



Workshop on 'Last minute' asylum applications

Prague, 7-8 October 2019

Meeting Report

To advance existing knowledge base and engage actively return and asylum authorities on matters of common interest, EASO Information and Analysis Sector pursued synergies with FRONTEX and EMN REG Practitioners Network with a view to exchange information on policy and legislative developments as well as relevant practical initiatives and solutions put in place to efficiently manage so-called “last minute” applications for asylum (LMAs). One of the key objective was to enhance relevant information available on the subject in the EASO Information and Documentation System (IDS) – available on a registration basis to asylum and return authorities.

The meeting was organized by EASO (Information and Analysis Sector) and co-hosted by FRONTEX and EMN REG Network. The Workshop brought together for the first time, 44 participants from asylum and return authorities via EASO IDS Network, FRONTEX and EMN REG, representing 19 EU+ countries.

Main discussion points

EASO and FX presented the **initial findings of the 'Flash Question on LMAs'** realized jointly in 2019, pointing to the diverse nature of LMAs reported by countries, encompassing first-time, subsequent applicants or both, as well various nationalities. Most LMAs however occur while in detention or during actual removal. Among measures put in place by EU+ countries, the following were noted: accelerated procedure/prioritization, use of dedicated operational teams, and specific procedures that often focus on enhanced cooperation between actors and risk assessment and profiling.

During two **breakout sessions**, mixed groups of participants from asylum and return authorities discussed challenges for asylum and return authorities encountered in managing LMAs efficiently focusing both on first time applicants and subsequent applications, links been built in practice between asylum and return authorities to manage LMAs, legal and practical solutions adopted by participating countries, the impact of institutional structure and cooperation needed, and reflected on the role of EU agencies highlighting in particular the need of EU initiatives in the context of CEAS reform. Participants agreed that any special procedure regarding LMAs would be applicable mainly to subsequent applicants and not first time applicants who are in principle channelled into the asylum procedure.

More analytically, during the breakout sessions, the following key elements were identified:

Group 1: Challenges for asylum authorities in managing LMAs efficiently.

- Lack of a common understanding of “last minute” application. The group highlighted the importance of a common definition since the starting point is very important for the following steps in the procedure.
- Different rules for first- time applications and subsequent applications are needed. How to set up rules for each types of application is a challenge.

- Extensive length on the asylum procedure (following LMA) and the appeal may encourage unfounded LMAs.
- Emphasis was given on the need to balance between abuse and the right to apply for asylum.
- Effective flow between Detention authority + Return authority + Asylum authority

Group 2: Challenges for return authorities in managing LMAs efficiently.

- Logistical difficulties and cost linked to cancellations of removals
- Cooperation between different stakeholders (incl. courts), lack of time, difficulties, gaps in the cooperation, depending on the country, the cooperation level is different.
- Theory vs practice. Directive vs Practice. The Directive does not always cover situations that happen in practice and need to be resolved.
- Differences between EU+ countries.

Group 3: Challenges related to groups with special procedural needs in managing LMAs efficiently.

- Identification of special needs is critical. Different categories, groups cannot be identify properly in a last minute application- it should be done when preparing the removal
- Actual legislation, interpretation of that legislation and challenges in practice (resources, fast procedures).
- Documentation needed for repatriation. In an important number of cases, missing identification documents/passports.

During the **discussion roundtables**, the following additional elements were stressed:

- **provision of information** as a **priority**, to be provided as soon as migrants approach the asylum authorities, even before they do so to apply. They have the right to apply but if they don't apply, they will be returned. This will be a way to decrease the number of LMAs.
- **the role of lawyers and legal advisors in LMAs.** Lawyers are an important actor in the provision of information and realization of procedures as they may motivate application's decisions
- **assessment of new developments in** the country of origin in view of assessing the applicability of non-refoulement. Cooperation on COI needed.
- **Profiling of returnees prior to removal** to proactively prepare for a possible LMAs
- **Legislation allows of 'abuse' of asylum procedure: repeated applications**
- Appeal procedures delay further removals
- **Cooperation between the different stakeholders:** Sharing of information between authorities (automatization/electronic access to files e.g. FI, NL, SE)

With regard to **possible solutions**, the EU+ countries highlighted the following elements:

- importance of the case preparation.
- Identification of the special needs groups is fundamental.
- Provision of information adapted to the specific applicant.
- Speedy procedures
- Digitization of procedure

- New legal framework with strict(er) deadlines.

Some **recommendations** were also formulated that could be addressed to:

- COM: There may be a need of a EU Law Reform taking into consideration practical challenges
- EASO: COI support is fundamental, capacity building, experience exchange and support MSs under pressure
- Frontex: organize flexible flights and enhance cooperation with embassies for travelling documents (coordination is needed during return procedures).
- General: Deployment of mixed teams to support procedures where return and asylum authorities should be actively engaged.

Next steps

- IAS will develop specifications for a subsection on LMAs on EASO IDS, which will be shared with participants for further reflection and feedback.
- FRONTEX proposed a follow up workshop in early 2020, which was welcomed by all participants. Ideas for thematic focus will be gathered prior to the event and additional stakeholders may be invited depending on the topics to be discussed.