Accurate, timely, interoperable? Data management in the asylum procedure

Common Template for the EMN Study 2020

Final version: 16 March 2020 (updated 14 April 2020)

1   BACKGROUND AND RATIONALE FOR THE STUDY

A smooth and fast registration and identification procedure and ensuring the accuracy of the information collected, are **essential aspects of a functioning asylum procedure**. Several Member States have recently taken a wider range of measures to also improve interoperability to assist operational efficiency.[1] An **effective** asylum system relies on the collection of timely information that could appropriately channel asylum applicants into the right track, as well as on accurate and reliable information that could inform subsequent asylum decisions. Similarly, the smooth transmission of information to relevant authorities as well as the interoperability of databases where this information is collected avoid duplication and contribute to the **efficiency** of the asylum system. Finally, the use of information collected during different phases of the asylum procedure to inform further related steps of the process (including the Dublin procedure) reception conditions, and to inform future planning for the migration system (including integration and possibly return) increase the **preparedness** of the migration system overall.

Changing circumstances in asylum applications in recent years, including increases and decreases in the volume and types of applications, has led to several procedural changes in how Member States manage the asylum process. In many Member States this has also impacted on how data is collected, managed and shared throughout the process. In particular, the following policy developments have been registered.

1.   In the years of high influx of asylum seekers in the EU (2015–2016) several Member States experienced major **challenges with regard to their capacities to register asylum seekers as well as with subsequent data management** across different databases within their respective asylum authorities and with regard to other authorities linked to the asylum procedure and reception of asylum applicants.[2] In several Member States there were backlogs and delays in the asylum procedure. Asylum applicants were not always able to make their application upon arrival and once their application was registered, it sometimes took months before they could finally lodge the asylum application.[3] Furthermore, multiple registrations occurred in some Member States due to a lack of interoperability of databases and a lack of technologies to digitalise the individual information and make it accessible to the different authorities. With regard to the high numbers of asylum applicants, several Member States experienced a need for automation, digitisation and innovation (such as the implementation of artificial intelligence) of various processes within the

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[1] MPI, Chasing Efficiency: Can Operational Changes Fix European Asylum Systems? March 2020:
https://www.migrationpolicy.org/sites/default/files/publications/MPIE-ChasingEfficiency-EuropeAsylum-Final.pdf
[2] EMN, Synthesis Report, Changing Influx of Asylum Seekers 2014-2016, August 2018: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_changing_influx_study_synthesis_final_en.pdf
[3] ECRE, Access to protection in Europe. The registration of asylum applications, 2018:
http://www.asylumineurope.org/sites/default/files/shadow-reports/aida_accessii_registration.pdf; EMN, Annual Report on Migration and Asylum 2017, May 2018: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_annual_report_on_migration_2017_highres_en.pdf

asylum procedure in order cope with the large numbers by saving resources, to limit double work, to ensure accuracy and transferability of individual information among different data systems.

2. With regard to the making, registering and lodging of an asylum application, a **trend towards shifting the collection of additional information of asylum seekers forward** (frontloading) in the asylum procedure may be observed in several EU Member States in recent years.[4] One reason is another development in several Member States, namely the introduction of channelling systems in their asylum procedures. Based on different pre-defined profiles, asylum applicants are channelled into different "first-instance procedures (prioritised procedures; accelerated procedures; border procedure; admissibility procedure".[5] In many cases, this had an impact on the asylum process as relevant information on asylum seekers needed to be collected at an earlier phase in order to allocate them to these different channels. In some Member States, information collection was also frontloaded for other reasons. Amongst other things, in order to shorten lengthy processing times in the asylum procedure (e.g. by limiting the need for paper and double work by digitising the collected information and implementing data quality assessments from the very beginning). A frontloaded information collection in some Member States again serves to better plan and coordinate reception facilities, estimate the need for integration and language courses for asylum seekers (e.g. number and types of courses needed in different regions) as well as other integration measures (e.g. labour market integration by asking for information on individual qualifications of the asylum seekers).

3. Last but not least, by further interlinking processes, actors and IT systems, **challenges occurred with regard to the interoperability of data systems and databases,** as well as with regard to data protection. However, several Member States introduced a range of measures to enhance interoperability on a federal and regional level or implemented larger reforms with regard to their data management, raising questions again with regard to safeguards of the individual data and 'legal' limitations of the data collection and processing mechanisms. The question of interoperability has also been discussed at EU-level in recent years with regard to the EU large scale IT systems. The Interoperability Regulation provides for future tools to enhance intra-EU data sharing and has as one of its aims to assist in the assessment of international protection applications.

Against this backdrop, the objective of this study is to examine how data is managed in the different phases of the asylum procedure and to identify any recent trends. In particular, it will (i) map Member States' data management approaches in the asylum procedure, (ii) examine whether there have been any procedural changes to enhance data sharing within the asylum authorities and beyond and how these have impacted on data management in these processes, and (iii) challenges and good practices that have arisen in relation to data management.

Scope

As for its **scope**, the study will cover different phases of the asylum procedure, beginning from the moment a person makes his or her asylum application until the first instance decision is made. It will focus, on the one hand, on data collected by various actors involved in the asylum procedure (e.g. border police registering an asylum application upon arrival; main authority for the asylum procedure; authorities responsible for unaccompanied minors etc.). On the other hand, the study will also cover data collected in the context of the asylum procedure but meant for other purposes than the asylum procedure itself (e.g. information on language skills used to better plan and coordinate integration and language courses; information on previous qualifications in order to smoothen labour market integration etcetera).

2   EU LEGAL FRAMEWORK

Directives and regulations

The functioning of the Common European Asylum System is based upon a series of EU legal instruments governing the asylum procedure. However, the management of personal data is only marginally regulated. With the exception of the **recast Eurodac Regulation (Regulation No 603/2013**, analysed below) that concerns the processing of biometric data of applicants of international protection for Dublin-related purposes, the registration of personal data in the asylum process is governed by national law. The **recast Asylum Procedures Directive (Directive 2013/32/EU)** sets out some rules in that respect, namely that the applicants must inform the competent authorities of their current place of residence and of any changes thereof as soon as possible, which suggests that this information is collected by the competent authorities. Competent authorities are also allowed to take a photograph of the applicant; however, this is not compulsory under EU law. Crucially, Article 30 of that Regulation proscribes national authorities from disclosing information regarding individual applications or the fact that an application has been made to the alleged actor(s) of persecution or serious harm.

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[4] EASO, Workshop Discussion Paper, Workshop 2: Registration procedure, 9th Consultative Forum, 12th November 2019, Brussels: https://easo.europa.eu/sites/default/files/Workshop2-Discussion-Paper.pdf
[5] EASO, Workshop Discussion Paper, Workshop 3: channelling based on the profile of the applicant and the identification of special needs, 9th Consultative Forum, 12th November 2019, Brussels: https://easo.europa.eu/sites/default/files/Workshop3-Discussion-Paper.pdf

From a privacy and personal data protection perspective, the **General Data Protection Regulation (EU) No 2016/679** is applicable to the processing of personal data in the asylum procedure. This entails the application of a series of data protection safeguards in the collection and further processing of personal data, such as the principles of lawfulness, purpose limitation, data minimisation, accuracy, storage limitation and integrity and confidentiality. The data protection regime specific to the handling of personal data in the Eurodac system is covered in the Eurodac Regulation 603/2013.

EU centralised information systems

The abolition of internal borders in the Schengen area has required strong and reliable management of the movement of persons across the external borders, including through robust identity management. In that respect, three centralised information systems have been developed by the EU, which are currently operational: the Schengen Information System (SIS), Visa Information System (VIS) and Eurodac, all of which assist in verifying or identifying third-country nationals falling in different categories and who are on the move. SIS, VIS and Eurodac were originally envisaged to operate independently, without the possibility of interacting with one another. Progressively, the need has emerged to provide technical and legal solutions that would enable EU information systems to complement each other. To that end, the **Interoperability Regulations 2019/817 and 2019/818** adopted on 20 May 2019 prescribe four main components to be implemented: a European Search Portal (ESP), a shared Biometric Matching Service (BMS), a Common Identity Repository (CIR) and a Multiple Identity Detector (MID). An EU agency, eu-LISA, is responsible for the operational management of these three systems.[6]

The most relevant EU information system in this regard is **Eurodac**, a biometric database storing fingerprints of applicants for international protection and irregular immigrants found on EU territory. Its primary objective is to serve the implementation of Regulation (EU) No. 604/2013 ('the Dublin Regulation'). Eurodac may also be accessed by national law enforcement authorities and Europol for the purposes of preventing, detecting and investigating terrorist offences and serious crimes. A recast proposal[7] tabled since May 2016 is currently negotiated as part of the revised Common European Asylum System (CEAS), with the aim of expanding the purpose, scope and categories of personal data stored in the system.

The **Visa Information System (VIS)** is also relevant for the purposes of the study not only in the context of further interoperability but also because it is used in the asylum procedure. The VIS processes personal data (both biographical and biometric) of short-stay (Schengen) visa applicants and to allows immigration, border control and asylum authorities to exchange such data for various purposes, including the implementation of the common EU visa policy and the assistance in the identification of the Member State responsible for an asylum claim in line with the Dublin rules. The current legal framework consists of Regulation 767/2008[8] governing the use of the system for immigration control purposes, and Council Decision 2008/633/JHA[9] on law enforcement access. A proposal is currently negotiated[10] that among other things, lowers the threshold age for fingerprinting (six years).

As for the **Schengen Information System (SIS),** it aims at ensuring a high level of security in the Schengen area by facilitating both border control and police investigations. To those ends, the SIS registers alerts on various categories of persons including third-country nationals to be refused entry or stay in the Schengen area, as well as alerts on objects, such as banknotes and identity documents. Failed asylum seekers may be registered in the SIS in accordance with the SIS rules. In 2018, the SIS legal framework was revised with a view to adding certain categories of alerts.[11]

The aforementioned information systems will be complemented in the future by three new ones that are currently under development: **the Entry/Exit System (EES)** that will register the border crossings, both at entry and exit, of all third-country

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[6] Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011, OJ L 295, 21.11.2018.

[7] COM (2016) 272final.

[8] Regulation (EC) 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas, OJ L 218, 13.8.2008, as amended by Regulation (EC) 810/2009, OJ L 243, 15.9.2009..

[9] Council Decision 2008/633/JHA concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences, OJ L 218,13.8.2008.

[10] COM (2018) 302final.

[11] Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals, OJ L 312, 7.12.2018, p. 1–13; Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006, OJ L 312, 7.12.2018, p. 14–55; Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU. OJ L 312, 7.12.2018, p. 56–106.

nationals admitted for a short stay, irrespective of whether they are required to obtain a Schengen visa or not;[12] the **European Travel Information and Authorisation System (ETIAS)** that will enable to identify whether the presence of a visa-free traveller in the territory of the Member States would pose a security, irregular migration or high epidemic risk;[13] the **European Criminal Record Information System for third-country nationals (ECRIS-TCN)** that will enable the exchange of criminal records on convicted third-country nationals and stateless persons.[14] All six information systems will be part of the interoperable data processing environment.

3   PRIMARY QUESTIONS TO BE ADDRESSED BY THE STUDY

This study will focus on the following primary questions:

- Which information is collected in the context of the asylum procedure at which point of time by whom?

- How is the information collected, fed into different data systems and further managed and shared with relevant actors?

- How is data quality assessed, and which data protection safeguards are in place for asylum applicants during the asylum procedure?

- Which changes did Member States introduce in recent years with regard to data management in the asylum procedure and why?

- What challenges do Member States face with regard to data management in the asylum procedure, how have these been overcome, and what good practices can be shared?

The asylum procedure is divided in different phases in all Member States. First, an asylum applicant needs to make an asylum application which then needs to be registered and/or lodged by the competent authorities before the asylum interview may take place. Subsequently, a first-instance decision is made on the basis of an examination of the application. While the competent authorities responsible for the single phases may be different in some Members States, in others it may be a single competent authority covering all phases. In addition, in some Member States some of the phases mentioned above may in practice be conducted concurrently which is why there might not be the need for some Member States to differentiate between (some of) the phases. However, the asylum procedure will be subdivided into at least two phases in all Member States.

The Study will cover four main phases, based on EASO's guidance on asylum procedure:[15]

1   Making an application: during this phase the person expresses the intention to apply for international protection;

2   Registering an application: the applicant's intention to seek protection is registered, which may be done by an authority not competent for the asylum procedure itself, such as the border police;

3   Lodging an application: the asylum application is formally lodged at the competent authority for the asylum procedure;

4   Examination of the application.

4   RELEVANT CASE LAW FROM THE COURT OF JUSTICE OF THE EU

CJEU, Case C-670/16 *Mengesteab***, Judgment of 26 July 2017**: One of the questions referred to the CJEU involved the relationship between the two-time limits for take charge requests set out in Article 21 of the Dublin III Regulation. The Court clarified that the two months allowed to notify a Member State after a Eurodac hit may not result in a take charge request being issued more than three months after the application is lodged.

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[12] Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011, OJ L 327, 9.12.2017.

[13] Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, OJ L 236, 19.9.2018.

[14] Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726, OJ L 135, 22.5.2019.

[15] Available at:

https://easo.europa.eu/sites/default/files/Guidance_on_asylum_procedure_operational_standards_and_indicators_EN.pdf

EU centralised systems have not generated any relevant case law before the CJEU in relation to their substance. However, more generally, case law on centralised storage of personal data for immigration-related purposes in the broader sense that may be relevant for the present study is the following:

- **CJEU, Opinion 1/15 of 26 July 2017:** In this case, the Grand Chamber of the CJEU evaluated the draft PNR Agreement between the EU and Canada. The Court elaborated on a series of safeguards as regards to data management, in particular: the need for clarity in specifying the scope of the data to be processed; the transfer of sensitive data requires a precise and solid justification; automated processing of personal data should take place under pre-established models and criteria that are specific and reliable; the authorities accessing the personal data are specified; any transfer of personal data to third countries must take place only if that third country ensures an essentially equivalent level of personal data protection; and the exercise of individual rights by persons whose personal data is processed is ensured.

- **CJEU, Case C-70/18, Staatssecretaris van Justitie en Veiligheid v A and Others, Judgment of 3 October 2019:** This case involves the processing of personal data of residence permit holders in a Dutch centralised database. The CJEU highlighted that the processing of 10 fingerprints and a facial image, besides providing a reliable way of identifying the person concerned, is not of an intimate nature and does not cause any particular physical or mental discomfort for the person concerned.

  Since the objective of the retention of data is to prevent and combat identity and document fraud, a five-year retention period establishes a satisfactory connection between the personal data to be retained and the objective pursued and thus is proportionate.

5   RELEVANT SOURCES AND LITERATURE

UNHCR

- UNHCR, Discussion Paper Fair and Fast – Accelerated and Simplified Procedures in the European Union, July 2018[16]

EU Agencies

- EASO, Practical Guidance Series, EASO Guidance on asylum procedures: operational standards and indicators, September 2019[17]

- EASO Online-Tool 'Identification of persons with special needs'(IPSN)[18]

EMN Studies

- EMN, Synthesis Report, Changing Influx of Asylum Seekers 2014-2016, August 2018[19]

- EMN, Synthesis Report, Challenges and practices for establishing the identity of third-country nationals in migration procedures, December 2017[20]

EMN Ad-Hoc Queries

- 2019.49 - Processing times first instance asylum cases. Requested on 8 April 2019.

- 2018.1348 - Member States' practice regarding the storage of photographs and fingerprints in national systems/databases. Requested on 5 December 2018

- 2018.1335 - Equipment to collect biometric data. Requested on 17 September 2018.

- 2018.1262 - Use of Cloud Services for Processing Personal Data in Immigration Cases. Requested on 17 January 2018.

- 2017.1191 - Biometric information for legal migration cases. Requested on 30 May, 2017.

- 2017.1180 - Mobile device information. Requested on 9 May, 2017

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[16] Available at: https://www.refworld.org/docid/5b589eef4.html
[17] Available at: https://www.easo.europa.eu/sites/default/files/2019.1882_EN.pdf
[18] Available at: https://ipsn.easo.europa.eu/european-asylum-support-office
[19] Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_changing_influx_study_synthesis_final_en.pdf
[20] Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_identity_study_final_en_v2.pdf

Other studies and reports

- ECRE - European Council on Refugees and Exiles, Report, Access to protection in Europe. The registration of asylum applications, Asylum Information Database (AIDA), June 2018[21]

- MPI – Migration Policy Institute, Cracked Foundation, Uncertain Future: Structural Weaknesses in the Common European Asylum System, March 2018[22]

- FRA – European Union Agency for Fundamental Rights, Biometric data in large EU IT systems in the areas of borders, visa and asylum – fundamental rights implications. Data protection, privacy and new technologies; Asylum, migration and borders[23]

6   AVAILABLE STATISTICS

The following statistics are available through **Eurostat**:

Number of first-time asylum applications (lodging; migr_asyappctza) — compare with number of first-time decisions (migr_asydcfsta)

The following statistics may be available through national statistics:

> Number of registrations of asylum applications

The following statistics are available through **EU databases**:

> Number of lodged asylum applications
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> Number of Eurodac hits 2014 - 2019
>
> Use of VIS and n of hits 2014 – 2019
>
> Use of SIS and n of hits 2014 – 2019

7   DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken from the EMN Glossary v6.0[24] unless specified otherwise in footnotes.

'Application for international protection' is defined as a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU (Recast Qualification Directive), that can be applied for separately.

'Asylum procedure': see definition for 'Procedure for international protection'.

'Beneficiary of international protection' is defined as a person who has been granted refugee status or subsidiary protection status.

'Channelling' of the asylum procedure (also 'triaging'): "The core premise of accelerated and simplified procedures is the differentiation between caseloads for their channelling into distinct case processing modalities. The triaging process is therefore the central tenet of the process. [...] Depending on the results of the analysis, claims will be channelled into appropriate case processing modalities, or as is already done in several Members States [...] into different streams or 'tracks'. Groups, as well as any specific profiles, with high and very low protection rates would be channelled into accelerated and/or simplified procedures, while other cases would be adjudicated under the regular procedure."[25]

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[21] Available at: http://asylumineurope.org/sites/default/files/shadow-reports/aida_accessii_registration.pdf
[22] Available at: https://www.migrationpolicy.org/sites/default/files/publications/CEAS-StructuralWeaknesses_Final.pdf
[23] Available at: : https://fra.europa.eu/en/publication/2015/fundamental-rights-implications-obligation-provide-fingerprints-eurodac
[24] Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf
[25] UNHCR, Discussion Paper F*air and Fast – Accelerated and Simplified Procedures in the European Union*, July 2018, pp. 8f. Available at: https://www.refworld.org/pdfid/5b589eef4.pdf

'Country of origin' is the country or countries of nationality or, for stateless persons, of former habitual residence.

'Data management' is understood as the administrative process that includes all operations that are performed on data or on sets of data, through automated or other means, such as collection, recording, storage, retrieval, use, disclosure by transmission, dissemination or erasure. [26]

'Examination of an asylum application': see definition for 'Examination of an application for international protection'.

'Examination of an application for international protection': Any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with Directive 2013/32/EU (Recast Asylum Procedures Directive) and Directive 2011/95/EU (Recast Qualification Directive) except for procedures for determining the EU Member State responsible in accordance with Regulation (EU) No 604/2013 (Dublin III Regulation).

'Lodging an asylum application': An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or, where provided for in national law, an official report, has reached the competent authorities of the Member State concerned. Member States may require that applications for international protection be lodged in person and/or at a designated place. [27]

'Making an asylum application': see definition for "Making application for international protection".

'Making application for international protection:' The expression of intent to apply for international protection.

'Refugee status' is defined as the recognition by a Member State of a third-country national or a stateless person as a refugee.[28]

'Registering an asylum application': Record the applicant's intention to seek protection.[29] When a person makes an application for international protection to an authority competent under national law for registering such applications, the registration shall take place no later than three working days after the application is made. If the application for international protection is made to other authorities which are likely to receive such applications, but not competent for the registration under national law, Member States shall ensure that the registration shall take place no later than six working days after the application is made.[30]

'Procedure for international protection': Set of measures described in the Directive 2013/32/EU (Recast Asylum Procedures Directive) which encompasses all necessary steps for granting and withdrawing international protection starting with making an application for international protection to the final decision in appeals procedures.

8   ADVISORY GROUP (Core Group and Wider Group)

An 'Advisory Group' (AG) has been established within the context of this Study for the purpose of (i) developing the (common) specifications for the study, (ii) providing support to EMN NCPs during the development of the national contributions to the Study, as well as (iii) providing support to the drafting of the Synthesis Report. In addition to COM (DG HOME and JRC) and the EMN Service Provider (ICF-Odysseus), Frontex and EASO, the members of the AG for the Study include EMN NCPs from AT, BE, CY, DE, FI, HR, IE, IT, LU, NO, PL, SI, UK. Furthermore, the Migration Policy Institute (MPI) was included as an external expert.

In addition, the AG was split into a Core Group and a Wider Group, introducing a new structure of an AG within the EMN. Core Group members agreed to take more responsibility for the revision and to invest more time in all the follow-up processes (including a 2nd AG meeting). Wider Group members gave their input at the 1st AG meeting and agreed to comment on the 2nd draft of the common template before a 2nd AG meeting of the Core Group.

EMN NCPs are invited to send any requests for clarification or further information on the Study to the representatives of the Core Group.

Advisory Group (core AG members are in **bold**)
- **DE EMN NCP (Chair, Janne Grote and Anja Kuntscher)**
- **COM (Marion Finke, DG HOME**)
- COM (Anna Kadar, DG HOME)
- **COM (Martina Belmonte, DG JRC)**

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[26] Definition for the purposes of this study.
[27] Article 6(2, 3, 4) of Directive 2013/32/EU (Recast Asylum Procedure Directive).
[28] Article 2 of Directive 2011/95/EU (Recast Qualification Directive).
[29] EASO, presentation, 9th Consultative Forum, 12th November 2019, Brussels.
[30] Article 6(1) of Directive 2013/32/EU (Recast Asylum Procedure Directive).

- EASO (Karolina Lukaszczyk)
- **Frontex (Ilze Perczaka)**
- **AT EMN NCP (Julia Lendorfer, Martin Stiller)**
- BE NCP (Jessy Carton, Peter van Costenoble)
- CY EMN NCP (Michalis Beys)
- **IE EMN NCP** (Anne Sheridan)
- IT EMN NCP (Stefania Nasso, Francesco Giunta, Giulia Mezzetti)
- FI NCP (Tuukka Lampi)
- LU EMN NCP (Ralph Petry)
- NO EMN NCP (Stina Schulstock Holth)
- PL NCP (Patrycja Turska, Ewelina Zabardast)
- SI EMN NCP (Helena Korosec)
- UK EMN NCP (Zoe Pellatt)
- MPI (Timo Schmidt)
- **Odysseus network expert (Niovi Vavoula, Queen Mary, University of London)**
- **ICF (Nina Mavrogeorgou, Rocio Naranjo Sandalio EMN Service Provider)**

9   TIMETABLE

The following timetable is proposed for the next steps of the Study:

Date	Action
16 March 2020	Official launch of the study
3 July 2020	Submission of national reports by EMN NCPs
14 August 2020	First synthesis report (SR) to COM & AG members (1 week to provide comments)
21 August 2020	Deadline for comments (1 week to address comment and finalise)
28 August 2020	Circulation of the first SR to all NCPs (2 weeks to comment)
11 September 2020	Deadline for comments
25 September 2020	Circulation of the second draft to all NCPs (2 weeks to comment)
9 October 2020	Deadline for comments
16 October 2020	Circulation of the third (final) draft to all NCPs (2 weeks to comment)
30 October 2020	Deadline for comments
End of November 2020	Finalisation of the synthesis report, publication and dissemination

10   TEMPLATE FOR NATIONAL REPORTS

The template provided below outlines the information that should be included in the National Contributions of EMN NCPs and Switzerland to this Study. The indicative number of pages to be covered by each section is provided in the guidance note. For national reports, the total number of pages should ideally not exceed **50 pages** (excluding the Annex). A limit of **25 pages** (excluding the Annex) will also apply to the synthesis report, in order to ensure that it remains concise and accessible.

Common Template of EMN Study 2020

Accurate, timely, interoperable? Data management in the asylum procedure

National Contribution from *Poland**31

Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.

Top-line factsheet [max. 2 pages]

*The top-line factsheet will serve as an overview of the **national reports** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers.*

Please provide a concise summary of the main findings of Sections 0-7:

Poland is not one of the countries where foreigners apply for international protection in large numbers. Looking at the statistical data, it can be noticed that the number of immigrants applying for protection is decreasing every year - from 12,325 applications in 2015 to 4,096 in 2019. Poland has not introduced changes with regard to data management in the case of applications related to the asylum procedure as a result of the COVID-19 pandemic.

The main body responsible for accepting applications in the field of international protection in Poland is the Border Guard. Due to the fact that one authority is responsible for all stages of the asylum procedure, the submission of the application, its registration and formal submission are the only stage in the procedure under consideration. These stages are separated only when the Border Guard authority cannot accept the application at the moment or the foreigner cannot appear in person at the Border Guard post. Only with regard to examining applications, the competent authority is the Office for Foreigners in the first instance and the Refugee Council in the second instance. In practice, the data collected during individual stages of the international protection procedure are collected by the Border Guard (national databases Pobyt v. 2 and the Register of Refugee Proceedings) and the Office for Foreigners, which has access only to the Pobyt v.2 database.

The Border Guard carries out cross-checkings: checks the foreigner's data in several databases. Foreigners are informed about the processing of their personal data. Both of these activities are performed only at the stage of formal submission of applications for international protection. Information on data quality is not collected in Poland.

The only change regarding data management in the last 6 years was the adaptation of the rules for the processing of personal data to the requirements of the GDPR Regulation on the protection of personal data - including the introduction of the obligation to inform about the rules for processing personal data of persons whose data is processed. There were no problems in this regard. Due to the low number of submitted applications for international protection, Poland does not apply contingency measures to accelerate or facilitate the process in relation to data management.

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31 Replace highlighted text with your **Member State** name here.

Section 0: Impact of COVID-19

Did your (Member) State introduce any major change(s)/reform(s) related to data management due to the COVID-19 pandemic?

☐Yes / X No

If yes, please describe these changes.

Section 1: The asylum procedure

Please note that the data management aspects of each phase of making, registering, lodging and examining an asylum claim will need to be described in more detail in the following Sections. This introductory section shall serve as a first overview to better understand the following sections on data management within each phase. If your (Member) State has implemented specific procedures (e.g. 'airport procedure') that deviate from the usual procedure(s), please point this out. However, (Member) States may decide on their own, into how much depth they want to go with regard to such specific or more exceptional procedures. In case (Member) States decide not to elaborate in more detail on specific procedures but focus more on their 'general asylum procedure', a reference can be made to the fact that the specific procedure will not be further elaborated in order to reduce the complexity of the study.

1.1 Overview of the asylum procedure

Please provide an overview on the regular asylum procedure in your (Member) State by answering the following questions.

1. Does your (Member) State clearly distinguish in national legislation among the abovementioned phases of **making**, **registering** and **lodging** of an application? (clear distinction – see the background section 7 - Definitions)

    ☐Yes / X No

    If yes, please elaborate briefly.

    If no, please briefly describe the different phases of the asylum procedure in your (Member) State.

    Submitting an application, registering and formally submitting an application essentially follow the same step. Such a state has been achieved thanks to the fact that the authorities of the Border Guard can be designated as the body to which the willingness to apply for international protection can be submitted and which is competent for accepting formal applications. It should be emphasized at this point that the Border Guard posts are located not only on the border, but throughout the country.

    When a foreigner declares his willingness to submit an application, he or she receives relevant instructions on the procedure, fingerprints are taken, a photograph is taken, and then a formal application is completed. This request is registered in the system. A document is issued to the foreigner (a temporary foreigner's identity certificate).

    Only if the Border Guard authority is unable to accept the application at a given moment (e.g. lack of availability of the necessary interpreter), or the foreigner cannot appear in person at the Border Guard facility (e.g. due to staying in a hospital or prison), is admitted first, a declaration of intention to submit an application, and then, within 3 working days, a formal application for international protection. In this case, however, also the registration of the application takes place simultaneously with its formal adoption.

2. a) Does your (Member) State clearly distinguish <u>in practice</u> among the abovementioned phases of **making**, **registering** and **lodging** of an application? (clear distinction – see background section 7 - Definitions)

   ☐Yes / X No

   If no, please briefly describe the different phases of the asylum procedure in your (Member) State specifying whether in practice some of the abovementioned phases are merged/overlapping.

   See point 1.

   b) in practice, are there any differences in the division of the phases based on the different types of entry routes (i.e. land, sea, air)? For Member States implementing the **hotspot approach,** does this distinction hold in the hotspots?

   No

3. a) Does 'channelling' of specific caseloads take place in the asylum procedure of your (Member) State?

   Channelling: X Yes / ☐No

   If yes, please elaborate how the asylum procedure is organised, in relation to the single channels/tracks.

   b) Did your (Member) State introduce any changes on 'channelling' since 2014?

   If so, please describe the change(s) and intended purpose. If applicable and feasible, please also refer to findings of studies or evaluations on these changes made.

   The so-called Dublin cases are handled separately. If in the content spoken by a foreigner when accepting the application for international protection there are elements that may indicate premises for the transfer of the foreigner under the Dublin III Regulation, the Border Guard writes "D" in the foreigner's documentation file, which is information for the Office for Foreigners that the case must first be referred to the appropriate department dealing with Dublin proceedings.

4. a) Are there any national time frames/limits for each of the single phases (making, registering, lodging and examining a claim) in the context of Article 6 of the recast Asylum Procedures Directive?[32]

   X Yes / ☐No

   If yes, please describe and specify the time frames/limits for the phases applicable in your (Member) State.

   If, for reasons attributable to the Border Guard authority, it is not possible to accept the application for international protection or if the foreigner cannot appear in person at the seat of the Border Guard authority, the application for international protection is accepted and registered immediately, but not later than within 3 working days from the date of acceptance of the declaration of intention to submit such an application, and in the event of a mass influx of foreigners to the territory of the Republic of Poland in order to obtain international protection - within 10 working days.

   b) Did your (Member) State introduce any changes in the national timeframes / limits in the years since 2014?

   If so, please describe the change(s) and intended purpose. If applicable and feasible, please also refer to findings of studies or evaluations on these changes made.

   No, the terms mentioned above were introduced by an amendment to the Act on granting protection to foreigners within the territory of the Republic of Poland of 2015.

5. a) In practice, how long does the procedure take from an asylum applicant making an application to lodging the application (average days)?

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[32] Directive 2013/32/EU (NB Denmark and Ireland do not participate in the recast Asylum Procedures Directive).

As a rule, after a foreigner declares his will to submit an application, such an application is accepted immediately. A small percentage is the acceptance of the declaration and then the application. Therefore, consider that the average period in days is 0 (same day).

Table 1

Year	Average duration (days) from making to lodging a claim[33]
2014	0
2015	0
2016	0
2017	0
2018	0
2019	0

b) In practice, how long does the procedure take from lodging the application until a first instance decision is made (average days)? If information is not available, please indicate legal time limits and an indication that these are legal limits.

In case your (Member) State applies 'channelling', please specify the average time for each channel (average days; and please add additional columns in case more Channels apply). If (Member) State rather differentiates between special procedures in place (such as fast track procedures) and/or if these are interconnected with the 'channelling' please add additional columns and elaborate in a footnote what the special procedure is about – if not yet done so in Chapter 1.1)

Table 2

Year	From lodging until first time decision				
	Average days	Channel 1 (please specify)	Channel 2 (please specify)	Channel 3 (please specify)	Channel 4 (please specify)
2014	200				
2015	118				
2016	86				
2017	221				
2018	247				
2019	152				

1.2 Authorities involved in the asylum procedure

6. Which authorities are involved in and responsible for the asylum procedure from making an application to first instance decision?

Please indicate whether those authorities are legally competent for registering an asylum application or not. For those authorities which are not, please also see Section 2.1

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[33] In case there is no information on the exact average duration, please include estimates about the average duration.

Table 3

Type of Authority	Specify name of the authority involved in <u>making</u> an application	Legally competent for <u>registering</u> an asylum application (please indicate type of authority and specify name)	Legally competent for <u>lodging</u> an asylum application (please indicate type of authority and specify name)	Legally competent for <u>examining</u> an asylum application (please indicate type of authority and specify name)
Border Police	Border Guard	Border Guard	Border Guard	
Local Police				
(Branch) office for Refugees				Head of The Office for Foreigners (1st instance) Council for Refugees (2nd instance)
Ministries (Interior, Justice, etc.)				
Local Citizen's Office/Mayor of a local city/town				
(Local) immigration office				
(Shared) accommodation for refugees				
EU Agency				
International Organisation				
Detention facility				
Reception centre				
Others (please specify)				

1.3 Data collected during the asylum procedure

7. Which information is gathered during the asylum procedure at the different phases and by whom? Please, fill Table 4 below.

Table 4

1.Categories of data collected	2. In which phase(s) is this information collected? (including self-registration) - Registering (1) - self-registration (1.1) - lodging (2) - examination (3) *Please use the numbers provided for each phase to indicate the phase the data is collected. In case phases are combined in your state, please indicate it accordingly by using a dash (see example below).* *If data is re-used but not re-collected in a following phase, data is **not collected** in that phase. Therefore, **if data is not collected** in a specific phase but only re-used or not used at all, **please do not add any number for that phase.***	3. Which organization collects this information in each of the different phases? *(whenever possible please refer to the authorities listed in section 1.2*	4. How is this particular category of data /biometric data collected? - online self-registration - written questionnaire (in paper) - oral (interview, face-to-face) - oral (interview via phone/ videocall) - open source (e.g. social media) - analysing documents - analysing content of mobile devices (e.g. phones, laptops) - using automated or artificial intelligence for analysis of data - other: please specify (multiple answers possible) *If different data collection tools are used in the different phases, please specify it. If possible, please indicate if any specific technology is used in the process.*	5. Where is this particular category of data /biometric data stored? - in an electronic file - in a database - on paper	6. If applicable, please specify the name of the database(s)
Name					
- *current name*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2
- *birth name*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2
- *previous name(s)*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2
- *pen name (alias)*					

- *religious names*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU
- *other names*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU
Sex	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2
Biometric data					
- *photo*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Camera, photo taken by a forensics technician	in database (1) and on paper (2)	RPU Pobyt v.2
- *fingerprints (which fingers, rolled or pressed fingerprints)*	1 10 fingers rolled and hands pressed	Border Guard - at Border Guard posts (1, 2)	Live Scanner (in the absence of the device - ink techniqued on the dactyloscopic card)	in database (1) (on paper when ink technique is performed	Eurodac AFIS
- *iris scan*					
- *other*					
Eye colour	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Data recording by a forensics technician	in database (1) and on paper (2)	RPU Pobyt v.2
Height	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Measurement by a forensics technician	in database (1) and on paper (2)	RPU Pobyt v.2
Date of birth	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2
Citizenship(s)	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2

Country of origin	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2
Place of birth					
- *town*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2
- *region*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU
- *country*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU Pobyt v.2
- *other*					
Date of arrival in the (Member) State	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU
Last place of residence in the country of origin	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	RPU
Last place of residence before entry in the (Member) State					
Contact details					
- *phone number*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2)	in database (1) and on paper (2)	Pobyt v.2
- *email address*					
- *current address*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1,	Interview and filling out the application (1, 2); oral (interview via phone/ videocall) (3)	in database (1) and on paper (2,3)	RPU Pobyt v.2

		2); Office for Foreigners (3)			
- *other*					
Civil status	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	Pobyt v.2
Accompanied by:					
- *spouse or civil partner*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2); Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU Pobyt v.2
- *children*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU Pobyt v.2
- *parents*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU Pobyt v.2
- *other relatives*					
Family members in the (Member) State					
- *name*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
- *residency*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1,	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU

		2) ; Office for Foreigners (3)			
- *citizenship*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
- *other*					
Family members in another (Member) State	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
Close relatives in the (Member) State	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
Close relatives in another (Member) State	1/2 (combined phases);	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2) ; oral (3)	in database (1) and on paper (2,3)	RPU
Health status					
- *specifics on health status*	1/2 (combined phases)	Border Guard - at Border Guard posts (1, 2)	Interview and filling out the application - general information provided by the foreigner (1, 2)	in database (1) and on paper (2)	RPU
- *reference that a general health check has been carried out*	2	The medical entity conducting the medical examination	Medical examination performed after the application was approved	on paper in the patient's chart (2)	
- *other*					
Education					

- *school attendance*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU Pobyt v.2
- *academic studies*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU Pobyt v.2
- *trainings*	3	Office for Foreigners (3)	Oral (3)	On paper (3)	
- *apprenticeships*	3	Office for Foreigners (3)	Oral (3)	On paper (3)	
- *non-formal work experience*	3	Office for Foreigners (3)	Oral (3)	On paper (3)	
- *other*	3	Office for Foreigners (3)	Oral (3)	On paper (3)	
Language skills	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU Pobyt v.2
Profession	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU Pobyt v.2
Criminal record	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU Pobyt v.2
Financial resources					
Supporting documents					
- passport	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	Pobyt v.2 RPU

- travel document	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	Pobyt v.2 RPU
- other	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
Reasons for fleeing	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
Reasons for not wanting to be returned to the competent Member State as part of a Dublin procedure	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	
Previous applications	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	Pobyt v.2 RPU
Information on the route taken	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
Information on exclusion grounds	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
Religious affiliation	1/2 (combined phases); 3	Border Guard - at Border Guard posts (1, 2) ; Office for Foreigners (3)	Interview and filling out the application (1, 2, 3)	in database (1) and on paper (2,3)	RPU
Vulnerabilities					

- *Unaccompanied minor*	1/2 (combined phases); 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (1, 2, 3)	in database (1) and on paper (2, 3)	RPU Pobyt v.2
- *Pregnant*	2, 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (2,3)	in database (1) and on paper (2, 3)	
- *Disabilities (which?)*	2, 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (2,3)	in database (1) and on paper (2, 3)	
- *Elderly*	2, 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (2,3)	in database (1) and on paper (2, 3)	
- *Single parent with minor child(ren)*	2, 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (2,3)	in database (1) and on paper (2, 3)	
- *Victims of human trafficking*	2, 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (2,3)	in database (1) and on paper (2, 3)	
- *Mental disorders*	2, 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (2,3)	in database (1) and on paper (2, 3)	
- *Victims of torture, physical or sexual violence (female genital mutilation)*	2, 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (2,3)	in database (1) and on paper (2, 3)	
- *other*	2, 3	Border Guard - at Border Guard posts (2); Office for Foreigners (3)	Interview (2,3)	in database (1) and on paper (2, 3)	
Other (please specify)	1/2	Boredr Guard (1,2)	Filling out an application (1,2)		

Information on completed military service					

8. Has your (Member) State identified any good practice in frontloading information collected by other authorities not directly connected to the asylum procedure? If yes, please elaborate and specify in which phase does the frontloading take place.

   No.

   For each good practice mentioned, please describe a) for whom it is a good practice, b) why it is considered a good practice and c) what is the source of the statement – (please indicate sources)

1.4 Data management during the asylum procedure

9. Please fill Table 5 based on the information given in column 6 of Table 4 (filling as many rows as the databases indicated that Table).

Table 5

Database	Overview/definition of the database (please indicate whether it is a regional, national or European database).	National authorities that have access to the databases or access to its data[34]			Data shared with other Member States (apart from the data that (Member) States share through EU databases e.g. Eurostat, VIS, SIS)	
		Name of authority/ organisation	In which phase of the asylum procedure	For what purpose	Type of data	For what purpose
Pobyt v. 2	National database	Border Guard Office for Foreigners Council for Refugees Administrative Court	Registration of the application Examination of the application	Registration and examination of the application	x	x
RPU (Register of Refugee Proceedings)	National database One of the modules of the internal base of the Border Guard "Foreigners Service System"	Border Guard	Registration and examination of the application	Data registration and asylum application generation	X	Not shared

Section 2: Making an asylum application – N/A

This section requests information on asylum seekers making an asylum application to an authority that is not competent to register an asylum application.

'Making an application': The expression of intent to apply for international protection.

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[34] Please differentiate between access to database and access to data. 'Access to database' is understood as a national authority being authorised to have direct access to a database without the need to request data to be transmitted to them via other authorities or intermediaries. 'Access to data' is reserved to cases where an authority has access to data contained to a database, through transmission or sharing by another authority.

2.1 Making an application to an authority not competent to register the asylum application

If your (Member) State does not differentiate between "making an application" and "registering an application", or if these two phases are conducted concurrently, as referred to in Section 1.1, please skip and go to Section 3.

10. What information do authorities <u>who are not competent</u> to register an asylum application provide to the asylum applicants on where to go and what to do?

11. Do the authorities <u>who are not competent</u> to register any asylum application collect any data on the asylum applicant?

    ☐Yes / ☐No

    If yes, please specify which type of data is collected.

    If yes, is this data further transferred to the competent authorities?

Section 3: Registering an asylum application – N/A

'Registering an asylum application': Record the applicant's intention to seek protection.

This section requests information on the registration of asylum applications.

If the process of registering and lodging of the asylum application are conducted concurrently (according to the law or in practice) in your (Member) State, please make this clear in Section 1 and proceed by skipping this Section and going directly to Section 4. If however, registering and lodging of an asylum application are conducted separately in your (Member) State (e.g. in crisis times or regionally with regard to islands vs. main land, cities vs. rural areas, centralised vs decentralised) please proceed by answering the following questions in Sections 3 and 4.

If the process of registering, lodging and examination of the asylum application are conducted concurrently (according to the law or in practice) in your (Member) State, please make this clear in Section 1 and proceed by skipping this Section and going directly to Section 5.

*For Member States implementing **the hotspot approach,** please highlight whether there are differences in the processes applied in hotspots with regard to the standard/general asylum procedure.*

3.1 Cross checking of data collected at the registration phase

12. Against which databases at i. local/regional, ii. national, iii. European and iv. international levels is the information collected during registration cross-checked[35] (please elaborate, what the purpose is of the cross-checking and if only specific categories of data are cross-checked)?

13. Does systematic cross-checking against (i) VIS and (ii) SIS take place?

    ☐Yes / ☐No

14. What issues has your (Member) State encountered in cross-checking data collected at registration phase?
    For each issue mentioned, please describe a) for whom it is an issue, b) why it is considered an issue and c) whether the assessment that this issue based on input from experts (please indicate sources)

3.2 Information provided to asylum applicants in the registration phase

15. Are asylum applicants provided with a processing/privacy notice[36] about the personal data collected from them during the registration phase?

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[35] Purpose of cross-checking: Previous asylum applications, Prior legal residence/stay, Illegal border crossing, Illegal stay (overstay), Criminal record, Security risks, Detect counterfeit identity/travel documents, Other (please specify).

[36] The obligation to take appropriate measures to provide data subjects with a processing or privacy notice stems from Article 12 GDPR which obliges data controllers to provide "any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language." The information referred to in Articles 13 sets out the information to be provided where data has been collected from the data subject. It includes setting out the purpose of the data collected and legal basis; legitimate interests of the data controller (where this is

☐Yes / ☐No

If yes, please describe which information is provided (i.e. the purpose for which personal data from the asylum applicant is collected and on what basis, who has access to the information, data protection rights etc).

16. a) Who provides the information mentioned above (under Q15) (public authorities, international organisations, CSO - civil society organisations)?

b) How is this information provided (orally, digitally, in writing or all three)?

Please describe.

c) Where information is provided orally, is interpretation available?

☐Yes / ☐ No

d) Where information is provided digitally, is translation available?

☐Yes / ☐ No

If yes, who provides the digital information (e.g. national authorities, NGOs etc)?

e) Where information is provided in writing is translation available?

☐Yes / ☐No

If yes, who provides the translation service (e.g. national authorities, NGOs etc)?

17. Is any specific training or guidance (i.e. guidelines) provided for staff responsible for data management with regard to information collected at the registration phase?

3.3 Where self-registration procedures apply, (Member) States are asked to elaborate more on the framework and experiences.

18. Does your (Member) State have any self-registration procedures in place?

☐Yes / ☐ No

If yes, please answer questions 19-23.

If not, please move to section 4.

19. When was the self-registration procedure introduced and why?

20. Where do asylum seekers self-register (e.g. website, by phone)?

21. Are asylum seekers provided with any guidance/assistance/information on how to self-register?

If yes, please elaborate and indicate who provides this information

22. In which languages is the self-registration procedure available?

23. Is self-registration mandatory or optional?

Please elaborate.

Section 4: Lodging an asylum application

This section requests information on asylum applicants <u>lodging an asylum application</u>.

4.1 Cross checking of data collected at the lodging phase

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used as the legal base); recipients of the data or categories of data; and if the data will be transferred to a third country or international organisation. Articles 15 to 22 refer to the data subject's rights including the rights to access, rectification and erasure; the right to object (if data is being collected for certain purposes including for a task carried out in the public interest or an official function vested in the data controller or in pursuit of legitimate interests of the data controller); right to data portability etc.

24. Against which databases at i. local/regional, ii. national, iii. European and iv. international levels is the information collected during the lodging phase cross-checked (please elaborate, what the purpose is of the cross-checking and if only specific categories of data are cross-checked)?

    After submitting the application, the Border Guard checks the foreigner each time in the internal databases of the Border Guard, in the national Information System Pobyt v.2, in the National Police Information System, as well as in SIS, in VIS (both alphanumeric and biometric data) and in the database.

25. Does systematic cross-checking against (a) VIS and (b) SIS take place?

    ☒ Yes / ☐ No

26. What issues have you encountered in cross checking data collected at the lodging phase?

    For each issue mentioned, please describe a) for whom it is an issue, b) why it is considered an issue and c) whether the assessment that this issue based on input from experts - please indicate sources)

    No problems

4.2 Information provided to asylum applicants at the lodging phase

28. Are asylum applicants provided with a processing/privacy notice[37] about the personal data collected from them during the lodging phase?

    X Yes / ☐No

    If yes, please describe which information is provided (i.e. the purpose for which personal data from the asylum applicant is collected and on what basis, who has access to the information, data protection rights etc).

29. a) Who provides the information mentioned above (under Q 28) (public authorities, international organisations, CSO - civil society organisations)?

    The Border Guard gives the foreigner a relevant instruction after submitting the application for granting international protection by her/him.

    b) How is this information provided (orally, digitally, in writing or all three)?

    Please describe.

    Written information is currently available in Polish, Russian, Ukrainian and English. Translations into Spanish, Arabic, Chinese, Vietnamese are expected.

    c) Where information is provided orally, is interpretation available?

    X Yes / ☐No

    If yes, who provides the interpretation services (e.g. national authorities, NGOs etc)?

    If a given language version is not available, the information is translated by a translator appointed for the purpose of accepting the application for international protection. The costs of the interpreter are covered by the Border Guard.

    d) Where information is provided digitally, is translation available? N/A

    ☐Yes / ☐ No

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[37] The obligation to take appropriate measures to provide data subjects with a processing or privacy notice stems from Article 12 GDPR which obliges data controllers to provide "any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language." The information referred to in Articles 13 sets out the information to be provided where data has been collected from the data subject. It includes setting out the purpose of the data collected and legal basis; legitimate interests of the data controller (where this is used as the legal base); recipients of the data or categories of data; and if the data will be transferred to a third country or international organisation. Articles 15 to 22 refer to the data subject's rights including the rights to access, rectification and erasure; the right to object (if data is being collected for certain purposes including for a task carried out in the public interest or an official function vested in the data controller or in pursuit of legitimate interests of the data controller); right to data portability etc.

If yes, who provides the digital information (e.g. national authorities, NGOs etc)?

e) Where information is provided in writing is translation available? N/A

☐Yes / ☐No

If yes, who provides the translation service (e.g. national authorities, NGOs etc)?

30. Is any specific training or guidance provided for staff responsible for data management with regard to information collected at the lodging phase?

    Border Guard officers are provided with general training in this area.

Section 5: Examining an asylum application

The following sections request information on any <u>additional data collected after an asylum application is deemed to have been lodged</u> and <u>before a first instance decision is issued</u>.

5.1 Cross checking of data collected at the examination phase

31. Against which databases at i. local/regional, ii. national, iii. European and iv. international levels is the information collected during the examination phase cross-checked (please elaborate, what the purpose is of the cross-checking and if only specific categories of data are cross-checked)? N/A

32. Does systematic cross-checking against (a) VIS and (b) SIS take place?

    ☐Yes / ☒ No

33. What issues has your (Member) State encountered in cross checking data collected at the examination phase? N/A

    For each issue mentioned, please describe a) for whom it is an issue, b) why it is considered an issue and c) whether the assessment that this issue based on input from experts (please indicate sources).

5.2 Information provided to asylum applicants at the examination phase

34. Are asylum applicants provided with a processing/privacy note[38] about the personal data collected from them during the examination phase?

    ☐Yes / X No

35. If yes, please describe which information is provided (i.e. the purpose for which personal data from the asylum applicant is collected and on what basis, who has access to the information, data protection rights etc). a) Who provides the information mentioned above (under Q 34) (public authorities, international organisations, CSO - civil society organisations)? N/A

    b) How is this information provided (orally, digitally, in writing or all three)?

    Please describe.

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[38] The obligation to take appropriate measures to provide data subjects with a processing or privacy notice stems from Article 12 GDPR which obliges data controllers to provide "any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language." The information referred to in Articles 13 sets out the information to be provided where data has been collected from the data subject. It includes setting out the purpose of the data collected and legal basis; legitimate interests of the data controller (where this is used as the legal base); recipients of the data or categories of data; and if the data will be transferred to a third country or international organisation. Articles 15 to 22 refer to the data subject's rights including the rights to access, rectification and erasure; the right to object (if data is being collected for certain purposes including for a task carried out in the public interest or an official function vested in the data controller or in pursuit of legitimate interests of the data controller); right to data portability etc.

c) Where information is provided orally, is interpretation available?

☐Yes / ☐No

If yes, who provides the interpretation services (e.g. national authorities, NGOs etc)?

d) Where information is provided digitally, is translation available?

☐Yes / ☐No

If yes, who provides the digital information (e.g. national authorities, NGOs etc)?

e) Where information is provided in writing is translation available?

☐Yes / ☐No

If yes, who provides the translation service (e.g. national authorities, NGOs etc)?

36. Is any specific training or guidance provided for staff responsible for data management with regard to information collected at the examination phase?

    All persons responsible for the processing of personal data (including data relating to international protection) are trained in their protection.

Section 6: Data quality and safeguards [max 4 pages]

The following sections request information on how data quality is managed and the safeguards that (Member) States apply.

6.1 Data quality management

37. Is the quality of (at least some categories of) data (alphanumeric and biometric) collected during the asylum procedure assessed (e.g. with regard to accuracy, timeliness, completeness, consistency, duplication and validity of the data)?

    ☐Yes / X No

    If yes, please elaborate on some contrasting[39] examples of data quality assessment and indicate:

    a) In which phase(s) of the asylum procedure is the quality of data assessed (quality assessment)?

    b) How (specific tools)[40] and by whom (centralised/decentralised) is the quality assessment carried out?

    c) If decentralised, how is it ensured that the other actors get to know about data amendments and changes?

38. Do quality assessment measures only apply retroactively? Yes/No.

39. Are any preventative measures in place to get the information right at the very beginning? Yes/No. If yes, which safeguards are in place? No.

6.2 Safeguards

40. Describe the supervision mechanism for data protection supervision of the personal data collected during the asylum procedure in your Member State.[41]

    Please find enclosed policy of data protection of Border Guard.

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[39] It will not be feasible to elaborate on all data quality assessment measures for each type of data collected which is why we are asking for contrasting examples where different types of quality assessment measure (e.g. tools, technical equipment, data analytics etc.) apply.

[40] E.g. name transliteration, screening for duplicates against data already stored in the database, automated data quality checks, data analytics, artificial intelligence.

[41] The question does not refer to the legal framework but to how a data protection authority in a Member State supervises the implementation of that legal framework (what are the structures in place in your Member State to ensure the data subject's data protection rights are being ensured).

41. Have (national) data protection authorities or similar entities assessed any of the databases described above?

    ☐Yes / X No

    If yes, please specify the relevant authorities, briefly describe what conclusions have they drawn, including whether such conclusions have led to changes in data management. *Please indicate sources and whether there are any published reports or audits available on these inspections..*

42. How is it arranged in practice the manner in which the rights of asylum applicants in relation to access, rectification and erasure of their data stored in the national systems are exercised? *Please provide available statistics concerning the number of requests made by asylum applicants, if any.*

    The foreigner has the right to submit an application to correct the data.

Section 7: Responding to challenges in data management: recent reforms to the asylum procedure

7.1 Challenges and changes/reforms in data management

43. Has your (Member) State experienced any of the following challenges related to data management in the past years (since 2014)?

    Please elaborate **on each of the selected challenges**, mentioning: a) for whom it is a challenge (policy-maker, organisation, other stakeholders); b) why it is considered a challenge; and c) how was it identified as a challenge (e.g. surveys, evaluation reports, focus groups, experts opinions etc).

    ☐Lack of human or financial resources

    ☐Self-registration

    ☐Legal obstacles

    ☐Cooperation between national authorities

    ☐Interoperability of databases

    ☐Technical limitations in data processing

    X Implementation of Eurodac and/or GDPR regulation

    ☐Lack of training/information

    ☐Transliteration (e.g. Arabic to Latin or other alphabets)

    ☐Other (please specify):

44. Did your (Member) State introduce any major change(s)/reform(s) related to data management in the past years (since 2014)?

    ☒ Yes / ☐ No

    If yes, please describe those changes and why they were made.

    If not, please move to Q48.

    Adjustment of the rules for the processing of personal data to the requirements of the GDPR Regulation on the protection of personal data - including the introduction of an obligation to inform the persons whose data is processed about the rules for the processing of personal data.

45. Have any of the abovementioned changes become standard operating procedure in your (Member) State?

    ☒ Yes / ☐ No

    Please elaborate

The GDPR Regulation

46. Were any of these changes/reforms related to data management introduced due to the introduction of 'channelling'?

    ☐Yes / ☒ No

    If yes, please elaborate.

47. Did the reforms introduced achieve the intended results? Why? N/A
    Please elaborate and explain why the reform(s) achieved/did not achieve the intended results.

48. Would your (Member) State consider this reform (s) as a good practice? N/A

    Please elaborate and explain why your (Member) State considers/ does not consider the reform(s) a good practice. In particular, please mention whether any of those reform(s) are believed to have improved the quality of the asylum procedure.

49. Have any on-going (unaddressed) challenges related to data management in the asylum procedure been identified in your (Member) State?

    ☐Yes / X No

    If yes, please elaborate.

    If yes, is your (Member) State taking any steps to address these challenges?

7.2 Contingency measures

50. Are there any contingency measures in place to accelerate and/or ease the process in times of high influx of asylum seekers with regard to data management?

    If yes, please describe those measures.

    No, Poland has never experienced a large influx of asylum seekers.

Section 8: Conclusions [max 2 pages]

This section of the Synthesis Report will draw conclusions as to the (Member) States' existing policies, practices and case law related to the registration and data management in the asylum procedure.

With regard to the aims of this study, what conclusions would you draw from your findings reached in elaborating your national contribution? In particular, what is the relevance of your findings to (national and/or EU level) policymakers?

Russia, Ukraine and Tajikistan are the 3 countries from which the most applications for international protection in Poland originate. Russians of Chechen nationality submit the most applications. Poland is characterized by low recognition - international protection is granted to approx. 7% of people who submitted applications. This is probably one of the reasons for the falling number of applications for protection. In 2015, there were 12,325 applications submitted, in 2017 - 5,078, and in 2019 only 4,096. The COVID-19 pandemic caused a further reduction in the interest of applicants in Poland. A positive phenomenon is the shortening of the period for processing applications by the Office for Foreigners - in 2018 it was 247 and in 2019 it was already 152.

Data management as part of the asylum prcedure, i.e. all operations carried out on data or data files in an automated or other way, e.g. collecting, recording, storing, downloading, using, disclosing by sending, distributing or deleting is not common in Poland. Cross-checking of data understood as checking foreigner's data in various databases takes place only at the stage of formal application submission and is carried out by the Border Guard. When accepting the application, the Border Guard each time checks the foreigner in the internal databases of the Border Guard, in the national Information System Pobyt v.2, in the National Police Information System, as well as in SIS, in VIS (both alphanumeric and biometric data) and in the database

Interpol I-24/7. There is "channeling" in the area of data management – tah Dubline procedure's cases are handled separately. Data on the number and nationality of applicants for international protection as well as on the number of positive and negative applications are processed by the Office for Foreigners. On their basis, reports are prepared as well as publicly available studies, thanks to which one can obtain detailed information on statistics concerning international protection in Poland.

When it comes to the protection of personal data, the foreigner gets acquainted with information about it in writing. The information is available in Polish, Russian, Ukrainian and English. If a given language version is not available, the information is translated by the translator appointed for the purpose of accepting the application for international protection. The costs of the interpreter are covered by the Border Guard.

A kind of challenge that Poland has faced in the last 6 years has been to adapt the rules of personal data processing to the requirements of the GDPR Regulation on the protection of personal data - including the introduction of an obligation to inform about the rules for the processing of personal data of persons whose data is processed. However, it did not concern the change of the "channeling" system and it covered all institutions in Poland that processed personal data. Currently, no challenges have been identified with the management of data in the international protection procedure. Due to the decreasing number of applications for protection, no changes to the procedures in the analysed scope are expected.

Annex 1 National statistics

Please fill in the attached excel sheet with the respective statistics for your (Member) State – provided in a separate Excel file. The Statistical Annex consists of the following:

Annex 1.1. Number of registrations of asylum applications

data
management_statistic