



St. Gallen, 23 March 2020

Press Release on the first year of the new Asylum Act

Asylum: Federal Administrative Court largely complying with new time limits

In the first year of the new Asylum Act, the Federal Administrative Court complied with the statutory time limits for processing applications for asylum in 70 per cent of cases. In a further 20 per cent of cases, the time limit was only exceeded by a few days. 15 per cent of the appeals which had to be dealt with in accordance with the new asylum legislation were referred back to the State Secretariat for Migration (SEM) by the court for re-assessment.

The new Asylum Act entered into force on 1 March 2019. It stipulates that a large proportion of all asylum applications are to receive a legally enforceable ruling within 140 days (accelerated procedure or Dublin procedure). If further investigations are required, the asylum seekers are allocated to the cantons (extended procedure).

Complying with the time limits a top priority

The Federal Administrative Court (FAC) has five working days to process decisions to dismiss an application (particularly under the Dublin procedure) or for asylum seekers from safe countries of origin. Under the accelerated procedure, the FAC can take 20 calendar days and the legislator has established that the time limit can be exceeded by a few days for valid reasons (Art. 109, Para. 3, AsylA). In the first year of the new provisions, the court complied with the five-day time limit in over 70 per cent of cases (425 cases). In a further 20 per cent of cases, the time limit was exceeded by a few days (107 cases). The 20-day time limit (accelerated procedure) was complied with in 75 per cent of cases and the limit was only exceeded by a few days in 8 per cent of cases. The number of extended procedures remained low.

Complying with the short statutory time limits is a top priority at the FAC. The time limits apply from the date of receipt of the appeal and the circulation periods in the rulings panel have been reduced to one to three days for this procedure. The Act stipulates that cases are to be allocated to the extended procedure as soon as further investigations are required.

More referrals back to SEM

The referral rate for procedures under the new asylum legislation came to 15 per cent in the period from 1 March 2019 to 28 February 2020, in comparison to 6.5 per cent for “old cases”. In the vast majority of cases where rulings were reversed, the reason given was that SEM had not sufficiently established the facts. This primarily related to the grounds for asylum. The second most common reason was that SEM had not sufficiently investigated asylum seekers’ medical problems.

Between 1 March 2019 and 29 February 2020, the FAC dealt with a total of 4,286 asylum cases, of which 3,057 were completed in accordance with the old law and 1,051 with the new law, 29 in the context of the procedure at the airport, and 149 special procedures (reviews, re-examinations).

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About the Federal Administrative Court

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 355 employees (300.8 FTE) and its 74 judges (66.25 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 7,500 judgments every year.