



Ad-Hoc Query on the Needs of Accelerated Border Procedure at the Airports

Requested by BG EMN NCP on 15th February 2010

Compilation produced on 1st April 2010

Responses from Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, Germany, Latvia, Lithuania, Hungary, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain (15 in Total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

1. Background Information

The Republic of Bulgaria does not operate border procedures at the airports yet. The Methodology of Procedure and Legal Representation Directorate of the State Agency for Refugees with the Council of Ministers is looking for EU best practices regarding accelerated border procedure at the airports aiming to address existing gaps in national asylum system in the field.

It would be very much appreciated if we could receive our answers by **15 March 2010**.

2. Responses

		Wider Dissemination? ¹	<ol style="list-style-type: none"> 1. Where exactly at the airports the accelerated border procedure is carried out? At the special centre or in special rooms at the airport? Who guards the foreigners and who covers their needs of food? Which is the legal base that gives the authority the possibility to keep the aliens at the airports? 2. Who is authorized to implement the accelerated border procedure at the airports: Border Police or only Officials from Asylum Services? 3. Who is paying for the service of the interpreters? 4. From which stage the foreigner has a right to legal aid? Who is paying for it? 5. Which is the deadline for taking decision regarding admissibility of the application in the accelerated border procedure at the airports? 6. Which is the deadline for appealing? Which is the competent body for appealing? Does an appeal have suspensive effect? 7. Which is the deadline for the competent body to judge about the decision of the decision makers/interviewers? 8. Which is the procedure in case of emergency medical needs?
	Belgium	Yes	<ol style="list-style-type: none"> 1. Foreign nationals seeking asylum can apply at the airport, seaport or inside the territory (in Brussels). In the airport the application has to be filed with the border authorities (Border Police), who will contact the Immigration Department. In reality, those who apply at the airport are foreigners who lack the necessary entry documents. Pending further examination of the application, these people are detained at the border in a closed reception centre (Artikel 74/5 §1 2° Aliens Act), more precisely in the 127 Transit Center in Zaventem (close to the airport) or the Repatriation Center 127bis in Steenokkerzeel (close to the airport), or, in case the applicants are minors, to 8 housing units in Zulte (Flanders) and 5 flats in Tubize (Wallonia), as minors cannot be detained in closed centres. 2. An accelerated procedure is applied in these cases (closed centre). The maximum term for the procedure is two months. The decision by the Commissariat-general for refugees and stateless persons needs to be taken within 15 days. In case of a negative decision, the (suspensive) appeal has to be lodged within 15 days to the

¹ A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

			<p>Aliens Litigation Council, that also has an accelerated procedure for these files: 3 days for the transfer of the file, max. 5 days for the session, decision within 5 days</p> <p>All expenses (food,...) are paid by the Immigration Department (Ministry of Interior).</p> <ol style="list-style-type: none"> 2. Immigration Department (Asylum Department). The border police will only register the application. 3. Ministry of Interior (Immigration Department) 4. From the moment the application is lodged. 5. see 1. 6. see 1. 7. see 1. 8. There is no specific procedure for medical cases. In the closed centers there is medical assistance and in case this would not be sufficient, they are referred to specialists.
	Bulgaria	Yes	The Republic of Bulgaria does not operate border procedures at the airports yet.
	Czech Republic	Yes	<ol style="list-style-type: none"> 1. The procedures at the airports are standard procedures with shorter deadlines. They are carried out in the reception centre in the transit area of the Prague International Airport. The reception centre is in special rooms in the transit area. The foreigners are guarded by the Alien Police. <p>A reception centre at an international airport may also be another asylum facility in case it is impossible to place an alien in a reception centre at the international airport where the alien has made the Declaration on International Protection for the reasons of safety, hygiene, capacity or other similarly serious reasons.</p> <p>The food is provided by the Refugee Facilities Administration of the Ministry of the Interior. The reception centre in the transit area of the Prague International Airport is provided for in the Section 73 of the Asylum Act (Act No. 325/1999 Coll.).</p> <ol style="list-style-type: none"> 2. Asylum officials of the Ministry of the Interior. 3. Ministry of the Interior. 4. The foreigner has a right to legal aid paid by the Ministry from the beginning of his/her staying in the reception center. Actually he/she has had also a right to legal aid since he/she has entered the airport or contacted the police but at his/her own charge.

			<p>The Ministry shall contribute to the payment of costs related to the provision of legal assistance free of charge, to a legal entity or natural person who has entered into a written agreement on the provision of legal assistance with the Ministry. (The applicant has the right to choose another provider of legal assistance, but the costs related to the provision of such legal assistance shall be borne by the applicant.)</p> <p>5. Whether the alien is allowed to enter the territory of the Czech Republic or not must be decided in 5 days. The deadline for decision on the application is 4 weeks.</p> <p>6. The deadline for appealing is 15 days. Regional Court in Prague is the competent body. The appeal has suspensive effect with exception of the procedure is stopped (Section 25 of the Asylum Act).</p> <p>7. There is no deadline set in the law, but the court deals with the case preferentially. There is no special procedure. The foreigner can be transferred to a medical facility in the territory outside the airport, if it is necessary regarding his/her health condition. In the reception center is the rescue service available in situation of emergency. After the foreigners health condition get better and his/her hospitalization is not needed more, he/she come back to the reception center or other asylum facility and the asylum procedure continues. The foreigner is not allowed to leave the medical facility in the time of hospitalization and is escorted by police to and from the medical facility.</p>
	Germany	Yes	<p>The procedure at airports is carried out prior to entry. This procedure, e.g. at Frankfurt Airport, takes place in a building constructed specially for this purpose on the airport premises. The procedure is limited to persons who are not in possession of valid identity documents entitling them to cross the border, or to persons coming from a “safe country of origin”. These persons’ status will be identified by the Federal Police. Accommodation, food and drink as well as medical and other care is within the responsibility of the Federal <i>laender</i> authorities. The legal basis for the airport procedure is Section 18a of Asylum Procedure Act (see annex).</p> <p>2. Initiation of the airport procedure is in the sole responsibility of the Federal Police.</p> <p>3. The German State provides payment for the interpreters from the budget of the respective Federal or <i>land</i> authorities.</p> <p>4. Asylum seekers are entitled to contact a legal adviser of their choice at any time, but they must pay for the legal counsel themselves. If the asylum application was rejected as “manifestly unfounded” by the Federal Office for Migration and Refugees and, as a consequence, entry into Germany must be rejected by the Federal Police, the asylum seeker is entitled to legal counsel by an independent lawyer free of charge, unless he or she has already secured legal counsel. In this case, the lawyer is paid from the budget of the Federal Office for Migration and</p>

			<p>Refugees.</p> <p>5. Upon entry by air route, the foreigner must be given the opportunity by the Federal Police to file an asylum application “without delay”. Also, the interview of the foreigner by the Federal Office for Migration and Refugees should take place “without delay“. After this, the Federal Office must decide on the asylum application within two days, either rejecting the application as being manifestly unfounded or allowing entry into Germany.</p> <p>6. An application for temporary legal remedy pursuant to the Code of Administrative Court Procedure must be filed within three days, the deadline for action on the merits before the Administrative Court is two weeks. The asylum seeker can apply for legal remedy on his own or with the help of a lawyer. Proceedings under temporary relief have suspensive effect by law, i.e. entry refusal of the Federal Police cannot be enforced prior to the court’s decision if the application for interim measures has been lodged in due time.</p> <p>7. The time limit for temporary relief proceedings before the administrative court is 14 days.</p> <p>8. Medical care for persons seeking protection at airports is in the responsibility of the competent Federal <i>land</i>. Asylum seekers needing hospital treatment during the procedure are deemed not to have entered Germany, as long as they are guarded by the Federal Police. The asylum procedure is continued after the applicant’s recovery when he or she was brought back to the transit area of the airport.</p>
	Estonia	Yes	<ol style="list-style-type: none"> 1. Border procedures are carried out in Border Guard’s official premises. Asylum seeker must be provided with alimentation from funds of the Police and Border Guard Board. The person is detained on the basis of Act on Granting International Protection to Aliens. 2. The Police and Border Guard Board. 3. The Police and Border Guard Board. An alien has the right to involve his/her own interpreter on his/her own cost and choice, if this can be done immediately and objectivity of language mediation is guaranteed. 4. For an asylum seeker the legal assistance is guaranteed on part of the state. 5. An asylum seeker is detained for the initial procedures and he/she is obliged to stay in the rooms assigned to him/her. If procedural acts last longer than 48 hours, the asylum seeker is detained by permit of the administrative court. 6. The decision to refuse the issue of a residence permit and a precept to leave issued thereby may be contested with an administrative court within ten days after the date of notification of the decision.

			<p>7. Within 6 months, but in case of manifestly baseless application for asylum, the Police and Border Guard Board may review this in expedited order.</p> <p>8. Everyone has the right to get the first aid. There is an emergency medicine unit at the airport and medical assistance is needed, this is available quickly.</p>
	Finland	Yes	<p>1) Asylum investigation is conducted in accordance with the Aliens Act (310/2004). The Border Guard is responsible for investigating the asylum applicant's identity, travel route and entry in to the country mostly in cases when persons arrive from outside the Schengen area. The provisions of section 27 of the Border Guard Act apply to investigations carried out by the Border Guard under the Aliens Act. Persons are required to be present during the investigation. The investigation is conducted by the Border Guard's unit for administrative investigation at the airport's border guard facilities. Investigation rooms and waiting facilities are available. Food and beverages are provided ex officio in case asylum applicants do not have their own funds.</p> <p>In case the asylum applicant arrived in Finland from another Schengen-country, the responsible part investigating the asylum applicant's identity is National Traffic Police located at the airport.</p> <p>2) Police and Border Guard.</p> <p>3) The authorities responsible for the asylum investigation (Police, Border Guard and the Immigration Service).</p> <p>4) Asylum applicants have the right to use legal aid during the asylum investigation.</p> <p>5) The matter and protocols is transferred (usually within five days, no time limit is defined) to the Finnish Immigration Service that conducts the actual asylum interview.</p> <p>6) Deadline for appealing is 30 days. A decision of the Finnish Immigration Service is appealed to the Administrative court. The Administrative Court which may give a suspensive decision prior to its decision on the matter.</p> <p>7) If the decision was made in the accelerated procedure (manifestly ill-founded application), the removal may be enforced at the earliest on the eight day from service of the decision (five working days included) unless the administrative court orders to suspend the removal. The suspensive order must then be given within eight days from service of the decision. Otherwise there is no time frame given for the decision making in the administrative courts. The Administrative Court of Helsinki may hear the appeal with only the chairman present.</p>

			<p>If the asylum application is handled in the normal procedure, the decision of the Immigration service may be appealed to the Administrative Court of Helsinki within 30 days from serving the decision.</p> <p>8) Every asylum applicant is entitled to medical care in case of emergency medical needs. Further, if medical needs would hinder one's removal, an alien may be issued temporary residence permit under section 51 of the Aliens Act.</p>
	Latvia	Yes	<p>A person shall submit an application regarding granting of refugee or alternative status in person to the State Border Guard:</p> <ol style="list-style-type: none"> 1) at the border control point prior to entering the Republic of Latvia; or 2) in the territorial unit of the State Border Guard, if the person is in the Republic of Latvia. <p>During the asylum procedure <u>an asylum seeker shall be accommodated at an accommodation centre for asylum seekers</u> where necessary living conditions are provided. A minor shall be provided with the living conditions necessary for the physical and mental development thereof. The asylum seeker may be transferred from one accommodation centre for asylum seekers to another. An asylum seeker shall not be accommodated at an accommodation centre for asylum seekers while he or she has another legal basis to reside in the Republic of Latvia. When changing the place of residence, the asylum seeker shall inform the Office of Citizenship and Migration Affairs regarding the address of the new place of residence. Accommodation centres for asylum seekers shall be organisational units of the Office of Citizenship and Migration Affairs. The internal rules of procedure of an accommodation centre for asylum seekers shall be approved by the Cabinet. The Cabinet shall determine the amount and procedures for the covering of expenses for the subsistence of an asylum seeker accommodated at an accommodation centre for asylum seekers, as well as for the purchase of hygienic and basic necessities.</p> <p>The State Border Guard has the right to detain an asylum seeker for a period up to seven days and nights. The State Border Guard shall detain an asylum seeker and a judge shall take a decision regarding the detention of the asylum seeker in accordance with the procedures specified by the Immigration Law. The period of detention may be extended, however, the total time period of detention shall not exceed the time period of the asylum procedure. During detention an asylum seeker shall be accommodated in premises specially equipped for this purpose in a territorial unit of <u>the State Border Guard accommodation premises for asylum seekers</u> of the State Border Guard, requirements for equipping and arrangement of which shall be determined by the Cabinet. During detention, the asylum seeker may be transferred from one accommodation premises for asylum seekers of the State Border Guard to another. The internal rules of procedure of the accommodation premises for asylum seekers of the State Border</p>

			<p>Guard, as well as the list of objects and substances, which are prohibited to be kept by a detained asylum seeker in the accommodation premises for asylum seekers, shall be determined by the Cabinet. The subsistence norms, as well as the amount of hygienic and basic necessities for an asylum seeker accommodated in the accommodation premises for asylum seekers of the State Border Guard shall be determined by the Cabinet.</p> <p>2. The new Asylum Law adopted in 2009 does not stipulate the possibility to examine asylum application at the border crossing point.</p> <p>3. The State Border Guard invites interpreter whose services are covered from the State budget funds which are meant for these purposes.</p> <p>4. An asylum seeker has the right to request a person for the receipt of legal aid using his or her own funds. If the asylum seeker does not have sufficient funds, he or she has the right to legal aid ensured by the State in the amount and according to the procedures specified in the State Ensured Legal Aid Law.</p> <p>5. The new Asylum Law adopted in 2009 does not stipulate the possibility to examine asylum application at the border crossing point.</p> <p>In accordance with the Section 4. of the Asylum Law 2009, Office of Citizenship and Migration Affairs take the decision regarding <u>the acceptance of an application for examination or leaving thereof without examination</u>. A decision regarding the acceptance of an application for examination or leaving without examination shall be taken by an official authorised by the head of the Office of Citizenship and migration Affairs within five working days after receipt information regarding an asylum seeker at the disposal thereof, the information obtained during interviews and the application from the State Border Guard.</p> <p>6. An asylum seeker or authorised person thereof may appeal the decision of an official authorised by the head of the Office regarding leaving an application without examination or granting of refugee status or alternative status or the refusal to grant it in the district administrative court in the cases provided for in Asylum Law. During adjudication of an application (matter) a person shall be regarded as an asylum seeker.</p> <p>7. An official authorised by the head of the Office of Citizenship and Migration Affairs shall, within three months, examine the application and take a decision regarding the granting or refusal to grant refugee or alternative status, if the conditions referred to in Section 20, Paragraph one or Section 23, Paragraph one of Asylum Law exist. The State Secretary of the Ministry of the Interior or his or her authorised person may, due to substantiated reasons, extend the time period for examination of the application up to twelve months.</p> <p>In accordance with the section 19. of the Asylum Law an official authorised by the head of the Office of Citizenship and migration Affairs shall examine an application under abridged procedure and take a decision</p>
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	Lithuania	Yes	<p>1. According to the national regulation application for asylum can be submitted at state border crossing points (including airports) or at the territory where state border regime applies – State border guard service, local police stations, Aliens registration centre. Submitting asylum application in the airport border crossing point results in all of the initial actions being performed there. Asylum applicants are brought to special rooms, where they are held and initial actions are performed.</p> <p>In every airport separate rooms for asylum applicants are installed and equipped with all necessary accommodation.</p> <p>Food supply for asylum seekers is regulated by the order of the Minister of the Interior (Order of the Minister of the Interior 2005 December 19, No. 1V-420, “Regarding funds, concerning persons’ stay in state border guard point, who are not citizens of the EU MS”). Food supply for aliens at the state border point is arranged and controlled by the officers of State border guard service (previously food service was provided by non-governmental organizations, like Lithuanian Redcross).</p> <p>2. When a person submits an asylum application at the airport state border crossing point, all initial actions are performed by the officers of the State border guard service. Initial actions are performed during 24 hour period after receiving an application (all necessary files are filled, EURODAC is checked, etc.), then a file is being formulated and transferred to the Migration department, which within 48 hours from the moment of submission of an asylum application has to make a decision on granting a temporary territorial asylum to an applicant while his application is under procedure in the Republic of Lithuania. The Migration department can take one of the following decisions: 1. not to examine asylum application as to substance, refuse temporary territorial asylum in the Republic of Lithuania and obligate an asylum seeker to depart, to return him or expel to a safe third country, if it stated that this asylum seeker has arrived from a safe third country; 2. not to examine asylum application as to substance, grant temporary territorial asylum in the Republic of Lithuania and to issue alien’s registration certificate, if it is stated, that another EU country might be responsible for this asylum application; 3. to examine</p>

			<p>asylum application as to substance, grant temporary territorial asylum in the Republic of Lithuania and issue alien's registration certificate. These decisions are taken 24/7.</p> <p>3. While performing initial actions, officers of the State border guard service address the Migration department for interpretation and legal aid, which is responsible for the funding of these services.</p> <p>4. Legal aid is guaranteed since the initial stage of the asylum application procedure (in the initial stage legal aid is provided by a request of asylum seeker), even though in the <i>Law on the legal status of aliens</i> it is stated that legal aid and other rights appear since the second phase of the process, i.e. when the Migration department makes a decision on granting temporary territorial asylum and lodging an alien in the Republic of Lithuania, until his application is examined and a decision is made.</p> <p>Fees for legal aid are paid from the state budget.</p> <p>5. 48 hours.</p> <p>6. An applicant can appeal against the decision of the Migration department to the Vilnius District Administrative Court within 14 days from the day the decision is delivered to him. The court, having examined an appeal, can take a decision to oblige the Migration Department to reexamine the case in substance. The court can also reject an appeal. An appeal has a suspensive effect.</p> <p>7. The court must hear an appeal or request to adopt a decision within two months from the day the court passes the ruling on the admissibility of the appeal or request. The decision may be appealed to the Supreme Administrative Court of Lithuania within 14 days from the announcement of the decision.</p> <p>8. During the examination of asylum procedure, asylum seeker has a right to free emergency medical and social services at the Foreigners registration centre or Refugee reception centre. Generally speaking, urgent medical support for the asylum seekers is ensured in all stages of the asylum process – starting with the initial stage, when they are held in state border crossing points (where medical points exist, or ambulance is called if needed), finishing with their settlement in the Foreigners registration centre, where medical staff on duty exists.</p>
	Hungary	Yes	<p>1. The Act LXXX of 2007 on Asylum and its implementing Government Decree includes the detailed rules of the airport procedure. Its Article 72 prescribes that the refugee authority shall provide for the placement of the applicant in the <i>accommodation facility located in the transit area of the airport</i>. In practice, two rooms are available for asylum-seekers, each rooms are about 10 square metres and includes bathrooms. One room is available for 8 persons. According to Article 69 of the Aliens Act, the airline company is responsible for the accommodation and food of the asylum-seekers, which in practice means that the accommodation is supervised by the Police Headquarters but the airline company is responsible for its circumstances. The asylum-seekers receive bed-linen and sanitary equipment from the Police Headquarters. They are also entitled to buy food for themselves on their on expenses from the airport shops 3 times per day. If they do not have enough money they are entitled to receive</p>

		<p>food 3 times per day. In this case they can either buy food from the shops at the airport on the expense of the airline company or receive food from the Police Headquarters.</p> <p>2. The Police Headquarters notify the Office of Immigration and Nationality as soon as possible after the submission of an asylum application. Then the officer of the OIN carries out the preliminary assessment procedure at the airport.</p> <p>3. The interpretation during the asylum procedure is financed by the Office of Immigration and Nationality.</p> <p>4. According to Article 37 of the Asylum Act, <u>upon submission of an application</u>, the refugee authority shall simultaneously inform in writing the person seeking recognition of his/her procedural rights and obligations as well as of the legal consequences of the violation of such obligations in his/her mother tongue or in another language understood by him/her. The information provided and the acknowledgement thereof shall be recorded in minutes. <u>The person seeking recognition shall be given the opportunity to use legal aid at any stage of the asylum procedure on his/her own expense or, if in need, free of charge as set forth in the Act on Legal Assistance (see point b), or to accept the free legal aid of a registered non-governmental organisation engaged in legal protection (see under point a).</u> Furthermore on the basis of the Asylum Act if the person seeking recognition is an unaccompanied minor, the refugee authority shall, without delay, provide for the appointment of a guardian serving to represent the minor during the asylum proceedings (see under point c). The mandate of this guardian is limited to the procedural rights connected to the asylum proceedings of the unaccompanied minor asylum seeker. (We call it case guardian.)</p> <p>In practice legal aid is provided in the following three ways:</p> <ul style="list-style-type: none">a) by the attorneys of the Hungarian Helsinki Committee;b) by other attorneys under the Act on Legal Assistance;c) for unaccompanied minors a case guardian is designated by the Guardianship Office of the local authority. <p>a) The Hungarian Helsinki Committee is an NGO and its attorneys are not financed by the state for the legal aid they provide for asylum seekers. These attorneys are not designated by any body, they undertake the cases on voluntary basis.</p> <p>b) The Act on Legal Assistance provides for free legal aid for asylum seekers. According to this Act the asylum seekers are eligible for the free legal aid solely on the ground them being an asylum seeker. This legal aid is provided by attorneys registered by the Justice Office (IH) of the Ministry of Justice and Law Enforcement. This</p>
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		<p>service is financed from the state budget. The procedure starts on the request of the asylum seeker submitted to the Justice Office. On the basis of the request the Justice Office brings a decision containing a list of attorneys the asylum seeker may turn to. Then the asylum seeker gets into contact with the attorney he/she chose from the list. In practice the asylum seekers do not use this opportunity. They prefer the services provided by the Hungarian Helsinki Committee.</p> <p>c) The case guardian of the unaccompanied minor asylum seekers are designated by the Guardianship Office of the local authority on the request of the refugee authority. This designation is obligatory in every case when the asylum seeker is an unaccompanied minor. The designation is valid for the duration of the entire asylum procedure including judicial phase. The requirement for the designation is that case guardian must be a lawyer. The services of the case guardian are financed from state budget. (The fee per hour is determined by law, which is very low and is reimbursed by the refugee authority.)</p> <p>5. In case of airport procedure, the preliminary assessment procedure shall be completed <u>within eight days</u>. The applicant shall be authorised to enter the territory of the Republic of Hungary if a) the preliminary assessment procedure is closed with a resolution <i>referring the application to the in-merit procedure</i> or b) <i>a period of eight days has elapsed</i> since the submission of the application. If refugee authority refuses the asylum application without an in-merit assessment, a court review of a resolution refusing an application without in-merit assessment may be requested. If the refugee authority establishes the admissibility of an asylum application, <i>it shall refer the application to the in-merit procedure</i>. No legal remedy is available against a resolution referring the application to the in-merit procedure. The in-merit procedure shall be completed <u>within sixty days of the adoption of the resolution referring the application to the in-merit procedure</u>.</p> <p>6. A <u>court review</u> of a decision rejecting the application may be requested. The statement of claim shall be submitted to the refugee authority <u>within fifteen days</u> of the communication of the decision. The refugee authority shall forward the statement of claim, together with the documents of the case and its counter-application, to the court without delay. The submission of the statement of claim shall have a <u>suspensive effect</u> on the implementation of the decision of the refugee authority, except in cases set forth in Section 54 (cases of abuse with asylum applications). The <i>Municipal Court of Budapest</i> shall decide on the statement of claim in a litigious (adversarial) procedure. The court may alter the decision of the refugee authority. <i>No legal remedy shall lie against the decision</i></p>
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			<p>of the court.</p> <p>7. The Municipal Court of Budapest shall decide on the statement of claim within <u>sixty days of receipt of the statement of claim.</u></p> <p>8. The provisions applicable in airport procedure <u>shall not apply</u> if the application is submitted by a person requiring special treatment.</p>
	Malta	Yes	<p>1. Malta receives an insignificant number of applications at the airport.. In facts figures show that Malta received less than a dozen airport applications in the past 5 years. Given this situation it is not deemed necessary to have a specific office to cater solely for accelerated border procedure. However, if such an application is received offices are arranged ad-hoc to ensure confidentiality and an adequate environment where the asylum application can be received. Until the procedures have fully taken their course, the applicants basic needs are seen to by police immigration personnel. The Immigration Act is the legal base that authorizes their temporary holding.</p> <p>2. The Office of the Refugee Commissioner [REFCOM] rarely receives applications at the airport. If an accelerated procedure is operated, then it would be the Office of the Refugee Commission that would see to the entire asylum procedure, including the fees of interpreters.</p> <p>3. Payment for obtaining the services of interpreters involved in the Asylum Procedure is made by the Ministry for Justice and Home Affairs.</p> <p>4. According to the Refugees Act (Cap 420) applicants have the right to obtain the services of a legal advisor to assist them during accelerated proceedings. Although legal aid at first instance is not free, applicants can request to contact free legal aid which is provided by NGOs and can also request to contact the UNHCR representative.</p> <p>5. According to the Refugees Act, if an accelerated procedure is operated the Office of the Refugee Commissioner would have three working days to decide the case and the Refugee Appeals Board would also have another three working days to review the Commissioner’s recommendation.</p> <p>6. The competent reviewing body during this procedure is the Refugee Appeals Board the review is</p>

			<p>automatic. The review has suspensive effect in that the applicant would not be returned before the Appeals Board decides the case.</p> <p>7. According to the Refugee Act, the decision of the Appeals' Board, on whether the application is manifestly unfounded is under this procedure conclusive and not subject to judicial review.</p> <p>8. Where it is necessary to provide emergency medical needs this takes precedence over all other matters. In such case the applicant's case may not be reviewed under the accelerated procedure.</p>
	Netherlands	Yes	<ol style="list-style-type: none"> 1. The accelerated border procedure is carried out in a special, closed application center near Schiphol airport. From a judicial point of view the Royal Military Constabulary is in charge of border control. The asylum seeker who is refused entry to the Netherlands, is transferred to the application center at Schiphol airport. Based on article 6 of the Aliens Act, he or she must stay in a place secured against unauthorized departure. This measure is imposed by the Royal Military Constabulary. This measure or its continuation is submitted to a periodic judicial review by the District Court. In practice, the asylum seekers at the application center at Schiphol airport are supervised by private security staff. 2. The accelerated asylum procedure at Schiphol airport is the same as in other application centers. Officials from the Immigration and Naturalisation Service are responsible for the border procedure and the processing of the asylum application. 3. The Dutch authorities pay for the service of the interpreters. 4. Legal aid is free of charge for the asylum seeker and paid for by the Dutch authorities. It is available from the moment that it is obvious that a person wishes to apply for asylum. Legal aid includes explanation about the asylum procedure, assistance during the interviews, legal advice during the asylum procedure, representation of the asylum seeker during the appeals against negative decisions. 5. At the moment, this deadline is 48 processing hours, which usually means five days. This is the same at the other application centers. However, in July the Netherlands introduces reforms to the asylum procedure at application centers. According to these reforms, there will be a general procedure that may last a maximum of eight days, with certain exceptions.

			<p>6. The competent authority for appeal is the District Court (Rechtbank) and for further appeal, the Council of State (Raad van State). Following the accelerated procedure, appeals may be made within 24 hours of the decision. At the moment, appeals under the accelerated procedure do not have suspensive effect (this will change in the new asylum system which will be implemented in July 2010). However, the asylum-seeker can ask the Court for a provisional ruling.</p> <p>7. There is no deadline for judgments of the District Courts.</p> <p>8. Border detention is usually ended in case of emergency medical needs. After treatment, the application will be assessed in an open application center.</p>
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Poland	Yes	<p><u>Ad 1, 2, 5, 6, 7</u></p> <p>The accelerated border procedures to decide on a processing of the asylum application do not exist at the airport and other Border Guard checkpoints at the land and sea.</p> <p>A foreigner shall submit an application for granting the refugee status to the Head of the Office for Foreigners through the commanding officer of the Border Guard division or commanding officer of the Border Guard checkpoint.</p> <p>Head of the Office for Foreigners is the determining authority which is taking the decision on the application for asylum.</p> <p>A Foreigner who does not have the documents authorized him to enter the territory of the Republic of Poland shall submit an application for granting the refugee status during the border control, through the commanding officer of the Border Guard checkpoint. A foreigner who is allowed to entry the territory of the Republic of Poland submits the application through the commanding officer of the Border Guard division, covering with his territorial scope the capital City of Warsaw.</p> <p>The border procedure regarding the processing of the asylum application is carried out at a designated place by Border Guard officer competent under national law to conduct such a processing of the asylum application.</p> <p>Foreigners are guarded by Border Guard which covers their needs of food.</p> <p>Border Guard shall immediately send the application to the Head of the Office for Foreigners (first instance authority in asylum matters, competent also to run accelerated asylum procedures in enumerated cases).</p>

			<p>Pursuant to Act of 13 June 2003 on foreigners Border Guard is entitled to keep the alien at the airport. Border Guard not hold the foreigners in detention for the sole reason that they are an applicant for asylum. If the applicant for asylum is held in detention that situation is subject to speed judicial review during 48 hours.</p> <p><u>Ad 3</u></p> <p>The foreigners receive the service of an interpreter at the first stage of processing of the application. These service is paid for out of Border Guard.</p> <p><u>Ad 4</u></p> <p>Applicants for asylum have the opportunity, at their own cost, to consult a legal adviser at the first stage of the processing of the asylum application.</p> <p><u>Ad 8</u></p> <p>The authority admitting the application shall ensure carrying medical examinations and necessary sanitary procedures in relation to applicant's body and clothes, as well as to the body and clothes of a person on whose behalf the application is made.</p> <p>The applicant and the person on whose behalf the applicant appears shall be obliged to undergo the procedures referred above.</p> <p>The applicant and a person on whose behalf the application is made by the applicant shall be groaned medical care. Medical care shall include the health care services within the scope in which the persons covered by compulsory or voluntary health insurance are entitled to the services on the basis of the Act of 27th August 2004 on health care services financed from the public funds, with exclusion of treatment in health-resort.</p> <p>Supporting a foreigner with medical care shall be provided on the basis of civil law contracts concluded between the Head of the Office for Foreigners and service providers within the meaning of the Act on health care services financed from the public funds.</p> <p>Medical care shall be provided during the time of carrying the proceedings for granting the refugee status and for the period of 2 months from the date of delivery of final decision in this matter, and in the event in which the proceedings for granting the refugee status was discontinued – within the period of 14 days from the day of delivery of final decision on discontinuation of the proceedings.</p>
	Portugal	Yes	<ol style="list-style-type: none"> The asylum seeker, who does not have the legal requirements necessary for entry into national territory, remains in the international area of the port or airport pending the notification of the decision to lay on his/her application for asylum. This area includes temporary accommodation centre that is occupied by asylum seekers and people who the entry in Portugal is refused. The temporary accommodation centre is "saved" by a security firm, which it's not the Aliens and Borders Service. The legal framework to keep people in this accommodation centre is the Act

			<p>n.º 27/2008, of 30th June, article n.º 26º and the article n.º 4º of the Act n.º 34/94 of 13th September.</p> <p>2. All the applications for asylum presented in Portugal, either are at the border or in the national territory, go through a phase of admissibility laid down by the legal framework. Aliens and Borders Service is the responsible authority to process applications for asylum, in both situations.</p> <p>3. Aliens and Borders Service pays the service of interpreters.</p> <p>4. The applicant is entitled to legal aid since the beginning of the procedure. This legal support (information and advice) is provided by an NGO. In case of a negative decision and wanting to challenge it in court, the applicant may appeal to the Office of legal assistance, upon request for legal aid, which is appointed an attorney (this whole procedure is free).</p> <p>5. Five working days.</p> <p>6. The deadline for appeal is 72 hours. The action of appeal is made to the administrative court near by the area of the air border post. This appeal has an automatic suspensive effect.</p> <p>7. The decision of the admissibility procedure at the border is a competence of the Director General of the Aliens and Borders Service. This decision may be appealed to the Administrative Court within 72 hours and the Court has, in turn, 72 hours to decide.</p> <p>8. Depending on the cases of medical emergency, the applicant accompanied by a border guard can go to the hospital, without formally consider this situation as an entry in national territory or can also be granted to the applicant an authorization to entry into national territory, followed then by the legal asylum procedure in the manner of the request made in national territory and being sent to the applicant adequate medical services.</p>
	Slovenia	Yes	Slovenia does not have airport procedures.
	Slovak Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Spain	Yes	<p>1. and 2.</p> <p>∅ Procedure for the application for asylum at airports.</p>

			<p>Once a foreigner arrives to a Spanish airport recognized as a border post, members of the National Police Force at the Central Borders Unit² proceed to the foreigner's identification at the airport posts for this purpose. Once the foreigner expresses the desire to be entitled to international protection and apply for asylum, he/she is transferred to special airport facilities designed for the purpose of formalizing the application for asylum by means of performing an individual personal interview carried out by the Asylum and Refuge Office³. Article 22 of Law 12/2009 of 30 October, governing the right to asylum and subsidiary protection, sets forth that the asylum seeker should remain at the "facilities designed for this purpose" at the border post during the processing of the application.</p> <p>Agents of the National Police Force are responsible for tasks related with both the custody of foreigners who are not admitted upon their arrival to Spain as well as for those who seek refugee status. Asylum seekers will be transferred to the mentioned facilities where they will be provided with meals free of charge⁴.</p> <p style="text-align: center;">3 and 4.</p> <p style="text-align: center;">Ø Rights of asylum seekers.</p> <p>Article 18 of Law 12/2009 of 30 October 2009 governing the right to asylum and subsidiary protection sets forth the rights and obligations of the applicants. Amongst the rights to which they are entitled are included free legal assistance and the services of an interpreter. As regards the former, this assistance will cover the filing of the application as well as the entire proceedings, rendered in accordance with the legal terms set forth in corresponding Spanish legislation. The applicant is informed of the rights to which he/she is entitled at the moment of formalizing the application for asylum, and legal assistance will be provided by a court-appointed lawyer belonging to the Professional Association of Lawyers (the costs of which will be assumed by the Ministry of Justice). The foreigner will also be offered the possibility of consulting with an NGO which offers services of legal assistance for asylum seekers (such as CEAR, ACCEM and COMRADE)⁵. As regards the services of an interpreter, some NGOs, such as ACCEM and COMRADE, offer this service free of charge (the costs of which are assumed by the Ministry of Justice).</p>
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² Order Int/2103/2005 of 1 July, which sets forth the organic structure and functions of the central and auxiliary services of the General Directorate of the Police, sets forth that the units of the General Commissariat for Alien Affairs and Borders, and the Documentation of the National Police Force are responsible for police-related functions concerning alien affairs and documentation and, in particular, for the execution of mobile controls at border areas. Therefore, the Border Control Unit assumes the functions related with management, coordination and control of the arrivals and exits of both Spanish and foreign nationals to and from Spain, as well as border-related functions, acting as a National Central Office in this regard.

³ See: Press release of the Ministry of the Interior of 28 July 2008, "New facility for non-admitted foreigners opened at T-4 of the Barajas airport" (http://www.mir.es/DGRIS/Notas_Prensa/Policia/2008/np072803.html) and UNHCR document "Application for Asylum at Border Posts - Flowchart": <http://acnur.org/biblioteca/pdf/2963.pdf>.

⁴ *Ibid.* At Barajas airport, "the airport restaurant service will be responsible for serving these meals, including menus adapted for religious reasons or in response to special dietary needs, as well as baby bottles.

⁵ Refer to the UNHCR document: "Information Sheet: asylum-related procedures in Spain". http://www.acnur.org/index.php?id_pag=1435

			<p>In addition, the applicant is entitled to healthcare if needed and to receive health-related benefits⁶.</p> <p>5. 6. and 7.</p> <p>Ø Procedures related with international protection.</p> <p>In accordance with Article 21 of Law 12/2009 governing the right to asylum and international protection, the time limit for deciding and notifying the interested party of the resolution as regards applications for asylum presented at a border post is four days. This decision may be: 1. acceptance for processing, on the same grounds as if it were presented within Spanish territory; 2. refusal of the application. If the decision is non-admittance or denial, the applicant may file for appeal (called re-examination) within two days from the notification of the decision of refusal. The authorities, in this case, the Ministry of the Interior by virtue of Article 21 of Law 12/2009, have two days within which to issue a resolution as regards this request for re-examination. In total, the maximum duration of this procedure is eight days⁷. It is worth highlighting that this appeal has no suspension of execution.</p>
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⁶ According to the press release of the Ministry of the Interior on 28 July 2008, "New facility for non-admitted foreigners opened at T-4 of the Barajas airport ", this airport is equipped with a "permanent medical service at a site adjacent to the installations".

⁷ Also refer to Circular 12/09 of the Ministry of the Interior on "Police-related actions derived of the new Law 12/2009 of 30 October, governing the right to asylum and subsidiary protection", dated 18 November 2009.