First instance determination - Belgium

Overview of first instance procedures

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Relevant EU legislation

Belgium 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:

recast Asylum Procedures Directive: Law of 21 November 2017 amending the Aliens Act and Law of 17 December 2017 amending the Aliens Act.

recast Reception Conditions Directive: Law of 21 November 2017 amending the Aliens Act.

The provisions of the Dublin III Regulation were directly applicable in Belgium since 20 July 2013 (see Art. 49 of the Dublin III Regulation). They have been included in the Law of 15 December 1980 through subsequent amendments:

1. Law 21 November 2017 (Article 3)
2. Law 8 May 2019 (Article 2)
3. Law 12 May 2024 (Article 3).

National legislation

Law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals, Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers, Immigration or Aliens Law

Royal Decree of 8 October 1981 on the entry, residence, settlement and removal of foreign nationals, Arrêté royal du 8 octobre 1981 sur l'accès au territoire, le

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séjour, l'établissement et l'éloignement des étrangers, Immigration or Aliens Decree

Law of 12 January 2007 on the reception of asylum applicants and certain other categories of foreigners, Loi du 12 janvier 2007 sur l'accueil des demandeurs d'asile et de certaines autres catégories d'étrangers, Reception Act

Royal Decree of 11 July 2003 laying down the procedure before the Office of the Commissioner General for Refugees and Stateless Persons and its functioning, Arrêté royal du 11 juillet 2003 fixant la procédure devant le Commissariat général aux Réfugiés et aux Apatrides ainsi que son fonctionnement, Royal Decree on the CGRS.

Competent authority and other stakeholders

National authorities: The Office of the Commissioner General for Refugees and Stateless Persons |Commissariat Général aux Réfugiés et aux Apatrides | C ommissariaat-generaal voor de Vluchtelingen en de Staatlozen (CGRS | CGRA | CGVS) is the authority responsible for examining/processing requests for international protection in the regular and special asylum procedures. It is a centralised entity with various responsibilities including: identity verification, first instance asylum procedure, border procedure, conducting the personal interview, assessment of asylum applications, collection of country of origin information, drafting of guideline of work instructions, training of staff, quality monitoring of decisions and processes, information provision on the asylum procedure, provision of interpretation for first instance asylum application, producing decisions on first instance asylum applications, and decisions on implicit and explicit withdraws in the first instance procedure.

Staff: The case officer who conducts the personal interview, as a general practice, also assesses the asylum application: he/she drafts a decision, which is reviewed and approved by a supervisor. At the end of 2024, there were 604 staff employed with the CGRS, of which around 60% were directly involved in adjudication (protection officers and supervisors).

Other actors: The competent authority for registration and lodging, as well as for the handling of the Dublin procedure is the Immigration Office | Office des Etrangers | Vreemdelingenzaken.

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The competent authority for appeals is the Council for Alien Law Litigation | Conseil du Contentieux des Etrangers | Raad voor Vreemdelingenbetwistingen (CALL | CCE | RVV)

Types of procedures and case processing

The differing types of asylum procedures are stipulated in the following legislation:

Regular procedure: Article 39/71. Declaring an application inadmissible (part of the regular procedure).

Border procedure: Aliens Law, Articles 50, 57/6/4.

Declaring an application inadmissible: Aliens Law, Article 57/6 (3).

Accelerated procedure: Aliens Law, Article 57/6/1.

Subsequent applications : Aliens Law, article 57/6/2.

Time limit for a decision and length of the procedure

The time limit for taking a decision in the regular procedure is 6 months after the CGRS receives the asylum application from the Immigration office. However, this time limit may be prolonged by another 9 months when there are: (a) complex issues of fact and/or law are involved; (b) a large number of persons simultaneously apply for asylum, making it very difficult to comply with the 6 months deadline; or (c) the delay is clearly attributed to the failure of the applicant to comply with his/her obligations. This can be further prolonged by 3 more months, when it is necessary to ensure an adequate and complete examination. The deadline for decision can reach a maximum of 21 months, when there is an uncertainty about the situation in the country of origin, which is expected to be temporary. In this case, the CGRS needs to evaluate the situation in the country of origin every 6 months.

The CGRS informs the applicant upon his/her request about the prolongation of the deadline, its reasons and the expected timeline of the decision.

Given the large influx of asylum seekers and backlog of cases, the CGRS is unable to comply with the legal time limit for every applications. Further

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information on processing times of applications, including average and median processing time, explanations of the long processing times and the measures taken to reduce processing times are available on the website of the CGRS.

Measures to enforce legal time limit for processing applications: According to Belgian Aliens Law, Article 57 (6), an applicant can request to receive information on the reason for a delay and a timeframe for completing the processing. Applicants are then referred to the CGRS website that states that the CGRS does its utmost to take a decision as soon as possible. In case time limits/extension are not respected, there are No direct legal consequences. The time limits are indicative periods (termijnen van orde) and the Aliens Act does not provide for any sanctions if this period is exceeded

Penalty payment for exceeding processing time: While it is not specified in law, an applicant can file a claim for compensation with the civil court on the basis of the general rules laid out in Book 6 of the Civil Code. It is the responsibility of the applicant to prove the fault, damage and causal link. There is no maximum amount, and it is decided on a case-by-case basis.

Prioritisation policies: The CGRS may prioritise the examination of an application in case the applicant is detained or is subject to a security measure; the applicant is serving a sentence in a penitentiary facility; the Immigration Office or the Minister for Asylum and Migration so request; or the asylum application is likely to be manifestly well-founded.

Interinstitutional cooperation

On a monthly basis, the Federal Migration Centre, referred to as ‘Myria’, organize ‘International Protection Contact Meetings’ for consultation between representatives of public authorities, international organizations and NGOs working in the field of asylum to meet and exchange information.

Regular asylum procedure at first instance

Legal basis

The legal basis for the regular asylum procedure is laid out in the Aliens Law, Title II, Chapter II.

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Competent authority and stakeholders

The competent authority responsible for the regular asylum procedure is the Office of the Commissioner General for Refugees and Stateless Persons | Commissariat Général aux Réfugiés et aux Apatrides | Commissariaat-generaal voor de Vluchtelingen en de Staatlozen (CGRS | CGRA | CGVS).

Personal interview

The CGRS asks the applicant to attend a personal interview at least once. This may only be omitted either when the CGRS is able to take a positive decision with regard to the refugee status on the basis of the available evidence, when the CGRS can make a decision based on the submitted written elements on a subsequent application or it is of the opinion that the applicant is unfit or unable to be interviewed due to enduring circumstances beyond his or her control. (Alien Law, Article 57/5ter)

Specificities for unaccompanied minors: The unaccompanied minor is systematically invited to a personal interview. The invitation to the personal interview is sent to the guardian's chosen place of residence (with a copy being sent to the child's place of residence and to the Guardianship Service). The personal interview is conducted between the specialised protection officer and the child. If desired, the child is assisted by a lawyer and a trusted person. This trusted person cannot be family. It has to be a person who, because of his profession, is specialised in assisting persons or in aliens' law. The child is also assisted by a guardian. The personal interview takes place according to an adapted interview method. For instance, the personal interview takes place in a separate interview room especially decorated for children. The protection officer adapts his language to the child and encourages it to tell as much as possible of its story spontaneously, from the perspective of its own perception. In doing so, he avoids asking closed questions as much as possible to avoid influencing the child. During the personal interview the child can draw or use other tools to clarify its story. The child can request a break whenever it needs one. The interpreters who assist the children during the interview have also received specific training.

Assessment of an application

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Aliens Act, articles 48/3-48/6 provides the legal framework for the assessment of an application. This is completed by more specific guidelines issued by the CGRS.

Scope and outcomes of a decision

The CGRS examines whether the applicant can be granted international protection in one single procedure. If the applicant does not fulfil the eligibility criteria for refugee status, the authority assesses automatically whether he/she is eligible for subsidiary protection status. The CGRS does not consider any national form of protection if international protection cannot be granted,

Possible outcomes:

1. Granting protection status:

   - recognition of refugee status (Aliens Law, Article 57/6 1°)
   - granting subsidiary protection status (Aliens Law, Article 57/6 1°).

2. Refusal of protection status:

   - Refusal to grant refugee status and refusal to grant subsidiary protection status. (Aliens Law, Article 57/6 1°)
   - Decision declaring the application inadmissible (Aliens Law, 57/6(3));
   - Decision declaring the application manifestly unfounded (only if an accelerated procedure applies) (Aliens Act, Articles 57/6/1 (2));
   - Decision to discontinue the examination of the application (Aliens Act, Article 57/5/5);

3. Decision on exclusion (Aliens Act, Articles 55/2 and 55/4).

When an application is submitted at the border, a specific procedure applies whereby the CGRS can take certain types of decisions within a specific time frame: granting refugee status; granting subsidiary protection status, inadmissibility decision, refusal decision in one of the situations that allow for the application of an accelerated procedure, decision to conduct further investigation (admissible).

A negative first instance decision taken by the CGRS (refusal of international protection) does not include a return decision. The return decision by the Immigration Office will only be taken after the legal time limit to introduce an

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appeal with the Council for Alien Law Litigation has expired and no appeal has been made.

Withdrawal of an application

Competent authority to withdraw an application

The competent authority to withdraw implicitly and explicitly an application is the Office of the Commissioner General for Refugees and Stateless Persons | Commissariat Général aux Réfugiés et aux Apatrides | Commissariaat-generaal voor de Vluchtelingen en de Staatlozen (CGRS | CGRA | CGVS)

Implicit withdrawal

Grounds for implicit withdrawal:

1. The applicant does not show up for a personal interview and does not provide a valid reason for his/her absence to the CGRS within a specific time-limit;
2. The applicant does not respond to a query for information within one month and does not provide a valid reason regarding this matter;
3. The applicant is admitted or authorised to stay for an unlimited period and does not request within 60 days the further consideration of his/her application;
4. The applicant is in detention or is subject to a security measure, left without authorisation and has not contacted the authorities within 15 days;
5. The applicant does not comply with the reporting duty for at least 15 days and does not provide a valid reason for this act;
6. The applicant passed away. In case the deceased applicant has minor children and the minor(s) – on whose behalf the application was made – do not wish to continue the examination; or did not respond to a query for information within one month
7. The applicant returns voluntarily and definitively in his/her country of origin;
8. The applicant acquires the Belgian nationality.

Consequences of implicit withdrawal: The CGRS takes a decision to discontinue the examination. In the cases 1 to 5 of implicit withdrawal, the CGRS can also take a decision to reject the application, if the administrative file has enough information to that effect.

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Appeal against a decision to discontinue the examination due to an implicit withdrawal: Appeal against the decision on implicit withdrawal is possible with the CALL, within 30 days from the decision (Aliens Act, Article 39/57).

If the applicant, whose previous application was rejected on this basis, submits a subsequent application, this application will automatically be declared admissible (Aliens Act, Article 57/6/2(1).

Explicit withdrawal

Grounds for explicit withdrawal: The applicant can withdraw their application before the end of the procedure with a written request. They need to fill out a form to this effect. Only the applicant (or their mandated lawyer) can withdraw the application, trusted persons cannot do so on the applicant's behalf.

If there is any doubt about the explicit character of the withdrawal, the CGRS can invite the applicant to personally confirm their intention.

Explicit withdrawal consequences: The CGRS takes a decision to discontinue the application. If the applicant applies again, this is considered a subsequent application, and it will not be automatically declared admissible (Aliens Act, Article 57/6/2(1)).

Explicit withdrawal appeal: An appeal is possible with the CALL within 30 days from the decision notification by the CGRS.

Personal interview

Competent authority: Interviewers

The competent authority to conduct personal interviews belongs to caseworkers of the Office of the Commissioner General for Refugees and Stateless Persons | Commissariat Général aux Réfugiés et aux Apatrides | Commissariaatgeneraal voor de Vluchtelingen en de Staatlozen (CGRS | CGRA | CGRV). According to the job specifications on the CGRS's website, case workers (called "protection officers") are required to have a university degree, knowledge of international

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politics and excellent editorial skills and they should be able to work in a service-oriented manner.

The recruitment process is organised in 2 phases: the first phase is undertaken by a national government selection agency and consists of a computer-based situational assessment test and a verbal reasoning test. These tests assess the behavioural competencies Critical Thinking, Solution Orientation, and Results Orientation. The asylum authority is represented in the second phase of the selection process. The second phase consists of a case study or written assignment to test the candidates' editorial skills and an interview, during which the behavioural competencies of teamwork, results orientedness, and agility are assessed.

Once employed, they have to develop a thorough knowledge of the countries of origin of applicants for international protection and regularly complete trainings in order to keep their expertise.

Special procedural guarantees during the interview

The protection officer needs to have the required expertise to conduct personal interviews with applicants for international protection with specific profiles, including applicants belonging to a vulnerable group, such as unaccompanied minors, traumatized applicants and applicants putting forward gender related asylum grounds (rape, sexual abuse, sexual orientation and gender identity).To guarantee this, protection officers are well trained. Since 2023, all protection officers receive a specific training in their first month on how to detect special procedural needs and which guarantees can be provided during the procedure. Furthermore, the training course 'Interviewing vulnerable persons' (EUAA) was given to a large number of PO's in 2024, with the objective of training them all by mid-2025.

The Aliens Law and the Royal Decree on CGRS Procedure foresees some specific arrangements for interviewing (unaccompanied) minors. Accompanied minors have the right to lodge a separate asylum application in their own name and/or to request to be separately interviewed from their parents. Otherwise, the CGRS may interview an accompanied minor without his/her request for particular reasons in the child's best interest. The child has however always the possibility to refuse this interview. Overall, the CGRS Interview Charter underlines that the interview has to be adapted to the specificities of the case, including the profile

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and eventual vulnerability of the applicant. There is no legal or indicative minimum age for interviewing accompanied or unaccompanied children (in practice, this is only possible, when the child has reached a certain level of maturity). A CALL judgement clarified that indeed, all unaccompanied minors should be invited for an interview. No special procedural rules apply to the interviewing process of children, but guarantees are in place according to the child's age, maturity and individual circumstances (Aliens Act, Article 57/1). Unaccompanied children are assigned a guardian, and all minors are interviewed by a protection officer specially trained for interviewing this group. In particular, they follow the EUAA training on ‘interviewing children’. If an accompanied minor lodges an application in his/her own name, the law provides that the child must be heard in principle, unless the CGRS determines that he/she does not have sufficient discernment. In that case, the CGRS takes a decision based on other elements (statements of parents, documents, COI, etc).

At the CGRS level, specific measures exist for identifying, processing, and evaluating the vulnerabilities of asylum seekers. Authorities are required to take into account each applicant’s individual circumstances, including any past experiences of persecution or serious harm that may point to particular vulnerabilities. In gender-related cases, applicants have the right to ask for an interview with a protection officer or interpreter of the same sex.

To strengthen support in vulnerability-related cases, the CGRS has created two specialized units:

- The Gender Unit, which follows the EUAA training module on Gender, Gender Identity & Sexual Orientation, ensures that gender-related claims are handled appropriately. These include applications linked to sexual orientation, gender identity, or sexual characteristics (LGBTI), as well as risks of Female Genital Mutilation (FGM), honour-based violence, forced marriage, domestic abuse, or sexual violence.
- The Minors Unit, led by a designated coordinator, promotes consistent practices, information sharing, and the exchange of expertise. Unaccompanied minors are interviewed only by specially trained officers who have completed the EUAA module on Interviewing Children.

In 2023, the CGRS launched a project focusing on aspects related to the physical and/or mental health of applicants for international protection, which runs until the end of 2025.

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The project focuses on the participation of applicants with physical and/or mental vulnerabilities in the asylum procedure in general and in the personal interview in particular. It also addresses aspects related to the substantive assessment of the need for international protection for this target group. The project examines how the CGRS can strengthen and improve its approach to this.

As a result of the project, the CGRS has drawn up a series of recommendations and tips on the form and content of medical documents submitted to the CGRS. These recommendations aim to better address the specific procedural needs of applicants for international protection and to assist the CGRS in processing and assessing each application equally. Within the scope of this project, specific events are organised for protection officers, called ‘Understanding Vulnerability’. For example: a session on ‘Panic attacks and flashbacks’ was given by a psychiatrist and medical director; and a specific session on reading medical documentations has taken place as well.

Possibility to omit the personal interview

The personal interview can be omitted under certain circumstances. The decision to omit the personal interview is taken by the CGRS. The decision is documented in the file and the reasoning for omitting the personal interview is mentioned in the decision. (Aliens Act, Article 57/5ter (2))

Positive decision	**Yes (possibility to issue a decision on granting the refugee status on the basis the file – the applicant is not informed in advance that a personal interview will be omitted).**
Previous meeting	No
No/minimal relevance	No
Safe countries of origin	No
Safe third countries	No

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Positive decision	**Yes (possibility to issue a decision on granting the refugee status on the basis the file – the applicant is not informed in advance that a personal interview will be omitted).**
Inconsistent, contradictory, improbable, insufficient representations	No
Subsequent application	Yes (The applicant is informed in the initial interview, before an admissibility decision is taken, that the CGRS is not obliged to invite the applicant for a personal interview)
Application to delay/frustrate enforcement	No
Not reasonably practical	No
Applicant unfit	Yes. If the CGRS determines that a personal interview cannot take place with the applicant due to permanent circumstances beyond his control, the CGRS is obliged to make reasonable efforts to give the applicant the opportunity to provide the necessary information relating to his application for international protection. Additional steps must be taken to replace the personal interview. A request for information may be sent to the applicant, namely a questionnaire with specific questions about the asylum claim. Additionally, a personal interview/hearing with a dependent or other family member may be conducted to assess the specific fear of the applicant. This may also involve a family member who is not or no longer involved in the asylum procedure.

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Organisational aspects

Preparation and timing of the interview: There is no specific timeframe established for inviting the applicant for an interview or for holding the interview: the personal interview takes place as soon as possible within the general time-limit established for the corresponding type of procedure.

The Aliens Law only foresee provisions for cases when the CGRS cannot conduct the interview “in a timely manner”.

The Royal Decree on CGRS Procedure specifies that there has to be at least 8 days between the convocation and the interview – this can be shortened to 2 days (when the information in the administrative file suggests that there is ground for inadmissibility or for acceleration), or to 1 day (when the applicant makes a subsequent application and he/she is in detention or is subject to another form of security measure).

In the framework of the regular procedure there is typically 3 weeks between the date of convocation and the date of the interview.

The case officer receives his/ her interview planning around 4 weeks before the date of the interview (regular procedure) and has immediately access to the applicant’s file, including the details of the interview conducted by the Immigration Office with the applicant, which will allow them to prepare the personal interview in depth Case officers are required to have a good knowledge on the applicant’s country of origin: they can consult the internal COI reports and COI database and have the possibility to request COI ad hoc.

Information provision (before the personal interview): The CGRS sends the invitation by registered mail to the address provided to the Immigration Office at the lodging of the application. It is also possible to summon the applicant through direct notification, but this does not happen frequently. When an applicant is accommodated in a reception facility or when an applicant is in detention, the invitation can be sent by email to the director of the facility, who (through his delegated employee) is responsible for handing over the invitation and sending back to the CGRS the receipt signed by the applicant.

The applicant has the duty to inform the authorities about any change in his/her choice of residence. The CGRS sends a copy of the invitation to the applicant’s effective residence – if it is informed about such – by ordinary mail and to his/her

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lawyer by ordinary mail or email.

The applicant receives information on the interview and its purpose, rights and obligations - including the consequences of non-cooperation and non-compliance with the obligations, the right to interpreter, the roles of those present during the interview and on the procedure after the interview. The applicant is also proactively informed about the fact that they can choose an interviewer and an interpreter of a specific sex and that they can object to a particular interviewer or interpreter. The information is typically provided through a written material (brochures), and since October 2019 the information platform of Fedasil also plays an important role in information provision for applicants in general.

On 22 March 2021, the CGRS launched a new website asyluminbelgium.be providing information specifically on the asylum procedure in Belgium in nine languages (English, Dutch, French, Spanish, Arabic, Pashto, Farsi, Tirgrinya and Somali). The text is also available in audio format and the information is centred around 4 short films. The information is tailored to the needs of asylum seekers, with a strong focus on the processing of asylum applications at the CGRS.

Modalities of carrying out the interview: The interview takes place in the offices of the CGRS in Brussels. Physical interviews remain the standard procedure. It is on a case-by case basis that the CGRS investigates whether a remote interview should be preferred. The legal basis for organising interview with applicants through videoconference was published on 9 September 2022.

Since 2019, most of the personal interviews in all six detention centres are conducted through videoconference. The asylum seeker and their lawyer can request for an interview in person when they can provide elements of vulnerability that would justify such a request. The CGRS uses Microsoft Teams to conduct remote interviews. During the videoconference interview, the caseworker conducts the interview with the interpreter present in a room at the CGRS offices in Brussels. The applicant and his/her lawyer are at the other side in a room of the closed detention centre. The videos themselves are not kept on file, and the CGRS uses the transcript following the interview as the basis. For now, it is not possible to include a third party remotely, so lawyers still need to go to the closed centre.

Choice of gender of the interviewer/interpreter

When the claim is likely to be gender-related, the case officer verifies whether the applicant has any objections to be heard by an officer of another sex. The

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applicant can also request another interpreter for this reason. Applicants fill out a questionnaire during the intake interview with the Immigration Office, where they can indicate whether they have a preference for a male or female interpreter. The CGRS tries to take into account this preference as much as possible, when the applicant provides a legitimate reason for his/her choice.

Objecting to the interviewer/interpreter

Comments and objections can be made during or after the interview and they are considered during the decision making.

When the reasons are legitimate for the objection, the interview continues with a new interpreter, or it is re-scheduled.

Language and interpretation

Applicants have to indicate in writing at the lodging of application whether they require assistance from an interpreter, or if they choose French or Dutch as procedural language, when they have sufficient knowledge of one of these languages.

Persons present during the interview

The Royal Decree on CGRS Procedure lists the different persons who may be present during the interview:

- **Protection (case) officer:** The CGRS Interview Charter points out that case officers need to have a good knowledge about the situation in the country of origin of the specific applicant, as well as expertise according to the different applicants' profiles.

- **Applicant;**

- **Interpreter:** Only present when the applicant requested in written the assistance from an interpreter when lodging the application. Remote interpretation is not typical, interpretation is done through videoconference only when the applicant is in detention and the whole personal interview is conducted by videoconference. The CGRS established a list of freelance interpreters and chooses the interpreter for the specific assignment from this list. All interpreters go through a selection interview, a security clearance and have to sign a code of conduct. Interpreters must speak both

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the source and the target language, be at least 21 years of age, reside legally in Belgium or another EU Member State and not have an ongoing asylum application. Training courses for interpreters are organized on a regular basis, but until the end of 2024 this did not happen systematically Starting in 2025, all new interpreters will receive basic training focused on asylum procedure, deontology, note-taking techniques and terminology.

If the claim is gender-related and if the applicant has expressed a specific wish about the sex of the interpreter, the CGRS will, when designating the interpreter for the personal interview, accommodate, to the extent possible, the wish of the applicant. The applicant can also ask for another interpreter at any moment of the interview, based on a valid reason. If the CGRS cannot designate an interpreter speaking the required language, it can request the applicant in the invitation letter to bring his/her own interpreter. The interpreters' work is guided by the CGRS publication "Code of Conduct for Interpreters".

- **Lawyer:** presence is permitted, but not required. Obligatory only when an accompanied minor lodges an asylum application in his/her own name. The lawyer cannot intervene during the interview, but he/she can add comments on the content and on the course of the interview at the end.

- **Person of trust:** Usually presence permitted, but not required. Obligatory only when an accompanied minor lodges an asylum application in his/her own name and has earlier designated a person of trust. Article 1/1 6° of the Royal Decree on CGRS Procedure defines a person of trust as a person chosen by the applicant, who assists him/her during the asylum procedure on the basis of his professional knowledge. These persons are typically social workers, representatives of asylum NGOs (but not volunteers), psychologists or therapists. The person's main task is to provide moral and practical support to the applicant. He/she cannot intervene during the interview, but he/she can add comments on the content and on the course of the interview at the end. The caseworker, for reasons of confidentiality or privacy, may refuse the presence of a person of trust.

- **Other persons accepted by the case officer:** When the case officer deems that such person's presence is necessary for an adequate examination process. Thus, for example the presence of other family members (both adult and minor) is considered on a case-by-case basis.

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Children older than 1 year typically cannot attend the interview and the convocation letter includes an advice not to bring children to the interview. There is a special children's waiting room at the CGRA, but applicants should arrange themselves for supervision for the time of the interview.

Belgium does not apply the concept of dependent adult applicant. Each adult applicant undergoes a separate personal interview.

Structure/steps of the interview: Interviews last maximum 4 hours, which can be exceptionally extended with half an hour, if the nature of the file requires so and if the interpreter agrees to the extension. A 15-minute break is foreseen after every 1.5 hour, but more frequent breaks can be used when the circumstances require so, for example in the case of traumatised applicants or of UAMs. An interview typically takes 3.5 hours.

Case officers use an interview template, which is different for adults and for children, but the main structures of the interview are similar:

- Introduction, which aims to provide information about the aim and course of the personal interview, underline the applicant's rights and obligations related to the personal interview, record the applicant's personal details, confirm that the applicant understands the interpreter and inquire about the condition of the applicant.
- The main part of the interview, which follows a flexible format with the objective to cover all crucial elements for the asylum application. When the case officer discovers contradictory or improbable elements during the interview, they are obliged by Belgian law to give the opportunity to the applicant to clarify them.
- End of the interview, which follows again a fixed pattern: the case officer runs through the interview report and checks if all the elements were sufficiently clarified, asks the asylum seeker whether he/she would like to raise any other crucial points related to the claim, asks the lawyer and/or the person of trust is they have any additional remarks, questions and finally notes the duration and end time of the interview. The explicit approval of the applicant is not requested to the interview report.

The CGRS may invite the asylum seeker for a second interview to collect more information.

Audio/Video recording and written report: The Aliens Law requires the case officer to write down the asylum seeker's declarations: the transcription has to

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truly reflect the case officer's questions and the applicant's answers. The CGRS Interview Charter clarifies that the report has to duly and faithfully represent the course and content of the interview and requires the case officer to avoid summarizing and to write down the applicant's declarations verbatim. The relevant Royal Decree further lists some standard elements that the report has to include, such as the personal details of the applicant, the language of the interview, information on other persons present during the interview, the interview's length and any eventual incidents during the interview.

Currently, the Aliens Law does not foresee the possibility of audio recording. The CGRS ran a pilot project (AMIF) to examine how the personal interview for children below 12 could be conducted in a more child-friendly manner. One of the avenues explored in this context was the making of audio recordings of the personal interview. Using this method was aimed at reducing the distance between the protection officer and the child allowing for more interaction, to avoid weakening the child's attention span, and to be more attentive to the child's non-verbal communication. After a testing phase, it was concluded that in the future the practice could be implemented for children below 12.

Postponing the personal interview: If the applicant cannot attend the interview for a reason beyond his control, he/she must inform the CGRS the latest by 15 days after the appointment's date (within 2 days, when the information in the administrative file suggests that there is ground for inadmissibility or for acceleration, or within 1 day, when the applicant makes a subsequent application and he/she is in detention or is subject to another form of security measure) and send his justification in written. The CGRS examines the submitted justification and decides whether to invite again the applicant for an interview or to send a query for further information. The interview is postponed when the guardian of an unaccompanied child is not available. A lawyer's absence at the personal interview is not a valid reason to postpone the interview. The presence of a lawyer is legally required only when a minor applicant has the first personal interview.

Failure to appear: When the applicant does not show up for a personal interview and does not provide a valid reason for his/her absence to the CGRS within 15 days (within 2 days, when the information in the administrative file suggests that there is ground for inadmissibility or for acceleration, or within 1 day, when the applicant makes a subsequent application and he/she is in detention or is subject to another form of security measure), the CGRS may either take a decision to discontinue the examination, or it can also reject the

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application, if the administrative file has enough information to that effect.

Other aspects

Second or follow-up personal interview: The CGRS may invite the asylum seeker for a second interview to collect more information.

Special asylum procedures at first instance

Admissibility procedure

Legal basis and grounds

Article 57/6/(3) of the Aliens Law stipulates the grounds on which a decision can be considered inadmissible. These include the following grounds:

- The applicant enjoys protection in a first country of asylum;
- The applicant comes from a safe third country;
- The applicant has international protection status in another EU Member State;
- The applicant is a national of another EU Member State or of a country with accession treaty to the EU;
- The applicant submitted a subsequent application with no new elements;
- The applicant is a minor dependent who, after a final decision on the application lodged on his/her behalf, lodges a separate application without justification.

Competent authority and other stakeholders

The competent authority in determining the admissibility of applications for international protection is the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) | Commissariat Général aux Réfugiés et aux Apatrides (CGRA) | Commissariaat-generaal voor de Vluchtelingen en de Staatlozen (CGVS).

Procedural aspects

The procedure to decide on admissibility is part of the regular procedure and typically the same rules guide both. However, a few differences apply, such as

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the applicable time limits and the possibility to omit a personal interview in the case of subsequent applications.

Decision and time limits to decide

The decision is taken typically within a short timeframe: 2 working days for subsequent applications from applicants in detention, 10 working days for subsequent applications and 15 working days for other cases. The regular time-limit of 6 months applies for cases when the applicant already enjoys protection in a first country of asylum.

The decision is either a:

- decision on inadmissibility;
- decision on admissibility: only for subsequent applications and for accompanied minors, in case it is impossible to take an inadmissibility decision.

Appeal

The decision can be appealed before the CALL within 10 days. For subsequent applications submitted by applicants in detention, the time limit to appeal the decision is 5 days. The CALL has 2 months to decide on the appeal. As regards the suspensive effect of the appeal on admissibility decisions, the reform of the Aliens Act in 2017 rendered all appeals suspensive and on the merits, with only few exceptions. These exceptions include appeals against inadmissibility decisions on subsequent applications, provided that: (a) the CGRS deems that there is no risk of direct or indirect refoulement and (b) the application is either (i) a second application within one year from the final decision on the previous application and made from detention, or (ii) a third or further application.

Impact on reception conditions

Certain applicants in the admissibility procedure are not entitled to reception. In accordance with Article 4(1) Reception Law (Loi du 12 janvier 2007 sur l'accueil des demandeurs d'asile et de certaines autres catégories d'étrangers | Wet van 12 januari 2007 betreffende de opvang van asielzoekers en van bepaalde andere categorieën van vreemdelingen) the following applicants **may be** excluded from the right to reception:

- The applicant has international protection status in another EU Member State;

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- The applicant is a national of another EU Member State or of a country with accession treaty to the EU;
- The applicant submitted a subsequent application;
- The applicant is a minor dependent who, after a final decision on the application lodged on his/her behalf, lodges a separate application without justification.

Accelerated procedure

Legal basis and grounds

The legal basis for the accelerated procedure is laid out in Article 57/6/1/(1) Aliens Law, which refers to the following criteria:

- The applicant, in submitting his or her application and presenting the facts, has only raised issues that are not relevant to the examination of whether he or she qualifies as a beneficiary of international protection;
- The applicant comes from a safe country of origin;
- The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity and/or nationality that could have had a negative impact on the decision;
- The applicant has likely in bad faith destroyed or disposed of an identity or travel document that would have helped establish his or her identity or nationality;
- The applicant has made clearly inconsistent, contradictory, clearly false or obviously improbable representations which contradict sufficiently verified country-of- origin information, thus making his or her claim clearly unconvincing in relation to whether he or she qualifies as a beneficiary of international protection;
- The applicant has made an admissible subsequent application;
- The applicant has made an application merely in order to delay or frustrate the enforcement of an earlier or imminent removal decision;
- The applicant entered the territory irregularly or prolonged his or her stay irregularly and without good reasons has failed to present him or herself to the authorities or apply for international protection as soon as possible;
- The applicant refuses to comply with the obligation to have his/her fingerprints taken;

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- The applicant may, for serious reasons, be considered a danger to the national security or public order, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.

Competent authority and other stakeholders

The competent authority in determining the accelerated procedure for applications for international protection is the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) | Commissariat Général aux Réfugiés et aux Apatrides (CGRA) | Commissariaat-generaal voor de Vluchtelingen en de Staatlozen (CGVS).

Procedural aspects

The duration of the accelerated procedure is 15 working days (starting from the date of transfer of the file to the CGRS or, in case of an admissible subsequent application, from the day the subsequent application was declared admissible). Applicant channelled through the accelerated procedure also undergo a person interview, with the same rules applying as for the regular procedure. Certain categories of applicants are exempt from this procedure. For example, if the CGRS considers that an applicant has special procedural needs, which are incompatible with the accelerated procedure, it can decide not to apply this procedure. This is the case in particular for victims of torture, rape or other serious forms of psychological, physical or sexual violence. The general policy for applicants with special needs apply to unaccompanied children, leading to the fact that they typically go through the regular procedure in practice, and accelerated procedure is usually not applied.

Decision and time limits to decide

In the accelerated procedure, the CGRS takes the same decisions as in the standard procedure (granting, refusal, or exclusion from protection status). It does not include a return decision

If international protection is refused, the CGRS may consider this request to be manifestly unfounded. This has no consequences for the asylum procedure itself, but it does affect the time limit stated in the order to leave the territory by the Immigration Office. In this case, the order to leave the territory expires after 0-7 days (instead of 30 days), which will also end the right to reception.

The CGRS takes a decision in accordance with the accelerated procedure within 15 working days of receiving the file from the Immigration Office or from the day

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after the subsequent request was declared admissible by the CGRS.

This processing period of 15 working days is again an indicative period. If it is exceeded, it does have consequences for the appeal period before the CALL.

An appeal may be lodged with the CALL against a decision of the CGRS in an accelerated procedure. The appeal must be lodged within 10 days of notification of the decision if the CGRS has respected the processing period of 15 working days. If this is not the case, the appeal period is 30 days.

Appeal

The decision can be appealed before the CALL within 10 days – when the CGRS respected the 15-day processing period. Otherwise, the time limit is 30 days. The CALL has a time limit of 2 months to rule on the appeal, which has a suspensive effect. Applicants may lodge an onward appeal before the Council of State.

Impact on reception conditions

There is no specific impact on reception conditions for applicants channelled through the accelerated procedure. Applicants are entitled to reception until a decision is rendered, in the same facilities as those applicants following the regular asylum procedure.

Border procedure

Legal basis and grounds

The legal basis for the border procedure is found in Article 49/3/1 of the Aliens Act. The procedure is applied at the external borders or in transit zones, for persons without the required travel documents or who do not fulfil the other conditions envisaged in the Schengen Borders Code. They are refused entry to Belgium and are notified of a decision of refusal of entry and refoulement by the Immigration Office (so-called “Annex 11 - refusal of entry”). Such persons may decide to lodge an application for international protection, in which case the execution of the decision of refoulement is suspended, according to article 49/3/1 of the Immigration Act.

Competent authority and other stakeholders

The competent authorities responsible for handling the border procedure are the:

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Immigration Office (IO) | Office des étrangers | Dienst Vreemdelingenzaken and the

Office of the Commissioner General for Refugees and Stateless Persons (CGRS) | Commissariat Général aux Réfugiés et aux Apatrides (CGRA) | Commissariaat-generaal voor de Vluchtelingen en de Staatlozen (CGVS).

Procedural aspects

The procedure itself is similar to the regular one. However, the CGRS typically treats these cases with priority, as applicants are detained in a closed centre during the examination period and the time limit for detention is four weeks. The CGRS firstly examines whether the application is admissible and whether it can be treated under the accelerated procedure. If none of these conditions apply and the CGRS decides that further investigation is necessary on the merits of the case, the applicant is allowed to enter the territory. Otherwise, the applicant remains in border detention until the first instance decision of the CGRS. If such decision is not taken within 4 weeks, the applicant is admitted to the territory. The decision to further assess the application is a non-motivated intermediate decision. This decision grants the applicant access to the territory. The decision to further assess the application has no impact on the nature of the final decision.

After the Immigration Office transfers the file to the CGRS, a protection officer interviews the applicant. In principle, the CGRS always invites the applicant for a personal interview, with the possible exception of a subsequent application. The shortened invitation period of two days is possible if the procedure of inadmissibility or the accelerated procedure is applied.

The law foresees that the CGRS will not apply the border procedure in case it is of the opinion that the applicant has special procedural needs, in particular in the case of torture, rape or other serious forms of violence, which are incompatible with an accelerated or border procedure.

When there are special procedural needs which would entail a restriction of the applicant's rights or would prevent the applicant from fulfilling the obligations under the asylum procedure the border procedures will not be applied. These applicants go through the regular procedure then. The CGRS assesses this on an individual basis. The assessment of the special procedural needs remains valid for any subsequent application, unless new significant information emerges that requires an update to the previous assessment.

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Decision and time limits to decide

The following decisions can be taken:

- granting refugee status;
- refusing refugee status and granting subsidiary protection status;
- inadmissibility;
- decision of refusal in one of the situations enabling the application of an accelerated procedure: If the application is rejected, the suspension on the “decision of refoulement” falls, and the persons concerned can be removed from Belgium under the responsibility of the carrier;
- decision to further assess the application: non-motivated intermediate decision, granting access to the territory for the applicant.

The CGRS has 4 weeks to decide on applications in the border procedure. If the CGRS does not take a decision within four weeks, the applicant will be granted access to the territory.

Appeal

The decision can be appealed before the CALL within 10 days or within 5 days for inadmissible subsequent applications from detention. The CALL has 13 days to rule on the appeal. The appeal has a suspensive effect, except for when the appeal is against inadmissibility decisions on subsequent application submitted within the border procedure, provided that: (a) the CGRS deems that there is no risk of direct or indirect refoulement and (b) the application is either (i) a second application within one year from the final decision on the previous application and made from detention, or (ii) a third or further application. Filing a third application is not suspensive, including the appeal procedure in full jurisdiction, if: the applicant, prior to his second application and ever since, has been detained without interruption; as part of this second application, an inadmissibility decision has been taken and the principle of non-refoulement has not been violated.

Impact on reception conditions

Most applicants from the border are held in a specific detention centre near Brussels Airport (“Caricole”). They may also so be held in a closed centre located within the national territory, however legally they are considered not to have entered the territory. Families with children are accommodated in so-called open housing units, more adapted to their specific needs, but which are legally still considered to be border detention centres.

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Subsequent application procedure

Legal basis and grounds

The legal basis for subsequent application is Article 57/6/2 of the Aliens Law.

Competent authority and other stakeholders

The competent authority for processing subsequent applications is the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) | Commissariat Général aux Réfugiés et aux Apatrides (CGRA) | Commissariaat-generaal voor de Vluchtelingen en de Staatlozen (CGVS).

Procedural aspects

The CGRS first and foremost assesses if new elements or facts that make the granting of a protection status more likely, are available or being presented by the applicant. The CGRS can take either an admissibility or inadmissibility decision. In principle, these decisions are taken within ten working days after the file has been received from the Immigration Office. If the applicant is detained, the CGRS decides within two working days after the file has been received. In principle, these decisions are taken on the basis of the administrative file, without a personal interview. If the applicant is nevertheless invited to a personal interview, the period between the sending of the invitation and the personal interview is at least two days and at least one day if the applicant is detained. After an admissibility decision is taken, the subsequent application is processed on its substance. When doing this, the CGRS has the possibility to use the accelerated procedure. A personal interview may be omitted, when the CGRS considers a decision can be reached based on the complete examination of the facts transferred by the Immigration Office.

Decision and time limits to decide

The CGRS is required to take a decision on admissibility within 10 days for applicants on the territory and 2 days for subsequent applications from applicants in detention. When the application is declared admissible, the CGRS may examine the merits within an accelerated procedure and take a decision within 15 working days of the admissibility decision. The application can be considered admissible If the CGRS concludes that the new elements considerably enhance the chance of a protection status being granted or if in the past, only a

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decision discontinuing the application was taken, the CGRS decides that the subsequent application is admissible. This decision is not motivated. Decisions on inadmissibility can be taken if the CGRS concludes that the new elements do not considerably enhance the chance of granting protection status. In this decision, the CGRS indicates if a refoulement or removal violates the principle of non-refoulement on the basis of the assessment made in the light of the Geneva Convention and the definition of subsidiary protection.

Appeal

Based on Aliens Act, Article 39/2, a negative decision on a subsequent application may be appealed before the CALL, either within 10 days for applicants on the territory, or 5 days for applicants in detention. The CALL must decide on the appeal within 2 months for inadmissibility decisions, or within 10 days, when the applicant lodges an appeal against the inadmissibility decision of a subsequent application while in detention. The reform of the Aliens Act in 2017 rendered all appeals suspensive and on the merits, with only few exceptions. These exceptions include appeals against inadmissibility decisions on subsequent applications, provided that: (a) the CGRS deems that there is no risk of direct or indirect refoulement and (b) the application is either (i) a second application within one year from the final decision on the previous application and made from detention, or (ii) a third or further application. Filing a third application is not suspensive, including the appeal procedure in full jurisdiction, if: the applicant, prior to his second application and ever since, has been detained without interruption; as part of this second application, an inadmissibility decision has been taken and the principle of non-refoulement has not been violated.

Impact on reception conditions

By policy, applicants are not entitled to material reception conditions, until the subsequent application is considered admissible. Once the subsequent application is considered admissible, applicants have the right to material reception conditions as any other applicants until a final decision is taken on their application (including appeal).

Last-minute application pending removal

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

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Last-minute applications may occur in detention. Consequently, the international protection requests are processed through an accelerated procedure. If the CGRS cannot take a decision within the detention period (which is normally 2 months, eventually “suspended” with a maximum period of 10 days for the lodging of an appeal), the concerned person will no longer be detained, unless it concerns a person with serious public order issues or considered to be a danger for the national security, where a detention can be prolonged up to 6 months.

In the case of a first international protection request, the case has to be investigated on its merits, interviews have to be carried out, and a suspensive appeal is possible. A case-by-case risk assessment during which the detention centre and removal unit share information is made to evaluate whether a third-country national will apply for international protection or not. If the Immigration Office thinks that an international protection request will be lodged within 48 hours prior to removal, the Immigration Office will send a warning towards the Commissariat General for Refugees and Stateless Persons (CGRS).

Last-minute applications lodged as subsequent applications pending a removal

For the persons who have received a return decision, a considerable percentage will apply once they know that the removal is imminent, but there are also a lot of third country nationals who apply for asylum once a detention decision is taken, or once they know they have to go to an interview at the embassy.

A case-by-case risk assessment during which the detention centre and removal unit share information is made to evaluate whether a third-country national will apply for international protection or not. If the Immigration Office thinks that an international protection request will be lodged within 48 hours prior to removal, the Immigration Office will send a warning towards the Commissariat General for Refugees and Stateless Persons (CGRS).

If it concerns a second subsequent international protection in detention, there is even no necessity to wait for a first instance decision. The legal provisions set the following requirements for this: 1.) In the context of the previous application, it was considered that an expulsion or return measure would not result in a violation of the principle of non-refoulement; 2.) the applicant has made a second subsequent application or more; 3.) the applicant has been in a specific place (detention centre) prior to making the previous application and has since then resided there in an uninterrupted manner. If there are clear new elements in the subsequent application, the Immigration Office waits for the issuance of the

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decision. This possibility was used in cases where it was evident that the only reason of the subsequent request for international protection was to abort the removal decision.

Due to clear and rapid communication with the CGRS, in many cases a last minute first instance decision for the subsequent international protection requests were timely issued so that the removal could be carried out.

In some cases, the case has to be investigated on its merits, interviews have to be carried out, and a suspensive appeal is possible.

Safe country concept

Safe country of origin

The safe country of origin concept is envisaged in Article 57/6/1 (3), Aliens Law. The criteria for designating a country as a safe country of origin follow Annex I of the recast Asylum Procedures Directive.

The list containing safe countries of origin is updated at least once a year by a Royal Decree. A joint proposal is made by the Minister competent for Asylum and Migration and the Minister of Foreign Affairs based on detailed advice from the CGRS. The list is then adopted by the Council of Ministers. The first list was adopted on 26 May 2012 December 2017 by Royal Decree implementing Article 57/6/1, paragraph 4, of the law of 15 December 1980 on access to the territory, residence, establishment and expulsion of foreigners, establishing the list of safe countries of origin.

The list was last updated on 12 May 2024 (published in the official journal on 27 May 2024) by a Royal Decree and includes the following countries: Albania, Bosnia and Herzegovina, India, Kosovo, Montenegro, North Macedonia, Serbia and Moldova.

Applicants from safe countries of origin are channelled through the accelerated procedure.

Safe third country

The safe third country concept is envisaged in Article 57/6/6, Aliens Law.

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The concept was introduced in law in March 2018, however a list of safe third countries has not been adopted as there is no legal provision providing for the designation of a national list. Thus, the concept is applied in practice on an ad hoc basis to a limited extent, mainly for applicants having resided in Switzerland and Norway.

The definition and criteria follow Article 38 of the recast Asylum Procedures Directive. The individual assessment must be based on several information sources, in particular from other EU Member States, the EUAA, UNHCR, the Council of Europe and other relevant international organisations. When evaluating the relationship between the applicant and the third country, all relevant facts and circumstances are assessed, including the nature, duration and circumstances of the previous stay.

The admissibility procedure is applied when the concept is applicable.

The Explanatory Memorandum to the relevant amendment explains that the authorities need to examine if it can be presumed that the applicant would be admitted to the territory of the third country. The applicant has the possibility to overturn this presumption and provide elements showing that their access would be denied.

The concept applies to applicants with special needs as well, including for unaccompanied minors.

First country of asylum

The concept of first country of asylum is envisaged in Article 57/6 (3)1, Aliens Law and is applied in practice. The criteria taken into consideration when applying the concept of first country of asylum follow Article 35 of the recast Asylum Procedures Directive. The concept applies to applicants in the regular procedure as a possible ground for inadmissibility. The decision can be appealed, following the rules for an appeal against an inadmissibility decision.

European safe third country

The concept is not envisaged in the law or applied in practice.

Assessment of an application at first instance

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Legal provisions relevant for an assessment

Articles 48/3 – 48/6 of the Aliens Law provide for the assessment of an application for international protection.

Competent authority for the assessment

The case officer who conducts the personal interview, as a general practice, also assesses the asylum application: he/she drafts a decision, which is reviewed and approved by a supervisor.

The work of case officers is organised within the CGRS under the Processing of Applications department in the following units:

- Africa;
- Middle East/Asia;
- Eastern Europe;
- Balkans;
- Congo (DRC);
- Project: assisting other sections depending on the influx of applications and the countries of origin of the applicants.
- STAR(T): specific unit, in which newly recruited case workers are trained for a period of six months, after which they will be deployed in one of the other units.

These units receive assistance from the Support for Processing Applications department, where three units are particularly relevant for the applications' assessment:

- CEDOCA: The research desk of CGRS, gathering and analysing COI.
- Dossier Coordination: Ensures consistency of practice on particular issues, including: gender, UAM, public security/human trafficking, subsidiary protection.
- Legal service: Reviews jurisprudence and develops horizontal guidelines.

Next to geographical specialisation, some case workers are also specialised in applications from children and in gender-related cases.

Required qualifications: According to the job specifications on the CGRS's website, the case worker is required to have a university degree, needs to have a

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profound interest in human rights and international affairs and needs to have excellent editorial skills. They should be able to work in customer-oriented and objective way.

The recruitment process is organised in 2 phases: the first phase is undertaken by a national government selection agency and consist of a computer-based situational assessment test and a verbal reasoning test. These tests assess the behavioural competencies Critical Thinking, Solution Orientation, and Results Orientation. The asylum authority is represented in the second phase of the selection process. The second phase consists of a case study or written assignment to test the candidates' editorial skills and an interview, during which the behavioural competencies of teamwork, results oriented, and agility are assessed.

Training: New case officers receive a basic national training, lasting around one month, including EUAA training modules on Inclusion, Interview techniques and Evidence assessment. Furthermore, the protection officer must acquire a thorough knowledge of the countries of origin of the applicants he will deal with. After the end of this transversal training, the new employee will have to take a test to assess basic knowledge and identify any skills to be further developed. They are then integrated into the START unit (created in 2023) to continue their on-the-job training accompanied by a supervisor/coach for around 6 months. At this point they can be transferred into other departments.

Employees are continually supported in the achievement of their tasks and duties and the development of their skills through a federal evaluation and monitoring system. This makes it possible to quickly identify any difficulties encountered and to provide more personalised support for each employee. In addition, as a learning organisation, the CGRS is committed to organizing ongoing training throughout its employees' careers, thereby making use of the EUAA training Curriculum.

Quality review/assessment: Quality review is conducted by supervisors, who have both coaching and evaluating tasks, but they are rather supposed to provide the necessary support to case officers instead of extensive supervision of their work. The Coordinator gender and Coordinator children are responsible for the quality monitoring of the assessment of gender-related cases and cases of (unaccompanied) children The legal department has a helicopter view on the quality of decisions and are therefore able to map systematic errors or shortcomings. Based on their assessment, measures will be taken to increase the quality of decision-making.

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Grounds

Grounds for refugee protection are outlined in Article 48/3 of the Aliens Law. Articles 48/4 and 48/5 of the Aliens Law stipulates the grounds relevant to subsidiary protection status. The content of the Articles follows the grounds for refugee status and subsidiary protection as found in the 1951 Geneva Convention and the recast Qualifications Directive.

Acts of persecution are defined in the Aliens Law, Article 48/3 (2) as:

(a) sufficiently serious by their nature or repetition to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or

(b) an accumulation of various measures, including violations of human rights, which is sufficiently severe as to affect an individual in a similar manner as mentioned in paragraph (a).

The following are examples of acts which may amount to acts of persecution according to Article 48/3 (2):

(a) acts of physical or mental violence, including acts of sexual violence;

(b) legal, administrative, police or judicial measures, or a combination of these measures, that are in themselves discriminatory or are implemented in a discriminatory manner;

(c) prosecution or punishment that is disproportionate or discriminatory;

(d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;

(e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts of a kind referred to in Section 10(2); and

(f) acts of a gender-specific or child-specific nature.

Article 48/4 and 48/6 of the Aliens Law stipulates the grounds relevant to subsidiary protection status, identifying as acts of serious harm:

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(a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of the applicant in his or her country of origin; or (c) serious threats to the life or person of a civilian as a result of indiscriminate violence in the event of an internal or international armed conflict.

Guidelines for case officers

The CGRS uses and further builds on the guidance provided by EUAA, UNHCR and other relevant organisations.

National policy guidance is structured along:

- horizontal themes: for example, gender-related persecution, FGM, internal flight alternative, accompanied and unaccompanied minors;
- countries of origin: definition of a policy towards certain profile of applicants from one country or establishing a policy concerning the security situation for all civilians regardless of their specific profile.

These documents are communicated to the case workers via training and are available on InSite, the documentary intranet of CGRS.

Credibility assessment

Reference to the credibility assessment in national legislation is found in Article 48/6 of the Aliens Law.

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

In the absence of documentary or other evidence, the assessment of facts and circumstances follow the criteria enshrined in the recast Qualification Directive. In this regard, Article 48/6 specifies that the following cumulative criteria must be met to establish credibility:

(a) the applicant has made a genuine effort to substantiate the claim;
(b) all relevant evidence available to the applicant has been presented and a satisfactory explanation has been provided for the lack of other evidence;
(c) the applicant's statements are found to be consistent and plausible and are not contradicted by general and specific information known and relevant to the

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application;
(d) the applicant has submitted his or her application for international protection as soon as possible, unless he can give good reasons for not doing so;
(e) the applicant's overall credibility could be established.

Time limit for submitting evidence during credibility

The applicant can submit additional pieces of evidence until the decision is made. However, he/she always needs to submit these elements as soon as possible, as late submission has an overall negative effect on the credibility of the applicant. In any case, the case officer only takes into account these additional elements if they are submitted in due time.

The CGRS adjusted the procedure for submitting documents in support of an application on 1 March 2023, and made amendments to this process on 15 May 2023. These changes did not have an impact on the time limit, but rather on the allowed format.

COI research

Case workers have access to the research and COI produced by the CEDOCA via Insite, the documentary intranet of the CGRS.

Applicants can request a copy of the pieces of evidence used by the CGRS (including the relevant COI), which are annexed to the administrative file.

Decision and outcomes

As the result of the assessment, the CGRS can adopt the following types of decisions:

- Granting refugee status;
- Granting subsidiary protection status;
- Refusal to grant international protection.

Decisions granting a refugee status are limited to the mere statement that the applicant receives the refugee status. Decisions granting subsidiary protection, but refusing refugee status, only contain a motivation regarding the refusal of the refugee status. A rejection decision to grant both refugee status and subsidiary

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protection is extensively motivated.

All decisions are signed by the Commissioner General, his deputy or a mandated staff member who has an A3 level (senior). The annex of the negative decisions includes information about the possibility to appeal (name and address of the appealing authority, time limits for lodging an appeal), the consequences of not lodging an appeal, access to free legal aid, the possibility to apply for assisted voluntary return and the possibility and modalities to consult and request a copy of the administrative file. A return order is not issued together with a negative decision.

In the case of a family unit, a single decision is issued.

The decision is sent by registered mail to the applicant to the address of his chosen residence. The CGRS can also directly notify the applicant, but this happens rarely. A copy is sent to the applicant's eventual effective residence and to his/her lawyer by email. When applicants are accommodated in a reception facility or when they are detained, the decision is sent by email requesting acknowledgement of receipt An employee of the centre (a social worker or a guard) will hand it over to the applicant. If the applicant is in prison, the decision is sent by email and by registered mail. The decision on granting refugee status or subsidiary protection is completed by information brochures on the corresponding rights and obligations.

There are no time limits envisaged in national law for the competent authority to notify a decision once the decision has been signed.

In the case of minors, decisions will be sent to an unaccompanied child by regular mail (letter) and to the guardian by registered letter and regular mail. The lawyer will receive a copy by email. Accompanied children usually do not receive a separate decision: a decision is taken concerning the application of the parent(s); this decision is also valid for the child(ren). In the exceptional case a separate decision is taken for the accompanied child, the child and the parent receive the decision by post, by regular mail to the child and by registered letter and regular mail to the parent.

COI units

Background information

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The COI Unit, called Cedoca, was established in 1994. Its legal basis is Articl 3(1) of the Royal Decree on the CGRS, which stipulates that an internal documentation and research service will be set up within the CGRS to support the processing of asylum applications.

Structure and capacity

Organisation: Cedoca (Documentation and Research Centre) is the research desk of the Office of the Commissioner-General for Refugees and Stateless persons (CGRS), which has a team of researchers and a library. Cedoca gathers and analyses information on countries of origin of applicants and provides this to internal end-users. Since 2018, a New Media Unit was established, consisting of around 10 full-time experts on new media research and around 7 part time employees, including; 3 COI experts with advanced knowledge on the use of social media.

Mandate and tasks: Cedoca provides country-based information in an objective and neutral manner. Cedoca structures information on countries and ensures that end-users can access it. Cedoca rapidly and effectively anticipates the information needs of, primarily, the protection officers in geographical sections. The legal service also requests Cedoca, often with very short deadlines, to provide detailed or up-to-date information for the purpose of defending asylum decisions for the Council of Alien Law Litigation (CALL). Upon request and after written authorisation is granted, Cedoca can provide information to the Immigration Office (IO), the guardianship service and the offices of the public prosecutor.

Cedoca maintains contact with national and international partners for tasks such as verifying identity documents, carrying out visa checks and comparing fingerprints. COI experts bundle the information on countries into two types of products:

- COI Case contains information that is relevant for a specific file
- COI Focus contains information that is useful for more than one application file and covers a particular theme.

Cedoca includes all country information in InSite, the CGRS' documentary intranet. This information is grouped by geographical region and divided per country. The internal end-user can search by country or theme.

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COI experts have regular meetings with the geographical sections and organise country and theme-related briefings and training for protection officers. They regularly invite experts to provide lectures. Cedoca has blogs on most countries on the intranet.

Staff capacity: Cedoca encompasses 36 employees, 25 COI experts, 3 new media experts and 6 research assistants. Cedoca is headed by the head of department, assisted by the deputy head. Information is collected through an extensive contact network (national and international) using the press, academics, investigative reports and analyses by NGOs and international organisations, journals, books, the Internet and social media. COI experts are also in touch with European organisations and the EUAA.

Requirements: COI experts have a Master's degree (linguists, historians, journalists, lawyers, etc.). They must be fluent in French, Dutch and English. Knowledge of regional languages, such as Russian and Arabic, are an added-value. Most COI experts have some years of experience as a protection officer.

Regular training updates: Regular training on the use of new media, search techniques and other training upon individual request. New COI experts receive in-house training and a coach.

COI products

Type of COI products produced and frequency: COI experts gather information about countries in different areas:

- COI Case contains information that is relevant for a specific file: about 200-250 per year.
- COI Focus contains information that is useful for more than one application file and covers a particular theme: about 250-300 per year. In 2021: 367 papers.
- Safe countries papers: +/- 10
- Q&A new media (e.g. check Facebook and other social media): +/- 375 in 2021
- Country briefings and trainings: +/- 40 in 2021
- Country blogs: News blogs on 29 countries on a regular basis (minimum 1 per country per month)
- Conferences with external speaker: 1 in 2021
- New media and online search trainings: +/- 10

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- Consultancy: daily

Maps of security levels in countries of origin: on demand.

COI Products with a specific focus (regional, thematic including medical, group/profile): Cedoca has specific templates for: LGTBQI, FGM/C, forced marriages, security situation, return of rejected applicants, no MEDCOI.

Country Guidance/Policy briefings and similar products produced: Cedoca provides country-based information in an objective and neutral manner. Cedoca structures information on countries and ensures that end-users can access it. However, there's a close collaboration and frequent meetings with policy, and policy is partially based upon COI.

Other types of outputs:

- Document authentication in collaboration with the federal police: +/- 50
- Visa check : +/- 475
- Check 3rd country: +/- 700

Languages:

- Input: English, French, Dutch, Arabic, Russian, Spanish.
- Output: Dutch, French and sometimes English.

Methodology and sources: Information is collected through an extensive contact network (national and international) using the press, academics, investigative reports and analyses by NGOs and international organisations, journals, books, the Internet and social media. COI experts are also in contact with European organisations and the EUAA.

Quality check: To edit COI products, Cedoca uses a style guide (FR). Cedoca follows the EU guidelines from April 2008 for processing country-based information, which focus on neutrality, objectivity and transparency. Every COI product indicates the quality criteria which are being fulfilled in relation to methodology, content and language. The style guide guarantees a uniform application of these quality criteria. There's a peer review for COI Focus and editing if it is published on the website. If the COI is directing towards a change of policy, COI Focus is also reviewed by the legal department and policymakers.

Other aspects of COI units

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There is a close, informal and daily collaboration between Cedoca and policy/case officers. Priorities are set after consultations with the heads of geographical divisions and the board of directors. There are monthly meetings between the head of Cedoca and the Geographical Coordinators. The whole organisation (CGRS) is located in the same building which fosters close collaboration.

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