

Aware-Net – working for social inclusion in Europe

Comparative Policy Framework 2005/2006

	GERMANY 	ITALY 	IRELAND 	SLOVENIA 
Asylum Seeker Numbers	<p>In 2004 35.600 AS arrived in Germany. 61.961 asylum claims have been examined by the Federal Office for migration and refugees in 2004. 960 cases (1,5%) have been recognized according to German Constitutional Law, 1.107 cases (1,8%) according to Geneva Convention, 954 cases (1,6 %) given leave to remain for humanitarian circumstances, 38.599 (62%) rejections. Total number of <i>de facto</i> refugees in 2003: 416.000. Total number of Geneva Convention refugees in 2003: 75.000.</p>	<p>According to the Ministry of the Interior, 8.650 asylum claims have been examined by the Central Commission in 2004. 5.450 cases have been rejected and 770 accepted according to an average 10% of cases usually accepted. 2.350 persons have received a residence permit on humanitarian grounds in 2004. Up to April 2005, before the Law on immigration (189/2002) was fully enforced, 4.200 asylum claims were examined. In 2.480 cases the refugee status was denied. 416 asylum claims were accepted whereas 851 persons received the residence permit on humanitarian grounds.</p>	<p>In 2005, a total of 4.323 new asylum applications were received by Office of the Refugee Applications Commissioner (ORAC) - there were 4.766 in the corresponding period in 2004. In total, 9.598 cases (5.682 after the first interview and 3.916 at appeal) had been processed to completion out of which a total of 966 persons were recognised as refugees (455 after the first interview and 511 at appeal). Ireland does not have a legislated system of complimentary protection, but can be granted on a discretionary basis by the Minister for Justice. In 2005, 137 persons had been granted humanitarian leave to remain in Ireland by 30/11. The top-5 countries of origin in 2005 were Nigeria, Romania, Somalia, Sudan and Iran.</p>	<p>In 2005, 1.674 persons lodged the asylum application at the Ministry of Interior (82% of men and 18% of women). Altogether there were 1.848 applications to be processed in 2005. 1.120 (67%) asylum seekers left the Asylum centre before the end of the procedure, therefore these procedures were closed. 90.8% of examined applications were rejected. 26 persons were recognised a refugee status, which means 3.5% of examined applications. Main AS countries of origin are: Serbia and Montenegro, Bosnia and Hercegovina, Turkey. At the end of 2005 there were altogether 122 recognised refugees living in Slovenia: 53 due to the Geneva Convention and 69</p>

				on humanitarian grounds.
<p>Asylum Procedure</p>	<p>Only a few AS submit their asylum applications at the borders. The entry is refused when the AS enters from "a safe third country". Most enter Germany on an illegal basis or with a valid visa and apply for asylum within the country. AS are referred to a particular reception centre in accordance to the centralised distribution procedure.</p> <p>All applicants are interviewed individually. Most of the decisions are made within the first 6 months. The Federal Office may reach one of the following decisions:</p> <ul style="list-style-type: none"> - The recognition as a victim of political persecution (German Constitutional Law). - Refuse to grant refugee status but instead grant refugee status protection against deportation in accordance with the Geneva Convention. - Tolerated Residence (Duldung) for rejected AS who are facing the risk of torture, death penalty or any violation of rights according to 	<p>There is no specific Italian framework law on asylum. The asylum application can be made on arrival in Italy, by applying to border Police. If AS are already within the country, they can submit an application to the Foreigners Office at the local Police Station where they ask for a hearing at the Local Commission in charge of the recognition of the refugee status.</p> <p>Illegal migrants are normally held in the Identification Centers where they can submit the asylum application.</p> <p>According to the Immigration Law AS will be called for the interview within 30 days.</p> <p>The Local Commission may reach one of these decisions:</p> <ul style="list-style-type: none"> - The recognition of refugee status. - Rejection of application but a recommendation to the Police headquarters (Questura) to submit a residence permit on humanitarian grounds. - Refuse of application. In this case, the AS can 	<p>The Refugee Act 1996 is the principal piece of domestic legislation dealing with refugees and asylum seekers. The Act incorporated the 1951 Geneva Convention into domestic law, set out a framework for the determination of asylum applications and provided for the establishment of ORAC as well as the Office of Refugee Appeals Tribunal (ORAT). The Act has been amended on three occasions since then the Immigration Act 1999, the Illegal Immigrants (Trafficking) Act 2000 and the Immigration Act 2003. Almost 90% of asylum applicants apply at the ORAC, with the remainder applying at ports of entry, which means the majority come in on valid visas or are smuggled or trafficked into the country.</p> <p>The asylum process is mainly divided into 2 major sections: the first stage (ORAC) and second, the appeal stage (ORAT). Asylum applicants are interviewed in person and are provided with legal advice from the Refugee Legal Service.</p>	<p>The Asylum Act was adopted in 1999 and has since then been amended 4 times. The last change came into force on 4th of March 2006.</p> <p>The new Act brought great changes to the Slovenian asylum legislation and practice as it seriously lowers the current asylum standards in Slovenia. One of the major changes of serious concern in the asylum procedure is the undefined "pre-asylum" procedure, which will be carried out by police authorities. The applicant firstly has to hand over a statement on the reasons for the asylum application to the police authorities. If the police find the reasons to be unsatisfactory it will deny access to the asylum procedure and the applicant shall be deported. There are no procedural guarantees for the applicant, no right to an efficient legal remedy and the constitutional right to asylum is also breached as the applicant will not have the possibility to lodge an application in formal proceedings at the</p>

	<p>EU-Convention and aliens act.</p> <ul style="list-style-type: none"> - Refusal of any right to remain, the applicant will be ordered to leave the country within one month. <p>Negative decisions can be appealed. The success rate is about 8%.</p> <p>The new Immigration Act (01.01.2005) intends the recognition of non-governmental persecution and gender discrimination.</p>	<p>firstly make the request for a revision of the decision to the Local Commission integrated with a member of the National Commission and then, if the revision is negative, the AS can appeals to the local courts.</p> <p>Appealing to the local courts doesn't necessarily mean that expulsion measures are suspended.</p>	<p>An applicant is either recognised as a refugee or turned down. Once an applicant has failed at appeal they are given 3 options:</p> <p>apply to the Minister for</p> <ul style="list-style-type: none"> - Justice for leave to remain (which is discretionary and not legislated); - leave voluntary or; - be deported. <p>New legislation to be introduced later this year is expected to introduce complimentary protection.</p>	<p>department for asylum of the Ministry of Interior. Furthermore the Act does not contain any procedural safeguards which the police will follow while examining the asylum application, which increases the possibility of deportation of people in need of international protection. According to the law, asylum applications can be lodged in the Asylum Centre; persons waiting to lodge their applicants are transferred there by the police.</p> <p>If the Ministry of Interior issues a negative decision an appeal can be made at the Administrative Court. If the decision by the Ministry was made through the accelerated procedure the time limit for the appeal is 3 days, while the time limit for regular procedures is 15 days. The negative decision of the Administrative court can also be challenged at the Supreme Court within 15 days. However, if the Supreme court's decision is also negative the rejected asylum seekers are usually give a 3 day time limit to leave the country voluntarily; otherwise they</p>
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				are taken to the Center for illegal migrants where they await deportation.
Welfare Benefits	<p>AS have to stay in reception centres (community housing) without allowance to leave the district. Meals are provided, clothing in emergencies. After 3 months, the AS normally move into an asylum centre, distributed on the basis of current population. Living there is compulsory.</p> <p>Recognised refugees and Geneva Convention-refugees have access to private housing on the same terms as German nationals.</p>	<p>The Immigration Law (189/2002) set up and provides funding for a National System of reception and assistance for AS&Rs, the "Protection System for Asylum Seekers and Refugees". In 2005, approximately 4.189 persons received assistance. The Protection System offers:</p> <ul style="list-style-type: none"> - Reception and assistance for AS. - Support to social and economic integration for refugees. - information and assistance in following the recognition of refugees status procedures. - orientation and assistance to voluntary repatriation 	<p>AS are housed in reception centres in Dublin for an initial 2 week period, before being dispersed to direct provision centres across the country. At the end of 2005 were around 6.000 persons in the Reception and Integration Agency's accommodation centres, though the numbers are expected to fall. They are provided with full room and board i.e. 3 meals a day. It is not compulsory to stay in the centres, but anyone opting out does not receive financial assistance from the state. Since recognised refugees have the same rights as Irish citizens, they are free to access private and social housing.</p>	<p>There is only one Asylum Centre in Slovenia, located in Ljubljana, where 203 persons can be accommodated. It is compulsory to live in the Centre, though exceptions can be made. There are more than 203 persons living in the Asylum Centre, therefore 2 families living in the same room represents a frequent case. AS are provided with 3 meals and clothes from humanitarian donations. Recognised refugees have almost the same rights as Slovenian citizens. They don't have access to social housing but they can live in the accommodation centres of the Ministry of Internal Affairs for the first 3 years. As integration measures are not developed, refugees face serious subsistence problems in the first 2 years.</p>
Income Support	<p>During the first three months in reception centres AS receives monthly allowances of 41€ per person, 20€ per child, food and clothes are provided.</p>	<p>For AS, a daily cash benefit of €27 is provided for 35 days. Refugees are entitled to the same social benefits as the Italian citizens although</p>	<p>AS receive €76.40 per month (€19.10 per week) per adult and €38.40 per month throughout the asylum process, as long as they are in the direct</p>	<p>The new Act on Asylum abolished the pocket money for AS. The amount in the past Act on Asylum was anyway incomprehensibly low: 7</p>

	<p>Afterwards in some "Länder" AS receive 75% of the welfare benefit of a German citizen, in other parts they will receive only above mentioned allowances plus food and clothes.</p> <p>After 3 years, AS are entitled to the same social benefits as nationals.</p> <p>Recognised refugees and Geneva Convention refugees are entitled to the same benefits as nationals.</p>	<p>family support is very difficult to be obtained.</p>	<p>provision centres. Those who choose to live outside the centres have no access to these payments. Recognised refugees have the same access to social benefits as Irish citizens.</p>	<p>EURO per month. AS have no right to receive any financial assistance from the state. Recognised refugees have the same access to social benefits as Slovenian citizens.</p> <p>Refugees living in private accommodation have the right to receive financial allowance in the first 3 years.</p>
<p>Education/ Training</p>	<p>In most "Länder" children of AS have the right to attend school until the age of 18. In practice, it depends on the goodwill, interest and resources of the local schools.</p> <p>There are no language programmes for AS, unless NGOs organise classes. AS have no access to training programmes by the national employment office.</p> <p>No restrictions to attend university, but also no financial support.</p> <p>Recognised refugees and Geneva Convention refugees and their family members have the right to attend "integration-courses" for</p>	<p>AS Infants and children under the age of 16 have the right to schooling and are required to attend. AS above the age of 16 have no right to attend public school or University, yet directors of secondary schools can decide to receive AS in class. AS have access to Italian language courses for adults financed by the Ministry of Education.</p> <p>According to the Decree Law n.140 (2005) AS have access to vocational training.</p> <p>Refugees are treated as Italian citizens but there are many problems with the accreditation of prior</p>	<p>AS have a right to education up to the age of 18. Strictly speaking they are not barred from attending college/university, however they are not financially supported by the state and have to pay very high international fees. AS are provided English language lessons by various agencies, support groups and NGOs.</p> <p>Recognised refugees have the right to attend university and if they meet the residency requirements, can qualify for the same fees as Irish students. Generally, they also have the same access to education and training across the board.</p>	<p>AS under the age of 15 have the right to schooling and are required to attend. AS above the age of 15 have no right to attend public school or University, yet directors of secondary schools can decide to receive AS in class.</p> <p>AS can learn Slovenian language in classes organised by NGOs. They don't have access to vocational training.</p> <p>Recognised refugees have the same rights as Slovenian citizens regarding education.</p> <p>Recognised refugees can</p>

	<p>630 hours according to the new immigration act. Access to vocational training same as nationals.</p>	<p>learning (APL).</p>		<p>attend Slovene language classes of 300 hours, financed by the Ministry of Internal Affairs.</p> <p>There is an article in the Act on Education stating that each university program should assure 5% of places to foreigners.</p>
<p>Work</p>	<p>AS are not allowed to work during the first year. Afterwards a work permit according to the "rule of last priority" can be given. Germans or foreigners with permanent stay will be preferred. Available jobs are mostly unskilled and poorly paid. Restricted access to the labour market will last during the whole asylum procedure.</p> <p>People with exceptional leave to remain on humanitarian circumstances will get full access to labour market after 4 years stay in Germany, Young people who finished school degrees are allowed to work without restrictions.</p> <p>No restrictions for Recognised refugees and Geneva Convention</p>	<p>According to the Decree Law n.140 (May 2005) AS can work if there is no response after 6 months from the submission of the asylum application and the AS is not responsible for the delay. Foreigners holding a residence permit on humanitarian grounds have the right to work, but the annual renewal of the residence permit and the difficulty to turn it into a residence permit for work interferes with their integration. Refugees can work and they are treated same as Italian citizens.</p>	<p>Apart from a one-off conditional decision in 1999 granting access to employment for over 3,000 AS, they are not entitled to work in Ireland pending a successful decision on their asylum application. This policy has been reinforced by the fact that Ireland is one of two EU member states that have not signed up to the Reception Directive, whose article 11 deals with access to employment for AS.</p> <p>Refugees and those granted leave to remain have the right to employment.</p>	<p>AS, according to the new Act on Asylum, can obtain the working permit after one year in the asylum procedure if they are not responsible for the delay.</p> <p>Refugees have the right to work as any Slovenian citizen.</p>

	refugees.			
Legal Aid	<p>AS are not entitled to free legal aid during the first instance procedure. During the second instance, free legal aid is only granted to those whose case is deemed to have prospects of success.</p>	<p>AS can make a request for free legal aid in order to present an appeal against the Commission's refusal. Free legal aid can be obtained through a rather complex procedure at the Civil Tribunal. It is necessary to have a lawyer to present an appeal against the forewarning to leave the country or the order of expulsion. Associations dealing with refugees or foreigners, offer free legal aid.</p>	<p>The Refugee Legal Service (RLS) provides a low-cost (cost ranges from €6 to €35) independent and confidential legal services to asylum seekers and refugees. The RLS can provide advice to applicants before submission of the questionnaire or prior to attendance at interview and can also make written submissions to ORAC in support of an application. The RLS can also provide representation before the RAT.</p>	<p>The old Asylum Act guaranteed free legal aid given to asylum seekers by refugee counsellors on all levels of the procedure. The Act amending the current Asylum Act abolished free legal aid in first instance; consequently asylum seekers are only beneficiaries of free legal aid on appeal. Free legal aid in first instance will be provided by NGOs, but there is no funding for this purposes available yet.</p>

<p>Health</p>	<p>The access to medical treatment during the first 36 months is restricted to cases of serious illness or acute pain. After this period, AS have the same access to health services as German nationals</p> <p>Refugees entitled to same benefits as nationals</p>	<p>AS are entitled to benefit from the Public Health Service, even if they are appealing a refusal by the Central Commission.</p>	<p>AS are entitled to the following health services:</p> <ul style="list-style-type: none"> - a medical card for free general practitioner services; - an exceptional needs payments through the social welfare system; - voluntary medical screening and other specialised services; - a free professional clinical and counselling service that focuses on the psychological needs of individual AS and refugees. In particular, the Service offers therapy and counselling suited to the individual's needs and will facilitate the individual's referral to other health professionals and support agencies. 	<p>AS have the right on urgent medical assistance but not therapy.</p> <p>Recognised refugees have the same benefits as nationals.</p>
<p>Funding for Programming with AS&Rs</p>	<p>The majority of funds come from the national government and Länder government. Some programmes run by NGOs are partly financed by European fund</p>	<p>The majority of funds come from Central Government and the European Refugee Fund (ERF). All these funds have been allocated to the National "Protection System for Asylum Seekers and Refugees" for accommodation, housing, legal and social assistance and integration measures implemented by local authorities. Other funding may come</p>	<p>Funding mainly comes from the state and the European Refugee Fund. NGOs and support groups are mainly funded by philanthropic foundations.</p>	<p>Funding of NGO activities is a serious problem in Slovenia. From 1992, after the independence of Slovenia, projects were funded mainly by UNHCR that is leaving Slovenia at the end of May 2006. In the year 2003 the Government funded NGOs programs for the first time for a total amount of 150.000 EURO. In 2004 there was no</p>

		<p>from private or European sources (e.g. EQUAL) for integration projects and for victims of torture, legal advice, measures against exclusion, cultural initiatives (EU and UN funds).</p>		<p>governmental funding.</p> <p>In 2005 the first ERF was available. Unfortunately the system of distribution of ERF funds is not adequate or not established yet. Also the Managing Authority (MA) – Ministry of Internal Affairs, is not prepared to cooperate with NGOs that are basically excluded. Therefore the ERF funds in 2005 were disproportionally distributed, where the MA used about 875.000 EURO for unfinished programs, whereas NGOs were offered about 83.000 EURO in total. For the year 2006 the process of ERF distribution is closed, and all the major experienced organizations were excluded.</p> <p>There are some funding possibilities at the Ministry of Social Affairs (like EQUAL) and at the Embassies where some small projects can be funded.</p>
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