Luxembourg from the moment they lodge an application for international protection. Within 3 days of lodging their application, they generally receive a document *(attestation d'introduction d'une demande de protection internationale*) issued in their name and certifying their status as an applicant for international protection. This document allows them to remain on the territory of Luxembourg during the processing of the application, as well as to move freely in the country.

The applicants of international protection that fall under the accelerated procedure have the same rights and obligations as under the normal procedure. There are no specific tracks created to process cases under the accelerated procedure.

Personal interview: The personal interview in the accelerated procedure is conducted in exactly the same way as in the normal procedure. See section 'Personal interview within the regular procedure – Luxembourg'

Specificities for people with special procedural needs (excluding unaccompanied minors): According to article 19 (3) of the amended Asylum Law, the application of a person who benefits from special procedural guarantees is not examined in the framework of an accelerated procedure if adequate support cannot be

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provided, in particular for applicants who are victims of torture, rape or any other serious form of psychological, physical or sexual violence.

Specificities for unaccompanied minors: According to article 21 of the amended Asylum Law, the Minister may, taking into account the best interest of the child, examine the merits of the application of an unaccompanied minor in the framework of an accelerated procedure only if:

1. The unaccompanied minor's country of origin is considered a safe country of origin; or
2. The unaccompanied minor has presented a subsequent application for international protection which is not inadmissible; or
3. There are serious grounds for considering that the unaccompanied minor represents a threat to national security or public order or has been subject to a removal order on serious grounds of national security or public order.

Time-limits to take a decision: The period within which a decision has to be issued under the accelerated procedure is two months from the moment all necessary elements are available to conclude that the accelerated procedure is applicable in the specific case. However, the national legislation also provides for the possibility to extend the deadline where "necessary to ensure an adequate and complete examination of the application of international protection".

Safe country concept: According to Article 30 (1) of the amended Asylum Law, a third country designated as a safe country of origin may only be considered as a safe country of origin for a particular applicant, after an individual examination of that person's application, if the applicant is a national of that country, or if the person concerned is a stateless person and it is their country of former habitual residence, and the applicant has not given serious reasons for considering that it is not a safe country of origin in the light of their particular circumstances, taking into account the requirements for qualification as a beneficiary of international protection.

In other words, in cases of applicants originally from safe countries, the burden of proof shifts slightly towards the applicant, however, it remains shared. This means that an individual analysis (case-by-case) will always be carried out, but the applicant will need to be complete and more comprehensive in their claim.

Decision and time limits to decide

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The deadline for the accelerated decision is two months from the moment all necessary elements are available to conclude that the accelerated procedure is applicable in the specific case. However, the amended Asylum Law also provides for the possibility to extend the deadline where “necessary to ensure a proper and exhaustive examination of the application for international protection”.

The applicant is obliged to leave the country within 30 days of the date on which the decision becomes final or res judicata, to their country of nationality or to any other country in which they are authorised to reside.

Appeal

Against refusals of applications of international protection within an accelerated procedure, a remedy may be introduced before the Administrative Tribunal within 15 days of the notification of the decision. (Article 35(2) of the amended Asylum Law).

The President of the Chamber or the Judge replacing them shall rule within a month of the introduction of the appeal (pursuant to Article 35 (2) of the amended Asylum Law, this period is suspended between 16 July and 15 September).

The appeal procedures have suspensive effect.

If the President of the Chamber deems the remedy manifestly unfounded, the procedure concludes, and no further appeals are permitted. However, if the remedy is not considered manifestly unfounded, the case is referred to a three-judge panel of the Administrative Tribunal. Pleadings are conducted before this panel, which then issues a judgment. An appeal against this judgment is allowed. See more details in the EUAA Case Law Database, Asylum Appeals Systems: Second instance determination – Luxembourg’.

Impact on reception conditions

In order to benefit from the material reception conditions, each applicant is required to sign the attestation of support.

Exception: Applicants under the accelerated procedure are not enrolled in the health insurance scheme. However, they are still entitled to receive medical care at designated medical center assigned by the refugee health service.

Border procedure

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Legal basis and grounds

The border procedure is not applied in Luxembourg. Luxembourg International Airport is the only external border. According to article 4 (1) of the amended Asylum Law, in case an application for international protection is presented to an officer at the Airport Control Service, registration of this application takes place in the General Department of immigration within six working days following the presentation of the application. Once the application is registered and lodged, it is up to the Minister to continue the international protection procedure.

Competent authority and other stakeholders

Not applicable.

Procedural aspects

Not applicable.

Decision and time limits to decide

Not applicable.

Appeal

Not applicable.

Impact on reception conditions

Not applicable.

Subsequent application procedure

Legal basis and grounds

Article 32 of the amended Asylum Law provides a definition of subsequent applications:

A subsequent application is a new application for international protection submitted after a final decision has been taken on an earlier application, including cases where the applicant has explicitly withdrawn his application and cases where the Minister has rejected an application following its implicit withdrawal.

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Competent authority and other stakeholders

The Ministry of Home Affairs, General Department of immigration, Department for Refugees | Ministère des Affaires intérieures, Direction générale de l'immigration - Département Réfugiés is the responsible for the subsequent applications procedure.

Procedural aspects

The applicant for international protection registers the subsequent application at the Ministry of Home Affairs, General Department of immigration, Department for Refugees. They fill in a questionnaire, in which the new elements justifying a subsequent application are provided. appeal forIf a person submits a subsequent application that is not intended to delay or prevent expulsion, they are invited to an interview. From that point onward, the procedure follows the same course as previously described.

Decision and time limits to decide

The decision in case of a subsequent application could be positive (granting protection, either refugee or subsidiary protection), negative, or inadmissible.

The amended Asylum Law does not provide for a specific time limit within which the procedure for a subsequent application should be completed. However, this should be done as soon as possible and cannot exceed the period of 6/9/21 months prescribed in Article 26 of the same law.

Appeal

A subsequent application for international protection may be dealt with in the accelerated procedure (Article 27 Law of 18 December 2015 on International and Temporary Protection) and the applicable rules are applied.

Impact on reception conditions

According to Article 22(1), letter e) of the amended Reception Law, an applicant's material reception conditions may be limited or withdrawn if they have already submitted an international protection application in the Grand Duchy of Luxembourg.

However, applicants undergoing a suspension or postponement of removal procedure have the same access to material reception conditions as regular applicants. Rejected applicants are entitled to a minimum level of material

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reception conditions.

Exception: Rejected applicants are not enrolled in the health insurance scheme but can still access medical care at the designated medical center assigned by the refugee health service.

Last-minute application pending removal

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

This phenomenon does not occur at a specific step of the return procedure. There are no clear statistics about last-minute applications are available. Therefore, one cannot say that this phenomenon concerns a specific group of applicants.

Last-minute applications in Luxembourg are both first-time applications and subsequent applications.

When a person is held in the detention center pending removal and expresses the intention to lodge an application for international protection, the detention center informs the General Department of immigration of this intention by sending a pre-printed form, completed by the person concerned, via email to dedicated addresses. Upon receipt of this form, the case is immediately reviewed to determine whether it constitutes a first application for international protection or a subsequent application.

In the case of a first application and where return is scheduled imminently, the removal must be cancelled, as the application must be examined on the merits and the appeal deadlines are suspensive.

If the person is not in detention, the procedure is largely the same, except that the individual is summoned to the premises of the General Department of immigration rather than being visited by an agent.

The Department for Refugees, which is responsible for processing applications, maintains near-constant contact — often on an hourly basis — with the Department for Returns, which is responsible for executing removals. The Department for Returns, in turn, coordinates with the Grand Ducal Police.

Regarding Appeals: In the case of appeals with suspensive effect, the Department for Returns is informed of the final decision by the Department for

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Refugees and may then summon the individual to explain the modalities of voluntary return and the consequences of non-cooperation.

In the case of appeals without suspensive effect, the Department for Returns is informed immediately following the decision and may initiate the necessary steps for the individual’s removal. For further details, please refer to the section on appeals for first and subsequent applications.

Last-minute applications lodged as subsequent applications pending a removal

This phenomenon does not occur at a specific step of the return procedure. There are no clear statistics about last-minute applications available. Therefore, one cannot say that this phenomenon concerns a specific group of applicants.

When a person is held in the detention centre with a view to removal and that person expresses the wish to lodge an application for international protection, the detention center informs the Directorate General of Immigration of this intention by sending us a pre-printed form completed by the person concerned by email to dedicated email addresses. On receipt of this form, the file is immediately analysed to determine whether it is a first application for international protection or a subsequent application. If it is a subsequent application, an agent goes to the detention center the same day to register the application and conduct a personal interview. Depending on whether the return is scheduled for the same day or the following day, a decision is made promptly. This may be a decision of inadmissibility or a decision on the merits, depending on the circumstances. If an inadmissibility decision is issued, the person may be returned, as appeal deadlines are non-suspensive. If a decision on the merits is issued, appeal deadlines are suspensive, and the removal cannot be executed. If the person is not in detention, the procedure is more or less the same, except that it is not the agent who goes to the detention center, but the person is summoned to the premises of the General Department of immigration.

In this type of situation, the Department for Refugees, which is responsible for processing applications, is in constant, almost hourly, contact with the Department for Returns which is responsible for enforcing returns. The Department for Returns, for its part, is responsible for coordination with the Grand Ducal Police.

As in this case appeals are non-suspensive, the Department for Returns is immediately informed of the decision and can initiate the necessary steps for the person's return.

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Safe country concept

Safe country of origin

The concept of a safe county of origin is defined in article 30 amended Asylum Law. The concept is applied in practice via an accelerated procedure.

Article 30(1) stipulates that a third country can only be considered as safe country of origin after allowing an individual assessment of the application for asylum, if they are a national of that country or if the applicant is stateless, and if it was their former country of residence. Moreover, the applicant has not produced serious reasons to believe that this country is not safe in the particular case.

In addition, according to Article 30(2) of the amended Asylum Law, a Grand Ducal regulation can enact a country as a safe country of origin if it is established that in that country there is no general and constant persecution as laid out in the Geneva Convention. This assessment must be supported by relevant and diversified country of origin information (from the EUAA, UNHCR, the Council of Europe and other international organisations). The following criteria are taken into consideration in order to determine if a country is a safe country of origin:

- The observance of the rights and freedoms provided for in the European Convention for the Protection of Human Rights fundamental freedoms, the International Covenant on Civil and Political Rights or the United Nations Convention against torture and other cruel, inhuman or degrading treatment or punishment;
- Ensuring compliance with the principle of non-refoulement provided for in the Geneva Convention; and
- The provision of an effective system of redress against violations of these rights and freedoms.

The designation also may also include some exceptions for which the safe country of origin concept will not apply. These are cases of certain profiles of applicants; for instance, currently Benin and Ghana are only considered safe countries for male applicants.

National list of safe countries of origin:

1. Albania

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2. Benin (only for men)
3. Bosnia and Herzegovina
4. Cabo Verde
5. Georgia
6. Ghana (only for men)
7. Kosovo
8. Montenegro
9. Republic of North Macedonia
10. Senegal
11. Serbia

The list was last updated on 11 January 2023 by Grand-Ducal Regulation amending the amended Grand-Ducal Regulation of 21 December 2007. Ukraine was removed. The reference to former 'Yugoslav Republic of Macedonia' was replaced by 'Republic of North Macedonia'.

The first list was adopted by the Grand-Ducal Regulation of 21 December 2007 establishing a list of safe countries of origin within the meaning of the law of 5 May 2006 on the right to asylum and additional forms of protection.

The list was previously updated on:

- 1 April 2011 by the Grand-Ducal Regulation amending the Grand-Ducal Regulation of 21 December 2007.
- 19 June 2013 by the Grand-Ducal Regulation amending the Grand-Ducal Regulation of 21 December 2007. Mali was removed. Kosovo was added.
- 5 December 2017 by Grand-Ducal Regulation amending the amended Grand-Ducal Regulation of 21 December 2007. Georgia was added to the list.

Safe third country

The concept of a safe third country is defined in article 31 amended Asylum Law.

A list of safe third countries has not been adopted. The concept is applied on a case-by-case basis via an admissibility procedure.

However, article 31 replicates article 38 of the recast Asylum Procedures Directive: Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking international

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protection will be treated in accordance with the following principles in the third country concerned:

- Life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- There is no risk of serious harm as defined in Directive 2011/95/EU;
- The principle of non-refoulement in accordance with the Geneva Convention is respected;
- The prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and
- The possibility exists to apply for refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

The application of the safe third country concept shall be subject to rules laid down in national law, including:

- Rules requiring a connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country;
- Rules on the methodology by which the competent authorities satisfy themselves that the safe third country concept may be applied to a particular country or to a particular applicant. Such methodology shall include case-by-case consideration of the safety of the country for a particular applicant and/or national designation of countries considered to be generally safe;
- Rules in accordance with international law, allowing an individual examination of whether the third country concerned is safe for a particular applicant which, as a minimum, shall permit the applicant to challenge the application of the safe third country concept on the grounds that the third country is not safe in his or her particular circumstances. The applicant shall also be allowed to challenge the existence of a connection between him or her and the third country.

When executing a decision based solely on the concept of a safe third country, the Minister informs the applicant of this and provides them with a document notifying the authorities of the third country, in the language of that country, that the application has not been examined on its merits.

First country of asylum

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The concept of a first country of asylum is defined in article 29, amended Asylum Law. The concept is applied in practice via an admissibility procedure.

Article 29 of the amended Asylum Law replicates Article 35 of the recast APD: a country can be considered to be a first country of asylum for a particular applicant if:

a) has been recognized as a refugee in that country and can still claim protection under that status; or

b) otherwise enjoys sufficient protection in that country, including the benefit of the principle of non-refoulement, provided that he or she is readmitted to that country.

When applying the concept of the first country of asylum to the personal situation of an applicant, the Minister takes into account the provisions concerning the safe third country. The applicant is entitled to challenge the application of the first country of asylum concept to his or her personal circumstances.

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

Chapter 3 (articles 37 to 52) of the amended Asylum Law.

Competent authority for the assessment

Assessments of applications for international protection are carried out by case officers. In Luxembourg, the roles of decision-makers and interviewers are carried out by separate individuals.. The decision makers will write a decision on the application after the interviewers conduct the interviews. In 2025, 30 case officers were employed in Luxembourg, of which 19 were decision makers and 11 interviewers.

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Recruitment of case officers: The recruitment of new case officers is conducted through a combination of both the Ministry of the Civil Service and in-house.

Training is standard for all case officers and generally starts within a few days after the person joins the team. They are trained in the core EUAA training modules as well as modules such as interviewing vulnerable persons (interviewers), interviewing children (interviewers), gender, gender identity and sexual orientation, fundamental rights and international protection in the EU, exclusion, etc., as well as on the internal processes (on-the-job-training, in-house training etc.).

In general, newly recruited caseworkers are assigned cases of limited complexity during the initial period after recruitment. However, this also depends on the needs of the unit.

Grounds

Person eligible for refugee status: any third-country national or stateless person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion, or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country; or any stateless person who, being outside the country of former habitual residence for the aforementioned reasons, is unable or, owing to such fear, is unwilling to return to it.

Person eligible for subsidiary protection: any third-country national or stateless person who does not qualify as a refugee but in respect of whom there are substantial and proven grounds for believing that, if returned to their country of origin or, in the case of a stateless person, to the country of former habitual residence, would face a real risk of suffering serious harm, and who is unable or, owing to such risk, unwilling to avail themselves of the protection of that country.

According to Article 42 of the amended Asylum Law, acts considered as persecution within the meaning of Article 1A of the Geneva Convention must:

a) Be sufficiently serious by their nature or repetition to constitute a severe violation of fundamental human rights, in particular the rights from which no derogation is permitted under Article 15(2) of the European Convention for the

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Protection of Human Rights and Fundamental Freedoms; or

b) Consist of an accumulation of various measures, including human rights violations, which is sufficiently severe as to affect an individual in a manner comparable to what is described under point (a).

Acts of persecution, within the meaning of paragraph (1), may include, in particular, the following:

a) Physical or mental violence, including sexual violence;

b) Legal, administrative, police and/or judicial measures that are discriminatory in themselves or are applied in a discriminatory manner;

c) Prosecutions or penalties that are disproportionate or discriminatory;

d) Denial of judicial remedy resulting in a disproportionate or discriminatory sanction;

e) Prosecution or punishment for refusal to perform military service in a conflict, where performing such service would entail the commission of crimes or acts falling under the exclusion grounds referred to in Article 45(2);

f) Acts directed against individuals because of their gender or against children.

According to Article 48 of the amended Asylum Law, serious harm includes:

a) the death penalty or execution; or

b) torture or inhuman or degrading treatment or punishment inflicted on an applicant in their country of origin; or

c) serious and individual threats to the life or person of a civilian as a result of indiscriminate violence in the context of an internal or international armed conflict.

Guidelines for case officers

The Department for Refugees draws upon and further develops the guidance provided by the European Union Agency for Asylum (EUAA), the United Nations High Commissioner for Refugees (UNHCR), and other relevant organisations in the assessment of applications for international protection. Utilising these guidance materials, along with national practices, the Department has compiled

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an internal reference document, a so-called Vademecum. This comprehensive manual, approximately 600 pages in length, meticulously outlines all relevant procedures across the various stages of the asylum process,from the opening of a case, to the assessment procedure, to administrative matters such as name changes.

The Vademecum is an internal document accessible to all staff within the Department for Refugees, who are expected to become familiar with its contents. Staff members receive the Vademecum at the start of their employment and are encouraged to consult it regularly when procedural or legal questions arise.

In addition, a general template is employed for conducting personal interviews. While this template serves to structure and guide the interview process, interviewers may adapt it to the specific circumstances of each case when strict adherence is not feasible.

Similarly, standard templates are available for various types of decisions, including rejections under both the regular and accelerated procedures, decisions granting refugee status or subsidiary protection, and determinations concerning unaccompanied minors. These templates serve to ensure consistency and completeness, outlining the necessary legal provisions applicable to each type of decision.

National guidelines concerning specific countries of origin or applicant profiles are also available. For example, in 2023, the Ministry of Home Affairs issued guidance on the assessment of applications submitted by Turkish nationals affiliated with the Gülen movement. Additional national guidance has been issued for Eritrea, Sudan, and Syria. However, the guidance in Syria is currently not in effect following the change in government. All other national guidelines remain in force.

Credibility assessment

The applicant is obliged to submit as soon as possible all elements supporting their application. The caseworkers determine whether the documents of the applicant are relevant and assess whether the statements and evidence submitted are credible.

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

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The assessment of an application for international protection is conducted in accordance with the criteria and conditions outlined in the Geneva Convention, as well as the amended Asylum Law. An application may be denied if the applicant's claim is deemed not credible.

The assessment of an applicant’s credibility is a critical and complex aspect of evaluating an application for international protection. The agents conduct this assessment through a detailed, individualized evaluation process.

In accordance with relevant legislation, the responsibility to provide all necessary elements to substantiate an application lies with the applicant. Meanwhile, the General Department of immigration undertakes a comprehensive credibility assessment, considering a range of factors, including the applicant’s country of origin, submitted declarations, supporting documents, personal status and circumstances, lived experiences, potential past persecution, and sociocultural background, incorporating aspects such as gender and age. Any documentation submitted is carefully reviewed in conjunction with the applicant’s oral testimony.

The process includes structured interviews conducted by specially trained officers who evaluate the internal coherence of the applicant’s account, the consistency of their statements, and the reliability of the supporting evidence. The credibility assessment is conducted in accordance with international standards and best practices, including guidance provided by the European Union Agency for Asylum (EUAA).

In situations where certain aspects of an applicant’s statements are not supported by documentary or other forms of evidence, the General Department of immigration evaluates whether the applicant has made a genuine effort to substantiate their claim. This involves determining whether all available evidence has been submitted and whether a reasonable explanation has been provided for the absence of further supporting documentation.

This principle is also reflected in the amended Asylum Law. Article 37(5) stipulates that when certain elements of an applicant's account are not corroborated by documentary or other evidence, such elements do not require further confirmation if the following conditions are met:

a) The applicant has made a genuine effort to substantiate their application;

b) All relevant elements at the applicant’s disposal have been presented, and a satisfactory explanation has been provided for the absence of additional

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evidence;

c) The applicant's statements are assessed as coherent and plausible, and are not contradicted by relevant general or specific country information;

d) The application for international protection was submitted at the earliest possible opportunity, unless the applicant can provide a valid justification for any delay; and

e) The applicant's overall credibility has been established.

Where these conditions are not met, and the credibility of the applicant cannot be sufficiently established, a negative decision may be issued on the grounds of lack of credibility.

Time limit for submitting evidence during credibility

The applicant is obliged to submit as soon as possible all elements supporting their application. Although documents should be submitted as soon as possible, they can also be submitted at all stages of the proceedings and even before the courts, if they could not be presented before. Documents are often handed in in person when applicants lodge the application or even during the personal interview. After these stages of the procedure, documents are often submitted through the legal representative of the applicant. Except for identity documents, any document submitted in a language other than German, French or English must be accompanied by a translation into one of these languages, in order be taken into consideration for the examination of the application.

COI research

The COI research is part of the Decision Unit (Ministry of Home Affairs, General Department of immigration, Department for Refugees).

However, currently, there is only one researcher responsible for COI collection and production, as the COI Unit is in the process of being restructured due to internal reorganization. The main tasks of this researcher include drafting and updating reports on countries of origin from which most asylum seekers originate, responding to queries, and monitoring situations or developments of concern. COI Reports are being kept as up to date as possible. Queries are being produced as the need arises. Most reports are direct citations from the source

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material.

Internal guidelines define the timeframe for producing the internal COI reports. Due to the limitations of only having one COI researcher, case officers often do their own research.

Case officers may also consult the COI researcher with COI queries specific to one particular case.

Sources consulted are mainly publicly available sources. The most frequent ones are from the EUAA, the US Department of State, Freedom House, UK Home Office, and Asylum and Refugee Board of Canada. All the usual search engines are also used: ECOI, RefWorld, EUAA Common Portal, etc. to compile information.

Decision and outcomes

After examination and assessment of the application, the decision-maker writes a decision proposal based on a set form. In case of a negative decision, the written decision includes a summary and an extensive motivation of the reasons why refugee status and/or subsidiary protection status is not granted. This proposal is then sent to the decision-maker’s supervisor for the approval and signature of the decision.

If the applicant does not meet the criteria to be granted international protection, a decision to deny international protection will be taken. This decision is taken either as part of a normal procedure or as part of an accelerated procedure.

A decision to deny international protection is equivalent to an order to leave Luxembourg. The order to leave the territory includes a deadline for leaving the territory, as well as the country of destination to which the applicant will be returned in the event of enforcement.

The decision to deny international protections sets out various avenues of appeal and the time limits within which the applicant can lodge an appeal before the administrative courts. If the applicant lodges an appeal against the decision of the Minister, they have the right to remain in Luxembourg until the final ruling of the administrative courts.

When the applicant has exhausted all avenues of appeal and the decision regarding your case is final, they are no longer legally entitled to stay in the country and are obliged to leave within 30 days to your country of origin, or any

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other country where they have the right to reside. They also have the option to register for a voluntary return.

The Ministry may decide to process the application for international protection as part of an accelerated procedure. If the application is processed as part of an accelerated procedure, the Minister is obliged to take a decision no later than two months from the moment all necessary elements are available to conclude that the accelerated procedure is applicable in the specific case.

In case of a negative decision, the decision is notified in written by registered letter sent to the applicant’s habitual residence or their elected place of residence. In case of granting refugee status, the decision is not explained in detail to the refugee, but a written, internal note in the file sums up the main considerations leading to this conclusion. A positive decision is also notified by a registered letter sent to the applicant’s habitual residence or their elected place of residence. For both positive and negative decisions, a copy of the decision will be sent to the applicant’s lawyer.

If the applicant's address is unknown, the Minister gives notice by public posting. To this end, a notification is posted at the Ministry for a period of thirty days. After these thirty days, the decision is considered as being notified.

In the case of unaccompanied minors, the decision is not addressed directly to the child but to their legal representative and their ad hoc guardian. The decision is sent to both of these individuals—although in many cases, a single person may fulfill both roles—and it is their responsibility to inform the minor of the contents of the decision. A decision about inadmissibility may also be taken. For more details, please refer to the relevant section.

Family unit. In case of an application submitted by a family based on the same ground for all the members, a single decision shall be adopted for all dependents, unless such action leads to disclosure of an applicant's particular circumstances which could be detrimental to their interests, in particular in cases of persecution based on gender, sexual orientation, gender identity or age. In such cases, a separate decision shall be communicated to the person concerned. Even if an applicant gave their consent at the moment of the application being lodged, they have the possibility, at a later stage of the procedure, to request a separate decision if they do not wish certain data/information to be disclosed to the rest of the family. The same applies to accompanied minors, who during the procedure are coming of age. In this context, it has to be noted that in general, accompanied minors are not heard in an interview, but the parents are heard on

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the motifs of the minor. However, if during the procedure the accompanied minor is coming of age, they will undergo a personal interview, once they reach the age of 18 years.

The principle of family unit will not be applied in cases where one of the family members is of a different nationality or if the family members invoke different motifs on the basis of their application. In these cases, separate decisions are issued.

COI units

Background information

The COI is part of the Decision Unit, within the Ministry of Home Affairs, General Department of immigration, Department for Refugees.

Currently, one researcher is responsible for COI collection and production, as the COI Unit is in the process of being restructured due to internal reorganization. That COI Unit will be part of the Ministry of Home Affairs- General Department of immigration- Department for Refugees- Decision Unit.

Structure and capacity

The core functions of the COI researcher are implicitly provided through the transposition of relevant EU directives into national legislation — notably the Qualification Directive (Article 4(3)(a)) and the Asylum Procedures Directive (Article 10(3)(b)). In Luxembourg, these provisions have been transposed into the amended Asylum Law, particularly in Article 10 (3)(b) and Article 37 (3)(a). These provisions establish the legal basis for collecting accurate and up-to-date Country of Origin Information and ensuring access for decision-making staff and reinforce the obligation to rely on comprehensive COI when assessing an application for international protection.

Currently, one researcher is responsible for COI collection and production, as the COI Unit is in the process of being restructured due to internal reorganization.

The only requirement for COI experts is to hold a master’s degree. They should then undertake EUAA and UNHCR training

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COI products

COI Reports are being kept as up to date as possible. Queries are being produced as the need arises and most reports are direct citations from the source material.

Internal guidelines define the timeframe for producing the internal COI reports. Due to the limitations of only having one COI researcher, case officers often do their own research. Case officers may also consult the COI researcher with COI queries specific to one particular case.

The “Focus” Reports zoom in on one aspect. “Overview” Reports try to give a more general overview of a country.

The most frequent sources used are from the EUAA, the US Department of State, Freedom House, UK Home Office, and Asylum and Refugee Board of Canada. All the usual search engines are also used: ECOI, RefWorld, EUAA Common Portal, etc. to compile information.

The sources consulted are mainly in English. The final COI products are produced in French, except for direct citations.

The COI researcher does not produce guidance or policy, but it provides documentation to those who are involved in the elaboration of guidance/policy.

Other aspects of COI units

The COI researcher is involved in the process of the EUAA's country-specific guidelines, as he is available to consult with the NCPs.

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