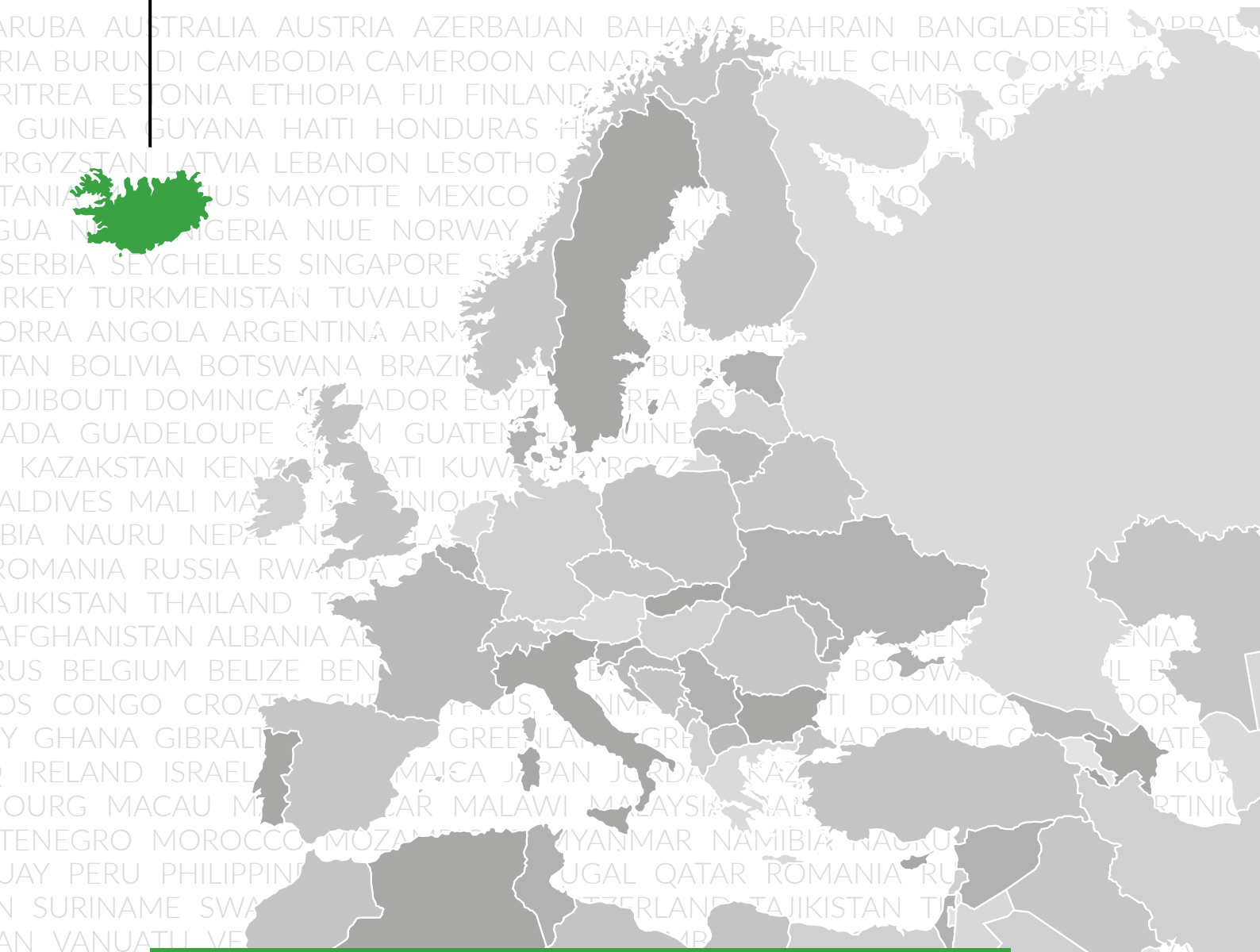


RISING TO THE CHALLENGE

IMPROVING THE ASYLUM PROCEDURE IN ICELAND



A LEAN QUALITY INITIATIVE BY **UNHCR** IN COOPERATION WITH
THE **ICELANDIC DIRECTORATE OF IMMIGRATION**



UTL ÚTLENDINGASTOFNUN
The Directorate of Immigration

RISING TO THE CHALLENGE

IMPROVING THE ASYLUM PROCEDURE IN ICELAND

April 2016

A LEAN QUALITY INITIATIVE BY UNHCR IN COOPERATION WITH
THE ICELANDIC DIRECTORATE OF IMMIGRATION



UTL ÚTLENDINGASTOFNUN
The Directorate of Immigration

ACKNOWLEDGMENTS

UNHCR Regional Representation for Northern Europe expresses its gratitude to the Icelandic Directorate of Immigration, Ministry of Interior, the Swedish Migration Agency, National Police Commissioner, Sudurnes Police district, Metropolitan police, Icelandic Red Cross, asylum lawyers, and last but not least the asylum-seekers who shared their experiences in an open and constructive manner. UNHCR also wishes to thank Ms. Sofia Sjöberg for her contributions as a consultant, during Phase II of this report.

The Directorate of Immigration would like to extend its gratitude to the UNHCR Regional Representation for Northern Europe for its efforts and input regarding increasing and maintaining quality in the Icelandic asylum process, both through the process of the Lean Quality Initiative and otherwise. Furthermore, the Directorate expresses thanks to the Swedish Migration Agency for input made and assistance provided, as well as to the Icelandic Ministry of Interior. Lastly, the Directorate's management would like to thank its general staff for the good work done in the past few years and the enthusiasm with which changes and new ideas have been received.

© 2016 UNHCR.

All rights reserved for all countries.

TABLE OF CONTENTS

Acknowledgments.....	4
Foreword	8
INTRODUCTION	9
The Icelandic asylum system	9
Background to the Lean Quality Initiative	10
Structure of the report	12
1. EFFICIENCY OF THE FIRST INSTANCE ASYLUM PROCEDURE	13
1.1. Methodology	13
1.2. Overall findings and observations	14
1.3. Detailed findings	16
1.3.1. Initial reception upon arrival.....	16
1.3.2. Initial interview and registration by the police.....	17
1.3.3. Registration by the Directorate of Immigration in the Erlendur database, the Common drive and in an excel spreadsheet	17
1.3.4. Filing.....	18
1.3.5. Asylum interviews, preparations and recording	18
1.3.5.1. Interview with the police.....	18
1.3.5.2. Scheduling of interviews with the Directorate of Immigration upon arrival.....	19
1.3.5.3. Interview with the Directorate of Immigration.....	19
1.3.6. Assessment and drafting of decisions	19
1.3.7. Communication of decisions	20
1.3.8. Prioritization between pending cases.....	21
1.3.9. Legal representation and periodic consultations with the Directorate of Immigration	21
1.3.10. Interpretation.....	23
1.3.11. Capacity building of staff	23
1.3.12. Need for additional resources to implement recommendations.....	23
1.4. Recommendations of phase I	24
1.4.1. Registration of asylum applications	24
1.4.2. Filing.....	24

1.4.3. Provision of information to asylum-seekers	25
1.4.4. Interviews	25
1.4.5. Processing and prioritization of asylum applications.....	26
1.4.6. Assessment of claims and drafting of decisions	26
1.4.7. Communication of decisions	26
1.4.8. Legal representation	27
1.4.9. Interpretation.....	27
1.4.10. Capacity development and performance management of staff.....	27
1.4.11. Periodic quality assurance.....	28
1.4.12. External communication and periodic dialogues with the Directorate of Immigration	28
1.4.13. Increased capacity to implement recommendations.....	28
2. THE QUALITY OF FIRST INSTANCE INTERVIEWS AND DECISIONS.....	29
2.1. Methodology.....	29
2.2 Summary of findings.....	30
2.2.1. Dublin procedures.....	30
2.2.2. Asylum interview	31
2.2.3. Service of Interpreters	32
2.2.4. Assessing credibility and establishing the facts of the claim.....	33
2.2.5. Interpretation and application of Article 1(A)2 of the 1951 Refugee Convention	35
2.2.5.1. Well-founded fear of persecution.....	35
2.2.5.2. The 1951 convention grounds.....	36
2.2.5.3. State protection	37
2.2.5.4. Internal flight alternative	38
2.2.6. Subsidiary protection.....	38
2.2.7. Structure and methodology of decisions on international protection.....	39
2.3. Recommendations of phase II.....	40
2.3.1. Dublin procedures.....	40
2.3.2. Interviews and interpreters.....	40
2.3.3. Credibility assessments	41
2.3.4. Interpretation and application of the criteria in the refugee definition	41
2.3.5. Subsidiary protection.....	41
2.3.6. Structure and methodology of decisions	41

3. A PROGRESS REPORT ON THE IMPLEMENTATION OF THE RECOMMENDATIONS BY THE DIRECTORATE OF IMMIGRATION 42

3.1. Introduction..... 42

3.2. Summary of progress..... 42

 3.2.1. Registration of asylum applications 43

 3.2.2. Filing..... 43

 3.2.3. Provision of information to asylum-seekers 43

 3.2.4. Interviews 43

 3.2.5. Processing and prioritization of asylum applications..... 44

 3.2.6. Assessment of claims and drafting decisions..... 44

 3.2.7. Communication of decisions 44

 3.2.8. Legal representation 44

 3.2.9. Interpretation..... 44

 3.2.10. Capacity development and performance management of staff..... 45

 3.2.11. Periodic quality assurance..... 45

 3.2.12. External communication and periodic dialogues 45

 3.2.13. Increased capacity to implement recommendations..... 45

3.3. Progress observations 45

 3.3.1 Registration of asylum applications 45

 3.3.2. Filing..... 46

 3.3.3. Provision of information to asylum-seekers 46

 3.3.4. Interviews 46

 3.3.5. Processing and prioritization of asylum applications..... 47

 3.3.6. Assessment of claims and drafting decisions..... 48

 3.3.7. Communication of decisions 49

 3.3.8. Legal representation 49

 3.3.9. Interpretation..... 49

 3.3.10. Capacity development and performance management of staff..... 49

 3.3.11. Periodic quality assurance..... 50

 3.3.13. Increased capacity to implement recommendations..... 50

FOREWORD

UNHCR Regional Representation for Northern Europe, in collaboration with the Icelandic Directorate of Immigration, is pleased to present the report on the Lean Quality Initiative, undertaken by UNHCR to review and present recommendations aimed at enhancing the efficiency and quality of the first instance asylum procedure in Iceland. The initiative has been a joint and inclusive process to map core outstanding issues. With the asylum-seekers at the center of the process and an important part of the stakeholder consultations conducted throughout the project, the process has been truly “client” focused.

The initiative is part of a series of quality assurance projects that UNHCR has implemented and supported in several European States to improve the asylum procedures. The Icelandic initiative is unique in the sense that it encompassed both an analysis of how “lean” and efficient the procedures are as well as the quality of the decision-making process. Another unique feature of the project was the close involvement of the Swedish Migration Agency in helping the Directorate of Immigration develop a methodology and tools for the determination of asylum applications. The Directorate went on study visits to the Swedish Migration Agency and an expert from the agency undertook a mission to Iceland to work with the staff on developing such tools. This has been an excellent cross-fertilization of best practices.

These features have been key to the success of the initiative and to building a fair and efficient asylum process. Shorter processing times, use of standardized methods and tools, and more client-friendly decisions are improvements that benefit the individual asylum-seeker as well as Iceland.

Pia Prytz Phiri
Regional Representative
UNHCR Regional Representation for Northern
Europe

Kristín Völundardóttir
General Director
The Icelandic Directorate of Immigration

April 2016

INTRODUCTION

THE ICELANDIC ASYLUM SYSTEM

Iceland acceded to the 1951 Convention relating to the Status of Refugees in 1955 and to its 1967 Protocol in 1968 (hereafter collectively referred to as the “1951 Refugee Convention”). While not a member of the European Union (“EU”) and consequently not bound by the Common European Asylum System (“CEAS”), Iceland seeks to coordinate asylum and migration issues with its neighbours and has in EU enlargement negotiations indicated that it generally applies the EU asylum *acquis*.

According to the Icelandic Act on Foreigners (“Act on Foreigners”),¹ the Minister of Interior has the overall responsibility for issues covered by the Act on Foreigners. The Directorate of Immigration (“DI”) is, together with the police and other administrative authorities, responsible for implementing the Act on Foreigners. The DI is responsible for handling all asylum applications, i.e. examining applications for asylum and taking decisions at first instance. These include, inter alia, decisions to grant or refuse refugee status or subsidiary protection. An independent Appeals Board has been established and is functioning since early 2015.

The Act on Foreigners, together with the Regulation on Foreigners,² are the main legislative instruments regulating both material and procedural aspects of how applications for asylum are determined in Iceland. Additionally, there are acts and regulations relating to, for instance, the right to work and citizenship that are relevant in the context of asylum.

The refugee definition contained in Article 44:1 of the Act on Foreigners reflects the definition contained in Article 1(A)2 of the 1951 Refugee Convention. The provision on subsidiary protection contained in Article 44:2 of the Act on Foreigners is largely equivalent to the recast EU Qualification Directive (“recast QD”),³ Article 15 (a) and (b), but does not explicitly refer to the concept of indiscriminate violence as outlined in Article 15 (c) (see further below at Part II).

¹ Act on Foreigners No. 2002/ 96, available at: <http://eng.innanrikisraduneyti.is/laws-and-regulations/nr/105>.

² Regulation on Foreigners No. 53 of 23 January 2003 with amendments of 8 July 2003 since amended by regulation 2004/769 of 20 September 2004, available at: <http://eng.innanrikisraduneyti.is/laws-and-regulations/nr/860>.

³ European Union: Council of the European Union, Directive 95/2011/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 20 December 2011, OJ L 337; December 2011, available at: <http://www.refworld.org/docid/4f197df02.html> (“Recast QD”).

In view of the country's geographic location, asylum-seekers primarily arrive to Iceland by air. As there are no direct flight connections from the main countries of origin of asylum-seekers, Iceland is seldom a "first country of asylum". Consequently, many asylum-seekers who apply for asylum in Iceland are transferred to another Dublin country, under the Dublin Regulation.⁴

The number of asylum-seekers arriving in Iceland has remained low compared to its Nordic neighbours. However, the arrival of asylum-seekers has gradually risen each year, by a relatively high number. In 2009, the DI received 35 asylum applications; in 2010, 51 applications; in 2011, 76 applications; in 2012, 116 applications; in 2013, 172 asylum applications; in 2014, 176 asylum applications and in 2015, the number of asylum applications reached a record number of 354 applications. Hence, the number of asylum applications has increased by over 900 per cent over a six year period.

The 172 individuals who applied for asylum in 2013 originated from 35 different countries, including 42 Croatians and 40 Albanians. Apart from these, the number of applicants received from the other 33 countries ranged from 1 per country to 9 per country (Russian Federation). In 2014, not unlike 2013, applicants from the Western Balkans made up a large portion of the asylum-seekers, with 156 being from Albania, Kosovo, the former Yugoslav Republic of Macedonia and Serbia, making up 44 per cent of all applications. Albanians alone were 108, making up 30.5 per cent of all applicants.

BACKGROUND TO THE LEAN QUALITY INITIATIVE

The steady increase in the number of asylum applications received each year, and in particular the significant increase of Albanian and applicants from other Western Balkan countries in 2013 and 2014, made it challenging for the asylum institutions to cope and process the claims in a timely manner. The DI and the appeals procedure (at the time situated at the Ministry of Interior), which were equipped to determine around 50 applications per year, had, within a short period of time, to scale up their capacity to process four to five times this number.

The time from submission of application to first instance decision in 2013 ranged from 18 to 843 days. At the end of 2013, the average age of undecided cases in the system was 271 days. While the spread in countries of origin still remained wide in relation to the overall caseload, the significant increase in applicants from the Western Balkans also had an impact on the functioning of the asylum procedure. At the same time, Iceland was dealing with severe consequences of the global financial crisis. While the Government and the asylum institutions took measures to respond to the increased number of asylum applications, with the aim of implementing a fair and efficient asylum procedure, it was challenging to speedily enough adapt the capacity of the process and avoid the building up of a backlog.

In light of these developments, the UNHCR Regional Representation for Northern Europe ("UNHCR RRNE") undertook a special mission to Iceland in October 2013. Extensive discussions were held with the Ministry of Interior and the DI on how the efficiency and quality of the asylum procedure could be

⁴ European Union: Council of the European Union, *Regulation (EU) No 2013/604 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*, 29 June 2013, OJ L. 29.6.2013; 59/180-31/180, (EU) No 2013/604, available at: <http://www.refworld.org/docid/51d298f04.html> ("Dublin III Regulation"). See also, European Union: *Council Regulation (EC) No. 2003/343 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national*, L 25.2.2003 1/50.

enhanced, to respond to the current reality. Following these discussions, it was agreed that UNHCR RRNE would conduct a Lean Quality Initiative (“LQI”) of the Icelandic asylum procedure.

UNHCR’s experience in conducting similar initiatives is based on its supervisory role, pursuant to Article 8 in the UNHCR Statute, Article 35 in the 1951 Refugee Convention and Article II of the 1967 Protocol. UNHCR has implemented and supported a number of “Quality Initiatives” (“QI”) or “Quality Assurance” (“QA”) in European countries, including in the UK, Germany, Austria, Poland, Hungary and the Slovak Republic. In the Northern Europe region, UNHCR RRNE has undertaken QI/QA projects in Sweden (2010-2011), Lithuania (2012) and in Latvia and Estonia (2013-2014).

QI/QA projects previously undertaken by UNHCR in European countries have primarily focused on the quality of the decision-making, in light of international and EU standards, and less on factors influencing the efficiency and time within which quality decisions can be made. Given the particular challenges facing the Icelandic asylum procedure, with significant backlogs, and the fact that quality and efficiency are part and parcel of a fair and efficient asylum procedure, it was decided to review both the aspects of efficiency and quality within a “Lean Quality Initiative”, implemented in two phases, starting with the efficiency followed by the quality of the decisions.

During the LQI in Iceland, the DI and UNHCR worked in close partnership to jointly identify the areas that needed improvement and the ways of addressing the gaps. Extensive stakeholder consultations were undertaken where the asylum-seekers and all of the other stakeholders interviewed shared their experiences in a spirit of partnership to help identify the key ways of improving the system. The Swedish Migration Agency (“SMA”) was an important part of the partnership, by sharing their experiences and tools. The SMA’s “lean methodology”, which has been developed over a number of years starting in 2008 when the SMA embarked on its “lean journey”, served as a framework and great source of inspiration for UNHCR’s review of the efficiency of the Icelandic asylum procedure. Meanwhile, the tools⁵ UNHCR has developed within the context of the many QI/QA projects undertaken in different European countries guided the quality aspects of the initiative.

The first phase of the LQI was implemented in 2013 and mainly looked at aspects that affect the efficiency of the first instance asylum procedure. The second phase was carried out in 2014 and focused on reviewing the quality of the first instance decisions in light of international and European standards. That the LQI encompassed both an analysis of how “lean” and efficient the procedures were, as well as the quality of the decision-making, was key to its success, as both are essential components of a fair and efficient asylum process. As detailed further below in this report, the LQI revealed many positive aspects of the asylum procedures, but also several gaps, including long processing times, lack of clear Standard Operating Procedures (“SOPs”), and lengthy decisions that did not clearly set out the reasons. The criteria of the refugee definition contained in the 1951 Refugee Convention were not analysed consistently, and the structure and quality of the credibility assessments varied, as did the quality of the interpretation.

As further reflected in this report, significantly reduced processing times with removal of unnecessary steps and procedures, use of standardized methods and tools, as well as more reader-friendly and clearly reasoned decisions are among the improvements that have been achieved since the start of the project. While the parties did their best to implement the LQI according to the time-frames agreed, delays were experienced due to the continued increase in the number of asylum applications in 2014 and 2015.

⁵ See e.g., UNHCR, *Building In Quality: A Manual on Building a High Quality Asylum System*, September 2011, available at: <http://www.refworld.org/docid/4e85b36d2.html>, and its summary project report; UNHCR, *Further Developing Asylum Quality in the EU (FDQ): Summary Project Report*, September 2011, available at: <http://www.refworld.org/docid/4e85b41f2.html> (“UNHCR, Building in Quality”).



UNHCR RRNE hopes that the findings and recommendations from the LQI will continue to inform the DI’s and the Ministry of Interior’s ongoing efforts to make the Icelandic asylum procedure more efficient and “leaner”, while at the same time enhancing the quality of the individual decisions. Such a reform of the asylum procedure will benefit the asylum-seekers, the Icelandic Government and institutions and the general public’s support for maintaining the asylum space and lead to a better and more meaningful use of all human and financial resources implicated.

STRUCTURE OF THE REPORT

This report consists of three parts and reflects that the research was carried out in separate phases during different time periods.

Part I of the report contains the findings and recommendations of the first phase, which were arrived at by mapping each step of the first instance process, from the applicant’s arrival to Iceland to the communication of the decision, and analyzing whether and to what extent the respective steps brought value to the process.

Part II presents the findings and recommendations of the second phase, which are based on an in-depth review of 33 first instance decisions, using quality review checklists developed for the purpose of the LQI, drawing on the tools used in other similar initiatives.

Part III contains a progress report by the DI on the implementation of the recommendations and the improvements made to both the efficiency of the procedures and the quality of the decision-making.

1. EFFICIENCY OF THE FIRST INSTANCE ASYLUM PROCEDURE

1.1. METHODOLOGY

The methodology used to map how the different types of resources were spent within the asylum procedure was based on a framework developed by the SMA throughout its “lean” journey. Information to complete the mapping of (a) the extent to which the respective steps in the first instance asylum procedure bring added value to the asylum-seekers, (b) are necessary even though they do not bring direct added value to the applicants, (c) or merely “waste” human, material and/or financial resources in the process, was compiled in numerous ways.

Firstly, during UNHCR RRNE’s mission to Iceland in October 2013, a meeting was held with some 20 asylum-seekers at the Fit Hostel in Keflavik. During this meeting, the asylum-seekers described how they experienced the procedure and shared some recommendations on how various aspects could be improved. Secondly, during the same mission, UNHCR RRNE met with the Minister of Interior, the Director and Senior Legal Advisor of the DI, the working group established to review the efficiency of the asylum procedure and reception arrangements, the Icelandic Red Cross and with a number of legal representatives, all with the aim of learning about the current situation and discussing how UNHCR RRNE could be of support. Thirdly, UNHCR RRNE undertook a ten day mission to Iceland in December 2013, with the purpose of implementing the first phase of the LQI.

During this mission, UNHCR RRNE facilitated several group discussions with the DI’s staff involved in the asylum procedure, to jointly map the steps in the procedure and critically review which steps brought added value to the clients/asylumseekers, which were necessary and which “wasted” human, material and/or financial resources due to the fact that they neither brought added value nor were necessary. In addition, individual interviews were conducted with all of the case workers and the management in order to obtain a comprehensive mapping and to better understand the challenges experienced by individual staff in their respective areas of work.

UNHCR RRNE also conducted interviews with employees involved in various aspects of the asylum procedure from the Ministry of Interior, the National Police Commissioner, the Sudurnes Police district, the Metropolitan police and the Icelandic Red Cross, as well as with a number of lawyers regularly representing asylum-seekers. Furthermore, UNHCR RRNE reviewed – primarily from the perspective of structure and client-friendliness – ten asylum decisions that were selected by the DI as representative and translated into English. Finally, during the mission in December 2013, UNHCR RRNE was introduced to the DI’s registration and filing system and reviewed the structure and content of 12 files.

1.2. OVERALL FINDINGS AND OBSERVATIONS

The clearest overall finding from all of the individual and group discussions held by UNHCR RRNE during its two missions to Iceland in 2013, was that there was a strong and immediate desire and commitment to improve the efficiency of the asylum procedure.

All stakeholders, ranging from the Minister of Interior to the asylum-seekers, expressed the view that human, material and financial resources were being wasted in the current system. The asylum-seekers described how the prolonged time spent waiting for an asylum interview with the DI, and thereafter for a decision, led to frustration, anxiety and a deterioration of their mental and physical health, especially since opportunities to work and to use the time in reception in a meaningful, productive manner, were very limited. Consequently, the resource that each asylum-seeker constitutes was largely “wasted” during the long time of waiting. One of the most striking examples was one asylum-seeker who had not yet been called for his asylum interview with the DI, despite the fact that he had arrived to Iceland two years earlier. The Minister of Interior described the challenges in upholding public and political support for the asylum space in Iceland, when the procedures took so long and the total cost (including e.g. medical costs for asylum-seekers whose health had deteriorated while waiting for a decision) was relatively high in a context when the country was still recovering from a deep financial crisis. The Director of the DI described the challenges and pressure experienced by her staff, in trying to cope with the relative high increase in asylum applications and managing the expectations and frustrations of the asylumseekers and questions from the public.

Overall, the information on challenges and gaps shared by all of the stakeholders with whom UNHCR RRNE spoke, as well as the shared commitment conveyed to address these were very consistent, which was a critical starting point for improving the system. In UNHCR RRNE’s assessment and analysis, there were several, inter-related reasons why it took relatively long to determine an asylum application, from the time of initial registration of the claim to communication of the first instance decision:

The steady increase in the number of asylum applications submitted from 2009 to 2013 stretched the capacity of the DI to respond in a timely manner. In 2009, the DI had one and a half staff employed to process and decide on asylum applications. The number of decision-makers was gradually increased to a total of six staff, of which one staff member was primarily handling administrative tasks, while the number of applications rose by 500 per cent over the five year period between 2009 and 2013. During this five year period, and particularly between the years 2011 and 2012, the DI accumulated a significant backlog and pending applications got “stuck” for long periods of time. While trying to clear this backlog, Iceland received, until then, the highest number of applicants ever in 2013, with 172 asylum applications including 42 from Croatians, 40 from Albanians and the rest from 33 other countries of origin.

The average age of applications registered in the system was 271 days as of 28 November 2013, including Dublin cases. This did not include cases which were returned by the Ministry of Interior following appeals. The average processing time was high also in comparison to other countries in the region. In Sweden, the maximum processing time by the SMA was (in 2013/2014) four months, while in Norway, nine out of ten asylum-seekers received a decision by the Norwegian Directorate of Immigration (“UDI”) within six months and 95 per cent within 12 months (in 2013/2014).⁶

⁶ It should be noted, however, that the processing times in both Norway and Sweden have increased since the first phase of the LQI was conducted, in 2013/early 2014, especially as a result of the high increase in asylum applications received by these countries during 2015.

The new decision-makers, employed by the DI in 2013 to help clear the backlog plus respond to the increased number of applicants arriving, had to “hit the ground running” and start adjudicating claims with little training and introduction to refugee status determination. Even though they all displayed a high level of commitment and expressed sincere gratitude for the continuous support and on-the-job guidance received from their supervisors and peers, it was evident that the lack of a structured, comprehensive induction program and/or lack of access to the training modules of the European Asylum Support Office (EASO), affected their ability to speedily make decisions of high quality, especially if they had not worked in the field of asylum before.

The wide range of countries of origin among the asylum-seekers made it difficult for the DI and its decision-makers to develop an expertise in assessing asylum claims from different nationalities. Consequently, to a certain extent, almost every asylum claim was approached as “the first”.

Procedures for registering asylum applications and sharing of requisite data between the police and the DI, for example, before an asylum-seeker was scheduled for an interview, was not mainstreamed or set out in clear SOPs. The police and the DI did not share a common database, which led to unnecessary double registration in different databases and the need for a lot of “back-and-forth” correspondence to share and clarify data in individual cases.

The multiple interviews conducted by the police with the asylum-seeker also appeared to slow down the process and bring little or no added value to the client and the determination of his/her claim. The fact that a time for the asylum interview with the DI was not scheduled in connection with the initial registration and collection of biodata by the police contributed to the uncertainty and anxiety of the asylum-seeker, who did not know when s/he could be expected to be called for an interview, and resulted in an added administrative step that later needed to be taken by the DI, in coordination with the legal representative and interpreter.

Another factor which appeared to prolong the procedure was the general lack of SOPs, which set out streamlined and consistent working procedures within the various areas ranging from registration of applications, and incoming and outgoing correspondence, to communication of decisions and filing of case material and decisions. UNHCR RRNE consequently noted that there was a relatively high level of inconsistency in the way different staff approached these tasks, which was a factor that resulted in ‘waste’.

In addition, clear procedures, benchmarks and criteria for how to prioritize between the pending cases (ranging from those in the 2011 backlog to the manifestly unfounded applications received in 2013) seemed also to contribute to cases getting “stuck” and not moving forward in the process. As a result, assessments that had previously been done in cases that later got “stuck” had to be re-done as conditions had changed by the time the application was revived.

Furthermore, the lack of a clear and consistently used electronic filing system made it difficult to track and use earlier decisions/jurisprudence in similar cases, and an over-reliance on staff members’ “institutional memory”.

Standardized templates and checklists that provide a structure and method for undertaking the assessments of asylum claims were also lacking, which led to delays and inconsistencies in decision-making. It was noted that the decisionmakers seemed to prepare for, and conduct, the asylum interviews and credibility assessments in quite different ways; the time spent on researching Country of Origin Information (“COI”) and the way in which COI was applied to the facts of the case differed as well.

A further factor contributing to the overall lengthy procedure was the time the DI needed to spend on responding to requests for information and updates from the Red Cross, legal representatives and/or directly from anxious asylumseekers who wondered about the status of their claim, as they did not feel informed. If information would be provided more proactively, less time would need to be spent on reacting to justified requests for such. Requests for information on the functioning of the asylum procedure from e.g. the Ombudsman, civil society or journalists were also responded to by the staff employed to take decisions, as there were no human resources within the DI dedicated to public information and external communication.

Finally, another reason why the efficiency of the asylum procedure had not improved to the extent needed, despite previous analyses by the DI of the changes needed, seemed to be that additional resources had generally not been provided for this particular purpose. Given the number and range of actions needed to develop the Icelandic process into a resilient, lean quality asylum procedure capable of responding to changes in numbers and profiles of applicants, additional resources were required to lead the development and implementation of the changes agreed upon. Otherwise, the changes required would likely remain good ideas on paper, while the regular staff would be busy trying to cope with clearing the backlog and responding to the new applications received.

An elaboration of the findings within the respective areas or steps of the procedure, which form the basis for the subsequent recommendations are provided below.

1.3. DETAILED FINDINGS

1.3.1. Initial reception upon arrival

The research found that some asylum-seekers were identified by the border police, while others submitted their application for asylum after having entered the territory. Asylum-seekers identified by the border police were referred to a reception center in either Keflavik or Reykjavik, while some were provided with accommodation in an apartment.

Asylum-seekers who entered Iceland on a forged document or a look-alike document, e.g. a stolen document (which are both criminal offenses in Iceland), had to be presented before the court within 24 hours if there was suspicion that the document was forged or a look-alike. Specially trained police analysed the document. If asylum-seekers confessed to having entered on a forged document, they received a 30 day sentence of which they served 15 days. According to the interview with the Sudurnes Police District, if a person applied for asylum and later took out a forged document, s/he was not prosecuted for this, as the Penal Code did not apply. The Sudurnes Police District also informed that in 90 per cent of the cases, the person only applied once the prosecution path had started. Sometimes, the second police interview was done while the person was serving the sentence; in other cases the interview only took place after the person had finished serving the sentence. However, according to the different stakeholders interviewed by UNHCR RRNE, there were different understandings of the practice and the policies which applied for penalization of asylum-seekers entering Iceland on forged document. Consequently, it was not clear to UNHCR RRNE to what extent, and at what stage charges were brought against asylum-seekers for illegal entry, and in which cases Article 31 of the 1951 Refugee Convention was applied. UNHCR RRNE thus, through the DI, requested further clarification on this issue from the police.

1.3.2. Initial interview and registration by the police

According to the review, when a person had identified him/herself as an asylum-seeker, or been identified as such at Keflavik international airport or in Reykjanes district, police officers in the Sudurnes Police airport division took the applicant's finger prints and photo and conducted a brief registration-interview to collect his/her bio-data, reasons for seeking asylum and asked if the applicant had previously applied for asylum in another Dublin-country. The information collected was recorded in the police's database L.KE. The Sudurnes Police airport division thereafter sent an email to the DI, to the National Police Commissioner and to the social welfare authorities in Reykjanes, informing about the arrival of the asylum-seeker.

During UNHCR RRNE's consultation with the Sudurnes Police, it emerged that it was unclear whether the registration-interview forms used by the Sudurnes Police and by the Metropolitan Police were identical. If a person applied for asylum in Reykjavik, it was the responsibility of the Foreigner's Department within the Metropolitan Police to conduct the aforementioned registration-interview and take the fingerprints and photo, and make copies of the applicant's ID documents. The Metropolitan Police wrote a report, recorded the information in L.KE and contacted the DI to ask where the applicant should be accommodated.

Both the Sudurnes Police and the Metropolitan Police sent the fingerprints to the National Police Commissioner ("NPC") with a request to check for matches in EURODAC. Once a reply was received, the NPC sent a reply back to the Sudurnes Police or Metropolitan Police, with a copy to the DI.

All information obtained by the police was sent to one email address at the DI, which was closely monitored by the staff on 24 hour duty plus one legal officer in charge of administrative tasks.

Before the DI could initiate the examination of the asylum application, the DI needed documents from the Sudurnes or Metropolitan Police and the NPC, including the applicant's photo and the results from EURODAC. In some cases, this seemed to require quite a lot of follow-up by the DI, and 'back-and-forth-communication with the responsible police before all the data was collected. As the DI did not have access to the police database L.KE, it could not on its own download the required data. At the time of UNHCR RRNE's mission, there were discussions ongoing between the police and the DI to explore the possibility of giving the DI access to L.KE as a way of overcoming the problems resulting from multiple registration systems and databases, as well as the delays in processing due to 'back-and-forth' communication.

1.3.3. Registration by the Directorate of Immigration in the Erlendur database, the Common drive and in an excel spreadsheet

The DI registered and entered the bio-data of new arrivals, received in an email from the respective police division, in its database Erlendur. The data was entered by the staff on 24 hour duty, which meant that not all staff were involved in registration. In addition, a folder was opened for all new applicants in the DI's common drive, and basic information about the new arrival was also recorded on the next empty line in an excel spreadsheet in the common drive. This spreadsheet was used for monitoring the processing time of all pending cases, and compiling statistical information. The excel spreadsheet was informative, but its continuous updating so that it could be used for tracking progress and generation of statistics required lots of resources. At the time, only one of the three registration systems used by the DI (i.e. the Erlendur database, the excel spreadsheet, and the information collected in the applicant's folder in the common drive) could generate statistics automatically. Hence, all statistics reported to UNHCR, Eurostat and other bodies needed to be manually generated by counting e.g. the number of new arrivals in the excel spreadsheet, which was very time consuming and subject to human error.

1.3.4. Filing

The research found that filing was done in a number of different ways. Some documents were uploaded in the Erlendur database, some were saved in the applicant's folder in the common drive and some documents were saved in hardcopy in a physical file opened for each asylum-seeker. Electronic filing of documents in Erlendur appeared to be very timeconsuming, as documents could not be saved in the same quick manner as documents saved on the common drive but needed to be uploaded. However, email correspondence could be sent directly to Erlendur. There seemed to be different understandings among the staff in the DI with whom UNHCR RRNE spoke regarding where the various types of documents should be saved, and who was responsible for this filing. In practice, it seemed like some documents were saved by the decision-maker in charge of a case, while some documents in the same case were saved/uploaded with the assistance of administrative staff. Due to the lack of a clear procedure for what should be filed and by whom, coupled with the existence of three separate systems for electronic filing plus the physical file, UNHCR RRNE had the impression that the practice in regard to electronic and physical filing was, overall, quite inconsistent and that key documents were not always adequately filed, while other documents were filed in all four locations. The staff with whom UNHCR RRNE spoke recognized the lack of clear and streamlined procedures as a gap in the system, which contributed to "waste" of resources.

1.3.5. Asylum interviews, preparations and recording

1.3.5.1. Interview with the police

At the time of undertaking the first phase of the LQI, asylum-seekers underwent two interviews with the police. The first interview was a brief registration-interview; with the Sudurnes Police airport division if the applicant applied at Keflavik airport or in Reykjanes district; or with the Metropolitan Police if the applicant submitted his/her asylum claim in Reykjavik. During this interview, only the basic bio-data was collected and the applicant's short response to why s/he was seeking asylum.

Approximately one to five days thereafter, the Sudurnes Police or the Metropolitan police (depending on where the person applied for asylum) conducted a more in-depth interview and collected information concerning the asylum-seeker's family members, previous occupation, travel route and reason for fleeing the country of origin. The duration of the second interview varied from two to four hours. It was not entirely clear to UNHCR RRNE whether the respective police districts used the same interview form or slightly different ones. In addition, there appeared to be some inconsistency with regard to how the interview by the police was recorded; some police officers in the Metropolitan Police both recorded the statements given by the applicant on the interview form and drafted a summary of the information provided by the applicant. The police thereafter emailed a copy of the interview transcript, and the summary where such has been prepared, to the DI. Even though this second, more substantive police interview took place relatively soon after the asylum application were registered and thus did not in itself delay the DI's determination, UNHCR RRNE found that it did not bring sufficient added value to the assessment and decision-making, not least since the DI confirmed that it asked more or less the same questions during its subsequent interview. Rather, it took time from the asylum-seeker, his/her legal representative and, if used, an interpreter as well as from the police; it was thus an activity which entailed the use of valuable resources without bringing sufficient added value to the applicant and/or the determination.

1.3.5.2. Scheduling of interviews with the Directorate of Immigration upon arrival

Interviews with asylum-seekers during earlier missions to Iceland plus interviews with relevant stakeholders (legal representatives and the Icelandic Red Cross) during UNHCR RRNE's mission in December 2013, illustrated that not knowing when the asylum interview would take place created uncertainty and anxiety among the asylum-seekers. The uncertainty caused stress and frustration among the asylum-seekers, which accumulated. Another consequence of not knowing when the interview would take place was that many of the asylum-seekers continuously contacted their legal representatives, the Red Cross and/or the DI to ask for an update on their case. This generated more work for all parties involved and negatively affected the applicants' mental and physical health, which could, as a consequence, require a medical intervention.

At the time of UNHCR RRNE's mission, interviews were normally not scheduled at the time of registration. In connection with the registration, applications were screened and classified as either Dublin cases, manifestly unfounded or regular cases. Interviews were scheduled once a file was distributed to a decision-maker, however, the distribution of cases among the decision-makers depended on the number of cases pending. A decision-maker had on average three to five cases assigned at a time; once some of these were finalized, a new case was assigned and the decision-maker could schedule the interview with the asylum-seeker, the interpreter and the legal representative. The distribution of cases among the decision-makers was an ongoing task and was not done at e.g. a specific time during the month or during regular meetings, but depended on the respective decision-maker's workload. For regular cases, the DI's goal was to distribute two and a half cases per decision-maker per month, provided that earlier cases had been finalized.

1.3.5.3. Interview with the Directorate of Immigration

From its interviews with DI staff during the mission, UNHCR RRNE had the impression that the decision-makers generally prepared well for the substantive asylum interviews, for example, through researching relevant COI. This impression seemed to be confirmed by the fact that very few cases required an additional interview. At the time of UNHCR RRNE's mission, the majority of interviews were conducted in the presence of two lawyers/decision-makers; one took notes and the other interviewed. The staff appreciated this practice, as the one interviewing felt that it enabled him/her to focus fully on the asylum-seeker.

Several of the decision-makers interviewed explained that they neither had received substantive training in interviewing techniques nor in conducting credibility assessments. In addition, there was no standardized methodology provided to the staff on how to conduct the interview and the credibility assessment. As a result, the practice was largely left to the individual decision-maker, which could contribute to inconsistencies in the determination process.

1.3.6. Assessment and drafting of decisions

The main purpose of the first phase of the LQI was, as mentioned above, to help the DI identify ways through which its working methods and procedures could become leaner, and thereby reduce the processing and waiting time for the asylum-seekers. A thorough assessment of the quality of the decisions was then undertaken during the second phase of the LQI, in 2014 (see Part II below). Nonetheless, a few individual files were reviewed during UNHCR RRNE's mission in December 2013, and some translated decisions were assessed following the mission.

The few decisions reviewed seemed to be following a common structure, however, some legal components of the analysis were noted to be missing. According to information obtained through the interviews with the staff of the DI, the structure of decisions has been developed through practice, and was based on requirements in the Administrative Law and Icelandic practice, including requirements set up by the courts and the Ombudsman. The stakeholders interviewed by UNHCR RRNE, including the legal representatives, confirmed that it was a tradition within the administration in Iceland to write very long decisions. According to the decision-makers and files reviewed during the mission, most decisions in asylum cases were between 10-20 pages, though some could be up to 30-40 pages. A good practice identified through the review of decisions was the decision-makers' practice of first assessing the applicant's eligibility for refugee status according to the 1951 Refugee Convention, and only thereafter whether there were grounds for granting subsidiary protection (i.e. the "sequential approach").

On average, the sections of a decision dealing with the refugee status determination (and not the assessment of eligibility for humanitarian status) were divided as follows: one-third (approximately 3-4 pages) containing a summary of the applicant's claim and statements made to the police and his/her legal representative; one-third comprising COI (in relation to COI, UNHCR RRNE noted that references to the actual sources and hyper-links were not provided); and the remaining one-third comprising quotations from provisions in the Icelandic Act on Foreigners, a paragraph on the actual claim, a paragraph containing a conclusion of the credibility findings, and, finally, a conclusion on the applicant's future risk of persecution. It was noted that at times, the same conclusion on credibility and the identification of the claim was repeated.

The decisions were primarily built around the research and findings from the COI; in this context, references were made to provisions in the national legislation, instead of containing a legal step-by-step analysis with references to the COI. In general, the decisions reviewed contained extensive excerpts from COI sources. The well-founded fear analysis in the decisions reviewed contained references to COI of relevance for the assessment of a risk of future persecution, but did not contain reflection on subjective fear or past persecution.⁷ Whether the feared violation amounted to persecution was not separately addressed.

Overall, the DI's decisions in asylum claims had a tendency to be unnecessarily long, and the content of the "Lead In" section was very detailed. Also, while the decisions tended to follow a common structure developed through practice, a methodological framework for undertaking the assessments and reaching the conclusions set out in the decisions was lacking.

1.3.7. Communication of decisions

From the stakeholder interviews conducted, UNHCR RRNE was made to understand that the outcome of the written decisions was orally conveyed to the asylum-seekers by the police (if negative) at the DI in the presence of the legal representative and a staff member from the DI. However, only the results were conveyed and not the reasoning for the decision. The legal representative could ask the interpreter to stay on and briefly explain about the justification; if so the interpreter normally stayed on for 10-15 minutes. The entire decision, which could be between 10-20 pages or longer, was not translated for the asylum-seeker.

⁷ Where the person has already been the victim of persecution, it may be assumed he/she has well-founded fear of being persecuted. Where the past persecution is not likely to be repeated, compelling reasons arising out of previous persecution may still warrant the grant of refugee status, see e.g. UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (including Guidelines on International Protection No. 8-1), December 2011, HCR/1P/4/ENG/REV. 3, available at: <http://www.refworld.org/docid/4f33c8d92.html> ("UNHCR Handbook"), para. 45; UNHCR's Guidelines on International Protection No 7: the application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, HCR/GIP/7 ,07/06 April 2006, available at <http://www.unhcr.org/443b626b2.html>, para. 16.

1.3.8. Prioritization between pending cases

At the time of UNHCR RRNE's mission, cases pending with the DI were divided into the following categories, and specific staff members were designated to process cases within these respective categories:

- Dublin cases (handled by one to two staff)
- Manifestly unfounded claims and regular cases, prioritized according to date of arrival (handled by two staff)
- Cases from the backlog dating back to 2011, which were returned to the DI by the Ministry of Interior; plus cases from 2012, which by the end of December constituted 30 cases in total, plus 30 cases from 2013 (handled by two staff)

Applications from asylum-seekers originating from European countries were given priority, to prevent that these from clogging up the system and using unnecessary resources. In 2013, the applications from asylum-seekers from Albania and Croatia were among those prioritized. The processing time in such cases varied depending on the complexity of the case. Based on the registration spread sheet, nationalities such as Albanians and Croatians were, by end of December 2013, registered as having been pending with the DI between 300-447 days and up to 378 days with the Ministry concerning their appeal application.

The police could also indicate if a case should be prioritized. The circumstances of the applicant could change during the stay, which could trigger that the case was given a different priority. At the time of the research, it was expected that the backlog of old cases could still come to an end during spring 2014, after which the two staff assigned to this caseload could take part in processing new applications.

1.3.9. Legal representation and periodic consultations with the Directorate of Immigration

At the time of UNHCR RRNE's mission, asylum-seekers in the Dublin process were granted five hours legal representation by a lawyer. Asylum-seekers channeled into the asylum procedure were granted 15 hours legal representation by a lawyer and another 10 hours if s/he chose to appeal the decision.

The legal representatives often did not find the allocated hours sufficient to ensure an adequate legal representation. The main reason for this was explained by the additional tasks the lawyers had, besides core legal counselling. For example, in a Dublin case the lawyer observed – as in any other case – the second interview with the police, which in some cases could take up to three or four hours. The following interview with the DI was about one hour after which there was little time left for legal counselling and writing the legal opinion. Salaries were 10.000 ISK per hour in asylum cases whereas the legal representatives explained that a lawyer in other cases received 20.000 ISK per hour.

The legal representatives observed all interviews with the asylum-seeker. If needed, the legal representative asked additional questions to the asylum-seeker to ensure that all issues of relevance were addressed. Following the interview with the DI, most of the legal representatives submitted a legal opinion to support the applicant's statement.

While the application was pending the outcome of the decision, legal representatives were often requested by the asylum-seekers to provide services that went beyond the asylum claim. Many requests for assistance were related to social issues. The legal representatives with whom UNHCR RRNE spoke during the mission stated that they were not keen on being drawn into these areas, which were very time



consuming and required additional working hours on a pro bono basis. The legal representatives explained that many asylum-seekers became frustrated during the waiting period and requested the lawyers to help them in contacting the social services. Some asylum-seekers put high demands on the lawyers and expected them to represent them in all areas. In particular, asylum-seekers in need of psychiatric assistance were a concern for the representatives, who were of the impression that no one was responsible for monitoring whether the necessary support and medical care was provided to those in need, or whether there was any follow-up once the lawyer or others had arranged for the first medical consultation. The legal representatives also used resources following up on the status of their clients' applications. The lawyers informed that not all inquiries to the DI were responded to, and if they were, they did not indicate an approximate time frame for when a decision in the case could be expected. Sometimes, lawyers were advised by the DI that inquiries should be submitted in a letter form and not by email.

There were 24 lawyers identified by the DI to represent asylum-seekers in Iceland. Some of them were new and needed, at the time of the mission, to undergo a briefing by the DI. Four staff at the DI assigned legal representatives to the asylum-seekers. The appointment of the lawyer was registered in an excel sheet, which was meant to ensure rotation among the lawyers. However, there were no SOPs with transparent criteria for the appointment of the lawyers.

Both lawyers and the DI confirmed that there were no briefings taking place between the lawyers and the DI. In general, the lawyers expressed a wish for more information on the DI's procedures, in particular on the prioritization of cases.

1.3.10. Interpretation

Interpreters were not consulted during the mission. However, information obtained from the legal representatives showed that interpretation for legal counselling by the lawyer was only available in connection with the asylum-seeker's appointment with the police and the DI, after which the interpreter was normally available for an unspecified duration of time. On average, the interpreter stayed on for 10-15 minutes upon the request of the lawyer. Because the duration of the interpretation available to the lawyer was not regulated, lawyers were not inclined to request interpreters to stay on beyond 15 minutes, and were of the impression that the service depended on the goodwill of the interpreters. There was at no point during the procedure allocated time for interpretation solely with the legal representative and at the lawyer's office. For counselling at the lawyer's office, the asylum-seeker was asked by the lawyer to bring someone who could assist with the interpretation. If this was not possible, the law firm would in some cases pay the additional cost of interpretation; in some cases, the law firm was reimbursed by the DI upon request.

Overall, the assessment showed that it was a concern that there were no fixed hours allocated for interpretation during the lawyer's legal counselling of his/her client.

1.3.11. Capacity building of staff

Several decision-makers at the DI expressed that they were pleased with the introduction to their work and how they gradually were enrolled in the case handling. Nevertheless, all staff expressed a need for more training on different thematic themes such as the Internal Flight Alternative ("IFA"), state protection and Lesbian, Gay, Bisexual, Transgender and Intersex persons ("LGBTI"). The credibility assessment was in particular raised as a challenge, and could be one key reason for the prolonged processing time in several cases. Except for one staff, the decision-makers had neither been working in the field of international refugee law prior to their employment with the DI, nor undergone a full refugee status determination learning program. Individual staff consultations were ongoing at the time of the mission.

1.3.12. Need for additional resources to implement recommendations

To make the procedures more lean, and to develop and implement new operating procedures, UNHCR RRNE recognized a need to have dedicated staff assigned to the development of tailor-made checklists and guidelines for the asylum procedures, and to train decision-makers on how to apply these tools. In the Northern European countries, which have undergone similar processes to strengthen the efficiency and quality of their respective asylum procedures through the development of standardized methodologies, checklists and other tools, specific projects with dedicated staff have been established and successfully implemented.

UNHCR RRNE was also advised that financial resources and technical expertise would be needed in order to establish a joint database with the police. Such an investment would be crucial for making the procedure leaner and in particular for enabling the generation of statistical reports.

In the interviews with DI staff, it was also recognized that the backlog of pending cases should ideally be cleared before introducing a new system. This would enable all decision-makers to start on a fresh note, with new applications to be processed within a fixed timeframe.

1.4. RECOMMENDATIONS OF PHASE I

Below is a summary of UNHCR's forward-looking recommendations from the first phase of the LQI, based on the abovementioned findings and observations from the mapping undertaken in 2013.

1.4.1. Registration of asylum applications

- Develop SOPs, setting out which data needs to be collected during the initial registration of asylum applications, roles and responsibilities for collecting this data, provisions on data protection and confidentiality, and procedures for communication and sharing of this data between the police, the DI, EURODAC and other relevant actors, in order to streamline the process and reduce the need for ad hoc and “back-and-forth” requests between the institutions. In this context, review whether the roles and responsibilities currently assigned to the different parts of the police (National Police Commissioner, Sudurnes Police district and the Metropolitan police) is the most efficient way of structuring and dividing responsibilities within the registration process;
- Consider the possibility of establishing one central database to which both the police and the DI has access, on a need-to-know basis and with due respect for data protection and confidentiality requirements. This could, for example, be done by giving the DI access to the L.KE (police database). In the central database, all steps taken during the asylum procedure (e.g. booking of asylum interview; communication of date for interview to asylum-seeker, legal representative and interpreter; adoption of decisions; communication of decisions etc.) could be recorded to enable easy tracking of the status of applications in the procedure and production of statistics. Tracking and use of jurisprudence can also be enhanced if decisions are recorded in the same database;
- Limit the tasks of the police to the registration of asylum applications, including taking of fingerprints and checking with EURODAC. In the medium to longer-term, consider the possibility of shifting the responsibility for the initial registration of claims and collection of biodata and biometrics from the police to the DI, as the central determining authority for asylum in Iceland. Establishment of the asylum-seeker's identity and the determination of his/her travel route should be integral parts of the initial interview conducted by eligibility officers of the DI;⁸
- Provide more transparency on the practice of penalization for illegal entry, which can be done through sharing of statistic made available to the public.

1.4.2. Filing

- Through the introduction of one central database, in which it is possible to record actions taken within each step of the process and to save/upload documents, the need for parallel filing and recording systems will be reduced. It is also recommended to develop SOPs setting out what actions, and which documents, should be recorded in the database;

⁸ The benefits of “frontloading” quality and competence, by having the central determining authority conduct both the admissibility interviews and the substantive asylum interviews, have been widely recognized among the EU Member States through the adoption of general provisions to this effect in the recast EU Asylum Procedures Directive, see European Union: Council of the European Union, *Directive 32/2013/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*, 29 June 2013, L 60/180, available at: <http://www.refworld.org/docid/51d29b224.html> (“Recast APD”).

- One physical filing system for hard copies of individual case documents plus hard copies/originals of other essential documents would be sufficient if the above mentioned central registration database is developed. Develop SOPs on the use of the physical filing system, including which documents should be filed in hard copy and by whom and what information to record on the tracking sheets placed on the inside cover of each individual case file;
- Consider employing one administrative staff fully devoted to registration, filing, compiling statistical data, scheduling of interviews, and appointing legal representatives and interpreters.

1.4.3. Provision of information to asylum-seekers

- Proactively provide clear information (e.g. through brochures/leaflets and/or through DVDs or IT-based programs) about the asylum procedure, including its various stages and the roles and responsibilities of various actors, in the languages understood by asylum-seekers. In addition, consider convening regular meetings (e.g. monthly) at the reception centre (or another location easily accessible to the asylum-seekers) between the asylum-seekers and the DI, Red Cross, reception centre staff and other relevant actors, such as representatives of the social welfare authorities, to share information about the asylum procedure, and to receive feedback and to answer questions from the applicants;
- Review, in consultation with the asylum-seekers and the Red Cross, the information provided to asylum-seekers on the DI's webpage to ensure it is client-friendly, comprehensive and up to date.

1.4.4. Interviews

- Schedule the substantive asylum interview with the DI in connection with the initial registration of the asylum claim, and inform the asylum-seeker of the date and place for the interview. This could reduce some of the uncertainty experienced by asylum-seekers and ensure that all applications are “moving forward”, regardless of the need for prioritization of certain groups, such as vulnerable applicants, and manifestly unfounded cases. In this way, the administrative staff of the DI would also need to spend less time on coordinating and communicating the time for the interview with the parties involved;
- Early scheduling of the interview could take place if the police and the DI shared a common database, in which all steps and actions taken within the procedure were recorded. A shared electronic calendar would enable the police to schedule interviews depending on the indicated availability of staff at the DI;
- Reduce the number of interviews conducted with the asylum-seeker, to the initial registration-interview during which the asylum application is recorded and essential biodata and fingerprints are collected plus one substantive asylum interview conducted by the DI, as the central determining authority;
- In order to use the scarce resources as efficiently as possible, consider having the same decision-maker from the DI conduct and record the interview, instead of one interviewing and a second one taking notes;
- Organize training on interviewing techniques for the staff in the DI and for the police conducting the initial registration interview, with a specific focus on interviewing vulnerable applicants;
- Develop guidance on the methodology for conducting interviews and credibility assessments for the staff in the DI, drawing on guidelines/checklists available in other European countries and from the UNHCR CREDO project (see further below at Part II), as relevant.

1.4.5. Processing and prioritization of asylum applications

- Maintain a single asylum procedure, and introduce clear benchmarks/criteria on how to prioritize between different cases to ensure that all cases are continuously ‘moving forward’ and not getting ‘stuck’. Introduce realistic time frames/targets for each step in the process to keep the cases on track without compromising quality, and keep track of progress through generating biweekly or monthly reports from the central database;
- Consider inviting additional, external expertise, for example from one of the Nordic countries’ asylum authorities or stand-by rosters to help clear the backlog of pending cases and enable the DI to ‘start fresh’ in a reformed, lean quality asylum procedure.

1.4.6. Assessment of claims and drafting of decisions

- Develop standardized templates and checklists for staff in the areas of interviewing and credibility assessment, application of COI and decision writing, tailored to fit the Icelandic context. This would provide a structure and method for undertaking the assessment, in order to ensure that all relevant elements are considered and that decisions are consistent. Such a standardization of the assessment, including the legal analysis and formulation of the decision, would help the decision-makers narrow down the material elements of the claim, and, hopefully, reduce the time required for drafting as well as the length of the decisions. This would make the procedure more “lean” and efficient, and the decisions more client-oriented;
- Allocate dedicated resources to develop such standardized templates and checklists, and to support their implementation;
- Organize training for the decision-makers in the DI on the methodology for conducting status determination, with a particular focus on the credibility assessment, the well-founded fear and serious harm analysis and application of COI;
- Consider revising the format and formulation of the decisions, to make them more accessible and understandable for the clients, the asylum-seekers. Use decision-templates existing in other European countries and within UNHCR as a source of inspiration. (In particular, the work undertaken by the SMA to make its decisions more client-friendly can usefully be drawn upon.) In the summary of the claim, include only essential information on earlier procedural steps and actions taken as well as statements by the asylum-seeker and others. The detailed information should be available in the interview transcripts.

1.4.7. Communication of decisions

- Review the manner in which negative decisions are communicated to the asylum-seekers by the police, in the presence of the DI staff, as many rejected applicants did not seem to understand the motivations and consequences of the rejection. If the asylum-seeker does not understand on which grounds the decision in his/her case was reached, there is a risk that s/he will be less motivated to accept and follow the consequences of a negative decision. The work undertaken by the SMA in recent years to improve the manner in which decisions are communicated, with the aim of enhancing the asylum-seekers’ understanding of the content, and acceptance and compliance with the conclusions, could usefully inform the development of a new system. The responsibility for communicating the decisions could be placed on the legal representative or the Red Cross, provided funds are allocated in the system for interpretation.

1.4.8. Legal representation

- If the system of independent legal representation is maintained, introduce clear and transparent procedures and criteria for the appointment of lawyers and explore the possibility of introducing compulsory courses in asylum law and refugee status determination that lawyers need to take in order to be appointed;
- Based on the above-mentioned procedure, appoint the legal representative as soon as possible and no later than one week after the registration of the asylum-seeker's claim, to enable the lawyer to adequately meet with his/her client prior to the interview.

1.4.9. Interpretation

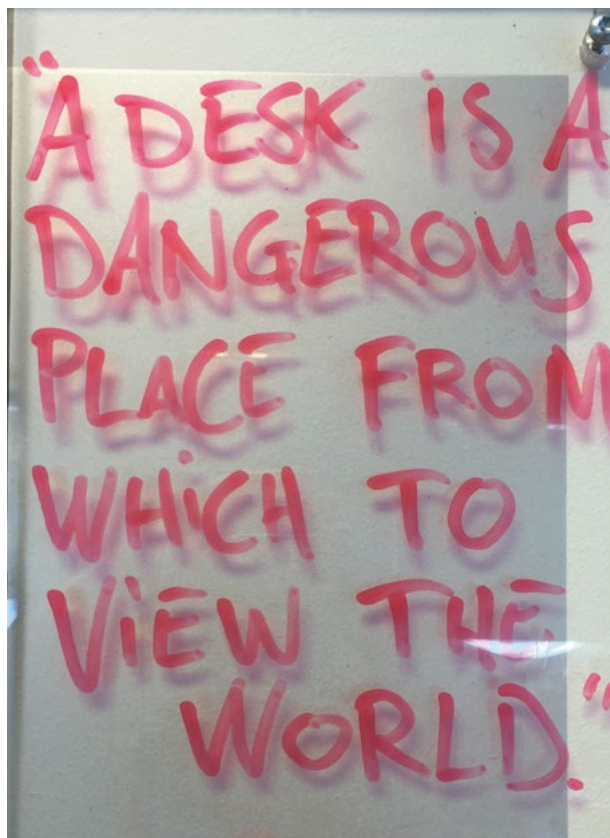
- Organize training for interpreters on their roles and responsibilities in the asylum procedure, and ensure all interpreters sign an undertaking to adhere to these procedural guidelines;
- Allocate fixed hours for interpretation covering the entire period the asylum-seeker receives counselling from the legal representative. The interpretation allocated for the counselling with a legal representative should also be possible to receive at a location, which is perceived as a neutral environment by the asylum-seeker;
- It is also recommended that not only the outcome of the decision but the entire context, which is only available in Icelandic, as a minimum is orally conveyed to the asylum-seeker by an interpreter.

1.4.10. Capacity development and performance management of staff

- Consider developing an introductory training program for staff working within the asylum procedure in the DI, comprising the EASO or similar modules as well as modules on attitudes and cross-cutting skills such as cross-cultural communication and Icelandic-specific legislation and procedures;
- On a periodic basis, identify specific topics/areas for advanced/in-depth trainings and arrange for staff to take part in such, e.g. organized by the asylum authorities in the Nordic countries, at European level or by UNHCR RRNE or other actors in Iceland;
- Develop clear terms of reference/job descriptions for each staff member and consider setting, at the beginning of each year, personal performance objectives for the coming year. These could include objectives aimed at developing technical and cross-cutting skills. In addition, consider setting shared goals and objectives for the asylum team in the DI, from which the individual objectives 'cascade', to strengthen the feeling of belonging to one team, working towards a common goal.

1.4.11. Periodic quality assurance

- Consider introducing quality assurance and periodic audits, which can also be done with the help of checklists.⁹As quality assurance and learning is a continuous process, develop checklists for periodic internal reviews of the various stages/phases of the asylum procedure, which seek to enhance the knowledge and capacity of the individual staff members as well as the overall quality and efficiency of the asylum procedure and identify 'regressions' that may have slipped into the system over time. The tools developed by the SMA within its quality assurance project "Daily Learning Organization" can usefully be drawn upon;
- As part of the quality assurance, review the practical functioning of the various SOPs and internal templates and checklists developed after three to six months, and adjust as necessary to ensure they suit their aims.



1.4.12. External communication and periodic dialogues with the Directorate of Immigration

- Convene periodic meetings/consultations/dialogues between the DI, the police and other stakeholders and interested parties, including civil society, the Ombudsman, legal representatives and journalists, to share information on the number of new arrivals, trends and developments and ongoing initiatives, and receive feedback and views from the stakeholders. At such a forum, issues of common interest and topics for future joint trainings could be identified. UNHCR RRNE would, subject to its availability, be willing to participate in such periodic consultations

1.4.13. Increased capacity to implement recommendations

- Allocate dedicated human and financial resources to implement the recommendations aimed at enhancing the quality and efficiency of the first instance asylum procedure, e.g. to lead the development and implementation of the required SOPs and guidelines/templates/tools/checklists for assessment of claims and decision making. It is recommended that the additional support provided is made available during a transitional period of implementation, to ensure that the use of these SOPs and various guidelines/tools is "institutionalized" within the DI.

⁹ See e.g. UNHCR, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice – Key Findings and Recommendations*, March 2010, available at: <http://www.refworld.org/docid/4bab55752.html>; UNHCR, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice – Detailed Research on Key Asylum Procedures Directive Provisions*, March 2010, available at: <http://www.unhcr.org/refworld/docid/4c63e52d2.html>.

2. THE QUALITY OF FIRST INSTANCE INTERVIEWS AND DECISIONS

2.1. METHODOLOGY

During the second phase of the LQI, the quality of the decision-making of the first instance asylum authority was examined. As with the first phase of the LQI, the findings are expected to contribute to the development of a sustainable quality assurance mechanism at the DI and to improved quality of the asylum procedures.

The assessment of the quality of the decisions was undertaken using several research methods, namely (a) desk-based research of applicable legislation, existing data and relevant literature; (b) selection and review of interview transcripts and decisions; (c) observation/monitoring of asylum interviews and (d) interviews with interpreters involved in asylum interviews.

The review was carried out using assessment forms developed by UNHCR on the basis of the checklists contained in the UNHCR Building In Quality: A Manual on Building a High Quality Asylum System – Further Developing Asylum Quality in the European Union (“UNHCR Building in Quality”), the UNHCR mandate Refugee Status Determination (RSD) Assessment Form,¹⁰ relevant standards set out in international and European asylum law and jurisprudence, as well as applicable national law.

The international standards used for the review included the 1951 Refugee Convention, the UNHCR Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status, (“UNHCR Handbook”) and the UNHCR study Beyond Proof – Credibility Assessment in EU Asylum Systems (“CREDO report”).¹¹ It should be noted that the CREDO report was published in May 2013, and that some decisions analysed in this report were thus issued before its publication. Recommendations to abide by the CREDO standards should therefore be seen in this context. Regional standards included the recast QD, recast APD, and the applicable Dublin Regulation as well as relevant jurisprudence of the European Court of Human Rights (“ECtHR”).

In total, thirty-three case files with decisions issued in 2010–2014 were thoroughly reviewed. These included (a) ten (10) cases determined in the regular procedure that resulted in the granting of international protection, (b) nineteen (19) cases determined in the regular procedure that resulted in rejections and (c) four (4) cases determined in the Dublin procedure in January–May 2014. The case files encompassed written decisions by the DI and interview transcripts. Further, in October 2014, UNHCR monitored five interviews (two regular interviews and three Dublin interviews) in order to assess to what extent they adhered to international standards. After each interview, the interpreter was interviewed about particular aspects of the interview process.

¹⁰ UNHCR, *Procedural Standards for Refugee Status Determination Under UNHCR’s Mandate*, Annex 20, 2-4 November 2003, available at: <http://www.refworld.org/docid/42d66dd84.html>.

¹¹ UNHCR, *Beyond Proof, Credibility Assessment in EU Asylum Systems: Full Report*, May 2013, available at: <http://www.refworld.org/docid/519b1fb54.html> (“CREDO report”).

Due to difficulties finding a qualified Icelandic-speaking consultant, a non-Icelandic consultant, Ms Sofia Sj.berg, was recruited to carry out the research. Due to the language constraints, she was assisted by two Icelandic-speaking interns. This exceptional set-up, which inevitably had an impact on the quality of the analysis as well as the final product, should be kept in mind when reading the report.

2.2 SUMMARY OF FINDINGS

2.2.1. Dublin Procedures

APPLICABLE STANDARDS:

- Dublin Regulation
- Act on Foreigners, Article 46a
- EU Charter of Fundamental Human Rights, Article 7 (Respect for Family Life)
- Agreement between the European Community and Iceland concerning the criteria for establishing the State responsible for examining a request for asylum¹²

In the four Dublin cases examined for this research, the applicants were always informed of the provisions of the Dublin Regulation during the police interview. The applicants were further notified that a transfer according to the Dublin Regulation may take place and they were also asked whether they had any objections to being returned. The applicants were also given an opportunity to explain why he/she had sought asylum in Iceland.

With regards to documentation, many asylum-seekers neither had passports nor other documentation, but the Icelandic authorities nevertheless accepted their claimed identities. Other documents submitted were also generally assumed to be genuine, and the Icelandic authorities thus generally applied the benefit of the doubt in the context.

In some of the decisions reviewed, the initial formal information concerning the applicants' family links to Iceland was included, however, it appeared that such links were not fully considered, triggering Iceland's obligations to assume responsibility for the examination of the case. The applicants' medical conditions were referred to in some of the decisions, but did not seem to have affected the outcome. The discretionary clause in Article 17 of the Dublin III Regulation (allowing States to assume responsibility for the application on humanitarian grounds, including family links), was not applied in any of the four decisions reviewed and it was concluded that the applicant lacked sufficient ties to Iceland. The principle of non-refoulement was considered in all of the cases.

With regards to the decisions, the applicants' claims were generally clearly recounted and the assessment of statements was objective. The decisions were also generally easy to understand. Contrary to many decisions in the regular status determination procedure, the Dublin decisions did not contain much repetition or unnecessary information. Information on how to lodge an appeal was also always clearly

¹² European Union, Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway, 19 January 2001, available at: <http://www.refworld.org/docid/47fdfacd0.html>.

explained. The situation in the receiving country was generally discussed quite thoroughly, but no proper sources or references were provided.

2.2.2. Asylum Interview

APPLICABLE STANDARDS:

- Act on Foreigners, Article 50 c
- EU Charter of Fundamental Human Rights, Article 41 (right to be heard)¹³
- Recast APD, Articles 15 (3) and 17 (3)
- UNHCR, *Interviewing Applicants for Refugee Status*¹⁴
- UNHCR *Guidelines on International Protection No. 4 on Internal Flight Alternative*,¹⁵ *No 9 on Sexual Orientation and Gender Identity*,¹⁶ and *No. 10 on Military Service*.¹⁷

The review indicated that **personal interviews** were always conducted with all applicants for international protection, including dependents of the principal applicant. Appropriate introductions were made at the opening of the interviews, including of the functions and tasks of those present, such as the interviewer, the interpreter, the legal representative and UNHCR observers. The asylum-seeker was generally appropriately informed about the purpose of the interview. Information about confidentiality, rights and obligations of all individuals taking part in the interview was also always provided. Other preparatory questions, such as whether the applicant felt fit for the interview, his/her willingness to answer questions and if s/he understood the interpreter were however often lacking.

The line of questioning during the interviews generally comprised a suitable mix of open-ended and closed questions. Most questions aimed at clarifying inconsistencies were neutral. In some instances, follow-up questions could have been further pursued to fully examine all relevant facts of the case. Additional comments from the applicant or his/her legal representative were not always explicitly asked for, but were always accepted when provided. When there were signs of confusion and stress, the interviewer appropriately told the applicant to answer questions in his/her own pace. Difficult legal terms were not used during the interviews, enabling the applicants to fully understand the procedures.

The research found that the interviewer always asked questions to examine relevant 1951 Refugee Convention grounds, including whether the asylum-seeker belongs to any specific religion, particular ethnic group or political party. At times, further questions could have been asked to establish the nexus to the alleged persecution. Forms of persecution, such as harassment, violence, torture, arrests

¹³ European Union, *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 02/326, available at: <http://www.refworld.org/docid/3ae6b3b70.html>. [Article 41](#).

¹⁴ UNHCR, *RLD4 - Interviewing Applicants for Refugee Status*, 1995, RLD4, available at: <http://www.refworld.org/docid/3ccea3304.html>.

¹⁵ UNHCR, *Guidelines on International Protection No. 4: «Internal Flight or Relocation Alternative» Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, 23 July 2003, HCR/GIP/04/03, available at: <http://www.refworld.org/docid/3f2791a44.html>.

¹⁶ UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 23 October 2012, HCR/GIP/01/12, available at: <http://www.refworld.org/docid/50348afc2.html>.

¹⁷ UNHCR, *Guidelines on International Protection No. 10: Claims to Refugee Status related to Military Service within the context of Article 1A*

and discrimination, which are relevant factors for both the refugee status analysis and the subsidiary protection analysis, was also often probed. In most of the reviewed cases, questions concerning IFA were asked, but the concept was not explained to the applicant (see also below at section on IFA).

When closing the interviews, applicants were given a possibility to read the interview transcript together with the interpreter and were also asked whether anything needed to be added. The research showed that at this stage, information on the next procedural steps could have been provided more proactively to the applicant.

2.2.3. Service of Interpreters

APPLICABLE STANDARDS:

- ↗ Recast APD, Article 15 (3) c
- ↗ UNHCR, Interpreters Code of Conduct¹⁸
- ↗ Act on Foreigners, Article 50 c

While as noted above, introductions were generally made at the beginning of the interviews, the research indicates that the **role and functions** of the interpreter were in some instances not clearly explained. This is important in order for the asylum-seeker to be able to gain trust and be fully confident in the work of the interpreter.

During the interviews, the interpreter mostly referred to the applicant in third person, rather than translating verbatim, retaining the first person form. The interpreter also sometimes answered on behalf of the applicant, or was directly communicating with the interviewer without asking or translating to the applicant. It needs to be noted that the use of third person (he/she) when referring to the applicant must be avoided and all communication must be translated to the applicant directly. The interpreter should under no circumstances answer on behalf of the asylum-seeker.

The research further found that the interpreter also let the applicant speak for longer periods of time and was subsequently not able to translate everything. This also affected the interviewer, who occasionally gave up on receiving comprehensible answers.

Due to language difficulties, terms were also occasionally misunderstood and the applicant's explanations were not corresponding to the questions. For example, one interpreter did not understand the notion "ethnic group", which may be of importance when assessing the applicant's eligibility for refugee status. While most Icelandic interpreters seemed very professional, challenges in this context thus remain.

¹⁸ UNHCR, *Self-Study Module 3: Interpreting in a Refugee Context*, 1 January 2009, page 104, available at: <http://www.refworld.org/docid/49b6314d2.html>.

2.2.4. Assessing credibility and establishing the facts of the claim

APPLICABLE STANDARDS:

- UNHCR, Handbook, paragraphs 195 – 219
- UNHCR, Building In Quality, page 33, step 2
- CREDO Report
- Recast QD, Article 4
- Recast APD, Article 10 (3) b
- Case R.C. vs Sweden (shared duty to establish facts)¹⁹
- Case (CJEU) M.M. C-277/11 (Duty to cooperate)²⁰
- EU Charter of Fundamental Rights, Article 41

In the decisions reviewed for the research, the **structure and quality** of the credibility assessments varied. The **burden of proof** for establishing the facts of the case was generally shared between the applicant and the authority, in accordance with international standards.²¹ Decision-makers also seemed aware that applicants should not be expected to produce evidence for each statement. Further, applicants were often asked follow-up questions to clarify inconsistencies and provide further information. However, in some cases, the facts were not sufficiently examined and/or applicants were not provided an opportunity to clarify issues that could lead to an adverse credibility finding.

With regards to the **gathering of facts**, the research found that applicants were generally given an opportunity to review the transcripts and provide comments. The lawyer representing the applicant also had the opportunity during the interview to ask questions to further establish the facts of the case. It seems, however, that the facts were not fully examined in some cases of dependents of principal applicants, such as the spouse or the child(ren), as their decisions often referred to the decisions of the principal applicant. According to international standards, each family member ought to be heard separately, including children if this is in the best interest of the child.²² It is of essence that the protection needs of each family member is examined individually and that this is reflected in the decision.

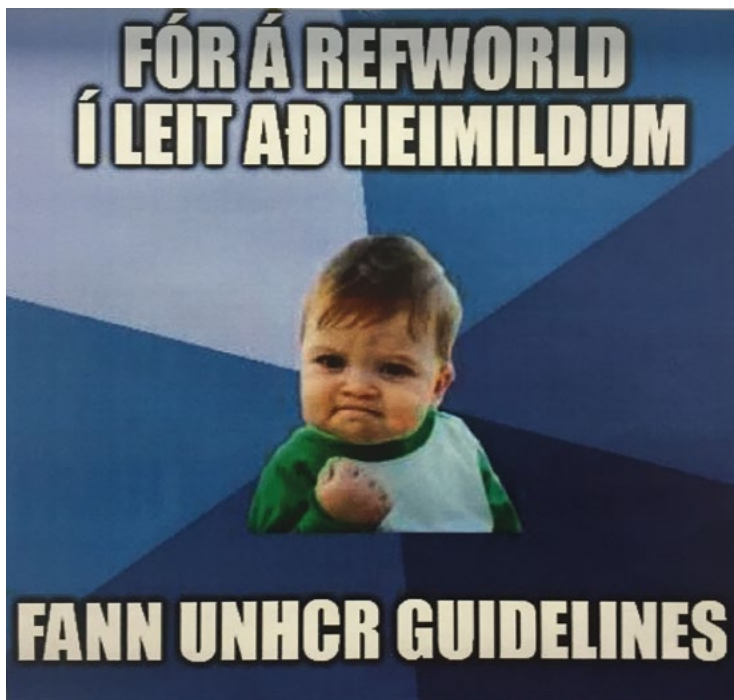
Up-to-date and relevant COI was usually gathered and presented extensively. In many decisions, however, the COI could have been better referenced indicating a source for each statement or point made, rather than placing all COI in one footnote. Further, in some cases, the decisions would have been more reader-friendly if only the COI most important and relevant for the case in question had been included. It was also noted that in some decisions, a clear link between the COI and the applicant's own statements was not made. Occasionally, a clear analysis and correct references to COI were missing, for example, statements

¹⁹ R.C. v. Sweden, Application no. 07/41827, Council of Europe: European Court of Human Rights, 9 March 2010, available at: <http://www.refworld.org/docid/4b98e11f2.html>.

²⁰ CJEU judgment in Case C1/277-, M.M. v Minister for Justice, Equality and Law Reform, Ireland, 22 November 2012.

²¹ UNHCR, Handbook, paras. 197-196

²² 22 Article 3 (10) recast APD; Article 3 (4) recast QD, UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, Article 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html>, UN Committee on the Rights of the Child (CRC), General comment No. 2009 (12): The right of the child to be heard, 20 July 2009, CRC/C/GC/12, available at: <http://www.refworld.org/docid/4ae562c52.html>.



such as “information shows that ...” were used without referencing the source of the information.

With regards to the **assessment of the credibility of each material fact**, the research found that several credibility indicators were used for the assessment, including internal and external consistency of statements and plausibility. Occasionally, only a general assessment was made, without considering the specific context of the applicant. In particular, positive findings on credibility lacked reasoning, and often referred to the “general credibility” of the applicant. In this context, it needs to be noted that Icelandic administrative law

does not require elaboration on positive decisions. However, for the benefit of the development of jurisprudence and in order for the applicant to fully understand the decision, UNHCR recommends setting out the reasons to a reasonable extent also for positive findings, including references to relevant sources. Although Iceland is not bound by the EU directives, Article 4 of the recast QD also provides a set of guidelines on how to assess the facts and other circumstances while adjudicating a claim for asylum.

Adverse findings were in general more clearly presented and elaborated upon. These findings were, however, not always brought to the applicant’s attention. To ensure a fair and efficient first instance procedure, UNHCR would like to underline that it is very important that applicants are given a reasonable opportunity to clarify apparent and adverse credibility findings and/or to provide additional details and missing information.²³

The research further observed that it was rarely explicitly determined which facts were material. In some cases, also peripheral facts were considered. Decision-makers did not always evaluate all material facts and it was not clearly determined which material facts were accepted, rejected or where doubts remained. Only rarely was it explicitly stated whether a fact was accepted, while there was more often a clear reference to accounts which were not accepted.

The **benefit of the doubt** was generally not discussed in explicit terms and it was thus not clear whether the benefit of the doubt had been considered or applied. The principle of the benefit of the doubt should be applied for each remaining material fact about which an element of doubt remains when the statements are on the whole coherent, plausible and consistent with country of origin information.²⁴

²³ EU Charter; UNHCR, CREDO report, p 41 Article; 199. UNHCR, Handbook, para 23

²⁴ CREDO report, pp. 249-245 and 261.

2.2.5. Interpretation and application of Article 1(A)2 of the 1951 Refugee Convention

2.2.5.1. Well-Founded Fear of Persecution

APPLICABLE STANDARDS:

- UNHCR, Handbook, paragraphs 37-46, 51-53, 65.
- UNHCR, Refugee Status Determination – Self Study Module 2, 2005, pages 29-31²⁵
- UNHCR, Building in Quality, pages 31-34
- Recast QD, Article 6 and 9
- UNHCR, Comments on the Qualification Directive²⁶

The **subjective and objective elements** of the “well-foundedness” of the applicant’s fear were in many cases analysed in line with the UNHCR Handbook. References to COI, including national laws, were often extensively included, however the relevant link to the applicant’s statements and alleged fear could occasionally have been clearer. Some (mostly positive) decisions contained very brief conclusions, also in regard to the future fear. In these decisions, there were normally only comments on the general security situation in the country in support of the final conclusion.

The research found that the decisions generally referred to the **persecution** claimed by the applicant. However, an analysis of whether the claimed harm amounted to persecution was sometimes lacking. The assessment as to what extent the applicant may have been subjected to **past persecution** was not always fully examined, as the emphasis seemed to be on the assessment of the future risk for the applicant on a possible return to the country of origin. UNHCR wishes to note that the assessment of whether the applicant has been subjected to past persecution is an important element of the adjudication as there would be a presumption that the applicant has a well-founded fear of being persecuted if s/he already has been a victim of persecution.

As noted above, the majority of the decisions focused on the risk of **future** persecution, which was usually assessed based on the applicant’s individual account and personal circumstances.

²⁵ UNHCR, *Self-Study Module 2: Refugee Status Determination. Identifying Who is a Refugee*, 1 September 2005, available at: <http://www.refworld.org/docid/43141f5d4.html>.

²⁶ UNHCR Annotated Comments on the EC Council Directive 83/2004/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted (OJ L 12/304 of 28), 30.9.2004 January 2005, available at: <http://www.refworld.org/docid/4200d8354.html>.

2.2.5.2. The 1951 Convention Grounds

APPLICABLE STANDARDS:

- UNHCR, Handbook, paragraphs 66-86
- Recast QD, Article 2 (d)
- UNHCR Guidelines on International Protection, No. 1 on Gender-related persecution,²⁷ No. 2 on Membership of a Particular Social Group,²⁸ No. 6 on Religion-based refugee claims²⁹ and No. 10 on Military Service.

The review showed that while the claimed persecution was generally described in the decisions, an analysis of the link between the harm feared with one or more of the five Convention grounds was occasionally lacking, i.e. it was not clear in the decisions whether the applicant had demonstrated a well-founded fear of persecution for reasons of his/her race, nationality, religion, membership of a particular social group or political opinion. Also in cases where more than one Convention ground applied, it would be relevant to clarify the grounds based on which the applicant is granted refugee status.

The Convention ground race was discussed in the context of claims based on the applicant's ethnic group. However, rather than referring to a specific Convention ground, such as race (or possibly nationality or membership of a particular social group), the applicant would instead be granted protection based on his/her membership of an ethnic minority and a reference made to "a particular ethnic group".

Religion was invoked as a Convention ground in a few cases, but a clear analysis of the link to the persecution feared was sometimes missing. Adultery was, for example, occasionally presented as a basis for the application, but this was not linked to religion as a possible ground for the persecution. UNHCR wishes to note that in countries where the State and religion are closely connected, laws based on a religious doctrine may impose disproportionate punishment for breaches of the law, such as for adultery. As noted in the UNHCR Guidelines on Religion-based refugee claims, such forced compliance with religious practices could rise to the level of persecution if it becomes an intolerable interference with the individual's own religious belief, identity or way of life and/or if non-compliance would result in disproportionate punishment.³⁰

The **membership of a particular social group** Convention ground was found to be relevant in several cases, although not referred to in explicit terms. Nor was the group identified according to the definition in the UNHCR Guidelines on Membership of a Particular Social Group.³¹ The review revealed that this Convention ground was often considered in trafficking and other gender-based claims, but also in relation

²⁷ UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/ or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, available at: <http://www.refworld.org/docid/3d36f1c64.html>.

²⁸ UNHCR, *Guidelines on International Protection No. 2: Membership of a Particular Social Group. Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/02, available at: <http://www.refworld.org/docid/3d36f23f4.html>.

²⁹ UNHCR, *Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, paras. 21-22, available at: <http://www.unhcr.org/40d8427a4.html>.

³⁰ *Ibid.*, paras. 21-22.

³¹ Para. 11.

to Syrian male draft evaders.³² Regarding cases recognized based on the applicant's sexual orientation, no Convention ground seems to have been identified.

Political opinion was the most common ground invoked by the applicants in the cases under review. The claims were occasionally only recognised without further analysis, whereas a clearer reasoning would make the decision more coherent, comprehensible and transparent for the applicant. The political opinion Convention ground also frequently overlaps with other grounds, and it could thus also be considered relevant, for example, in the context of draft evaders.

2.2.5.3. State Protection

APPLICABLE STANDARDS:

- ↗ UNHCR, Handbook, paragraph 98
- ↗ Recast QD, Article 7
- ↗ UNHCR, Building in Quality, page 34

The research found that the identification of the **agent of persecution** did not normally constitute a problem. Although it was not always clearly stated who the persecutor was, it was implied and understood when reading the decisions.

In most of the decisions reviewed, the State was identified as the agent of persecution, however, a specific assessment on whether the applicant was unable or unwilling to avail him or herself of State protection was occasionally not carried out. In general, the assessment was not clearly separated from the assessment of other elements of the refugee definition, which could be done for further clarity.

The availability of effective State protection was often only analysed in general terms of the security situation and the overall developments in the country. It did not usually entail assessing, for example, if an applicant of a certain profile could be expected to seek protection from the national authorities. Where **non-State agents of persecution** were identified, the availability of State protection was discussed, but it was not normally probed or mentioned whether the applicant had tried to seek protection from the authorities.

³² UNHCR Guidelines on International Protection No. 10 on Military Service, para. 58.

2.2.5.4. Internal Flight Alternative

APPLICABLE STANDARDS:

- UNHCR, Guidelines on Internal Flight or Relocation Alternative
- Recast QD, Article 8
- UNHCR, Building In Quality, page 40

IFA considerations were rarely referred to in the positive decisions reviewed. Consequently, while the “possibility of relocating” is mentioned in general terms, few of the reviewed decisions analysed IFA in accordance with the UNHCR Guidelines on IFA and Article 8 of the recast QD. Since IFA was not analysed according to established criteria, there was consequently no relevance or reasonable test conducted in most of the cases, including whether it was possible to safely, legally and practically access the proposed place of relocation. Additionally, an assessment of the security and human rights situation in the area suggested as an IFA was generally missing. Most interviews, however, contained a question regarding the possibility to live safely elsewhere in the country of origin. While noting that there is no specific term equivalent to IFA in the Icelandic language, the IFA concept was generally not explained to the applicant during the interview.

2.2.6. Subsidiary Protection

APPLICABLE STANDARDS:

- Recast QD, Articles 2 (f), 15
- Act on Foreigners, Article 44:2
- Elgafajl v Staatssecretaris van Justitie, C-465/07³³
- UNHCR, Building In Quality, page 38
- Salahudin Abdulla and Others v. Bundesrepublik Deutschland, para 78³⁴
- UNHCR Executive Committee Conclusion on Complementary Forms of Protection³⁵
- UNHCR Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and other Situations of Violence³⁶

³³ Elgafaji v. Staatssecretaris van Justitie, C-465/07 European Union: Court of Justice of the European Union, 17 February 2009, available at: <http://www.refworld.org/docid/499aaee52.html>.

³⁴ Salahudin Abdulla and Others v. Bundesrepublik Deutschland, C-175/08; C-176/08; C-178/08 & C-179/08, European Union: Court of Justice of the European Union, 2 March 2010, available at: <http://www.refworld.org/docid/4b8e6ea22.html>.

³⁵ UNHCR, Complementary Forms of Protection: Their Nature and Relationship to the International Refugee Protection Regime, 9 June 2000, EC/50/SC/CRP.18, available at: <http://www.refworld.org/docid/47fdfb491a.html>.

³⁶ UNHCR, Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence; Roundtable 13 and 14 September 2012, Cape Town, South Africa, 20 December 2012, available at: <http://www.refworld.org/docid/50d32e5e2.html>.

Under Icelandic law, both beneficiaries of refugee status (Article 44:1 of the Act on Foreigners) and subsidiary protection status (Article 44:2 of the Act on Foreigners) have the same rights. The term indiscriminate violence is not explicitly mentioned in Article 44:2 as a ground for granting subsidiary protection, but in the Explanatory Memorandum to the Proposal amending the Act on Foreigners in 2010,³⁷ it is outlined that a situation of indiscriminate violence in the applicant's country of origin should in practice be considered as a danger of capital punishment, torture or other inhumane or degrading treatment.

Regarding the **sequential approach**, it is clear from the research that the decision-makers first focused on the applicant's eligibility for refugee status according to the 1951 Refugee Convention (Article 44:1 of the Act on Foreigners), and where these criteria were not fulfilled, eligibility for subsidiary protection according to Article 44:2 was considered. Occasionally however, the same argumentation was used both in relation to Article 44:1 and to Article 44:2.

The research further showed that decisions stated whether the applicant had been granted residence based on subsidiary protection grounds, however, the decisions did not always explain which of the grounds in Article 44:2 the decision was based on. Circumstances in the country of origin relevant to the analysis regarding subsidiary protection, such as assessments concerning the level of conflict in, for example, Syria and Afghanistan were generally referred to. Thus, a more elaborate reasoning in the decisions would be improve the transparency and the applicant's understanding of the decisions.

2.2.7. Structure and Methodology of Decisions on International Protection

APPLICABLE STANDARDS:

- Recast QD, Articles 2 (d) and (f)
- Recast APD, Article 10(2) and 11
- UNHCR, Building In Quality, page 31

As concluded in the context of the first phase of the LQI, Icelandic decision-makers generally follow a common structure for the drafting of decisions. Practically all of the reviewed decisions included the same headings which were presented in the same order. Within these separate headings however, the quality of the content and the way in which it is structured, varied. The research also found that many of the decisions reviewed were long and lacked a clear structure, reducing transparency of the decision-making and making them difficult to understand.

The decisions began with a short statement identifying the applicant, followed by a summary of the claim and the applicable legal framework (the "Lead In"). The information in the Lead In section was, however, very detailed and often repetitive, including extensive references to earlier interviews and procedural steps and to submissions by legal representatives. Subsequently, the legal analysis is outlined followed by the concluding decision. Personal information, such as the applicant's name, date of birth, nationality and case number, was included in practically all reviewed decisions.

UNHCR is of the view that some of the information included in the summary of the claim was not sufficiently essential to be repeated in the decision. On the other hand, some relevant elements of the refugee claim

³⁷ Law Proposal 115/2010 "Lög um breyting à lögum nr. 96/2002, um útlendinga, með síðari breytingum (hælistóm)", available at: <http://www.althingi.is/altxt/stjt/2010.115.html>

were not always presented. More focus on the core questions such as ‘who’ the applicant is fearing, ‘when’ the events occurred, ‘what’ happened as well as the reasons for the fear (‘why’) could assist in structuring the decision. The presentation of the different stages of the analysis also overlapped in some decisions, which contributed to the structure becoming challenging to comprehend.

Following DI’s new practice as of August 2014, submissions from legal representatives are now included only when new information is provided or previous decisions are lacking essential information. This practice, in addition to other improvements, has significantly reduced the length of the decisions in comparison to the decisions reviewed within this project. Nevertheless, where a submission made by the legal representative is referred to, this should be clearly stated in order to make the decision as client-friendly as possible.

Appropriate information on the right to appeal is always provided in the decisions.

2.3. RECOMMENDATIONS OF PHASE II

Below are UNHCR’s recommendations from the second phase of the LQI, based on the findings and observations from the mapping.

2.3.1. Dublin Procedures

- Consistently assess and make broad and regular use of the clauses relating to family unity and the discretionary clauses of the Dublin Regulation. Provide references to relevant Articles of the Dublin Regulation in the decisions;
- Include a short statement on the assessment of, and the possible relevance of, supporting documents in decisions, when clarifying why the case will or will not be admitted to the Icelandic asylum procedures.

2.3.2. Interviews and interpreters

- Ask thorough follow-up questions in order to clearly establish the material facts, including on relevant Convention grounds, forms of persecution and the nexus;
- Carry out an individual assessment for each applicant and his/her dependent(s), including in cases where the dependent may initially appear to not have an independent claim. Children, including children arriving with their families, have the right to be heard and express their views freely in accordance with their age and maturity;
- Clearly explain the role and function of the interpreter to the parties present during the interview;
- Provide further training to interpreters on their role and responsibilities during asylum interviews, as recommended in Phase I. As the personal interview is a main source for gathering and assessing the facts of the case and also gives the determining authority a crucial opportunity to identify all the material facts, it is recommended that the quality of the interpretation is addressed as a matter of priority;
- Always explain the next procedural steps to the applicant at the end of each interview.

2.3.3. Credibility assessments

- Decision-makers should evaluate and clearly outline in decisions, all material facts in light of the individual and contextual circumstances of the applicant and determine which material facts are accepted, rejected and uncertain;
- Adverse credibility findings should be presented to the applicant in order to enable him/her to explain inconsistencies, contradictions, discrepancies, omissions and implausibilities prior to the final decision;
- Provide training on a structured approach to credibility assessments, including the application of the principle of the benefit of the doubt for adjudicators.

2.3.4. Interpretation and application of the criteria in the refugee definition

- Develop standardized templates and checklists for staff in the areas of interviewing and credibility assessment, application of COI and decision writing, tailored to fit the Icelandic context, as also recommended in Phase I. This would provide a structure and method for undertaking the assessment, in order to ensure that all relevant elements are considered, the sequential approach is followed and that decisions are consistent;
- Arrange trainings on the interpretation and application of the elements of the refugee definition, including “wellfoundedness” and past and future persecution, as well as the use of relevant COI. In the standardized templates and checklists for assessing and determining asylum claims, provide specific guidance to adjudicators on how to assess whether the feared treatment amounts to persecution;
- Use UNHCR’s Guidelines on International Protection systematically, and arrange trainings on the guidance as appropriate.

2.3.5. Subsidiary protection

- Specify more clearly in the decisions on what basis a decision regarding subsidiary protection has been made, consistently referring to relevant elements of Article 44:2 and/or the Explanatory Memorandum to the Proposal amending the Act on Foreigners in 2010.

2.3.6. Structure and methodology of decisions

- Increase references to UNHCR policy and guidelines in the decisions. For more reader-friendly decisions, it is recommended to only reference the most relevant COI for the particular case;
- Clearly explain in the decisions the reasons for granting or not granting asylum;
- The work undertaken by the SMA in recent years to improve the manner in which decisions are communicated, with the aim of enhancing the asylum-seekers’ understanding of the content, and acceptance and compliance with the conclusions, could usefully inform the development of a new system for communicating decisions.
- Organize additional training and guidance on how to structure asylum decisions, using relevant UNHCR guidance. Incorporate additional guidance drawing on the SMA templates and checklists.

3. A PROGRESS REPORT ON THE IMPLEMENTATION OF THE RECOMMENDATIONS BY THE DIRECTORATE OF IMMIGRATION

3.1. INTRODUCTION

The LQI project was initiated in 2013 and carried on into 2014, but its conclusion was delayed by a number of factors – most importantly, on the DI’s part, a significant increase in asylum applications and efforts in 2015 to clear the DI’s backlog of asylum cases. This, among other factors, led to the LQI not being finalized until early 2016.

Overall, the LQI project and the cooperation with UNHCR RRNE has been a valuable instrument to improve asylum procedure. It has also been vital in strengthening the work of the asylum team and increase the competence and knowledge of staff. Although the process has, in some ways, been challenging for the DI staff, it has had an overwhelmingly positive effect on staff morale and attitudes towards their work.

UNHCR’s Part I and II of the report convey the state of affairs in 2013 and 2014 and is, as such, a very comprehensive analysis and a useful tool for continuous improvement. In the time that has passed, the DI has worked extensively to improve its procedure and, as a result, many of the recommendations in this report have already been addressed or are in the process of being implemented.

In order to reflect the significant progress made to the Icelandic asylum procedure since UNHCR RRNE conducted the LQI, the parties agreed that a progress report by the DI would be important in order to bridge the gap between the reports on the respective phases, and the situation in early 2016. Such a progress report would give an up-to-date account of the current state of the DI’s procedures and shed light on the work that has been done in direct and indirect relation to the LQI.

For a clear and holistic picture of the improvements made to the asylum procedures by the DI and the continuous cooperation with UNHCR RRNE, the following should be read in conjunction with UNHCR RRNE’s recommendations in Part I and II above.

3.2. SUMMARY OF PROGRESS

From the outset, it should be highlighted that the DI initiated improvements and reforms as soon as it received feedback from UNHCR RRNE on its findings. In fact, some measures were taken even before the report on the first phase of the LQI was submitted to the DI. This was possible due to the relatively small size of the Icelandic asylum system, and the dedication of the DI’s general staff to improving the procedure.

The DI has focused on improving its refugee status determination procedure, legal analysis and interviewing. Other issues have also been addressed to varying degrees. Most importantly, in the DI's view, the backlog of cases, stretching back to 2011, was cleared in 2015 and the average processing and waiting times have been shortened considerably. In 2015, the average processing time of asylum claims lodged after August 25 2014 was 89 days. In comparison, the average processing time in 2013 was 152 days. The average age of undecided cases at the end of 2015 was 69 days but was 271 days in 2013. Moreover, incorporating the CREDO report in credibility assessment in 2014, the introduction of a new decision template in 2015, and the implementation of efficient accelerated procedures in 2016 were essential for the DI.

The following is a summary of the progress made, primarily pertaining to the recommendations presented in Part I of this report. Recommendations which have not or only partly been addressed, from both Part I and II, will be part of subsequent DI-RRNE follow-up actions that will be agreed upon in 2016.

3.2.1. Registration of asylum applications

- Improved procedures established in regard to the initial registration and interviews.
- Reception and service teams have been established to handle initial registration and interviews.

3.2.2. Filing

- A DI staff member is now charged, part-time, with compiling statistical data.
- An administrative employee to handle registration, scheduling interviews and other such tasks will be hired in 2016.

3.2.3. Provision of information to asylum-seekers

- The information provided to asylum-seekers in writing, has been revised and made more understandable.
- Regular open interview sessions are conducted by the DI's services team.
- Weekly open telephone sessions with asylum lawyers have been established.
- A new website was launched in October 2014, intended to be more accessible for applicants.

3.2.4. Interviews

- The number of interviews has been reduced to two in most cases, one initial registration interview and one substantive asylum interview, and overlapping and repetitions have been minimized.
- The police is no longer directly involved in gathering information regarding asylum claims.
- The initial registration interview is now conducted in the first few days after the asylum-seeker submits his/her application, and held separately from the substantive asylum interview.
- A revised basic template for asylum interviews was introduced in 2014.
- A single case officer now generally conducts asylum interviews.
- Guidelines for interviews with LGBTI applicants were developed in 2015.

3.2.5. Processing and prioritization of asylum applications

- Processing and waiting times have been significantly reduced.
- The DI's backlog of cases, some over four years old, was cleared in 2015.
- Accelerated procedures for claims of unaccompanied minors, clearly well-founded claims and manifestly unfounded claims were introduced in early 2016.
- Clear criteria regarding suitability for priority in the accelerated procedures as well as standardized procedures for the determination of suitability have been established.
- Monthly statistics and a "Kanban" workflow board have improved oversight and management.

3.2.6. Assessment of claims and drafting decisions

- Decision templates have been thoroughly revised and standardized.
- A new template for substantive decisions was introduced in August 2015.
- A uniform sequential approach has been adopted in the assessment of asylum claims, ensuring that separate issues are addressed independently.
- The methodology presented in the CREDO report has been fully incorporated into the DI's credibility assessment of asylum claims determined on the substance. A specific section on credibility is included in every decision, clearly separating it from the legal analysis and other issues.
- COI and other sources are now rigorously cited. A section on the DI's research and investigation lists all COI and sources cited in each decision.
- A system of peer review of decisions followed by a supervisory review has been implemented.

3.2.7. Communication of decisions

- The first page of every decision now includes a summary of the claim and other information vital for the communication of DI's decisions. This is intended to make the decisions more accessible and understandable for the applicants.
- There are plans for changing the procedure so that an oral summary explanation of a decision and its significance is provided by the DI's representative.

3.2.8. Legal representation

- Improvements have been made to the quality of the legal aid provided to asylum-seekers through giving the Icelandic Red Cross the responsibility for legal representation of asylum-seekers.
- Legal counselling is offered during the initial registration interview, within the first few days of applying for asylum.
- The Red Cross appoints a lawyer to each case without the involvement of the DI.

3.2.9. Interpretation

- In 2015 the DI began obtaining interpreters via telephone, either conducting in English or having a second interpreter physically present. Feedback to this has generally been positive.
- The new interview template includes an explanation on the interpreter's role and a clear confirmation of understanding between applicant and interpreter.

3.2.10. Capacity development and performance management of staff

- Training of new case officers has been improved and is more systematic than before.
- In spite of limited resources, the DI has engaged in research on several issues, including credibility assessment, IFA and interviewing members of LGBTI groups.
- Members of the DI staff have attended conferences and meetings abroad as well as receiving experts from the UNHCR and SMA.

3.2.11. Periodic quality assurance

- In 2015, the DI cooperated with the SMA on a quality checklist for the DI's procedures. This work has yet to be finalized.
- The new decision template has proved a useful tool for maintaining quality and ensuring the quality and consistency of decisions.

3.2.12. External communication and periodic dialogues

- Since October 2015, the DI has had a part-time external relations officer, leading to a more proactive approach and participation in public discourse.
- The DI is currently working on "opening up" the topic of asylum procedures and immigration in Iceland in general as well as increasing and improving the information provided.

3.2.13. Increased capacity to implement recommendations

- The progress made in implementation is, to a great extent, the product of work done by the DI's asylum team in addition to their day-to-day duties.

3.3. PROGRESS OBSERVATIONS

3.3.1 Registration of asylum applications

Starting in early 2016, the DI implemented new procedures regarding initial registration of asylum applications. These had been developed in the second half of 2015, but the DI had already taken over obtaining most of the basic information from applicants, a task previously performed by the police. Until 2016, separate interviews for initial registrations were not conducted. This led to information sometimes not being revealed until the asylum interview, usually conducted weeks after an application is lodged.

In January 2016, a special reception team at the DI, established in the autumn of 2015, took over the initial registration of applications and the procuring of relevant basic information, biodata, general background and information regarding needs in terms of housing and services. These initial interviews take place within days after lodging an application, generally the day after. The police now only gathers what information it needs for its own work and does not perform any such tasks solely for the benefit of the DI or the processing of the application. In cases in which this initial interview has been conducted, issues already covered are, for the most part, not covered again in the asylum interview, thereby avoiding unnecessary repetitions. Questions asked in the initial interview will, after the transition to the new procedure, disappear entirely from asylum interviews.

Initial interviews include questions regarding the basis of the claim but are limited to a short statement or summary. This helps case officers prepare for the substantive asylum interviews and also serves as an indicator on whether or not a claim is suitable for accelerated procedures (see section 6 below) or if the case will be processed under the Dublin Regulation. Recounting of the basis of the claim as such is, as before, done in the substantive asylum interview. The result is a more streamlined and efficient initial process in which the police only obtains the information it needs for its own work, albeit forwarded to the DI, and the DI procures the information it needs for housing, services and further processing of cases.

3.3.2. Filing

The DI still uses the Erlendur database for its electronic registration. Using and maintaining it remains a challenge. Operating procedures on registration of new asylum applications have been established, both relating to electronic registration and hard copies.

A DI employee is currently tasked with compiling statistical data and an administrative employee for scheduling interviews and handling registrations is to be hired in the coming weeks.

3.3.3. Provision of information to asylum-seekers

Applicants are provided with basic information regarding their rights and status but procedures, standardization and review are yet to be implemented. Existing information, handed to applicants in writing, has been revised and made more understandable. Some of the information is available in a number of languages, but some only in English and Icelandic. Translators assist when necessary. The DI's reception and service teams have open interview session in which applicants can ask questions and voice their concerns. Meetings with groups of applicants have been convened on some occasions. Furthermore, there are open phone sessions with asylum lawyers once a week for two hours.

In October 2014, the DI launched a new website which was intended to be more accessible for applicants as well as the general public. Except for the news article section, all or almost all of the website is available in English and Icelandic. It includes clear and concise information on the right to international protection and on case procedures.

3.3.4. Interviews

According to the new procedures on initial interviews and registration and with the taking over of tasks from the police (see section 1), the usual number of interviews relating to the asylum claim have been reduced to two – the initial registration interview and the substantive asylum interview. Additional interviews can be conducted as before, when and if needed. The police also interviews applicants upon lodging applications, but these interviews are limited to the scope of the police's border control and other police-related work and do not as such constitute part of the asylum procedure. This new interview procedure has practically eliminated the overlapping of interviews, thus saving time for all involved and avoiding unnecessary repetitions as much as possible, including avoiding the applicant having to repeat accounts of traumatizing events.

As suggested by UNHCR RRNE, the DI has, since 2014, generally had a single case officer conduct and record asylum interviews in order to save manpower. Exceptions are made when new employees in training are conducting interviews, where there are security concerns or when other special circumstances arise. Reactions from DI staff to this arrangement has consistently been positive and neither legal representatives nor applicants have expressed dissatisfaction.

Acquiring interpreters, limited interview facilities, availability of DI staff and legal representatives and other factors, have made it difficult to establish the necessary foreseeability to implement a procedure in which asylum interviews are scheduled when the initial registration interview takes place. Interviews are, however, scheduled as soon as possible after an application is lodged and usually with approximately one week's notice. When a claim is suitable for accelerated procedures, the asylum interview usually takes place mere days after the registration interview, with up to a few days' notice. Legal representatives at the Icelandic Red Cross have encouraged the DI to put mechanisms in place for scheduling interviews as soon as possible after an application has been lodged but have been understanding of the current arrangement. The DI agrees with UNHCR RRNE and the Icelandic Red Cross that setting a date for asylum interviews as soon as possible after an application is lodged would be an improvement and will try to implement such an arrangement as soon as possible.

In 2014, a new and improved template for asylum interviews was introduced. This was supposed to be a much needed standardized basis for all asylum interviews, including introductions and explanations. In early 2015, a revised, more detailed and better structured version was introduced. This version includes a checklist for the interviewer to ensure a clear and holistic account of events and situation is gathered during the interview. The latest version of the template includes a question on whether or not the applicant feels fit for an interview, a standard statement that the applicant can request a short break at any time, an explanation on the interpreter's role and a clear confirmation of understanding between applicant and interpreter. The new template has, according to DI case officers, proved a useful tool to conducting a satisfactory interview in a single attempt.

To improve its interviewing techniques, the DI's staff attended a seminar at the SMA in March 2016 on interviewing vulnerable people and asylum-seekers in general. In its work to improve its methods, the DI staff has reviewed existing guidelines from agencies abroad, which in 2015 led to the DI creating its own guidelines regarding LGBTI claims, largely based on the UK Border Agency's 2015 guidelines on the subject. Guidelines on interviewing suspected victims of human trafficking are also in use at the DI.

3.3.5. Processing and prioritization of asylum applications

In 2014, the Ministry of Interior issued a decree stating that asylum applications were to be processed in 90 days or less, at each respective administrative level. Thorough reorganization and standardization of asylum procedures resulted in an average processing time of 89 days in 2015, excluding applications lodged before the cut-off point. The average age of undecided cases at the end of 2015 was 69 days. In comparison, processing time in 2013 was as long as 843 days and the average age of undecided cases was 271 days.

In January 2015, after securing the necessary funding and resources, a team of new case officers, under the guidance of a more experienced case officer, was designated to the task of clearing the backlog of cases. The backlog, defined in the afore-mentioned manner, amounted to around 70 cases, the oldest being four years old. These were processed separately from applications lodged after the said date, creating a kind of "double procedure" within the DI. At the end of August 2015 only a handful of cases remained and in November the last cases were closed, creating a much needed "fresh start" for the DI's asylum unit.

Since clearing the backlog, the DI has generally processed cases in chronological order. Flexibility to take special circumstances and previous experiences of case officers into account has been retained. On this basis the DI still strives to keep the average processing time under or around 90 days.

In the fall of 2015 and early in 2016, the DI drew up plans for accelerated or prioritized procedures, designed to quickly process claims of unaccompanied minors, obviously well founded claims to refugee status and clearly unfounded claims. These included clear criteria regarding suitability for priority as well as standardized procedures for the determination of suitability. These procedures were implemented in

the beginning of February and the results so far are positive, with cases generally being closed in nine to ten days and occasionally in as little as seven days.

To keep track of work and progress, the DI developed a “Kanban” workflow board which has proved a useful tool, for both case officers and management oversight. Furthermore, statistical reports are made every month. This has enabled the DI to have better oversight over how things are progressing, how heavy the workload is, if there are problems in the workflow, etc.

3.3.6. Assessment of claims and drafting decisions

Following UNHCR RRNE missions to Iceland, the DI began efforts to standardize the format of decisions and making changes to the template. Subsequently, several improvements were made to templates for both Dublin and substantive decisions – first and foremost to ensure inclusion and clarity of all the elements of the legal analysis in each and every case.

In August 2015, a brand new template was introduced for substantive decisions, based in part on an existing template from the SMA. The new template is updated and altered when needed but has remained largely unchanged since November 2015. The template’s first page summarized the most important aspect of the decision, making it more accessible for the applicant. The template’s clear structures ensures adherence to a sequential assessment approach. Separate issues are addressed in separate sections and the template leads the decision maker from one step to the next. Respective sections are provided for 1951 Refugee Convention status, subsidiary protection, vulnerability analysis and IFA, as well as other key issues. The template includes several standardized texts and key sentences, also standardized, regarding analysis and determination that can be chosen and inserted via drop-down menus. Its fundamental structure serves as a blueprint or checklist for each decision, resulting in a more efficient decision making process. On the whole, this leads to a consistency in approach and structure from one decision to another, which in turn makes decisions more accessible and comprehensible for all involved.

Great strides have been taken in terms of credibility assessments since the LQI mission assessed the state of affairs at the DI. As early as February 2014, the DI began implementing the methodology introduced and encouraged in UNHCR’s CREDO report from 2013. The methodology has now been fully incorporated into the DI’s asylum procedures in claims that are substantively processed and is the standard consistently applied in every case. A specific section on credibility is included in every decision, clearly separating it from the legal analysis and other issues.

In the new template, COI and other sources are rigorously cited. A section on the DI’s research and investigation lists all COI, reports and other sources cited and provides page numbers where they exist and exact web addresses for online sources.

Although a new template for Dublin decisions is yet to be created, the current template has been repeatedly updated and has incorporated many of the elements of the new template for substantive decisions. The Dublin team has also adopted most of the same methods and approaches as their counterparts responsible for substantive decisions, as far as they apply in its work.

In order to ensure quality of work, an efficient system of reviewing has been introduced. First, each decision is reviewed by a second case officer. The primary decision maker then makes necessary adjustments before submitting it to his next superior, the head of either the Dublin team or refugee status determination team, for a final review. The peer review is a novelty with the DI and has been described as an instrument for learning by case officers and helps identifying best practices. Supervisors have made it a point to subject each decision to rigorous review which in some cases results in case officers submitting revised decisions for a second and even third review before being deemed satisfactory.

3.3.7. Communication of decisions

Although the DI's communication of decisions remains unchanged, the first page of every decision now includes a summary of the claim, the DI's decision on refugee status and protection, and information on the possibility of appeal. When applicable it also includes the DI's findings regarding residence permit on grounds of special ties to Iceland, whether an appeal postpones legal effects, and whether an applicant is dismissed or expelled. This is intended to make decisions more accessible and understandable for the applicants.

There are plans for changing the procedure so that an oral summary explanation of a decision and its significance is provided by the DI's representative. So far this has not been regarded a priority but the DI intends to follow up on this in the foreseeable future, prompted in part by the 2016 visit to the SMA and the recent signing of an agreement with IOM. Under the 2003 Regulation on Foreigners, the police is required to communicate negative decision and therefore the DI cannot change this part of the procedure on its own.

3.3.8. Legal representation

As of 25 August 2014, the Icelandic Red Cross has taken over the legal representation for asylum-seekers. This new arrangement has led to a marked improvement in the quality and efficiency of legal counsel in the DI's view. If applicants choose to do so, they can hire other legal counsel at their own expense.

Under the current arrangement legal counsel is offered during the initial registration interview which usually takes place in the first few days after applying for asylum. The DI establishes lines of communication between the applicants and the Red Cross. However, the Red Cross appoints a lawyer to each case without the involvement of the DI.

3.3.9. Interpretation

Access to interpreters residing in Iceland remains limited. In 2015 the DI began obtaining interpreters via telephone, either conducting interviews or other communications in English or having a second interpreter physically present. Feedback to this has generally been positive.

The latest version of the new interview template (see section 4) includes an explanation on the interpreter's role and a clear confirmation of understanding between applicant and interpreter.

As mentioned, the DI plans to implement procedures for the communication of decisions that would include an oral summary explanation of a decision and its significance by the DI's representative. This summary would be conveyed via an interpreter as UNHCR RRNE recommends.

As of yet, the DI has, due to lack of resources, not organized training for interpreters in Iceland.

3.3.10. Capacity development and performance management of staff

The DI's capacity to engage in capacity development through research and training, even internal training, remains severely stunted due to a tight budget and limited resources. In spite of this the DI has engaged in research on several issues, including credibility assessment, IFA and interviewing members of LGBTI groups. These have all led to significant improvements in the handling of the respective issues. Furthermore, in the last few years, members of the DI staff have occasionally attended conferences and meetings abroad as well as receiving experts from the UNHCR and SMA on a few occasions.

Although there is no training department or staff assigned solely to training of new employees, training of new asylum case officers has been improved in the past few years and is more systematic than before. New recruits are provided with reading and research material to get them started, including legal texts, the UNHCR Handbook, the CREDO report and recent DI decisions. Reading and research is followed up with discussion with colleagues and supervisors. Initially, newcomers sit in on several interviews conducted by more experienced interviewers. Subsequently, they conduct their own interviews with a colleague present for support and eventually they graduate to conducting interviews on their own, when they feel confident enough and are deemed ready by their colleagues and supervisors. At first, relatively straightforward cases are handed out to new case officers and they are guided by their peers through each decision. Thorough feedback is provided through peer and supervisory review, with further discussion on methods and issues taking place before finalizing decisions.

Capacity development has been conducted through staff research and internal “micro-workshops” on issues such as LGBTI and children’s asylum claims. These have proved useful, but limited time and resources remain an obstacle to conducting activities such as these and following up on them.

3.3.11. Periodic quality assurance

In 2015, the DI cooperated with the SMA on a quality checklist for the DI’s procedures. The checklist was created in conjunction with a new decision template and was intended to be used when writing decisions in the template. Due to the steep increase in asylum applications in the second half of 2015, this work was unfortunately halted. The DI aims to pick up where things left off as soon as possible, as the checklist has the potential to further ensure quality of decisions. The new decision template previously mentioned has proved a useful tool for maintaining quality and ensuring that every aspect and issue of a claim is addressed. The consistency of decisions, from one to the next, has clearly improved of late. The more systematic training of new employees and new review arrangements have also had a positive effect. 12. External communication and periodic dialogues with the Directorate of Immigration

Until 2015, external communication was handled almost exclusively by the DI’s Director and the Deputy Director. Since 2014, a DI staff member, a full-time case officer, has assisted in this regard. This left the DI ill-equipped to proactively engage in external communication and public relations.

Since October 2015, the DI has had a part-time external relations officer, also tasked with statistics and related matters. This has proved a boon to the DI’s external activities and led to a more proactive approach and participation in public discourse. This has included more frequent press releases, several extensive articles on high profile issues published on the DI’s website, a meeting with Iceland’s leading LGBTI organization, newspaper interviews with staff and, most recently, an extensive expos. interview with the Director of the DI. To further this, the DI has begun work towards “opening up” the topic of asylum procedures and immigration in Iceland in general and increase public awareness and understanding. As yet, only the groundwork has been laid but the plans includes convening with stakeholders, media and civil societies and sharing information and receiving feedback.

3.3.13. Increased capacity to implement recommendations

The progress made in implementation is, to a great extent, the product of work done by the DI’s asylum team in addition to their day-to-day duties. With the ever increasing workload in recent years requiring much of the time and resources available, implementing the UNHCR RRNE recommendations systematically has been and remains a challenge for the DI. However, with the approval of the Ministry of Interior, the DI would seek to establish a quality assurance team tasked with systematic implementation of the recommendations as well as monitoring quality and organizing training and research.

AFGHANISTAN ALBANIA ALGERIA SAMOA ANDORRA ANGOLA ARGENTINA ARMENIA A
BELARUS BELGIUM BELIZE BENIN BERMUDA BHUTAN BOLIVIA BOTSWANA BRAZIL BULGA
CONGO CROATIA CUBA CYPRUS DENMARK DJIBOUTI DOMINICA ECUADOR EGYPT EI
GHANA GIBRALTAR GREECE GREENLAND GRENADA GUADELOUPE GUAM GUATEMALA
IRELAND ISRAEL ITALY JAMAICA JAPAN JORDAN KAZAKSTAN KENYA KIRIBATI KUWAIT KY
MACAU MADAGASCAR MALAWI MALAYSIA MALDIVES MALI MALTA MARTINIQUE MAURIT
MOROCCO MOZAMBIQUE MYANMAR NAMIBIA NAURU NEPAL NETHERLANDS NICARAO
PHILIPPINES POLAND PORTUGAL QATAR ROMANIA RUSSIA RWANDA SAMOA SENEGAL
SWAZILAND SWEDEN SWITZERLAND TAJIKISTAN THAILAND TOGO TONGA TUNISIA TU
VENEZUELA YEMEN ZAMBIA ZIMBABWE AFGHANISTAN ALBANIA ALGERIA SAMOA ANDO
BAHRAIN BANGLADESH BARBADOS BELARUS BELGIUM BELIZE BENIN BERMUDA BHU
CHAD CHILE CHINA COLOMBIA COMOROS CONGO CROATIA CUBA CYPRUS DENMARK
GABON GAMBIA GEORGIA GERMANY GHANA GIBRALTAR GREECE GREENLAND GREN
ICELAND INDIA INDONESIA IRAN IRAQ IRELAND ISRAEL ITALY JAMAICA JAPAN JORDAN
LIECHTENSTEIN LITHUANIA LUXEMBOURG MACAU MADAGASCAR MALAWI MALAYSIA MA
MONGOLIA MONTSERRAT MONTENEGRO MOROCCO MOZAMBIQUE MYANMAR NAMI
PAKISTAN PALAU PANAMA PARAGUAY PERU PHILIPPINES POLAND PORTUGAL QATAR R
SLOVENIA SOMALIA SPAIN SUDAN SURINAME SWAZILAND SWEDEN SWITZERLAND TA
UKRAINE UK URUGUAY UZBEKISTAN VANUATU VENEZUELA YEMEN ZAMBIA ZIMBABWE A
AUSTRALIA AUSTRIA AZERBAIJAN BAHAMAS BAHRAIN BANGLADESH BARBADOS BELAR
BURUNDI CAMBODIA CAMEROON CANADA CHAD CHILE CHINA COLOMBIA COMORO
ERITREA ESTONIA ETHIOPIA FIJI FINLAND FRANCE GABON GAMBIA GEORGIA GERMAN
GUINEA GUYANA HAITI HONDURAS HUNGARY ICELAND INDIA INDONESIA IRAN IRAQ
KYRGYZSTAN LATVIA LEBANON LESOTHO LIBERIA LIECHTENSTEIN LITHUANIA LUXEMB
MAURITANIA MAURITIUS MAYOTTE MEXICO MONACO MONGOLIA MONTSERRAT MON
NICARAGUA NIGER NIGERIA NIUE NORWAY OMAN PAKISTAN PALAU PANAMA PARAGU
SENEGAL SERBIA SEYCHELLES SINGAPORE SLOVAKIA SLOVENIA SOMALIA SPAIN SUDAN
TUNISIA TURKEY TURKMENISTAN TUVALU UGANDA UKRAINE UK URUGUAY UZBEKISTA



UNHCR Regional Representation
for Northern Europe

Ynglingagatan 14, 6 tr., 113 47
Stockholm, Sweden

www.unhcr-northerneurope.org