



Ad-Hoc Query on abuses in requests for asylum

Requested by ES EMN NCP on 30th October 2015

Compilation produced on 3rd February 2016

Responses from Austria, Belgium, Cyprus, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (20 in Total)

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1. Background Information

Lately we have encountered a range of problems with asylum applications both in the emergency fast track procedure (specifically at Alien Internment Centres, Spanish “CIEs”) and in the ordinary procedure.

Specifically, in order to prevent the execution of an expulsion measure, many foreign nationals who attract expulsion measures lodge an application for asylum so that, by application of the principle of non-refoulement, expulsion is frustrated.

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These applicants often lodge their application for asylum on the very same day on which they are notified that they are to be returned to their country of origin. At that time, they apply for asylum, thus stopping the expulsion procedure in its tracks. We understand that this is a right available to them, and, moreover, if the foreign national is at an internment centre, his or her application qualifies for the emergency fast track procedure.

However, once a decision has been made on the application (after four days) or, as the case may be, the application is re-examined (after a further four days), the foreign national to whom asylum has been refused lodges a fresh application for asylum which again halts the expulsion procedure by virtue of the principle of non-refoulement. This unlimited “echo” of asylum applications is potentially endless, and prevents any expulsion from being enforced.

The resubmission of applications makes it very difficult to execute expulsion orders and places an additional burden on administrative bodies, to the detriment of the rest of asylum seekers.



In this context, we would like to ask you the following questions:

1. If a foreign national has been notified of an express decision to refuse asylum, can the execution of an expulsion decision be suspended by virtue of a fresh application for asylum?
2. If the failed asylum seeker is held at an internment centre, may he or she resubmit an application for asylum such that it will be processed afresh, suspending the execution of expulsion until a decision is made on it?
3. Would he or she be entitled to launch a fresh application immediately after the failure of the original one if the grounds of the asylum decision are different? Would that fresh application have a suspensive effect?
4. In case of a fresh application for asylum, is it the asylum body which must refuse leave to proceed and make a decision, or can the police themselves, being in charge of passing on the application, notify and refuse leave to proceed since there is an earlier decision in negative?
5. If there is no change of circumstances in the applicant's country of origin, at what intervals may he or she resubmit an application for asylum such that the fresh application engages the principle of non-refoulement and so the immigration police are unable to execute the expulsion decision or restart the expulsion procedure?

We would very much appreciate your responses **by 16th November 2015.**

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2. Responses¹

		Wider Dissemination? ²	
	Austria	Yes	<ol style="list-style-type: none"> 1. In general, yes. However, if there is no relevant change of circumstances, the Austrian asylum authority may lift the suspensive effect. Also if the new application is made within the last 18 days before the prospective date of removal and the asylum seeker is already detained, an expulsion decision is not suspended (Art. 12a Asylum Act). 2. In general, yes. However, if the new application is made within the last 18 days before the prospective date of removal, an expulsion decision is not suspended (Art. 12a para 3 Asylum Act). 3. a) Yes. b) In general, yes (see answers 1. and 2. above). 4. The asylum authority (Federal Office for Immigration and Asylum). However, if the new application was made within the last two days before the prospective date of removal and the asylum seeker is not in the country anymore, the asylum authority may regard the new application as obsolete (Art. 25 para 1 subpara 1 Asylum Act). 5. There is no specific time interval.
	Belgium	Yes	<ol style="list-style-type: none"> 1. If a foreign national has been notified of an express decision to refuse asylum, can the execution of an expulsion decision be suspended by virtue of a fresh application for asylum? Yes, when the foreign national submits a new asylum application, the expulsion is postponed. 2. If the failed asylum seeker is held at an internment centre, may he or she resubmit an application for asylum such that it will be processed afresh, suspending the execution of expulsion until a decision is made on it? Yes, a foreign national detained in a "closed centre" with a view to be expelled can submit a (new) asylum application with the staff of the Immigration Office in the centre. When he/she submits this (new) asylum application, an order to leave the territory is immediately issued (article 52/3, §2 of the Law of 15 December 1980 regarding the entry, residence, settlement, and removal of foreign nationals). The enforceability of this order is however suspended during the asylum investigation by the competent Belgian asylum bodies (that is to say, in first instance, the Commissioner General for Refugees and Stateless Persons, and on appeal, the Council for Alien Law Litigation). In case of an abusive subsequent application, more precisely when the foreign national submits a second asylum application within the 48hours before his/her expulsion only in order to slow down or prevent the decision of expulsion from the territory to be carried out, or when the foreign national submits a third asylum application after a definitive decision was taken concerning




¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² 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."

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			<p>the previous asylum application, and the return decision does not lead to direct or indirect “refoulement”, the appeal to the appeal body is no longer suspensive (article 39/70 of the Law of 15 December 1980).</p> <p>3. Would he or she be entitled to launch a fresh application immediately after the failure of the original one if the grounds of the asylum decision are different? Would that fresh application have a suspensive effect? When the situation in the country of origin changes or when the foreign national presents new elements, the asylum claim is examined again in substance, and the applicant has a right to all services/facilities provided to asylum seekers.</p> <p>4. In case of a fresh application for asylum, is it the asylum body which must refuse leave to proceed and make a decision, or can the police themselves, being in charge of passing on the application, notify and refuse leave to proceed since there is an earlier decision in negative? A new asylum application always needs to be processed by the asylum bodies. The police does not have competences in this regard.</p> <p>5. If there is no change of circumstances in the applicant’s country of origin, at what intervals may he or she resubmit an application for asylum such that the fresh application engages the principle of non-refoulement and so the immigration police are unable to execute the expulsion decision or restart the expulsion procedure? There is no determined interval during which the foreign national cannot submit an asylum application. In principle, it is always possible, once a (subsequent) asylum application has been denied by either the Commissioner General for Refugees and Stateless Persons or the Council for Alien Law Litigation, to submit a new application, which puts the entire expulsion procedure on hold.</p> <p>PLEASE NOTE that Belgium is still in the process of transposing the Asylum Procedures Directive. The above mentioned working method will be changed, and a firmer approach will be taken regarding foreign nationals who abuse the asylum procedure.</p>
	Bulgaria	Yes	
	Croatia	Yes	
	Cyprus	No	<p>1. If an application for international protection is rejected, the applicant can make a subsequent application, according to the article 16D of the Cyprus Refugee Laws. If the determining authority (Asylum Service or Reviewing Refugee Authority), after a preliminary examination of the new elements/subsequent application, decides that these new elements of the subsequent application significantly add to the likelihood of the applicant qualifying as a beneficiary of international protection, then the applicant’s file is reopened and the subsequent application is further examined. In such case the execution for deportation is cancelled. On the other hand, if the determining authority decides that the new elements should not be further examined, then the file remains closed and the migrant can be deported.</p> <p>2. If a failed asylum seeker who is held in a detention center, submit a subsequent application, she/he continue to be held in the detention center until the preliminary examination of the subsequent application by the determining authority. If the determining authority decides that the new elements should not be further examined, then the migrant continues to be held in the detention</p>





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			<p>center until his/her deportation. On the other hand, if the determining authority decides to examine further the new elements, then the applicant remains in the detention until a final decision is reached regarding his/her subsequent application. In such case the determining authority should examine the new application with the accelerated procedure and take a decision within 30 days.</p> <p>3. Yes, the applicant can submit a subsequent application immediately after the rejection of the first one. Nevertheless, this is not a frequent phenomenon in Cyprus. Yes, the application will have a suspensive effect.</p> <p>4. The Minister of Interior or the Director of the Civil Registry and Migration Department will suspend the deportation orders. Please note that, in such case the immigration police should immediately inform the Asylum Service.</p> <p>5. No intervals are provided in our national law regarding the submission of a subsequent application.</p>
	Czech Republic	Yes	
	Denmark	Yes	
	Estonia	Yes	<p>1.If a foreign national has been notified of an express decision to refuse asylum, can the execution of an expulsion decision be suspended by virtue of a fresh application for asylum? Yes, in Estonia the submission of a new application for asylum can entail the suspension of expulsion of the third country national.</p> <p>2. If the failed asylum seeker is held at an internment centre, may he or she resubmit an application for asylum such that it will be processed afresh, suspending the execution of expulsion until a decision is made on it? A failed asylum seeker held in internment centre may resubmit an application for asylum, but the person has to demonstrate new circumstances or evidence, which have not been assessed before and the person has to give a reasonable explanation, why the circumstances were not presented in the initial procedure. In case there are no solid grounds to proceed again, we end the proceeding without a decision and send the applicant a letter with the reasoning, why we will not look at his/her case again. The possibility to have a procedure in essence is determined by the existence of new evidence or new circumstances.</p> <p>3. Would he or she be entitled to launch a fresh application immediately after the failure of the original one if the grounds of the asylum decision are different? Would that fresh application have a suspensive effect? Yes, it is possible to launch a new application immediately after the failure of the original one, the application is treated as a subsequent application and the person has to demonstrate new circumstances or evidence, which have not been assessed before and a person has to give a reasonable explanation, why the circumstances were not presented in the initial procedure. Currently the new application has a suspensive effect, but new amendments to the law have been planned concerning the subsequent applications and suspensive effect.</p> <p>4. In case of a fresh application for asylum, is it the asylum body which must refuse leave to proceed and make a decision, or can the police themselves, being in charge of passing on the application, notify and refuse leave to proceed since there is an earlier decision in negative? In Estonia the Police and Border Guard Board is responsible for refusing leave to proceed as well as making the asylum decisions.</p> <p>5.If there is no change of circumstances in the applicant's country of origin, at what intervals may he or she resubmit an application for asylum such that the fresh application engages the principle of non-refoulement and so the immigration police are</p>



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			<p>unable to execute the expulsion decision or restart the expulsion procedure? In Estonia, there is no specific interval for resubmitting an application for asylum.</p>
+	Finland	Yes	<p>1. If a foreign national has been notified of an express decision to refuse asylum, can the execution of an expulsion decision be suspended by virtue of a fresh application for asylum?</p> <p>The subsequent application (fresh application) for international protection can be processed in an accelerated procedure and the expulsion decision may be enforced immediately after the decision has been served. A decision on a subsequent application may be issued without a new asylum interview. However the administrative court can be requested to prohibit the enforcement of the decision.</p> <p>2. If the failed asylum seeker is held at an internment centre, may he or she resubmit an application for asylum such that it will be processed afresh, suspending the execution of expulsion until a decision is made on it?</p> <p>As long as the asylum seeker is in Finland (s)he has right to resubmit an application for asylum. The application is considered to be a subsequent application if the decision to the previous application has entered into legal force. The decision of refusal of entry is made only for the first subsequent application and it is enforceable by execution in spite of the third subsequent application. However, in principle the subsequent application should be decided before the deportation by virtue of the principle of non-refoulement.</p> <p>3. Would he or she be entitled to launch a fresh application immediately after the failure of the original one if the grounds of the asylum decision are different? Would that fresh application have a suspensive effect?</p> <p>The application is considered to be a subsequent application only if it is submitted shortly after the final decision on the earlier application, and no new grounds have been presented in support of the application and the decision to the previous application has entered into legal force.</p> <p>4. In case of a fresh application for asylum, is it the asylum body which must refuse leave to proceed and make a decision, or can the police themselves, being in charge of passing on the application, notify and refuse leave to proceed since there is an earlier decision in negative?</p> <p>The Finnish Immigration Service (the asylum body) makes the decision.</p> <p>5. If there is no change of circumstances in the applicant's country of origin, at what intervals may he or she resubmit an application for asylum such that the fresh application engages the principle of non-refoulement and so the immigration police are unable to execute the expulsion decision or restart the expulsion procedure?</p> <p>The application is considered to be a subsequent application if the decision to the previous application has entered into legal force</p>


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			and the applicant stays in the country or has only shortly left the country. There is no exact time limit; case-by-case time interval varies from days to months. If there are any relevant new grounds, the asylum interview is needed.
	France	Yes	
	Germany	Yes	<ol style="list-style-type: none"> 1. If the first decision has become effective (for example, when there is a binding (final) judgment of a court that confirms the negative decision of the Federal Office for Migration and Refugees) under certain conditions (see also question 2) an execution of an expulsion decision might be suspended by a fresh application. 2. For the procedure it is not relevant if an applicant is held in an internment centre or is accommodated otherwise. If a subsequent application will be processed afresh (if a new procedure is admissible and a decision is to be taken on material grounds) a subsequent application would have suspensive effect. 3. There is no time limit to submit a subsequent application. Such application would have suspensive effect under the conditions described above. 4. Only the Federal Office is responsible for decisions on asylum applications. Therefore, the Federal Office also decides on subsequent applications regardless of the former decision was negative or not. 5. Such time limits are not to be applied.
	Greece	Yes	
	Hungary	Yes	<ol style="list-style-type: none"> 1) The Hungarian legal provisions provide the following barriers to avoid the endless echo of asylum applications, that prevents any expulsion from being executed: <ul style="list-style-type: none"> - An application can be examined in an accelerated procedure if it is submitted for the only reason of delaying or frustrating the order of the alien policing expulsion or carrying out the expulsion ordered by the refugee authority, the alien police authority or the court. - If the second application of the applicant is submitted right before the execution of expulsion, and there is no new fact or circumstance occurred which could be basis of international protection, following the communication of the decision the applicant has no right to stay in the territory of Hungary. - If the third or any later application was submitted following a final rejection decision of his/ her second or later application, which can no longer be challenged, the applicant has no right to stay in the territory of Hungary. 2) If the applicant – following a final decision rejecting the former application or discontinuing the procedure, and directly before the implementation of the applicant’s expulsion – submits his/her subsequent application, and it is rejected because no new fact or circumstance arose that would establish the need for international protection, then following the communication of the decision, the applicant will not have a right to stay in the territory of Hungary.


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			<p>3) Yes, he/she is entitled to launch a subsequent application, and it may have suspensive effect. When the applicant submits his/her subsequent application following a final termination or rejection decision on the former application, the refugee authority shall examine whether any new circumstance or fact occurred following the earlier decision that would allow for the recognition of the applicant as a refugee or as a beneficiary of subsidiary protection.</p> <p>4) Based on the Hungarian legal regulations asylum applications and expulsions in connection to them must be decided on by the asylum authority.</p> <p>5) The Hungarian legal regulations do not specify any minimum interval.</p>
	Ireland	No	<p>There is no systematic detention of asylum applicants for the purpose of processing applications. Where a person is served with a deportation order following the rejection of their protection application, they are legally obliged to comply with that Order, which essentially means that they must leave the State and thereafter remain out of the State. However, where persons served with such an Order fail to comply with the Order, they are liable to arrest and detention pending their removal from the State.</p> <p>Under section 17(7) of the Refugee Act 1996 (as amended), it is not possible for a person who has been refused refugee status to make a further application under the Refugee Act without the consent of the Minister.</p> <p>Consent to make a subsequent application is only given where, following a preliminary examination the Minister is satisfied that new elements or findings have arisen or have been presented by the applicant which make it significantly more likely that the person will be declared a refugee or qualify for protection in the State and the person through no fault of their own was incapable of presenting those elements or findings for the purposes of his or her previous application (including any appeal). If the Minister gives his or her consent, the applicant's subsequent application for asylum follows the same procedure as a first instance application and has a suspensive effect. If the Minister does not consent to the applicant making a subsequent asylum application, it is open to them to apply for a review of the refusal decision. It is also open to them to make a further application under section 17(7) requesting Ministerial consent. The numbers of persons seeking permission to make subsequent applications for asylum are relatively low.</p>
	Italy	Yes	<p>1–2. No. To obtain the suspension of an expulsion decree, a TCN may only lodge an appeal before the ordinary court that has jurisdiction over the case. In such appeal, the third-country national has to request a suspension of the expulsion decision. Moreover, Article 32 of Legislative Decree No 25/2008 establishes that an application for the recognition of the right to asylum is rejected when it is found that “it has been submitted for the only purpose of delaying or preventing the enforcement of an expulsion or refoulement decision”. As a result, the submission of another asylum application never determines the suspension of the effect of a previous expulsion decree. An expulsion decree can only be challenged before the courts, even if a third-country national is detained in a Centre for Identification and Deportation</p>




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			<p>(CIE).</p> <p>3. Yes. A TCN whose application for asylum has been rejected may submit another application any time new elements arise that are different from those produced and examined at the time of the first application and that can back the new claim. However, a new application has no suspensive effect on an expulsion decree.</p> <p>4. The Police authorities that receive an application for asylum under Article 3 and 26 of Legislative Decree No 25/2008 and Article 3 of Legislative Decree No 142/2015 have no power to examine the application, with the exception of the case in which the applicant has already been subject to an expulsion decree. In this case, the Questore (chief of the local police authority) can order the transfer of the third-country national to a Centre for Identification and Deportation (CIE) and enforce the expulsion.</p> <p>5. When the objective and subjective conditions of the applicant are the same as assessed the first time by the Commission, the application cannot be submitted again (even if some time has elapsed from the first submission). Indeed, Article 29 of Legislative Decree No 25/2008 establishes that when an applicant submits the same application for a second time after a decision was taken by the Commission without presenting new elements concerning his/her personal condition or the situation of his/her country of origin, the application is inadmissible.</p>
	Latvia	Yes	<p>1. Yes. According to the current Asylum Law a person has the right to submit a new application (<i>subsequent application</i>) if the final decision on the previous application has been taken. In that situation the expulsion decision is suspended until the claim to the Administrative Court is submitted against the decision on inadmissibility of subsequent application. Due to the Draft Law which was worked out in order to transpose the Directive 2013/32/EU (the Draft Law is at the final stage before adoption in the Parliament) the same procedure will be applied if person has lodged his/her first subsequent application, merely in order to delay or frustrate the enforcement of a decision which result his/her imminent removal. If applicant makes another subsequent application following decision considering a first subsequent application inadmissible the asylum seeker can be return to his/her country of origin (exception from the right to remain in the territory) if a return decision will not violate the Member State International and Union obligations.</p> <p>2. Yes, please see the answer above.</p> <p>3. There are no specific time limits in the Asylum Law neither for submission of the first nor subsequent application. In order the new (subsequent) application will be accepted for the new procedure an asylum seeker has an obligation to point out that the new facts and findings which had not been known by him during the previous examination of application have arisen.</p> <p>4. According to the Asylum Law all decisions in relation to asylum application (except - detention) are taken by the Office of Citizenship and Migration Affairs.</p> <p>5. Please see answer on question 1 and 3.</p>
	Lithuania	Yes	<p>1. According to the applicable national law, a decision to refuse asylum may be appealed against to the court in 14 days after notification. The court procedures (at two instances) may take several months or even up to a year. If a subsequent application is submitted during the appeals procedures (i.e. before the initial decision to refuse asylum becomes final), all those "fresh" claims are forwarded to the court as additional argumentation and are not proceeded as new applications. In case a subsequent application is submitted after the initial decision becomes final and before the actual expulsion (which is extremely rare), the execution of expulsion decision is suspended until a new</p>





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			<p>decision is taken on a subsequent application. Currently there are no safeguards in legislation to deal with this kind of abuse.</p> <p>2. See answer to the 1st question, the same principles apply here.</p> <p>3. See answer to the 1st question. It's not an entitlement per se, but rather a lack of restriction on this kind of abuse. A "fresh" application, submitted after the initial decision becomes final, must be processed and would have a suspensive effect on expulsion.</p> <p>4. The police / border guards, who are in charge of passing on the application, have no authority on deciding whether an application, either subsequent or not, is admissible, thus only the asylum body may decide on that.</p> <p>5. Currently there are no provisions in our national legislation which would regulate lodging of subsequent asylum applications or provide for any restrictions on admissibility of those.</p>
	Luxembourg	Yes	<ol style="list-style-type: none"> 1. In Luxembourg, if there is an administrative decision during the normal international protection procedure that refuses the international protection application in the framework of the examination of the merits of the application and the applicant files an appeal against the decision, the return decision is suspended until the First instance Administrative Court decides upon the case (article 19 (3) of the Asylum Law). If the First instance Administrative Court upholds the administrative decision, the applicant can file an appeal before the Administrative Court which has a suspensive effect (article 19 (4)). If the Administrative Court rejects the appeal, the return decision can be executed. If in such a case the applicant files a new application in order to stop the execution of a return decision, article 23 (1) establishes that the Ministry in charge of immigration shall consider inadmissible an application for international protection made by a person who has been definitely refused international protection, unless new evidence of facts emerge or are presented by the applicant which significantly add to the likelihood of the applicant qualifying for international protection. In this case the applicant can file an appeal before the First instance Administrative Court which has a month to decide. If the First instance Administrative Court upholds the decision there is no other possible appeal and the decision can be executed. However, if the Minister in charge of immigration declares the application inadmissible the deadline for appealing and the appeal itself do not have a suspensive effect. 2. Yes. See above. 3. a) Yes. Article 23 (1) establishes that the Ministry in charge of immigration will not consider a new application inadmissible if new evidence or facts emerge or are presented by the applicant which significantly add to the likelihood of the applicant qualifying for international protection. b) Yes. The new application would have suspensive effect on the first return decision. 4. No. In Luxembourg, only the Ministry in charge of immigration can take the decision refusing international protection (see articles 19 (1), 20 (1) and 23 (1)). 5. The Asylum Law does not establish any periods for filing applications in cases where the decision cannot be executed because the situation in the country of origin has not changed and the third-country national cannot be returned. However, article 125bis (1) of the Law of 29 August 2008 on free movement of persons and immigration establishes that if the third-country national proves that s/he cannot return to his/her country of origin for reasons that are not imputable to him/her, the Minister in charge of immigration can grant a postponement of removal for a reasonable period until there is a reasonable perspective to executing the return decision.



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	Malta	Yes	
	Netherlands	Yes	<p>6. If a foreign national has been notified of an express decision to refuse asylum, can the execution of an expulsion decision be suspended by virtue of a fresh application for asylum? <i>Yes, but only as described in the DIRECTIVE 2013/32/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), Procedure Directive.</i></p> <p>7. If the failed asylum seeker is held at an internment centre, may he or she resubmit an application for asylum such that it will be processed afresh, suspending the execution of expulsion until a decision is made on it? <i>Yes, but only as described in the DIRECTIVE 2013/32/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), Procedure Directive.</i></p> <p>8. Would he or she be entitled to launch a fresh application immediately after the failure of the original one if the grounds of the asylum decision are different? Would that fresh application have a suspensive effect? <i>Yes, but only as described in the DIRECTIVE 2013/32/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), Procedure Directive.</i></p> <p>9. In case of a fresh application for asylum, is it the asylum body which must refuse leave to proceed and make a decision, or can the police themselves, being in charge of passing on the application, notify and refuse leave to proceed since there is an earlier decision in negative? <i>Yes. I hope I understand the question correctly, but if an asylum seeker has a negative decision upon his/her request, and he/she will be returned to his/her country of origin, the Immigration and Naturalisation Service already scans the file of the asylum seeker before the flight. If there are indications that the asylum seeker might apply for asylum again, an employee of the Immigration and Naturalisation Service will walk the third country national to the airplane, together with the border police. If the TCN then asks for asylum, the DIRECTIVE 2013/32/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), Procedure Directive is applicable.</i></p> <p>10. If there is no change of circumstances in the applicant's country of origin, at what intervals may he or she resubmit an application for asylum such that the fresh application engages the principle of non-refoulement and so the immigration police are unable to execute the expulsion decision or restart the expulsion procedure? <i>E.g. new grounds that could lead to an asylum status: e.g. somebody has a relative that has been executed last night and now also fears for his/her life.</i></p>
	Poland	Yes	<ol style="list-style-type: none"> 1. Yes, the decision imposing the return obligation on the foreigner is not executed if the foreigner submits a new application for the international protection with new facts, proofs and legal circumstances augmenting the possibility of issuing a positive decision. 2. Yes, if conditions mentioned above are fulfilled. 3. Yes and if the foreigners presents new circumstances the decision imposing the return obligation on the foreigner is not executed. 4. In case of submitting a new application for international protection the Head of the Office for Foreigners shall issue a decision stating that the application is inadmissible, however when it is the second or subsequent application submitted after the issuance of the definitive decision stating that the application is inadmissible, the Border Guard can execute the decision imposing the return obligation on the foreigner without waiting for the Head of the Office for Foreigners decision.


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			5. The foreigner is allowed to submit a new application for international protection at any moment after issuance of definitive decision in his/hers case and if he/she presents new facts, proofs and legal circumstances augmenting the possibility of issuing a positive decision then is allowed to remain on the Polish territory whenever the situation in the country of origin has changed or not.
	Portugal	Yes	
	Romania	Yes	
	Slovak Republic	No	<ol style="list-style-type: none"> 1. A new application for asylum can be submitted only if the previous asylum procedure was concluded. In the Slovak Republic if the applicant is refused (he/she is not granted asylum or subsidiary protection, his application is refused as unfounded or inadmissible) and he/she lodges a new asylum application within the process of his administrative expulsion and before the execution of the decision about his/hers administrative expulsion, the execution of the decision about administrative expulsion is suspended until the decision about his/hers new asylum application is made (according to relevant Slovak legislation). 2. Yes. A failed asylum seeker held in the police detention facility can by the resubmission of his asylum application suspend the execution of the decision. In the case that from the start of the legal effect of the previous decision there was no substantial change of the factual situation, the Ministry of Interior of the Slovak Republic will refuse the asylum application as inadmissible and can at the same time decide whether the application was lodged with the aim to avert the imminent execution of expulsion from the Slovak Republic. In the case the factual situation substantially changed but the application does not fulfil the conditions neither for granting the asylum nor for granting the subsidiary protection, the Ministry of Interior of the Slovak Republic will refuse the application as manifestly unfounded. 3. The asylum applicant can lodge the application after the legal effect of the decision at all times. What is important is the substantial change of the factual situation. If the application is refused as unfounded or inadmissible it has no suspensive effect. This means that in such case the police department does not need to wait for the final decision about the asylum application even though a new asylum application is reaccepted. The further proceeding of the police department in the execution of the expulsion is not suspended by the lodging of asylum application in no way. 4. In case of a new application for asylum, it is only the asylum body (The Migration Office of the Ministry of Interior of the Slovak Republic – Asylum department) who decides. 5. In the Slovak Republic there are no time intervals specified in which the applicant can lodge another asylum application. Whether there is a change of the situation in the country of origin is important. In cases where a second asylum application was lodged and the Ministry of Interior of the Slovak Republic refused the application as manifestly unfounded or inadmissible in the past, the applicant is not entitled to stay at the territory of the Slovak Republic and it is possible to execute his/hers administrative expulsion (according to relevant Slovak legislation).
	Slovenia	Yes	Q.1. Yes. International Protection Act (IPA), Chapter VI. contains possibilities of special procedures and procedure for “filling a new application”, after responsible authority already expresses its refusal decision, is one of the possibilities. A TCN or stateless person whose application has already been finally rejected or has explicitly withdrawn it, may file a new one only if he/she submits new evidences providing that he/she meets the conditions for acquiring international protection under IPA. The new evidence should occur after the issue of refusal decision or may have existed already during the first procedure, although the person did not enforce these due to justified reasons.


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			<p>Q.2. Yes. During assessment of conditions which needs to be fulfilled for right to filling a new application an alien is based in the Alien Centre which is under Police authority responsible for removal of aliens. In case that Ministry of interior determined that alien fulfils all required conditions for right to fill a new application issued Decision based on which alien status change to the applicant for international protection. Alien is transfer to Alien Centre where his/her application is carried out immediately. Applicant cannot be removed until decision is not final. In case that alien not fulfils required conditions MOI rejected the request for the introduction of a new procedure with a decision.</p> <p>Q.3. Yes he/she is entitled to launch a fresh application immediately. No.</p> <p>Q.4. Asylum body alias MOI is responsible to issued decisions regarding a right to lodge afresh application.</p> <p>Q.5. Immediately after Decision on refusal of the first application is final.</p>
	Spain	No	<ol style="list-style-type: none"> 1. Under Spanish law, the submission of an application for asylum entails the suspension of any process of expulsion that might affect the applicant. 2. In relation to a second or subsequent application, the Ministry for Home Affairs, by means of a decision stating reasons, may declare that they will not be given leave to proceed. 3. Yes, if significant new circumstances arise as to the specific conditions of the applicant or the situation in his or her country of origin. After the submission of the fresh application, the person concerned may not be expelled, returned or <i>refoulé</i> until his or her application is either decided on or is refused leave to proceed. 4. The body in charge of refusing leave to proceed with an application is the Ministry for Home Affairs. 5. The Spanish rules do not specify a minimum interval.
	Sweden	Yes	<ol style="list-style-type: none"> 1. It depends on whether the decision is final or not. (An appeal must be lodged within the time-limit of 3 weeks following receipt of the negative decision.) <p>If the decision is still appealable, the applicant may appeal to the Migration Court (and further to the Migration Court of Appeal). According to national legislation, a separate decision to suspend the enforcement of the expulsion order must be made by the Swedish Migration Agency to prevent the expulsion order from being carried out in the meantime. The court may also decide to suspend the enforcement.</p> <p>When an asylum application has been rejected and the decision is final and non-appealable, there is a possibility for newly arising circumstances to be considered after a subsequent application. Chapter 12 Section 19 of the Swedish Aliens Act deals with subsequent applications invoking new circumstances where:</p> <ol style="list-style-type: none"> 1. the new circumstances regarding the applicant's need for protection "can be assumed to constitute a lasting impediment to enforcement, and 2. these circumstances could not previously have been invoked by the alien or the alien shows a valid excuse for not previously having invoked these circumstances". <p>There will be a preliminary examination and if these two criteria are met, and if a residence permit on humanitarian grounds cannot be granted, the Swedish Migration Agency decides to re-examine the case in conformity with Chapter II in the recast</p>

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			<p>Asylum Procedure Directive. If these conditions have not been fulfilled, the Swedish Migration Agency considers the application as inadmissible.</p> <p>The execution of the expulsion order may not be enforced during the preliminary examination of admissibility of the subsequent application. If a re-examination is granted, the enforcement is suspended until the decision on international protection has been settled by a decision that has become final and non-appealable.</p> <ol style="list-style-type: none"> 2. Yes, a failed asylum seeker who is held at an internment centre may submit an application claiming that there are impediments to enforce the expulsion. The Swedish Migration Agency then has to consider whether the two criteria set out in Chapter 12 Section 19 of the Swedish Aliens Act are met or not. The same procedure and the rules described above in question 1 applies. 3. If the original decision is final and non-appealable, the person in question may submit an subsequent application that will be preliminary examined. The same procedure and the rules described above in question 1 applies. 4. The Swedish Migration Agency examines the application and decides if there are grounds to grant a re-examination or not. If the Swedish Migration Agency decides not to grant re-examination, the decision may be appealed to the Migration Court and further to the Migration Court of Appeal. The police can not make any decisions in these regards. 5. The Swedish rules do not specify a minimum interval.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. Yes. Repeat asylum claims are referred to as 'Further Submissions' in the UK and we have a published policy on dealing with 'Further Submissions, which is available on Gov.UK. Broadly, if a failed asylum seeker lodges further submissions on protection grounds this needs to be considered before removal. We aim to consider further submissions within five working days and where the additional evidence simply repeats previous information already considered they can be refused without a further right of appeal. Caseworkers only need to decide if further submissions amount to a fresh claim on asylum or human rights grounds when they have already considered the additional evidence and decided to refuse outright without granting any leave. In such cases, caseworkers must decide whether the further submissions amount to a fresh claim. The claimant will only be entitled to an in-country right of appeal if it is accepted that there is a fresh claim. Further submissions are considered in accordance with the policy and paragraph 353 of the Immigration Rules 2. Yes – further submissions can be lodged by someone in detention. Where an individual is detained pending removal, and wishes to make further submissions, they should immediately contact the team handling their case who will advise them on the action to take. It will usually be appropriate for the removals caseworker to obtain the further submissions by fax or e-mail and assess whether a decision can be made quickly, usually within 5 working days, so that the late claim can be resolved and the individual granted leave or removed as planned. 3. A further submission would only be treated as fresh claim if significantly different from material that has already been considered. Submissions will only be significantly different if the content has not already been considered and taken together with previously considered material, creates a realistic prospect of success on asylum or human rights grounds, including claims

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			<p>under Family or Private Life Rules (Article 8 ECHR). Caseworkers must consider the further submissions against this 'two part test'. A fresh application would have a suspensive effect.</p> <p>4. Only caseworkers trained in considering asylum issues may consider further submissions on protection grounds. The unit deciding the application must make the decision.</p> <p>5. In cases where a claimant's further submissions are entirely different to their original asylum claim. For example, someone may initially claim asylum due to a fear of persecution on political grounds which is refused and dismissed at appeal but subsequently claim on religious or Article 8 grounds. Despite the clear differences this is still treated as a further submission and not a fresh claim unless the further submissions meet the two part test noted above.</p>
	<p>Norway</p>	<p>No</p>	<p>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</p>
