# Effective processing of asylum applications:

# Practical considerations and practices

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# Executive Summary

National asylum systems have faced growing pressure in the last several years due to the increasingly high number of asylum applications and the challenges caused by the COVID-19 pandemic. Unless States undertake efforts to strengthen their systems, there is a serious risk that backlogs of applications will continue to rise. Protracted backlogs and prolonged delays in the determination of asylum claims can erode public confidence in the asylum system and make it more difficult to repatriate those found not in need of international protection.

The primary goal of this paper is to document relevant options and measures initiated by national asylum authorities - in countries with advanced asylum management practices - to ensure effective processing of asylum applications, while upholding key protection principles and due process standards. The United Nations High Commissioner for Refugees (UNHCR) encourages the adoption of such good practices, which can then be contextualized at regional or national levels as part of practical and operational responses by States to growing or larger population movements.

The paper promotes the growing body of good practices available to guide national asylum authorities, in accordance with the imperative of safeguarding international protection and advancing responsibility sharing. Such an approach is in line with the Global Compact on Refugees (GCR) and one of its special initiatives, the Asylum Capacity Support Group (ACSG) mechanism.

As evidenced by the examples in this paper from Canada, Italy, Spain, Sweden and Switzerland, effective processing of asylum applications can be achieved through better system design, innovative tools and measures and practical responses to systemic challenges. Close coordination between relevant actors, such as border control, police, and asylum authorities, as well as the participation of legal aid providers and civil society from the onset of the asylum procedure, can further make the asylum process faster and fairer. Establishing appropriate processes for registration, frontloading of data collection and data management, increasing the use of digitalization and adopting interoperable and integrated systems are other means to promote fairness and efficiency.

Another technique for efficient asylum application management is illustrated by the examples in the paper speaking to triaging, which can reduce strain on asylum systems caused by new arrivals as well as pending cases. Triaging involves asylum authorities engaging in analysis of caseloads by different criteria and channeling applications into different procedures.

In addition, the paper highlights key principles and procedural standards that are essential to consider in the design of asylum systems and case management processes.

The examples in the paper demonstrate that it is possible to build resilient and adaptable asylum systems while maintaining procedural fairness and integrity in case processing. With robust structures in place, States will be well placed to effectively tackle existing backlogs, while also responding to new arrivals in a global context of increased forced displacement.

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# Background and justification

1. The United Nations High Commissioner for Refugees (UNHCR) estimates that 34.2 million people were forcibly displaced outside of their countries at the end of 2020 due to persecution, conflict, human rights violations, and events seriously disturbing public order.[1] Across the world, national asylum systems have faced increased pressure to address growing numbers of asylum applications.[2] Even with the historic drop (by 45 per cent) in new individual asylum applications in 2020 due to movement restrictions linked to the COVID-19 pandemic, asylum backlogs continued to grow in many countries. Unless States urgently strengthen their asylum systems, there is a serious risk that backlogs will spiral out of control once the numbers of new applications return to pre-COVID levels. Protracted processing times for asylum claims, leading to asylum-seekers waiting multiple years for a final determination of their claim without any certainty, can irreparably damage already fragile asylum systems. Delays in the processing of asylum applications can also erode public confidence in these systems and make it more difficult to repatriate or find other solutions for those found not to be in need of international protection.[3]

2. The number of pending asylum cases at the end of 2020 – some 4.15 million – remained virtually unchanged compared to 2019. Notable exceptions where countries managed to reduce backlogs of pending cases in 2020 were Germany (66,100 or 21 per cent lower), Greece (43,200 or 41 per cent lower) and Canada (18,970 or 22 per cent lower). Asylum authorities in some countries managed to increase their productivity over the course of 2020, making more substantive individual refugee status decisions than in 2019. These countries include Brazil (21 per cent increase to 26,800 decisions),[4] Mexico (49 per cent increase to 22,500 decisions)[5] and the Netherlands (16 per cent to 12,500 decisions).[6] These increases in decisions stemmed from putting in place adaptive measures and innovative tools for remote processing and, most importantly, from implementing simplified processing modalities.

3. Drawing from examples of system resilience and adaptability[7] for backlog reduction and effective processing, this paper provides practical considerations for States on issues, practices, and tools to further strengthen their asylum systems and increase productivity, while maintaining procedural fairness, quality, and integrity of processing. The considerations in this paper draw on good practices from countries with asylum management practices that have introduced innovative initiatives and made changes based on lessons learnt, which can serve as inspiration and be replicated in other systems. It is meant to be a "living document" and practices from other national asylum systems, will be added over time.[8] The paper further draws on UNHCR's experiences and engagement with a wide range of national systems across the world, as well as on UNHCR's experiences in implementing status determination procedures under its Mandate.

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1 UNHCR, *Global trends: Forced displacement in 2020*, www.unhcr.org/60b638e37/unhcr-global-trends-2020.

2 A national asylum system refers to all strategies, laws, policies, action plans, resources and institutions that form a state's response to asylum-seekers and refugees. The present paper focuses on the parts of an asylum system that relate specifically to reception, registration, and status determination.

3 UNHCR, *Global trends: Forced displacement in 2020*, www.unhcr.org/60b638e37/unhcr-global-trends-2020. p.43.

4 For information on good practices from Brazil, see UNHCR *ACSG portal: Simplified procedures,* https://acsg-portal.org/tools/55071/

5 For information on good practices from Mexico, see *UNHCR ACSG portal: Simplified procedures*, https://acsg-portal.org/tools/55487/; *Expedited procedures*, https://acsg-portal.org/tools/mexico-expedited-procedures/ and *Creation of COI unit*, https://acsg-portal.org/tools/mexico-creation-of-the-coi-unit/

6 UNHCR *Operational Data Portal, COVID-19 Platform, Temporary Measures and Impact on Protection (*accessed on 21 January 2022), https://data2.unhcr.org/en/dataviz/127.

7 Adaptability refers to preparations made to adapt asylum institutions to anticipate changes in external and internal environments. To ensure the adaption is sustainable, an institution needs to have systems in place to evaluate the positive and negative impacts of any change while ensuring continuous improvements are made. See Forced Migration Review Issue 65, *Institutional adaptability in the time of COVID-19* (page 56), November 2021, www.fmreview.org/sites/fmr/files/FMRdownloads/en/recognising-refugees.pdf

8 For more information on good practices introduced in national asylum systems, see *UNHCR ACSG portal*, https://acsg-portal.org/tools-and-reference-material/

4. The paper aims to help States fulfil their obligations to provide international protection to individuals seeking asylum on their territories,[9] while also considering suitable arrangements in terms of broader issues related to migratory movement.[10] The approach outlined in this paper is in line with the Global Compact on Refugees (GCR), which aims to, among others, strengthen the functioning of refugee regimes and reinforce the need for fair and efficient determination of international protection claims in accordance with applicable international and regional standards.[11,12]

5. The paper is structured around four streams (see Flowchart in Annex 1): (i) Registration, frontloading of data collection and data management, (ii) Triaging and diversified case processing modalities, (iii) Due process standards and (iv) Systemic responses for effective processing.

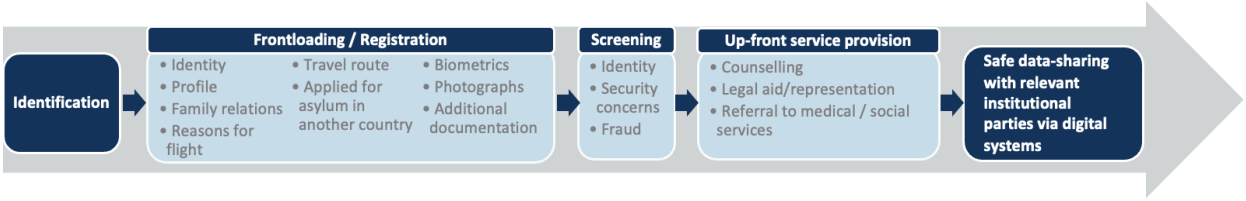
[9] As noted in the UNHCR *Note on "Externalization" of International Protection*, primary responsibility for identifying and assessing international protection needs rests with the State in which an asylum-seeker arrives and seeks protection. Issues related to externalization fall outside the scope of this paper. For more information, see UNHCR *Note on "Externalization" of International Protection*, 28 May 2021, www.refworld.org/docid/60b115604.html.

[10] For more information related to migratory movements, see UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in Action,* 2016 Update, www.refworld.org/docid/5b1a38374.html.

[11] The importance of fair and efficient asylum procedures has been acknowledged by UNHCR's Executive Committee, including in its Conclusions recommending that States' asylum procedures should satisfy a number of basic requirements: EXCOM Conclusion No. 71 (XLIV) 1993, para. (i), EXCOM Conclusion No. 74 (XLV) 1994, para. (i), EXCOM Conclusion No. 81 (XLVII) 1997, para. (h), EXCOM Conclusion No. 82 (XLVIII) 1997, para. (d)(iii), EXCOM Conclusion No. 85 (XLIX) 1998, para. (q), EXCOM Conclusion No. 103 (LVI) 2005, para. (r).

[12] Established as a special initiative under the Global Compact on Refugees, the *Asylum Capacity Support Group (ACSG) mechanism* provides support to individual countries to meet their asylum capacity needs. Within the ACSG framework, State pledges or requests for support are matched with corresponding pledges or offers of support. Countries such as Canada and Switzerland whose good practices are featured in this paper are also offering capacity support to other States bilaterally or through other multilateral initiatives, see: https://acsg-portal.org/

# I. Registration, frontloading of data collection and data management




6. Registration is critical to the effective implementation of simplified case management processes. It is essential that information related to an asylum-seeker's identity (basic biodata, family composition, etc.), as well as specific needs and protection concerns are gathered as early as possible in the process. A fair and efficient asylum system rests on a strong registration process and proper data management. Weak registration has caused bottlenecks for many national asylum systems. Such bottlenecks at the initial stage can subsequently have a negative impact on other parts of the asylum process. Proper system design and allocation of resources, including for staffing, training, technology, and software systems are essential for ensuring quality registration and frontloading of data collection.

7. Information about the asylum procedure in a language the applicant understands, counselling and legal aid/legal representation should also be provided as soon as possible to ensure that asylum-seekers have a good understanding of the asylum process and available services, which leads to better quality and improved efficiency of registration (see below, para. 29).

**Key concept**

**Frontloading** refers to gathering detailed information about the applicant and the reason(s) for flight at an early stage in the individual's engagement with the asylum system, as well as capturing biometrics and obtaining documentation in support of the asylum claim. Such an approach allows for more effective triaging, use of differentiated case processing modalities and referrals to other services from the start of the asylum process.[13] Frontloading certain aspects of data collection and service delivery to the registration stage has become increasingly the norm, given these benefits.

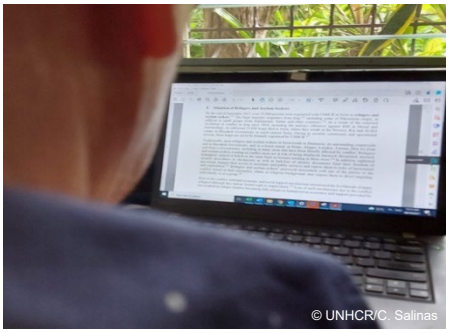
8. For **frontloading** to be effective, it is important to identify what datasets need to be gathered as early as possible to enable a solid analysis and design of the case-management system. The methodology of collecting relevant information should be secure and done in line with applicable data protection standards. Ideally, the identification of the data sets should be done in consultation with relevant users of the asylum system, including focal points/personnel from border control, screening, registration, and the eligibility process.

9. Identification of the datasets to include at registration should consider timely, relevant, and reliable country of origin information (COI) (see below, para. 19) and be premised on the situation and reasons for flights in the country of origin as well as the legal framework in the country of asylum. A clear dataset from the outset is important for triaging and eligibility determination. Common data points may include date of birth, family, gender, sexual orientation, ethnicity, religion, profession/ occupation and political affiliation. It is also relevant to collect information about relevant risk profiles (such as political profiles, human rights activists, journalists, military personnel, draft evaders, etc.) depending on the situation in the country of origin, as

[13] Frontloading should be focused on pursuing interventions, including socio-economic inclusion and livelihood opportunities as well as pathways to solutions through a rights-based and needs-based approach. See section 7.3 of the UNHCR *Guidance on Registration and Identity Management*, www.unhcr.org/registration-guidance/chapter7/registration-data-for-protection-programming/.

well as to identify specific needs and vulnerabilities. An analysis of all available data sources will need to be carried out for the purpose of the next steps in the process, such as triaging (see below, para. 15). Such information would typically be collected through registration, protection screening/interviews with individuals and community/partner referrals.

10. In many national asylum systems, registration and initial identification of specific needs are undertaken by the police or border control officials. Establishing specialized, protection-oriented units to register, identify and assist asylum-seekers and others with risk profiles is a more advisable practice. Capacity development of such officials on key due procedural standards of the asylum process and international protection principles is imperative to ensure quality registration and fair treatment of individuals who wish to seek asylum. Such learning activities can be undertaken with support of civil society and other stakeholders with expertise.




11. An asylum case management system that can collect a dataset that has been carefully thought through, will allow for better and more targeted data collection, as well as better informed protection interventions, provision of assistance to vulnerable individuals and establishing family relations for the purpose of family tracing and/or reunification. UNHCR notes the importance of ensuring procedures are in place for **early identification, counselling, and collection of information of individuals with specific needs and vulnerabilities** to allow for expedient and appropriate interventions, including prioritization of such claims as appropriate.[14]

**Country Example: Sweden**

In **Sweden**, the registration of an asylum application and the capturing of photos and biometrics (fingerprints) of the applicant are carried out by a case officer[15] working for the Application Unit in the regional asylum processing centres of the Swedish Migration Agency (SMA). After the SMA has registered the asylum application, an application interview, which takes the form of a conversation between a case officer and the applicant, is held, where a case officer gathers initial information about the applicant's identity, refugee/protection claim, travel route and family relations.

This initial conversation provides an opportunity to assess if the applicant has any specific needs and requests for special assistance, what language the applicant wishes to speak during the asylum interview and if they have any special requests for a male/female officer. Counselling and information about the asylum process and access to health care is also provided at this point, and the applicant is given the opportunity to ask questions about the asylum process.

The objective of such an application interview is to gain an initial understanding of the refugee /protection claim to be able to prepare for the asylum interview and to find out if the asylum-seeker has the right to get a public counsel and to channel the case into the right "track" (see below, para.15). It also allows for early identification of specific needs and presence of family members that may lead to family reunification in Sweden or in different countries within Europe.

[14] Prioritization is often referred to as "fast-tracking" by many national asylum systems.
[15] A case officer typically has academic training in law, political science or related fields. A case officer may later be appointed as a decision-maker officer.

No in-depth information related to the asylum claim is collected at this stage, although the type of questions that are asked will depend on the situation.

The SMA undertakes a regular quality review of the application interviews to assess how much time it takes to complete, what themes have been covered during the conversation and to ensure that the case officers do not go too far and ask questions related to the grounds for asylum, which are explored further in the asylum interview.

12. **Digitalization and introduction of asylum case management systems which are interoperable or allow for information to be exchanged on a timely basis with other government systems** are other measures which can enhance the integrity, quality and efficiency of asylum systems. Such approaches allow relevant governmental agencies to safely share information and data in real time, which can improve data accuracy and availability, while significantly reducing duplication and overlap of collection and storage of data.

**Key concepts**

**Digital solutions** refer to a wide range of automated procedures, such as digital online solutions that allow applicants to book an appointment, to submit their asylum application and/or relevant documents, to check the status of their applications and/or to be notified about their first instance decision online.

**Interoperability** refers to the basic ability of computerized systems to connect and communicate with one another readily, even if they were developed by widely different manufacturers in different industries. Examples of systems that would need to be **interoperable** are the border police and asylum systems. It may also be useful to establish interoperable systems between asylum systems and the civil registry or employment/social offices, amongst others, for integration purposes.

13. Digitalization and improved integration of different systems require careful planning and inter-institutional coordination. Introducing such approaches entail allocation of resources and investment in technology and system design to ensure that data protection and security, as well as a broader data governance framework, are in place. This will, in turn, require investments in recruitment and training of personnel at all levels so that these systems are used correctly and that data input into the systems is accurate. Despite this initial investment, such an approach has a long-term cost saving impact. For this reason, several national asylum systems are now considering how to further streamline and enhance digitalization and interoperable systems.

**Country Example: Canada**

A key goal for the Immigration and Refugee Board of **Canada** (the IRB) is accelerating its digital strategy.[16] An example of the IRB's emphasis on digitalization[17] is the continued effort to enhance exchange of information submitted electronically through Canada Post's secure "ePost Connect" Service [18] and the IRB's "My Case Portal" (the Portal). The Portal is a secure, online application, which allows legal counsel to view the status or case information on active cases before the

[16] The IRB, *2021-22 Departmental Plan* (accessed on 21 January 2022), https://bit.ly/3g4FUCd
[17] The IRB, *Plan of Action for Efficient Refugee Determination* (accessed on 21 January 2022), https://bit.ly/3Hpb2IR
[18] The IRB, *Canada Post's secure epost Connect service* (accessed on 20 January 2022), https://irb.gc.ca/en/contact/Pages/epost.aspx

IRB.[19] Moreover, counsel may exchange documents securely through the Portal with the IRB. It was launched with basic functionality in 2019, and additional features were added progressively. In this phase of the project, it allows counsel to add delegates to their accounts (e.g., staff of counsel). The IRB is currently contemplating expanding the service to allow claimants and appellants to register directly. The specifications for using the platform are found in the "My Case User Guide".[20]

The IRB operates primarily with digital files, which has been accomplished by scanning existing inventory files across all divisions and by implementing further measures to digitize files. The IRB has also formed the Digitization Advisory Committee to engage with stakeholders on its digitization initiatives.[21]

In 2019, the IRB received a budget of US Dollars 3.8 million to support the Asylum Interoperability Project (AIP),[22] which is scheduled to be fully implemented by June 2022. Some of the IRB's key goals of the project are:

- enhancing existing exchanges between Immigration Refugee and Citizenship Canada (IRCC), the Canada Border Services Agency (the CBSA), and the IRB resulting in a better and more efficient electronic sharing of data;
- enhancing the reporting of removals by allowing for removal order information to be shared quickly between the IRB and IRCC by streamlining data sharing through the AIP;[23]
- improving existing system functionality (by incorporating automation and digitization as opposed to paper-based processing);
- creating online applications to enable counsel and clients to submit applications, update information, and share documents.

Finally, a method of integrated processing through effective information sharing is employed, using the NOVA-GCMS interface (NGI). NGI is an automated application which enables the IRB and IRCC's separate case management systems to communicate with one another. The NGI system includes:

- retrieving and sending data from IRCC's case management system regarding cases at the Refugee Protection Division (RPD) or Refugee Appeal Division (RAD).
- creating and updating cases within the IRB's case management system (including any new referral to the RPD).
- retrieving and sending RPD and RAD decisions from the IRB to IRCC and the CBSA through automatic uploads between each divisions' respective case management systems. [24]

In the future, the objective is to expand the reach of the system by not limiting it to RPD and RAD and to communicate data/ documents in near "real time" between all three departments (i.e., the IRB, IRCC and the CBSA).

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19 The IRB, *My Case Portal* (accessed on 20 January 2022), https://my-case-mon-dossier.irb-cisr.gc.ca/en/Pages/login-connexion.aspx.
20 The IRB, *My Case User Guide*, (accessed on 20 January 2022), https://my-case-mon-dossier.irb-cisr.gc.ca/en/Pages/faq.aspx.
21 The IRB, *Digitization Advisory Committee (IRBCC sub-Committee)* (accessed on 20 January 2022), https://bit.ly/33ZbG0T
22 The IRB, *Asylum Interoperability Project (AIP) (accessed on 21 January 2022*), https://bit.ly/3IK31y9
23 IRCC, *PACP – Supplementary Estimates (A), 2020-2021 – Information Technology* – Nov 24, 2020 (accessed on 20 January 2022), https://bit.ly/3IK31y9
24 The IRB, *Information sharing and system interfaces* (accessed on 22 January 2022), https://bit.ly/3AG7bV5

**Country Example: Switzerland**

To improve efficient communication and handling of asylum procedures, the State Secretariat for Migration (SEM) in **Switzerland** has introduced electronic procedures for new asylum applications using the IT (information technology) applications ZEMIS eGov - eAsyl and eRetour. These are used for case handling, business control and document management. With the eAsyl module,[25] the procedures are managed up to the final decision of the asylum application, including appeal instance. The eRetour module is used for procedures in connection with the execution of a removal order.

Content and function: The ZEMIS eGov - eAsyl and eRetour applications are accessed via the so-called SSO portal of the Federal Department of Justice and Police (FDJP). The application obtains the personal details of the applicant and the relevant procedural data from the ZEMIS database. In eAsyl, a so-called "project" is opened for each asylum application or procedure. A project can be assigned to one or more persons (families). Each project can contain several activities, which can be processed sequentially or in parallel. With the eGov modules, SEM personnel can thus continuously complete the necessary procedural steps in their area of responsibility and document them immediately. They can further easily assign activities (tasks/assignments) to other persons for completion with a deadline. On the initial screen, the worklist shows the users all activities in their area that have not yet been completed.

Clerks can personalize the search queries and screen views in the worklist and operationalize them according to their needs (such as filters, column selection and order, saving views). All procedural files are uploaded to the eDossier via ZEMIS eGov - eAsyl as PDF (Portable Document Format) documents and are thus available to all authorized users at any time as there are numerous export options. The file index is automatically created and paginated directly in ZEMIS eGov - eAsyl. Certain files, such as identity cards, travel documents and other documents are also physically stored in a system called "N-Box."

14. Setting up integrated **systems with multiple service providers operating in a sequential manner (the so-called "one stop shop" or "under one roof" approach)** at the moment of reception/ registration is another method to maximize efficiency in information exchange and collaboration between different entities. An "under one roof" approach can include services such as (i) individual registration, (ii) capturing identity information, biometrics and photographs, (iii) identification of specific needs and referral to appropriate services, (iv) issuance of documentation, (v) eligibility processing for first instance and appeal, (vi) provision of legal aid/assistance and legal representation, and (vii) counselling provided by various stakeholders such as UNHCR, International Organization for Migration (IOM) and non-governmental organizations (NGOs)/ civil society, amongst others.

**Country Example: Switzerland**

As a result of the reform of the asylum system, and after two pilot phases of several years, **Switzerland** introduced a new asylum procedure in March 2019. The new procedure seeks to shorten the duration of asylum procedures through restructuring of procedures as well as

[25] SEM, SR 142.513 - Verordnung vom 12. April 2006 über das *Zentrale Migrationsinformationssystem (ZEMIS-Verordnung)* (admin.ch) (accessed on 23 January 2022), www.fedlex.admin.ch/eli/cc/2006/303/de, and SEM, *Änderung der Ausführungsverordnungen zu den Verfahrensregelungen und Informationssystemen, Erläuterungen zu den einzelnen Bestimmungen*, 28.03.2019, Anhang 1 Ziffer IV (accessed on 23 January 2022), www.fedlex.admin.ch/eli/cc/2006/303/de

organizational changes. It brings all the main actors and procedural functions together "under one roof" in a federal asylum centre. [26]

To support a harmonized and standardized procedure in all six regions, the Dublin and asylum core processes have been modeled and made available for the staff on the SEM intranet. A central process management has been introduced to handle and implement change requests. The new procedures can be summarized as follows:

1) Upon submission of an asylum application, an applicant is first accommodated in a federal asylum centre with procedural functions. During an initial preparatory phase, SEM registers the applicant, records their personal details and takes fingerprints that are compared with Eurodac. SEM also documents and cross checks this information.[27] Additionally, a health check is carried out.

   During this preparatory phase of a maximum of 21 days (10 days for Dublin procedures), the applicant receives information and advice about the asylum procedure and their rights and obligations from a free legal aid provider (non-governmental organization) and attends a preliminary interview with SEM to determine whether another State may be responsible according to the Dublin system, to collect information on the identity, the travel itinerary and briefly about the reasons for flight.

2) Following the preparatory phase, SEM is responsible for processing each claim individually. There are three strands of procedures for SEM to determine the asylum claim with set timelines for processing, notably:
   (i) the Dublin procedure with a 10 days' timeline to reach a decision;
   (ii) accelerated procedure for less complicated cases and with eight working days to reach a decision and,
   (iii) extended procedure for more complex cases and where a case should be decided within two months after the preparatory phase has ended, and within one year at the latest (this procedure has less strict timelines to accommodate the need for complementary interviews, verification of information etc.).

3) Unless a Dublin procedure is initiated, the accelerated procedure starts after the completion of the preparatory phase with the asylum interview conducted by a SEM asylum specialist, decisions are drafted, and notifications of the decisions are made at the federal asylum centres with procedural function.

   An additional interview may be conducted by SEM and further clarifications can be carried out related to e.g., the identity and origin of the person, alleged medical problems and the documents submitted or related to the credibility assessment. Asylum-seekers may contact a cantonal legal aid provider or the assigned legal representative of the accelerated procedure free of charge to

[26] See the animation entitled "Accelerated asylum procedures", which explains the new asylum procedures with interactive maps and videos: www.sem.admin.ch/sem/en/home/asyl/asylverfahren.html.

[27] If the preliminary investigation indicates that another EU Member State might be responsible for processing the asylum application according to the Dublin III Regulation, a take charge/ take back request is submitted to the relevant State. Federal asylum centres without procedural functions mainly accommodate asylum-seekers who are due to be transferred to another Dublin Member State under the Dublin Regulation, or those whose asylum applications have been rejected in first instance – some of them are awaiting a decision on appeal. They remain in the federal centres, unless they cannot be removed from Switzerland within the set period of 140 days. After 140 days, they are transferred to one of the Cantons. The cantonal structures do not follow the "under one roof" approach.

get support for procedural steps at first instance, particularly if an additional asylum interview is held.[28]

While acknowledging areas for improvements, findings from independent research studies[29] and evaluations commissioned by the Swiss authorities[30] have noted several benefits of the "under one roof" approach in Switzerland, including increased efficiency and effective due process standards. According to these studies:

- The "under one roof" approach provides timely access to information about the asylum procedures for the applicant by systematically informing the applicants about the procedures, their rights, and obligations from an early stage, allowing for a better understanding about the process and what is expected. The provision of information also gives a more realistic view to applicants of their chances in the asylum process. Additionally, the fact that such information is provided by non-governmental actors has proven to increase the acceptance of the information provided.[31]
- The introduction of electronic and digital files (see good practice on digitalization, above, para. 12) for case processing allows for efficient communication and sharing of files and information.
- In most of the federal asylum centres, the new approach also allows for better coordination and information sharing between different actors, including between interpreters, legal representatives, SEM asylum officers and housing personnel, including social/medical services amongst others. However, it has been noted that the coordination within SEM of all asylum regions, the sharing of information concerning the asylum centres and the procedures with cantonal authorities have scope for improvement. Similarly, the coordination between SEM and legal aid providers, as well as among the legal aid providers themselves can be improved.
- While the system, to a certain degree, is flexible, federal asylum centres are designed to handle a limited number of new asylum claims.[32] In case the upper limits are exceeded with regard to the accommodation capacities, various measures have to come into to play, e.g., transfer of asylum-seekers in the national procedure to the cantons without a hearing or decision.[33] In order to be able to deal with fluctuations in the number of asylum requests, it is necessary to include legal aid providers in particular with regard to financial aspects. In addition, the disposition of procedural steps must be closely coordinated with the legal aid services, especially when unforeseen fluctuations in the volume of asylum application cases occur.[34]

28 See Asylum Information Database (AIDA), *Country Report; Switzerland 2020*: https://bit.ly/3Gd14sq

29 International Centre for Migration Policy Development (ICMPD*), The Asylum Appeals Procedure in Relation to the aims for European Asylum Systems and Policies*, January 2020, https://bit.ly/3G9moik

30 For more information, see, Evaluation PERU, *Protection juridique et qualite des decisions, Rapport final,* August 2021, https://bit.ly/3KUsaYP and Evaluation PERU; *Sous Project Qualite des processus. Rapport final*, August 2021, https://bit.ly/3IJZcsL

31 International Centre for Migration Policy Development (ICMPD), *The Asylum Appeals Procedure in Relation to the aims for European Asylum Systems and Policies*, January 2020, page 38, https://bit.ly/3G9moik

32 According to the planning and set benchmarks in 2014, the SEM can handle between 15,000 and 29,000 asylum requests with regular procedures, based on 5,000 accommodation places. For more information see, *Themen- und Kantonsfaktenblätter* (admin.ch) (accessed on 21 January 2022), https://bit.ly/3o6JoIF

33 Evaluation PERU; *Sous Project Qualite des processus*. Rapport final, Aout 2021, p. 59, https://bit.ly/3IJZcsL

34 *Evaluation PERU*, *Rechsshutz und Entscheidqualitat Schlussbericht,* August 2021, https://bit.ly/3HbBa9E

# II. Triaging and diversified case processing modalities

15. **Triaging** is an important caseload management tool that can strengthen the response and reduce strains on systems caused by new arrivals as well as pending applications. Triaging of cases into different case processing streams (also referred to as tracks in national asylum systems) will typically start at the registration stage and relies on the availability of high-quality registration/ identification data. Triaging entails a mapping of the asylum-seeking population and an analysis of caseloads by country of origin and specific profiles, taking overall protection rates (granting of protection) and timely, reliable and relevant COI for such profiles into careful consideration. For both caseloads and profiles with high or low protection rates, triaging and differentiated case processing modalities, including simplified and accelerated refugee status determination (RSD) processes, can be applied.

16. Cases can be triaged into different streams based on high and low protection rates, as well as other case processing concepts (defined below) such as **manifestly well-founded, manifestly unfounded** and cases with a **presumption of inclusion,** and addressed through **simplified RSD** and/or **accelerated RSD modalities**. Cases with variable protection rates or which are otherwise more complex, will normally be directed to **regular RSD**. Certain types of cases can also be prioritized (or fast-tracked) based on individual specific needs and heightened protection risks.

**Key Concepts**

**Presumption of inclusion** (or presumption of eligibility) may be said to exist where the objective evidence on the situation in the country of origin indicates that applicants with a particular profile will likely meet the eligibility criteria in Article 1A (2) of the 1951 Convention and/or broader refugee criteria and/or criteria for complementary forms of international protection. A presumption of inclusion is rebuttable, so it does not mean that every applicant within the profile or belonging to a specified group will automatically be recognized as a refugee or otherwise be in need of international protection. However, caseloads or profiles with a presumption of inclusion will usually have very high protection rates and are often processed through prima facie,[35] simplified and/or accelerated procedures.

**Manifestly well-founded** refers to an asylum claim, which, on its face, clearly indicates that the individual meets the criteria for refugee status or a complementary form of international protection. This may be because the individual falls into the category of people for which a presumption of inclusion applies or because of particular facts arising in the individual's

[35] A **prima facie approach** consists of the recognition of refugee status on the basis of readily apparent, objective circumstances in the country of origin (or, in the case of stateless asylum-seekers, their country of former habitual residence) indicating that individuals fleeing these circumstances are at risk of harm which brings them within the applicable refugee definition, rather than through an individual assessment. A prima facie approach through a group-based designation operates only to recognize refugee status; decisions to reject require an individual assessment. A prima facie approach applies to situations of large-scale arrivals of refugees but may also be appropriate in relation to groups of similarly situated individuals whose arrival is not on a large-scale, but who share a readily apparent common risk of harm. See UNHCR, *Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status*,24 June 2015, HCR/GIP/15/11, www.refworld.org/docid/555c335a4.html.

application for international protection. Such cases will normally have very high protection rates and can be streamed through simplified and/or accelerated procedures.

**Manifestly unfounded** claims are defined as covering applications for refugee status or complementary forms of international protection "clearly not related to the criteria for refugee status" or another international protection status, or which are "clearly fraudulent or abusive." It should be noted that only if the applicant makes what appears to be false allegations of a material or substantive nature relevant for the determination of his or her status and the claim clearly does not contain other elements which warrant further examination, could the claim be considered "clearly fraudulent".[36] Such cases will have very low protection rates and can be streamed through accelerated procedures, and if there are homogenous claims, through simplified procedures.

**Prioritization** (or fast-tracking) of cases involves giving preference to the processing of certain types of cases over others, for example based on specific needs or persons manifestly in need of a protection intervention (e.g., applicants with identified heightened physical/legal protection needs, including person who may be subject to a risk of immediate *refoulement* or arbitrary arrest or detention in the host country).

**Complex cases** typically refer to claims which raise inclusion, credibility and/or exclusion concerns and where more in-depth interview and legal analysis are required. Such cases should normally be processed under regular RSD procedures (see below, para. 17).

17. With the issuance of the *Aide-mémoire & glossary of case processing modalities, terms and concepts applicable to RSD under UNHCR's mandate*,[37] UNHCR has sought to promote consistency and common understanding in the use of terminology and concepts, which for the purpose of **triaging and application of diversified case processing modalities** are relevant to consider for case management purposes. The Glossary speaks to relevant definitions such as simplified RSD, accelerated RSD, merged processes as well as regular RSD.

**Key Concepts**

A **simplified RSD process** can be used in many contexts for caseloads or profiles where there is a degree of homogeneity of claims, and where there are very high protection rates, (including when there is a presumption of inclusion or claims that are manifestly well-founded), as well as in situations where there are caseloads with very low protection rates (including manifestly unfounded cases). A simplified RSD process can, amongst others, include the development of

[36] UNHCR *Executive Committee Conclusion* No. 30 (XXXIV) The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum notes among others that , (d) "…national procedures for the determination of refugee status may usefully include special provision for dealing in an expeditious manner with applications which are considered to be so obviously without foundation as not to merit full examination at every level of the procedure;" and (e…) "Recognized the substantive character of a decision that an application for refugee status is manifestly unfounded or abusive, the grave consequences of an erroneous determination for the applicant and the resulting need for such a decision to be accompanied by appropriate procedural guarantees," and that these include: a personal interview and decision by a fully qualified official of the authority competent to determine refugee status, and a review of the decision before rejection at the frontier or forcible removal though the review may be simplified."

[37] UNHCR, *Aide-Memoire & Glossary of case processing modalities, terms and concepts applicable to RSD under UNHCR's Mandate* (the Glossary), 2020, www.refworld.org/docid/5a2657e44.html

RSD assessment forms with pre-populated legal analysis and/or pre-populated COI, or through interviews focusing only on core issues of the claim, such as area of origin, ethnicity, or religion.

A **regular RSD process** refers to an RSD procedure where the applicant's claim is comprehensively examined on an individual basis. It is best used for sensitive or complex cases, and other cases that raise inclusion, credibility or exclusion challenges or concerns, or where it is not appropriate to employ accelerated or simplified processing. While it is impossible to give an exhaustive list of such cases, some typical profiles may include individuals with lengthy military service, political or high-profile roles in governments or who have worked as police officers or other similar roles.

An **accelerated RSD** refers to a procedure which involves a substantive and individualized examination/assessment of the claim, but an acceleration or shortening of all or some timelines in the RSD process. It is often applied in the same contexts as simplified RSD but can be used in combination with most other types of RSD procedures. It is also frequently used for claims with specific needs or with heightened physical or legal protection needs. It should be noted that a case can be prioritized and accelerated at the same time.

18. While for certain nationalities and profiles it may only be necessary to identify one or two material elements to ensure efficient triaging in terms of case processing modalities, for other profiles it may be necessary to identify additional elements. It is important that clear and transparent, yet sufficiently flexible criteria are established to manage and, when necessary, adapt the triaging. This will promote transparency and integrity of the process and avoid overloading the simplified processing modalities with complex cases, which would render the process ineffective. Procedures for referral to regular RSD need to be in place if a case is found not to be suitable for simplified and/or accelerated RSD processing.

19. **Country of origin information** and, where available, UNHCR country guidance, are key components in the process and will inform the use of triaging and case processing modalities. Where available, UNHCR country guidance, including UNHCR's Eligibility Guidelines, International Protection Considerations and Positions on Return should be used to inform decisions on triaging. In all cases, timely, relevant, and reliable COI needs to be considered when establishing profiles and preparing tools and templates for the purpose of triaging as well as simplified and/or accelerated procedures. The COI database endorsed by UNHCR is ecoi.net,[38] which is managed by Austria Centre for Country of Origin & Asylum Research and Documentation (ACCORD). It contains COI from primary sources, as well as COI compilations commissioned by UNHCR to its partner organizations ACCORD and Asylum Research Centre (ARC),[39] as well as COI compilations prepared by other organizations such as European Union Agency for Asylum (EUAA)[40] and the COI units of individual countries of asylum (for example Belgium's Office of the Commissioner General for Refugees and Stateless persons (CEDOCA),[41] the IRB,[42] and Norway's Landinfo,[43] etc.).

38 European Country of Origin Information Network, www.ecoi.net/
39 Asylum Research Centre (ARC), https://asylumresearchcentre.org/
40 European Union Agency for Asylum (EUAA), https://euaa.europa.eu/
41 Belgium, Office of the Commissioner General for Refugees and Stateless persons (CEDOCA), https://bit.ly/3IK5V69
42 The IRB, *Country of Origin Information*, https://irb.gc.ca/en/country-information/Pages/index.aspx
43 Landinfo, https://landinfo.no/en/

**Country Example: Canada**

In **Canada**, the IRB has expanded the use of triaging and fast-tracking refugee claims[44] to either a paper hearing or short hearing since 2017.[45] Following a security screening, there are two methods to fast-tracking cases: (i) claims decided without a hearing (file review process) or (ii) a short hearing process.[46] For a claim to be decided without a hearing, it must meet the criteria as set out in the *Instructions Governing the Streaming of Less Complex Claims* (the Instructions).[47] The Instructions provide that the IRB's Refugee Protection Division (RPD) will consider knowledge of country conditions to determine what claims are suitable for fast-tracking. Applications from certain countries or claim types are typically eligible to be decided without a hearing where:

- identity is established by reliable documents.
- the evidence is not ambiguous regarding the risk faced by claimants.
- complex legal or factual issues do not often arise at the hearing; and,
- the country or claim type has an acceptance rate of 80 per cent or higher.[48]

For procedural fairness reasons relating to providing an oral hearing whenever credibility is an issue, a negative decision cannot be made without a hearing. As a result, only positive claims are decided through the file-review process. The RPD will not decide based on a file review in the following circumstances:

- confirmation of front-end security screening has not been received;.
- the Minister has filed a Notice of Intervention to intervene in person;
- a Notice has been sent under the RPD Rules notifying the Minister of a possible exclusion, inadmissibility, or integrity issue;.
- there are issues related to the claimant's identity, which require further examination;
- there are serious credibility issues that arise from the documents in the file;
- the claim is inconsistent with country information; or
- there are complex legal or factual issues that require a hearing to be resolved.

A short hearing is usually concluded within two hours. All claims that are eligible for the file review process are similarly eligible for a short hearing.[49] A claim will generally be considered appropriate for the short hearing process if the country or claim type:

- possesses an acceptance rate of 80 per cent or higher, or an acceptance rate of 20 per cent or lower,
- typically requires the resolution of just one or two determinative issues; and,
- complex legal or factual issues do not often arise at the hearing.[50]

To support the triaging and make files hearing ready, Adjudicative Claim Officers (ACO) have been recruited to support the IRB members to open and prepare the case files, using data-driven key searches for the purpose of triaging. Based on set out criteria and information available on

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44 The IRB, *Instructions governing the streaming of less complex claims at the Refugee Protection Division* (accessed on 21 January 2022), https://bit.ly/3ABvrHX

45 The IRB, *2019-2020 Departmental Results Report* (accessed on 22 January 2022), https://bit.ly/3IIhNWe

46 The IRB, *Less Complex Claims: the short hearing process and file-review process* (accessed on 21 January 2022), https://bit.ly/3r9YH5C

47 The IRB, *Instructions governing the streaming of less complex claims at the Refugee Protection Division* (accessed on 21 January 2022), https://irb-cisr.gc.ca/en/legal-policy/policies/Pages/instructions-less-complex-claims.aspx

48 The IRB, *Country and Claim-type Criteria – Instructions Governing the Streaming of Less Complex Claims* (accessed on 21 January 2022), https://irb-cisr.gc.ca/en/legal-policy/procedures/Pages/countries-claim-types-criteria.aspx.

49 Ibid.

50 Ibid.

the file, an ACO can further propose to the IRB members if a claim can be decided with no hearing, a short hearing, or a full hearing. The ACOs are considered an administrative function and are not authorized to take a decision on an individual case. Through the pilot project, it has been observed, thus far, that such a supported approach to triaging and case preparation has resulted in increased efficiency and decision-making output for board members. Additionally, the IRB created the *Gender Related Task Force* which is comprised of a dedicated team of adjudicators that can hear and decide on gender-related refugee claims more efficiently.[51] The IRB members on the task force are trained on how to manage these types of claims to ensure a more respectful and trauma-informed approach.

Legal aid providers, such as Legal Aid Ontario,[52] and civil society organizations, such as the Canadian Association of Refugee Lawyers (CARL),[53] have positively noted the mostly consultative nature and feedback structure with civil society prior to launching new pilot projects or tools when possible. CARL also noted that the increased focus on training of the IRB Members on interviewing and adjudication of claims have led to increased efficiency and more focused and shorter hearings.

**Country Example: Italy**

In **Italy**, prioritization of claims applies to well-founded applications and applications lodged by persons with specific needs. However, manifestly unfounded applications, including applications (i) lodged in the context of border procedures, (ii) lodged by applicants from safe countries of origin, or held in pre-removal centres or (iii) lodged with the only aim of avoiding or delaying an expulsion order, are channeled into accelerated procedures, with quite strict time limits in terms of processing. For these cases, decisions have to be made in nine days (seven days for the interview and two days for the decision), which can be exceeded, as provided by law, when necessary to ensure a thorough assessment of the case.

Persons with specific needs are, by explicit law provision, exempted from accelerated procedures and from manifestly unfounded decisions.[54, 55] While triaging is implemented at registration level by police officers in charge for registration, Territorial Commissions responsible for RSD processing can divert cases initially channeled into accelerated procedures into the ordinary procedure. This typically happens when specific needs emerge during the RSD interview and/or because of the complexity of the case. The Territorial Commissions undertake a thorough examination of each individual applications, with a view to promote quality and efficiency of the system and reduce, as much as possible, recourse to appeals.

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51 The IRB, *Gender Related Task Force* (accessed on 21 January 2022), https://irb.gc.ca/en/refugee-claims/Pages/gender-related-task-force-rpd.aspx . It should be noted that the information on the webpage dates back to 2020 and since then the capacity has been increased to address such claim. For instance, there are presently 26 members who only hear and decide gender-related claims and 11 additional hybrid members who hear and decide both regular claims and gender-related claims.

52 Legal Aid Ontario, www.legalaid.on.ca/

53 Canadian Association of Refugee Lawyers, https://carl-acaadr.ca/

54 Applicants with specific needs refers to children, unaccompanied children, disabled and elderly people, pregnant women, single parents with children under 18, victims of trafficking of human beings, persons with serious health or mental health issues, survivors of torture, rape, or other serious forms of psychological, physical, or sexual violence, or violence linked to their sexual orientation or gender identity and victims of FGM.

55 Art. 17 of Legislative Decree 142/2015, recalled by art. 28bis and art. 28ter of Legislative Decree 25/2008.

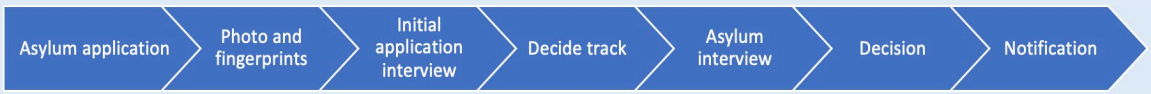
## Country Example: Sweden

In 2018, in **Sweden** the SMA launched a pilot, Asylum 360, with the objective to implement a Timed Process, defined as focusing on benchmarks and so-called lead time, which requires proactive planning of the process flow. With the implementation of the Asylum 360 project, an applicant stays in accommodation facilities close to the processing location for 30 days, which further enhances the effectiveness and cost-efficiency, including fewer cancelled interviews and lower travel costs. The overarching objective of the Timed Process is that the total processing time should be as short as possible, and, as a result, the applicant will be notified of a decision as soon as possible.

One of the key components of the approach is to remove unnecessary idle time (or waste-time) between the different steps of the process. This requires that the decision-making officer, in charge of the asylum interview and decision, will take ownership of the case to (i) develop a case-plan for which activities in the process flow is to be taken next, (ii) ensure a close dialogue with relevant colleagues and stakeholders (including legal aid providers) and (iii) ensure the case goes through the process and a decision is issued, as far as possible, within the set-out lead time. It has been noted that a shorter processing time reduces the need for unnecessary handovers between decision-makers and thus increases efficiency.

As per the SMA internal guidance, it is acknowledged that the reference to lead time is meant as a proposed guidance in terms of timelines, and if a specific activity requires longer time for legal and security reasons, this should be accommodated, and the case can be channeled into Track 3.

The SMA has defined the Timed Process according to the following steps:




Since 2016, the SMA implemented a track system whereby asylum applications are channeled into specific procedures (tracks) according to characteristics of the application identified during the initial process.

To support the process, the SMA developed guidelines with benchmarks regarding estimated lead time between the main activities in the process. The purpose is to create a simple, fast, cost-effective, and above all, legally secure case processing system.

To this effect, the track system provides predictability and allows for better planning by indicating which measures will be needed to handle different types of cases. It also allows to plan for training, competency development and offers opportunities for specialization among personnel.

Structure of the system: Generally, all cases must be categorized into one track based on the information obtained through (i) the asylum application, (ii) an initial interview undertaken by a case officer, (iii) identity documents and (iv) other information in the case. The channeling of a case into specific tracks is initially done by a case officer in the Application Unit who handles and knows the case, using a custom-made software system. A recategorization can be done later in the process by the decision-making officer who handles the case in the Asylum Unit through the software system, when new circumstances arise. For example, if a case is no longer deemed to have a presumptive approval (Track 1), it can be moved to another more suitable track. The track

system is closely interlinked with the Timed Process, as there are different benchmarks (timelines) depending on what track a case is channeled through.

It should be noted that it is the individual characteristics of the case that determine the track affiliation, and, to this effect, the track division is the same for adults and children, as well as for unaccompanied minors or persons with specific needs. However, family members are processed together regardless of the characteristics of the individuals for the purpose of family unity. Measures can be taken within the respective tracks to accommodate for an individual's specific needs.

Overview of the Track system:

Track 1 concerns cases where (i) there is a presumption that the claim will be successful, and a residence permit will be issued, (ii) there is no need to appoint public counsel and (iii) there are no other major processing steps needed, other than an oral interview.

Track 2 concerns cases where there is no presumption of approval, while Track 3 concerns complex cases where it is assessed that the case processing time will extend beyond 6 months. It should be noted that usually cases are not channeled into Track 3 at the initial screening.

The policy foresees specific tracks for other categories, including:

- Accelerated procedures in Track 4: In Track 4A, cases are categorized based on a presumption that the application will be refused, and expulsion take place with immediate effect or where the applicant is an EU (European Union) citizen (this category also includes manifestly unfounded cases). In Track 4B, cases come from low-recognition-rate countries and where a rapid assessment procedure is possible and prompt enforcement of return feasible. In these cases, a holistic view should be taken as there is no point of introducing a fast-track process up to the point of the decision, if a return is not possible to implement.
- Track 5A deals with cases under the Dublin regulation.
- Track 5B and 5C concern admissibility procedures, noting an application can be dismissed as inadmissible where the applicant (i) has obtained international protection in another EU Member State, (ii) comes from a First Country of Asylum, or (iii) comes from a Safe Third Country.

Benchmarks and timelines are clearly set out for the different tracks including:

- For regular procedures (Track 1 and 2), the determining authority should decide on the asylum application at first instance within 9 to 50 days for Track 1 cases, and within 23 to 110 days for Track 2 cases.
- For cases channeled into Track 3, there is an assumption that the processing will be delayed, and the handling time will normally exceed six months. These cases are not handled in the flow process.
- For cases channeled into accelerated procedures (Track 4), a decision should be taken within 8 to 54 days for Track 4a, and within 23 to 75 days for Track 4b.
- For application on admissibility, a decision should be taken within 3 months (Track 5B and 5C).

- Generally, the applicant has 3 weeks, whether under regular or accelerated procedures, to appeal to the Migration Court of Appeal after the delivery of the Migration Court's decision to the applicant. Decisions of the Migration Court of Appeal are final and non-appealable.[56]

**Country Example: Switzerland**

In **Switzerland,** triaging and usage of differentiated case processing modalities were introduced with the new asylum procedure in March 2019**,** depending on the nature of the cases, including (i) Dublin procedures, (ii) accelerated procedures and (iii) extended procedures (i.e., regular RSD). The estimate is that, eventually, around a third of all cases will be decided in the accelerated procedure with a target that a decision is made on the case within eight days.[57] As a safeguard, applicants are provided with access to free counselling and legal representation from the start of the process (see below, para. 29).[58]

With the introduction of the new asylum procedure, the average duration of asylum processes up to the first-instance decision including the preparatory phase was significantly reduced. On average, SEM was able to complete cases triaged through accelerated procedures within 55 days.[59] An internal analysis by SEM showed that the new asylum procedures, including first instance (accelerated and extended procedure) and appeal application, had an average duration of 93 days between March 2019 and June 2021. This is more than five times faster than the duration of cases under the old law (500 days). Importantly, the focus of the accelerated procedures is not only on manifestly unfounded claims, and it is noteworthy that the number of positive decisions taken is around a quarter of all decisions, thus relatively high.

Investment in the preparatory and accelerated phase of the case adjudication has allowed for efficiency gains and overall positive findings in terms of protection and quality of individual decisions. An analysis by SEM shows that in 2020, around 96 per cent of all negative asylum decisions that could be appealed were upheld. Thus, in 96 out of 100 cases, the asylum-seekers either refrained from filing an appeal against SEM's decisions or filed appeals were confirmed by the Federal Administrative Court. Only in 4 out of 100 rejected asylum applications were the SEM decisions corrected by the Federal Administrative Court (FAC) or it had to assess an application differently.[60]

An external evaluation has further shown that overall, the quality of decision-making of the accelerated procedure was satisfactory, although raising some concerns.[61] In 2019, which was the first year of the new asylum procedure, there was a concern that too many applications were dealt with in the accelerated procedure. Several cases were overturned (cassation) by the FAC and a landmark ruling made by the FAC in June 2020 (judgment E-6713/2019 of June 9, 2020) declared that a case should have been referred to the extended procedure. As a result, in spring 2020, SEM amended its guidelines and checklist on triaging and selection of the appropriate

56 Asylum Information Database (aida), *2020 Update: Sweden*, https://bit.ly/3rY6HFR
57 See SEM Factsheets No 1 and 2, www.sem.admin.ch/sem/de/home/asyl/asylverfahren/asylregionen-baz/faktenblaetter.html.
58 International Centre for Migration Policy Development (ICMPD*), The Asylum Appeals Procedure in Relation to the aims for European Asylum Systems and Policies*, January 2020, https://bit.ly/3o6VJga
59 SEM, Asile : les procédures accélérées fonctionnent globalement bien ; des améliorations ont été réalisées ou sont en cours deréalisation (admin.ch) (accessed on 21 January 2022), https://bit.ly/3AE8X96
60 SEM, Asile : les procédures accélérées fonctionnent globalement bien ; des améliorations ont été réalisées ou sont en cours de réalisation (admin.ch) (accessed on 21 January 2022), https://www.sem.admin.ch/sem/fr/home/sem/medien/mm.msg-id-84791.html
61 Évaluation PERU : Protection juridique et qualité des décisions (skmr.ch), *Rapport final (version courte*), p. 4., https://bit.ly/3ABupvy

procedures for the cases.[62] Additionally, emphasis was placed on allocating sufficient resources both in terms of staffing and preparatory interviews and verification of documentation before a case is triaged, with the result that more complex cases are now triaged into the extended procedure. This has resulted in an improved quality of the decisions in both accelerated and extended procedure, and cases are not erroneously and too quickly channeled into accelerated procedures. According to the statistics, the number of cases referred to extended procedures compared to the proportion of cases referred to accelerated procedures rose in the course of 2020. Since the adjustment of the triage process, the rate of cassations by the FAC has almost halved in the year 2020.[63]

20. When a national asylum system is presented with an asylum request at its borders, it is required under international law to provide admission, at least on a temporary basis, to examine the claim. Failure to admit an applicant would render the right to seek asylum and the principle of *non-refoulement* meaningless. In its paper on *Practical considerations for fair and fast border procedures and solidarity in the European Union*, UNHCR proposes a two-step border procedure resulting in relocation or return, with a focus on in-merits procedures in lieu of admissibility procedures. This model for border procedures is proposed based on the understanding that the asylum system in its entirety, i.e., at entry and exit points, needs to be practical, fair, and efficient, and deliver swift and clear results.[64]

**Country Example: Spain**

In **Spain,** the accelerated asylum procedure at the border[65] is a short procedure (maximum 10 days) available at official border points (airports, ports and external land borders and is extended to applications filed at migrant detention centres) whereby the applicant remains in detention-like conditions for the duration of the procedure. This procedure is applied to foreigners who do not meet the requirements to enter Spanish territory and who submit an application for international protection at a border point. It should be noted that admission into the territory is only granted if an admissibility decision is issued. However, Spanish legislation and standards are fully applicable since the individuals arrive at the border point.

This border procedure is a hybrid which includes admissibility and in-merits elements. The registration and interview are conducted by police officers. The assessment is carried out by the Office for Asylum (OAR) and focuses mostly on identifying and filtering out manifestly unfounded claims, while channeling manifestly founded and complex cases through the regular asylum procedure led by the OAR. It also incorporates an analysis on safe third country and Dublin responsibilities, which could eventually trigger a transfer elsewhere, generally to the place of provenance.

Special due process guarantees: Because the procedure is implemented at the border in a predetermined timeframe, the procedure takes into consideration the applicant´s risk of *refoulement* in case of an erred decision, and, as a result, provides for additional due process guarantees compared to the ordinary inland procedure, including:

62 Evaluation PERU: *Rechsshutz und Entscheidqualitat Schlussbericht,* August 2021, p. 40-41, https://bit.ly/3HbBa9E
63 Évaluation PERU : Protection juridique et qualité des décisions (skmr.ch), Rapport final (version courte), p. 3, https://bit.ly/3ABupvy
64 UNHCR, *Practical considerations for fair and fast border procedures and solidarity in the European Union*, 15 October 2020, www.refworld.org/docid/5f8838974.html.
65 Spanish asylum law, 12/2009 of 30 October, regulating the right of asylum and subsidiary protection, Arts 21 and 22.

- Mandatory legal assistance from the beginning of the procedure, by (i) a legal aid lawyer provided by the local bar association (specialized in migration and asylum-related field), (ii) a specialized NGO lawyer (NGO funded by the state) or (iii) a private lawyer. The process is invalidated, and the person will be granted access to the territory, if legal assistance is not provided.
- UNHCR supervisory role: As entrusted by the Spanish asylum law, UNHCR has the possibility to access and speak to the asylum-seeker at the border premises and submit (mandatory but non-binding) assessments on the admissibility of claims to the authorities but also on any other protection or procedural issue that may be worth highlighting to the authorities (such as quality of the process, interpretation, specific needs, humanitarian reasons), etc.[66]
- Application of "positive administrative silence": As expressly foreseen in the law, if the authorities cannot comply with the established timeframes, the claim will be automatically admitted to the ordinary procedure and the person admitted to the territory.
- Possibility to extend the timeframe when a case with possible exclusion triggers is identified at the border point.

Other positive elements not set out in in the Spanish asylum law, but applied in practice to enhance the quality of the decision:

- The police inform the applicant of the possibility to file the reexamination of their claim. If the applicant renounces the right to file the reexamination of the claim, this is made in writing with the presence of the lawyer.
- Specific standard operating procedures (SOPs) are in place to identify and refer possible victims of trafficking to specialized NGOs (considered as complex cases).
- Presence of the Red Cross to provide social assistance at the premises where asylum-seekers are detained during the procedure. Medical assistance is provided by the medical services at the airport/detention centre or general medical services/hospital if needed.
- Personal interviews are carried out by the police in civil clothes, assisted by a lawyer and interpreter if needed.
- The authorities need to provide specific premises for asylum-seekers at the airport where they will remain during the processing period (mainly Madrid and Barcelona airport).
- UNHCR has access to the applicant and is in contact with the deciding authority during the procedure on issues related to establishing facts and the legal analysis, and to draw attention to applicable COI, relevant issues or flaws in the procedure that may be corrected or may influence the final decision.
- To adequately comply with the deadlines for making the decision, the OAR has set up a system of duty officers to attend to requests for reexamination that must be resolved during the weekend or during holidays.

Procedure details:

- The procedure has three parts: the initial claim is decided upon by the authorities in 96 hours (4 natural days[67]) counted from the moment the person expresses an intention to apply for asylum to the border police (or is apprehended at the border control) and the application is registered. If the claim is rejected, the person can request a reassessment of the claim (reexamination/ appeal) to the same authorities that decided the initial claim, and where they can provide additional information or counterargue the negative decision. The request for

[66] Spanish asylum law Art 35(2) and Art 21.

[67] Interpretation of timeframes for applications filed at migrant detention centres varies as they are counted in natural days and not hours, see: Sentencia del Tribunal Supremo, STS4071/2019 de 17/12/2019 STS 4071/2019 - ECLI:ES:TS:2019:4071.

reexamination/appeal has automatic suspensive effect and must be filed within 48 hours (two natural days) from the notification of the decision in front of the Minister of Interior by the lawyer assisting the applicant.[68] The response must be given by the authority in 48 hours. If the authorities fail to reply within the time frame, the claim is automatically admitted, and the person allowed into the territory.[69]

- UNHCR is provided a copy in real-time of the first application and of the request for reexamination of the claim and is informed by the asylum authority when the claim will be rejected, which enables the Agency to submit a reasoned report to the authorities if it considers the claim should be admitted. The report is non-binding.[70] Lawyers assisting the applicant also have access to a copy.
- The applicant can further appeal against the rejection before the National High Court, without immediate suspensive effect, and request an interim measure for the judge to assess whether the suspensive effect should be granted as per Art. 29 of the asylum law (as per the ECtHR judgement in AC and others vs Spain (No. 6528/11),[71] the right to an effective remedy and suspensive effect must be observed in such cases).
- The procedure also allows for early identification of persons with specific needs and of well-founded claims that could be introduced into fast-track procedures.

While the accelerated border procedure contains sound and solid procedural safeguards, it has been observed that at times when the numbers of new arrivals are especially high, the implementation of the procedure and its guarantees can become a challenge due to lack of available human and material resources, quality standard premises and services, capacity to identify specific needs and difficulties to comply with short timeframes leading to automatic admission.

It has further been observed as a challenge that the deciding authority is not the interviewing authority, and that the applicant does not have access to an in-person hearing before a rejection takes place,[72] although the authorities will often take additional action by way of submitting written questions to clarify elements of the claim.[73]

21. While a very practical tool, triaging alone cannot address more fundamental systemic issues linked to new arrivals/applications or RSD backlogs. Rather, triaging needs to be part of a mix of measures in the system design, including training, standardized templates/forms, and interoperable databases etc. Specialized teams, meaning personnel who have received thematic training and have the expertise to adjudicate certain profiles or claim-types based on, for instance, nationalities, can also enhance efficiency. Finally, setting out clear criteria in terms of case processing targets and timelines is essential for effective monitoring of the process. If all relevant measures are implemented, including adequate human and other resources, the asylum process can be significantly faster while preserving due process standards.

22. Prior to implementing such a process, it is advised to develop tailored training programs including focused thematic training for the caseloads or profiles concerned, and to ensure relevant and timely COI and country

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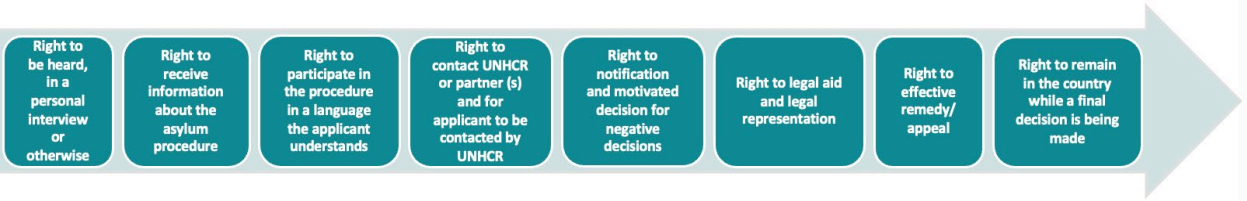
68 Spanish Asylum law, Art. 21(4).
69 aida, *Country Report: Spain 2020*: https://asylumineurope.org/wp-content/uploads/2021/03/AIDA-ES_2020update.pdf.
70 Spanish asylum law, Arts. 34 and 35.2.
71 See ECtHR's judgment in *A.C. and Others v. Spain,* available at: A.C. ET AUTRES c. ESPAGNE (coe.int).
72 Spanish Ombudsman, *Asylum in Spain. International Protection and Reception System Resources (defensordelpueblo.es)*, June 2016, https://www.defensordelpueblo.es/wp-content/uploads/2016/07/Asylum_in-_Spain.pdf
73 To this effect it is noted that in the regular procedure an inter-ministerial eligibility commission composed of representatives from the Ministry of Interior, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Inclusion, Social Security and Migrations, Ministry of Equality as well as UNHCR in an observer capacity, endorses the proposals from the OAR.

guidance is available for staff. SOPs that provide focused guidance for the respective caseloads must also be developed and should be regularly updated and reviewed.

23. **When introducing triaging and usage of differentiated case processing modalities, oversight and review mechanisms** will have to be carefully considered to ensure that the quality and fairness of the process in not affected. It will be important to ensure that measures are in place for the identification and mitigation of risks emerging as a result of triaging. The system will also need to be **flexible and adaptable** to allow for changes both in terms of increase or decline of new arrivals, changes in pattern and arrival from various countries or (sudden) changes in the situation in a country of origin, amongst other factors.

# III. Due process standards




24. In order to maintain high quality RSD procedures that results in fair individual decisions, case management strategies must include **core principles and key procedural standards**.[74] Procedures that incorporate such standards and promote consistency in decision-making are essential for the integrity of national asylum systems based on the rule of law.[75] As the good practices from various States suggest in this paper, effective and efficient processing can be achieved while maintaining core procedural standards. Additional procedural safeguards should also be introduced for **persons with specific needs and vulnerabilities.**[76]

    While not an exhaustive list, the core due process standards listed in this section are essential to consider in the design of an asylum system so that it is in line with international standards. These standards are fundamental to maintaining the fairness, efficiency, and integrity of the process.

**Core due process standards**

- Right to be heard, in a personal interview or otherwise
- Right to receive information about the asylum procedure
- Right to participate in the procedure in a language they understand
- Right to contact UNHCR or its operational partner(s), and for applicant to be contacted by UNHCR
- Right to notification and a motivated decision for negative decisions
- Right to legal aid and legal representation
- Right to effective remedy/appeal
- Right to remain in the country while a final decision is being made

25. The **right to be heard with due process guarantees and within a reasonable time** in a personal interview or otherwise is a core procedural standard.[77] As a general rule, the right to be heard requires that an applicant should have the opportunity to present their claim in person, and a refugee status claim should not be determined in the first instance based on a paper review alone. Common exceptions to this rule include refugee claims where there is a high presumption of inclusion, and the applicant may be recognized based on information from registration or other available sources. A good illustration is the country example from **Canada**, where a positive decision is taken based on a file review, provided a set of conditions are met (see above, para. 19). Other exceptions should be assessed on a case-by-case basis and with due consideration of procedural safeguards.

26. The **right of an applicant to receive information regarding the asylum process, including in a language they understand,** is another core due process standard. Applicants have the right to be informed so that they understand the different stages of the process, know their rights and obligations in each of these stages and are aware of the means to exercise their rights and fulfill their duties.

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74 UNHCR, *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, 26 August 2020, https://bit.ly/3g5bL5M

75 UNHCR, *A guide to international refugee protection and building state asylum systems*, 2017, Handbook for Parliamentarians N° 27, www.refworld.org/docid/5a9d57554.html.

76 Persons with Specific Needs include (but not limited to) certain child applicants, including unaccompanied and separated children, survivors of torture and persons suffering from trauma, applicants with mental health conditions or intellectual or physical disabilities and persons manifestly in need of protection interventions.

77 UNHCR, *RSD Procedural Standards Unit 4: Adjudication of Refugee Status Claims*, 26 August 2020, https://bit.ly/3H9WEUB In the context of remote participation of the applicant in the RSD interview, safeguards and procedural standards must also be considered to ensure a fair hearing and the right to be heard.

27. Effective **access to information, including a right to notification and a motivated decision for negative decisions,** enables applicants to make informed decisions throughout the process and raises awareness of what consequences each decision may entail. It may further prevent the lodging of unfounded and/or subsequent applications, thus promoting the efficiency of the system. Ensuring that applicants receive information is primarily the responsibility of the asylum authorities, however, civil society or other legal service providers may be well placed to assist in fulfilling this responsibility.

28. The right to **contact UNHCR or its operational partner(s) and for the applicant to be contacted by UNHCR** is another safeguard that goes a long way in ensuring a fair process. As noted above (see above, para. 19), in **Spain,** UNHCR has access to the asylum-seeker at the border premises and the applicant can request access to UNHCR and a legal aid provider as provided under the Spanish asylum law.[78]

**Country Examples: Denmark and Switzerland**

In **Denmark**, In Denmark, the Danish Refugee Council (DRC) Asylum Department provides information and offers counselling about the Danish asylum procedure and its requirement to asylum-seekers upon arrival. To enable a timely access to information, DRC has created a website with useful information about the process of seeking asylum as well as legal representation for specific cases. It has also created an App where the Danish asylum procedure is explained in pictures and with an easy-to-understand language.[79]

As noted in the country example of **Switzerland** ("under one roof," see above, para. 14), the provision of timely access to information, counselling, and legal representation by a lawyer of a non-governmental organization has improved applicants' trust in the system as well as led to an improved understanding of the process and what is expected from the applicant.

29. Providing accessible, reliable, and high-quality government funded **legal aid and legal representation** are instrumental in establishing fair and transparent asylum procedures. Provision of legal aid and legal representation can go a long way in strengthening the quality of decision-making and can contribute to the efficiency of the RSD process, as it can strengthen an applicant's understanding of the process, lower the number of appeals and subsequent applications (re-opening), and shorten adjudication timelines.[80]

**Country Example: Switzerland**

As part of the asylum reform in March 2019 in **Switzerland**, accelerated procedures were introduced to significantly reduce the duration of the procedure so that asylum-seekers are informed more quickly whether they will be granted protection, or they will have to leave the country. As a safeguard and to preserve the fairness of the procedures and comply with due process standards, asylum-seekers whose applications are examined within the accelerated procedure (including Dublin procedures) are entitled to free counselling, as well as free legal representation by a qualified lawyer from the very beginning of the procedure, although this is not yet the case for people lodging asylum applications while in detention or in prison. To support the efficiency and quality of legal aid and legal representation, a detailed catalogue of standards

78 Spanish asylum law, Arts. 35(2) and 21.

79 DRC, *Asylum and Repatriation* (accessed on 25 February y 2022),https://drc.ngo/da/vores-arbejde/ydelser-og-losninger/asyl-og-repatriering/det-danske-asylsystem/informationsmateriale/

80 UNHCR, *UNHCR RSD Procedural Standards Unit 2.7: Legal Representation in UNHCR RSD Procedures*, 26 August 2020, https://bit.ly/34fyARw

and obligations for the legal representation has been established.[81] [82] In an external evaluation in 2021, the conclusion was that the provision of legal aid in the federal asylum centres is overall running well, the quality of the legal submissions is solid and have a positive impact on the quality of the asylum process.[83]

With the "under one roof"- approach, it has also been noted that the overall coordination and collaboration between SEM and legal aid providers has improved, resulting in increased efficiency. However, and as noted in an evaluation report, certain additional measures can be introduced to improve the coordination further, e.g., differences in practice between the legal aid providers should be remedied by improved interregional coordination and by a harmonization of SEM practices.[84]

30. The right of an asylum applicant to an **effective remedy or to be able to appeal a decision**, either to an administrative tribunal or court of law, is enshrined in numerous national legislations and regional frameworks. It is a core due process standard in promoting the fairness and integrity of an asylum system and central to protecting the right to seek and enjoy asylum from persecution and the principle of *non-refoulement*.[85] Access to an appeal should not be restricted for reasons related to procedural irregularities or because of the perceived merits of the claim. As a general principle, it is noted that first-time requests for asylum should, by law, have **suspensive effect**, including claims that may likely be manifestly unfounded.[86] As such, applicants whose claim were triaged and rejected as manifestly unfounded at first instance should also have a right to appeal the negative first instance decision, although appeal applications can be accelerated or prioritized.[87]

[81] International Centre for Migration Policy Development (ICMPD), *The Asylum Appeals Procedure in Relation to the aims for European Asylum Systems and Policies*, January 2020, page 40, https://bit.ly/3o6JoIF

[82] The catalogue of standards is different for the extended and accelerated procedures. For more information on the extended procedures, see: https://bit.ly/3h9X4yO; For more information on the accelerated procedure, see: Dienstleistungen - 264852-2018 - TED Tenders Electronic Daily (europa.eu)

[83] Évaluation PERU : Protection juridique et qualité des décisions (skmr.ch), Rapport final (version courte), p. 13, https://bit.ly/3ABupvy

[84] Évaluation PERU : Protection juridique et qualité des décisions (skmr.ch), p. 14, Rapport final (version courte), https://bit.ly/3ABupvy

[85] UNHCR, *RSD Procedural Standards Unit 7: Appeal of Negative RSD Decisions*, 26 August 2020, https://bit.ly/3KQPqaf

[86] When there is clearly abusive behavior on the part of the applicant, or where the "unfoundedness" of a claim is manifest, the automatic application of suspensive effect could be lifted. See, UNHCR, *Provisional Comments on the Proposal for a Council Directive on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status* (Council Document 14203/04, Asile 64, of 9 November 2004), 10 February 2005, page 51, www.unhcr.org/refworld/docid/42492b302.html.

[87] UNHCR, Statement on the right to an effective remedy in relation to accelerated asylum procedures, issued in the context of the preliminary ruling reference to the Court of Justice of the European Union from the Luxembourg Administrative Tribunal regarding the interpretation of Art. 39, Asylum Procedures Directive (APD), and Arts. 6 and 13 ECHR, para. 7, www.refworld.org/pdfid/4bf67fa12.pdf.

**Country Example: Switzerland**

In Switzerland, applications identified and streamed through an accelerated procedure would have an appeal considered at the federal asylum centre through an accelerated appeal procedure with necessary procedural safeguards in place. The cases of the asylum-seekers that are triaged to the extended procedure due to the complexity of the claim are allocated to a canton, where SEM further processes their cases (for more information on the process, see above, para. 19).

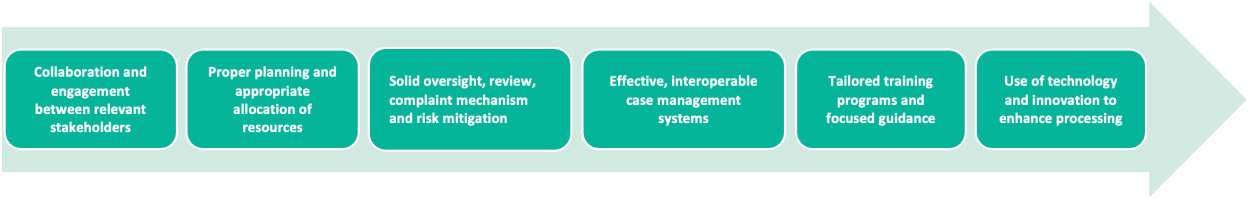
**Country Example: Denmark**

In **Denmark,** DRC plays a critical role for asylum applications that are initially identified as manifestly unfounded. If the Danish Immigration Service considers that an asylum application is manifestly unfounded the case can be processed in a special urgent procedure as per the Alien's Act. For such cases, the Danish Immigration Service shares a recommendation about a case considered to be manifestly unfounded and therefore meeting the criteria for the special procedure to DRC's asylum department. In such cases, the DRC will convene an interview with the applicant to explore the reason(s) for seeking asylum. Based on the case information, DRC has a veto on the manifestly unfounded designation, notably: (i) for asylum cases DRC does not consider as manifestly unfounded, the case is referred into the normal procedure, where a negative decision is automatically appealed to the Refugee Appeal Board (RAB); (ii) for asylum cases the DRC agrees are manifestly unfounded, a rejection from the Danish Immigration Service will be final and the applicant cannot complain to the RAB.[88]

31. In addition to the core principles and standards discussed above, addressing issues related to **subsequent applications** for international protection has emerged as a concern in many national asylum systems, both in terms of fairness and efficiency. UNHCR advises that asylum systems should adopt sound procedures for the processing of **subsequent applications** or re-opening of cases rejected in final instance in order to ensure fairness and integrity of the systems. When a subsequent application is made, a preliminary assessment, in an accelerated process, can be done to determine whether new facts or circumstances have arisen which would warrant an examination of the substance of the claim or whether a case should be re-opened. A subsequent application should, in principle have **suspensive effect,** although there may be exceptions, for instance where there is clearly abusive behavior on the part of an applicant, or where the unfoundedness of a claim is manifest. However, even in these cases, review of a court or another independent body must be possible, and this court should have the authority on the request of the applicant or ex officio to grant suspensive effect of the appeal.

88 See *DRC, What applies to the treatment in the manifestly unfounded procedure*, available at: https://bit.ly/3r9ZBz2

# IV. Systemic issues relating to effective processing




32. In general, an accumulation of asylum applications arises when the number of asylum applications exceeds the processing capacity of an RSD system, or because of systemic issues that result in inefficiencies or reduced output over a sustained period.[89]

33. Systemic issues that can result in, or contribute to, growing backlogs and inefficiencies in the asylum systems can be caused by a number of different factors. A non-exhaustive list of such factors includes strategic and managerial issues, such as (i) lack of collaboration and coordination, (ii) inadequate planning and budget allocation, (iii) insufficient staffing arrangements, (iv) lack of oversight, quality assurance and fraud mitigation and (v) limited use of technology and innovative tools.[90]

34. National asylum systems are advised to take **a comprehensive approach and consider systemic issues as part of the asylum management strategy** as a means of promoting adaptable systems that are effective and efficient. Adaptable asylum systems have the ability to manage significant ebbs, flows, and shifts in the populations seeking international protection and adapt to other operational challenges.

35. Designing and establishing an effective asylum case management system, including the establishment of systems that are interoperable with other government systems requires **close coordination and collaboration** between governmental bodies such as border control, immigration, law enforcement and asylum authorities. Other relevant stakeholders such as international and inter-governmental organizations, civil society as well as asylum-seekers and refugees will also need to be engaged in the design of the system, the development of procedures and the evaluation of any pilot projects.

36. Furthermore, **proper planning and appropriate allocation of resources** at all stages of the process and across different government systems, including about staffing, capacity development, scheduling, targets, software systems and infrastructure is important to achieve the intended impact.[91]

**Country Example: Canada**

To improve coordination between various agencies involved in **Canada**'s asylum system, mainly delivered by IRCC, the CBSA and the IRB, an Asylum System Management Board (ASMB) was created in 2020. The ASMB is a senior-level coordinating body for the asylum system, established with the view to conduct system-wide joint priority setting, trends analysis, performance management and monitoring of interdepartmental goals, and to improve horizontal coordination between partners involved in the delivery of the asylum system. The ASMB functions within the terms of the *Immigration and Refugee Protection Act* and in accordance with all applicable laws, with the objective of enhancing the effectiveness and efficiency of the asylum system, including:[92]

89 UNHCR, *Refugee Status Determination Backlog Prevention and Reduction*, January 2018, PPLA/2018/03, https://bit.ly/3IQeQ6d
90 Ibid.
91 UNHCR, *UNHCR Discussion Paper Fair and Fast - Accelerated and Simplified Procedures in the European Union*, 25 July 2018, www.refworld.org/docid/5b589eef4.html.
92 For more information on the ASMB, see, https://bit.ly/3IK5Fnz

- Joint situational awareness: All delivery organizations are aware of the same key developments related to the asylum system.
- Joint strategic direction: The ASMB will undertake joint planning and priority setting to maximize the alignment of resources and will report on its operations, including emerging trends.
- Timely and transparent decision-making: Decisions of one organization are made available to the other delivery organizations ahead of those decisions being implemented.
- Innovation: Continual improvement is fostered through innovation.

To carry out its mandate the ASMB focuses on key activities, such as:

- operationalize ministerial processing priorities;
- establish performance targets; and align and report on productivity to build the responsiveness of each part of the system to shifting volumes and influxes;
- act as a clearinghouse, including to identify and resolve operational issues associated with the implementation of the system (e.g., case prioritization, removals);
- monitor updated quarterly asylum forecasts, and
- report regularly on its operations.[93]

**Country Example: Sweden**

In **Sweden,** the SMA is organized into geographical regions, each with the responsibility for the entire process, typically with an Application Unit and an Asylum Unit. With this, the regional operational managers can manage the resources and re-allocate them between units, as necessary. The regional managers cooperate within the frame of the SMA's Management Board.

In addition to the regional operational managers, there is a National Operative Department at the central level, which can be of assistance with, for example, COI or analysis of migratory movements. There is also a Digitalization and Development Department at central level, which is responsible for activities and actions in the process, and which can provide support on questions related to computer/IT-systems and similar routines. A Legal Department at central level is responsible for interpreting national and international laws and regulations and giving support to operational and HQ departments. To this effect, cooperation between departments is taking place at different levels (regional or central level) depending on the specific issue at hand and whether it relates to a certain region, or the issue is relevant to the SMA as a whole.

As part of the Asylum 360 project, including the implementation of the Timed Process, the SMA has promoted a cultural change in leadership with a particular focus on following up on results. A culture change has also been promoted for employees with an emphasis that everyone working in the asylum process should understand their role in the process, and work to ensure that each activity is carried out as quickly as possible (to reduce the lead time). To this effect, clear communication and sharing of information between the various units and personnel involved, as well as training have been deemed essential.

As part of the planning and start-up of the Asylum 360 project, the regional and the centralized offices of the SMA worked intensively together in the conceptual and development stage to ensure a mutual understanding of the goal and way forward. To this effect, proposals for

[93] Ibid.

improvement and changes were captured and information shared with relevant senior colleagues, who could make decisions and implement changes in a timely and swift manner.

Similarly, the need to adapt trainings and develop educational material for colleagues to better understand the shift in the approach of the SMA was emphasised as a priority from the start of the project to ensure that staff would understand their role and responsibilities, the interfaces of the process flow and how their work fitted into the larger picture. Significant changes in this regard included weekly coordinating meetings between the team leaders in the different units representing the different steps in the process (such as application, reception, housing, practical issues, and return), as well as all-personnel and all-unit trainings on the changes in the working method (Asylum 360 and the tracking system). Further, specific meetings for decision-makers were held about the various parts of the process to share current and burning issues related to tracks/new COI and judicial positions etc. And finally, meetings between heads of units and strategic/planning units were organised on regular basis.

To work in a more flow-oriented manner and with a focus on proactive management, the SMA has also strived to enhance the internal planning stage and to strengthen the dialogue between case workers and decision-makers to move the individual cases forward within the Timed Process (see above, para 19). To this effect it has been noted that digitalization and technical support tools have improved the condition for the workflow as well as the ability to measure progress of work, which in turn provides conditions for better follow-up and provision of information and advice in a timely manner by the SMA operational managers at regional level and support teams at central level.

**Country Example: Canada**

In **Canada**, the Integrated Claims Analysis Centre (ICAC)[94] initially piloted in Montreal is a trilateral joint initiative launched in 2019 designed to streamline practices for the first instance RSD process at the IRB to find efficiencies in the current processes of the asylum system and to increase collaboration between service delivery partners, notably between IRCC, the CBSA, and the IRB. The ICAC seeks to integrate functions, to (i) provide scheduling ready cases to decision makers in the IRB to facilitate quicker decision-making, (ii) to ensure program integrity by systematically reviewing the IRB decisions for correctness, (iii) to follow claimants as they move from one end of the system to the other and (iv) provide the partners with real time information.

The goal of ICAC is to analyze 55 per cent of Canada's anticipated intake, test new approaches to prioritizing and tracking claims, increase processing efficiency and ensure processing integrity. The ICAC has been fully implemented since the launch of the last phase of the project in November 2020, focusing on bringing end-to-end tracking and prioritization functions.

94 IRCC, *PACP – Status of Integrated Claim Analysis Centre (ICAC) in Toronto* – Nov 24, 2020 (accessed on 21 January 2022), www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/pacp-nov-24-2020/pacp-status-icac-nov-24-2020.html.

37. In terms of assessing **human resources and staffing needs**, many national asylum systems have established benchmarks and targets to measure productivity. While this can be a useful way of assessing productivity, it is imperative to also consider operational factors and requirements that influence the processing capacity of RSD officers, including:[95]

- the availability of country-of-origin information relevant to the profiles of asylum-seekers within the caseload(s) in question, including their specific needs;
- level of complexity of claims, including potential exclusion considerations;
- triaging and case processing modalities in place for specific caseloads and profiles;[96]
- the seniority and experience of the case workers/reviewers;
- the availability, quality, and efficiency of support procedures (i.e., reception, registration, file management and interpretation);
- additional activities and responsibilities that personnel normally undertake beyond case processing, such as coaching and training of new staff, engagement in protection related activities, involvement in notification of decisions, or file management;
- the context where RSD interviews and processing are taking place (e.g., office premises with support structures available as opposed to remote locations/ detention facilities/ remote processes);
- the availability of administrative and IT support. [97]

38. It is important to acknowledge that unreasonable case processing targets can lead to **stress and burn-out among personnel**,[98] which can result in increased sick leave, absenteeism, and personnel turnover. These factors will have a detrimental impact on staff well-being, but they will also have a negative impact on the quality of decisions and overall efficiency in terms of system output over time.[99]

39. As noted earlier, staff training is another key factor for successful case management and backlog reduction. Personnel require training on the implementation and use of frontloading and triaging as well as usage of different case processing modalities.[100] Refresher training on key thematic areas is also essential for such efforts and has a positive impact on staff well-being.

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95 UNHCR, *Refugee Status Determination Backlog Prevention and Reduction*, January 2018, PPLA/2018/03: https://bit.ly/3HajTOi

96 Typically, the targets for cases channeled through simplified case processing can be higher per case workers compared to regular RSD, provided that necessary resources, such as tools (forms/templates) and trainings amongst others are in place.

97 UNHCR, *RSD Procedural Standards Unit 4: Adjudication of Refugee Status Claims*, 26 August 2020, https://bit.ly/3H9WEUB

98 Ibid.

99 In the last years, an increasing number of academic researchers have presented findings related to stress on cognitive functioning in high intensity situations, including among health staff and humanitarian and aid works and personnel involved in individual case processing, such as RSD. See available information: University of York, *The protection of human rights defenders at risk* (accessed on 23 January 2022),www.york.ac.uk/research/impact/protection-of-hrds/: Thesis submitted to the University of Nottingham for the degree of Doctor of Philosophy, by Liza Jachsen (B.Soc.SC,M.a.); *Job stress among humanitarian aid workers,* from February 2018, https://bit.ly/3ACxc7y; War trauma foundation, *Building resilience and preventing burnout among aid workers in Palestine: a personal account of mindfulness based staff care*, https://bit.ly/34i0ZX1; Journal of Pain and Symptom Management: *Article on Building Resilience for Palliative Care Clinicians: An Approach to Burnout Prevention Based on Individual Skills and Workplace Factor* (by Anthony L. Black, Karen E. Steinhauser, Arif H. Kamal Vicki A. Jackson), 2016, https://bit.ly/3g6mxbS

100 The IRB has developed staffing strategies and tools to enable merit-based recruitment and established a New Member Training project which runs an approximately seven-weeks training to ensure all new members have standardized approach to conducting hearings and rendering decisions. For more information see *Quality Assurance Framework for Decision-Making, Part 3* (accessed on 23 January 2022), https://irb.gc.ca/en/transparency/qa-aq/Pages/qaf-caq.aspx

**Country Example: Canada**

In **Canada**, benchmarks and performance targets for asylum system priorities are established through ASMB discussions and consensus and are updated as needed. The ASMB meets quarterly (on average) where progress against priorities is discussed. There is a commitment to process and finalize the oldest cases in the IRB inventory.

**Country Example: Italy**

In **Italy**, a reform of the composition of the Territorial Commissions for the recognition of international protection was introduced with the objective to increase the processing capacity of the system. In 2018 and 2019, this led to the recruitment of some 420 dedicated civil service personnel, including professional and specialized RSD personnel. A training programme of about five weeks was jointly organized and delivered by the National Commission for the Right of Asylum, UNHCR and the former European Asylum Support Office (EASO). Five additional temporary Territorial Commissions were activated during 2019 and ceased to operate at the end of the same year. These measures led to a drastic reduction of the existing backlog of asylum applications, which decreased from 155,873 cases in January 2018 to 33,636 cases in December 2020 (- 78.4 per cent).[101]

In March 2021, about 150 temporary workers were employed by the National Commission and deployed, for one year, to the Provincial Police Headquarters and Territorial Commissions to support registration activities and communication between the different actors involved in RSD processing, with an overall objective of promoting a fair and efficient asylum system. A joint training programme for the temporary workers was developed and delivered by the National Commission, the Department of Public Security, UNHCR and EASO.

**Country Example: Spain**

In **Spain**, and as part of its accelerated border procedure (see above, para. 19), the continuous need for capacity development, including training on procedural guarantees of the relevant actors working in the procedure (police, office for asylum case workers, lawyers, interpreters) had proven to be a concern among all actors due to a high turnover rate among police officials working in airport and detention centres. To address these challenges, the Spanish police and asylum authorities regularly engage in capacity development projects with UNHCR, which also address training needs of other actors involved in the accelerated border procedure working at airport and migrant detention centres and at the Melilla land border post. The sessions focus on international human rights and refugee law principles as well as on UNHCR´s Mandate and its role in the Spanish asylum procedure. Training is also provided on interviewing techniques and working with interpreters. An online training course addressed to police officers working in the asylum procedure, in which UNHCR collaborated, was launched in 2020. Likewise, UNHCR regularly engages in capacity development initiatives for the asylum case workers, interpreters and legal aid providers.

[101] Commissione Nazionale per il diritto di asilo, Dati Asilo, Anni 2015 – 2020, https://bit.ly/3KTcAwM

**Country Example: Sweden**

In **Sweden**, the SMA continues to work on forecasts in terms of numbers and decision rates, which are reported to the Government of Sweden. The SMA has implemented several measuring points and goals that are considered and assessed in parallel, including measuring of the Timed Process (see above, para. 19). The SMA has however noted that as a corporate approach there should be less focus on production targets per se, and that the emphasis should be on other areas of system building, such as capacity development of personnel as means to enhancing performance.

40. **Oversight and quality assurance** of changes in case management systems and pilot projects/ innovations are essential to promote fairness, efficiency, adaptability, and integrity of the asylum system. The example from Canada (below) illustrates the importance of quality review and adaptable institutions.[102]

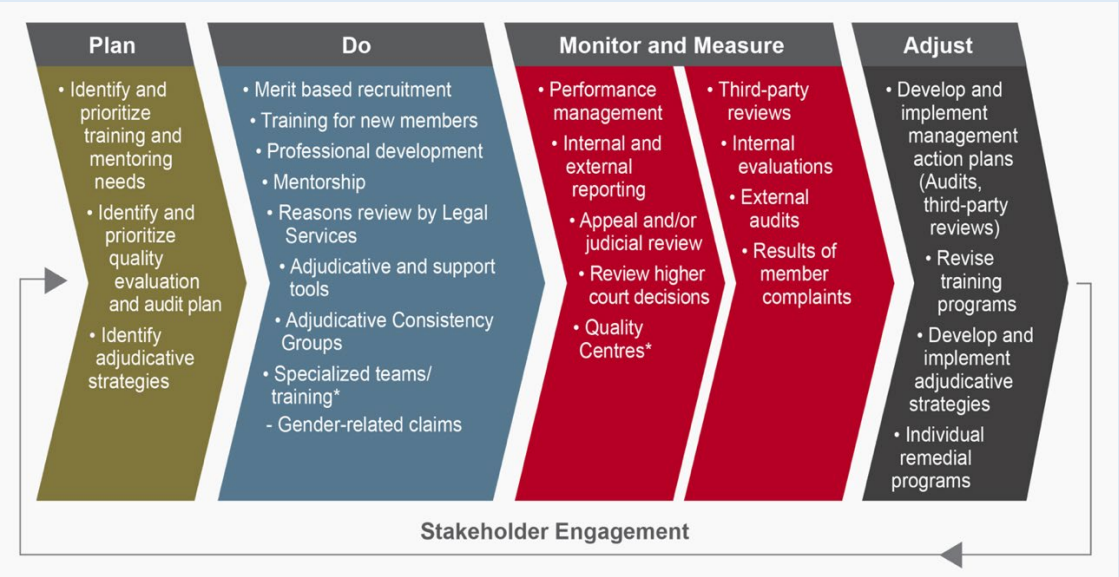
41. Ensuring mechanisms are in place to **manage and mitigate risks of fraud** is furthermore important. To this effect, it is important to introduce sound complaint mechanisms, training of personnel involved in the process, effective counselling and communication with individuals seeking asylum, as well as meaningful communication with partners and stakeholders in the process. As a good practice, evaluations and performance measurement initiatives should be implemented to review progress and identify gaps at different stages of the asylum process to guide changes made to the system and what funding is needed for proper sustainability.

**Country Example: Canada**

Through the Quality Assurance Framework for Decision-Making, the IRB aims to oversee and ensure high quality and fair decisions based on a continuous improvement cycle centered around "Plan, Do, Monitor, Measure and Adjust." This approach process is illustrated on page 7 of the report from the IRB on *Quality Assurance Framework for Decision-Making:*[103]

[102] For additional information on asylum quality initiatives in the EU, see UNHCR, *Further Developing Asylum Quality in the EU (FDQ): Summary Project Report*, September 2011, www.refworld.org/docid/4e85b41f2.html; UNHCR, *Asylum System Quality Assurance and Evaluation Mechanism (ASQAEM) - Summary Report,* February 2010, www.refworld.org/docid/56a08dd49.html; UNHCR, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice - Detailed Research on Key Asylum Procedures Directive Provisions*, March 2010, www.refworld.org/docid/4c63e52d2.html

[103] The IRB, *Quality Assurance Framework for Decision-Making* (accessed on 23 January 2022), https://bit.ly/34hbxWl




To support the quality initiative, two quality centres have been established at RPD and RAD, respectively. These are mandated to monitor trends and identify and address areas requiring attention, including (i) reviewing and updating related Chairperson Guidelines, (ii) providing additional mandatory training for all refugee adjudicators, including on gender-related violence, (iii) the creation of a dedicated team with specialized training to hear and decide refugee claims and (iv) a third-party review of the IRB's public complaints process. The quality centres will, amongst other areas, focus on initiatives, tools and mechanisms that improve quality, such as improved training, mentorship, performance management and adjudicative strategies.

The IRB has further advanced its efforts to promote consistent and effective adjudication by implementing an adjudicative strategy at the RAD to clarify areas of refugee law, by updating, for government consideration, the Rules of Practice for the Immigration Appeal Division, and by advancing continued improvement measures at the Immigration Division in response to a third-party review of long-term detention reviews.[104] As a means to maintain quality and quality control, both internal evaluations, evaluations by a third-party assessor and external audits are undertaken.

The Quality Assurance Framework for Decision-Making for the IRB further refers to training, mentorship, and professional development as its key components. The IRB has also developed staffing strategies and tools to enable merit-based recruitment and established a New Member Training project, which runs an approximately seven-weeks training to ensure all new members have a standardized approach to conducting hearings and rendering decisions.

To strengthen integrity and accountability, the IRB has also undertaken a full review of its complaint process with the objective to consider what is working well and what can be improved. Based on the evaluation, measures were introduced to make the complaint process more accessible, including with information displayed on the IRB website and an online optional complaint form that is in an easy format to use. Measures were also put in place to improve

[104] See IRB Departmental Plan, *2020-21 Departmental Plan - Immigration and Refugee Board of Canada (irb.gc.ca)*, (accessed on 23 January 2022), https://irb.gc.ca/en/reports-publications/planning-performance/Pages/departmental-plan-report-2021.aspx

transparency in terms of improvement in communications with parties, clarification of criteria used and promotion of annual reporting. Finally, service standards for timeliness of service were set to promote efficiency.

42. **Technology** evolves and, when used appropriately, can further enhance efficiency and integrity of case processing in asylum systems. While national asylum systems, civil society initiatives and UNHCR have long been in the process of developing and applying innovative and new technology to improve access to information, digitalization, and interoperability of data system (see above, para.12). The COVID-19 pandemic prompted many national asylum systems across the globe to further adapt their processes and quickly come up with new and innovative arrangements in a bid to continue asylum processes during lockdowns or other public health measures.

**Country Example: Sweden**

The SMA has developed an e-portal via a secure website,[105] which allows the public counsel (legal representative) to submit documentation and evidence relevant to asylum applications online. The portal allows for exchange between the stakeholders, scheduling of appointments as well as organizing meetings online with SMA officials via the e-portal by using a conference ID. The e-portal also allows for a close tracking of documents that have been submitted, monitoring the status of the asylum application, and calculating the reimbursement cost.

43. As part of their response during the COVID-19 pandemic, many national asylum systems started to pilot and use video and audio recording to undertake virtual asylum interviews/hearings and remote interpretation.[106] Guidelines were also developed for best practices in carrying out remote interviews among the EU+ asylum systems.[107] In general, UNHCR advises that in-person interviews remain the most appropriate way to conduct RSD interviews. However, remote interviews and remote interpretation may be appropriate in certain cases, for reasons related to public health and safety requirements, and where long distances would otherwise delay the interview taking place, if safeguards and procedural standards are otherwise adhered to.[108]

44. Testing and evaluation of the new remote case processing systems and drawing on lessons learnt will assist in assessing efficiency as well as identifying risks before considering virtual asylum interviews/hearings as the new de fault working modality. Such an approach helps put in place necessary mitigating measures and/or come up with alternatives, including with appropriate due process standards. Consideration of adapting and introducing such new measures should also be undertaken in a collaborative and consultative manner and with a necessary degree of transparency vis-à-vis relevant stakeholders, including civil society and individuals seeking asylum.[109]

105 For more information on the e-portal, see www.migrationsverket.se/Andra-aktorer/Offentliga-bitraden/E-tjanst-for-bitraden.html

106 UNHCR, *Remote Interviewing: Practical Considerations for States in Europe*, 9 June 2020, www.refworld.org/docid/5ee230654.html

107 EASO *Asylum report 2021, Processing asylum applications at first instance,* https://bit.ly/3ABxjjW

108 UNHCR, *Key Procedural Considerations on the Remote Participation of Asylum-Seekers in the Refugee Status Determination Interview*, May 2020, www.refworld.org/docid/5ebe73794.html; and UNHCR, *RSD Procedural Standards Unit 4, Adjudication of Refugee Status Claims,* August 2019, www.refworld.org/docid/5e87075d0.html

109 The IRB has prepared an evaluation report on Videoconferencing in Refugee Hearings, which provides further insight on the results of testing and piloting of new modalities in individual case processing context. For more information, see https://bit.ly/32JyeSY and https://irb-cisr.gc.ca/en/transparency/reviews-audit-evaluations/Pages/VideoRespRep.aspx.

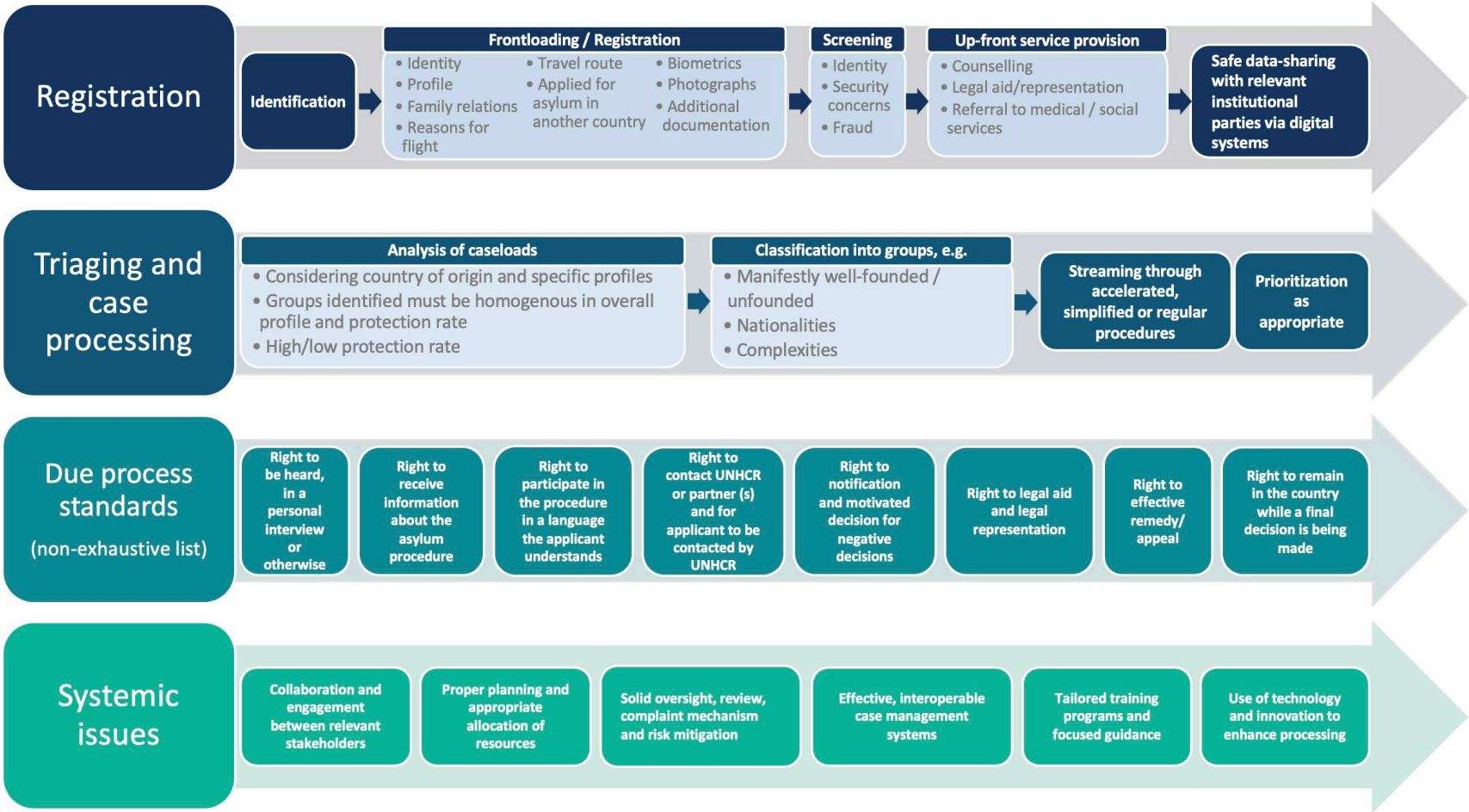
## Conclusion

45. The primary goal of this paper is to document relevant options and measures initiated by national asylum authorities to ensure effective processing of asylum applications. By doing so, the paper promotes the growing body of good practices available to guide national asylum authorities in accordance with the imperative of safeguarding international protection and advancing responsibility sharing. UNHCR encourages the adoption of good practices that may be contextualized at regional or national levels as part of practical and operational responses by States to population movements.

46. As evidenced by the examples in this paper, effective processing of asylum applications can be achieved through better system design, addressing systemic issues and a readiness to pilot and introduce new and innovative tools and measures. Close coordination between relevant actors, such as border control, police, and asylum authorities, as well as the participation of legal aid providers and civil society from the outset of the asylum procedure, can further make the process faster and fairer. Establishing appropriate processes for registration, frontloading of data and data management, and the use of triaging will further promote fairness and efficiency.

47. UNHCR observes that asylum systems can be resilient and adaptable while maintaining procedural fairness and the integrity of case processing. When robust structures are in place, States will be able to deal effectively with existing backlogs while attending to new arrivals in a context of increased forced displacement globally.

# Annex 1: Flowchart



# Annex 2: Acronyms

| List of Acronyms | |
|---|---|
| **ACCORD** | Austria Centre for Country of Origin & Asylum Research and Documentation |
| **ACSG** | Asylum Capacity Support Group Mechanism |
| **ARC** | Asylum Research Centre |
| **ACO** | Adjudicative Claim Officer |
| **AIDA** | Asylum Information Database |
| **CARL** | Canadian Association of Refugee Lawyers |
| **CBSA** | Canada Border Services Agency |
| **COI** | Country-of-Origin Information |
| **DRC** | Danish Refugee Council |
| **EASO** | European Asylum Support Office |
| **EU** | European Union |
| **EUAA** | European Union Agency for Asylum |
| **ECRE** | European Council on Refugees and Exiles |
| **FAC** | Federal Administrative Court |
| **The Glossary** | Aide-mémoire & glossary of case processing modalities terms and concepts applicable to RSD under UNHCR's mandate |
| **GCR** | Global Compact on Refugees |
| **ICAC** | Integrated Claims Analysis Centre |
| **IOM** | International Organization for Migration |
| **IRCC** | Immigration, Refugees and Citizenship Canada |
| **IRB** | Immigration and Refugee Board of Canada |

| | |
|---|---|
| **NGI** | Case management system interface (NGI): NOVA-GCMS interface |
| **NGO** | Non-governmental organizations |
| **OAR** | Office for Asylum |
| **RAD** | Refugee Appeal Division |
| **RPD** | Refugee Protection Division |
| **RSD** | Refugee Status Determination |
| **SOPs** | Standard Operating Procedures |
| **UNHCR** | United Nations High Commissioner for Refugees |
| **SEM** | State Secretariat for Migration |
| **SMA** | Swedish Migration Agency |