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EMN-Study: Accurate, timely, interoperable?
Data management in the asylum procedure in Austria
Martin Stiller

SUMMARY

This study examines the data collection of asylum seekers during the asylum procedure in Austria. The study first provides an overview of the asylum procedure in Austria and the different phases of the procedure. In Austria, these phases are limited to "making an asylum application" and "lodging an asylum application". Austrian law has no provision for a separate phase involving "registering asylum seekers", a phase explicitly surveyed in the EMN study template and potentially existing in other EU Member States. In the following, the regular and the accelerated asylum procedure ("fast-track procedure") in Austria will be presented. The fast-track procedure is only permissible under certain conditions, for example if the asylum seeker comes from a country that is considered a safe country of origin or if the asylum application is manifestly unfounded. The main characteristic of the accelerated procedure is a shorter decision time compared to the regular asylum procedure, but usually ends with a negative asylum decision. Although statistical information is regularly collected by the authorities, not all of the data collected is published and processed specifically. However, data on the duration of procedures were provided upon request (see fig.).

Figure: Average time of the asylum procedure from submission to first instance decision
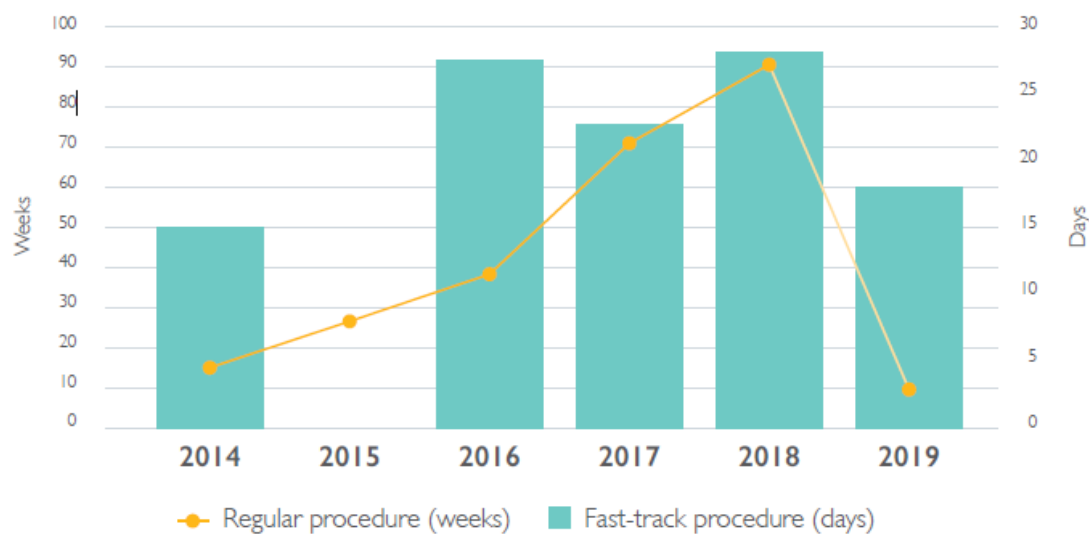
Note for the fast-track procedure: Due to the migration events 2015/2016 no published evaluation is available for the year 2015.

Note for the regular procedure: As of 2019, a measurement of the duration of procedures minus the procedures from the migration events of 2015/2016 (asylum application until June 1, 2018) was made.

Source: Written input: Federal Ministry of the Interior, 19 August 2020.

Next to the organs of the public security service and the security authorities, which are responsible for receiving the asylum application in Austria, the Federal Office for Immigration and Asylum plays an important role in data management. The data collection in the asylum procedure starts with the security authorities and is continued by the Federal Office for Immigration and Asylum which is responsible for making decisions in asylum procedures. In the EMN study template, on which this publication is based, over 70 different data types are queried. The different types of data relate to different aspects and areas of the applicant's life. For example, in addition to biometric data, information on health status and vulnerability is also collected. With the exception of a small part – for example, information on academic studies, apprenticeships or language skills, which are not collected statistically – Austria collects all of the queried data types. They are both stored in paper form as well as saved in databases. Here, the Integrated Administration of Aliens (IFA) system plays a key role, serving as both a

database for the collected data as well as a tool that enables facilitated processing of all steps required in asylum procedures. According to experts at the Federal Ministry of the Interior , this system is perceived by staff as very efficient and practicable and is also regarded as "best practice" internationally, with Austria assuming a leading role in this field. However, while the introduction of this new system in 2014 was also accompanied by challenges, these seem to have been overcome.

Collected and stored data are compared with other Austrian and European databases. Databases to be mentioned here are, in Austria, the Aliens Information System and, at European level, in particular the Schengen Information System (SIS), the Visa Information System (VIS) and the Eurodac database, with the latter supporting fingerprint matching. In the context of such data comparisons, interoperability presents a challenge for Austria, especially in relation to entering data. The key question relates here specifically to the formal rules that apply when entering data, in other words, whether national procedures can override the rules made at European level. Where data differ, the question also arises as to which data are to be considered "better" or "more correct" and how to decide which data are to be retained or revised. The data collection of asylum seekers in Austria has also been prepared for the event of a renewed sharp increase in the number of asylum applications, as occurred in 2015/2016, and appropriate legal provisions have been made to ensure and accelerate the registration process across the country if necessary.

Austria places value on information and security in relation to collecting data. Asylum seekers are accordingly provided with information sheets in languages they understand, and which inform them of how their data are processed. Where required, the content of the information sheets is translated into a familiar language for the respective individual. Depending on the specific type, the data are processed in separate physical environments after collection and consequently stored on different servers and hard drives due to data protection regulations. These servers are accessible only via the intranet of the Federal Ministry of the Interior. Under current law, application can be made to have collected data deleted, while certain types of data are similarly to be deleted at junctures specified under law even where no application is made. The latter cases include when the individual concerned obtains Austrian citizenship or after a ten-year period from when the Federal Office for Immigration and Asylum or the Federal Administrative Court hands down a final decision in a procedure. The disclosure of data of an applicant by the authority to the respective country of origin is – under fulfillment of certain conditions –legally permitted. This is the case already at a time when the negative decision on the asylum application is not yet legally binding. This early point in time of data transfer is – with regard to the mentioned data protection – surprising for NGO representatives.

The COVID-19 pandemic currently affecting Austria has not resulted in any significant change in how data are managed in asylum procedures. Yet, some plans for modernizing data management have been moved forward due to the pandemic. Examples of such measures include the procurement of video conference equipment to allow audio-visual interviews of applicants. This digitisation step will probably be maintained after the COVID-19 pandemic. However, it remains to be evaluated to what extent, for example, non-verbal communication can also be incorporated in the context of such video conferences.