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## **2025.64 Preliminary decision procedures in asylum applications**

**European Migration Network  
Ad-hoc query**

**December, 2025**

# AD-HOC QUERY ON 2025.64 PRELIMINARY DECISION PROCEDURES IN ASYLUM APPLICATIONS

REQUESTED BY EMN NCP NETHERLANDS ON 31 OCTOBER 2025

**Exported for:** Unrestricted Dissemination

**Responses from:** EMN NCP Austria, EMN NCP Belgium, EMN NCP Bulgaria, EMN NCP Croatia, EMN NCP Cyprus, EMN NCP Czech Republic, EMN NCP Estonia, EMN NCP Finland, EMN NCP France, EMN NCP Germany, EMN NCP Greece, EMN NCP Hungary, EMN NCP Italy, EMN NCP Latvia, EMN NCP Lithuania, EMN NCP Luxembourg, EMN NCP Netherlands, EMN NCP Poland, EMN NCP Slovakia, EMN NCP Slovenia, EMN NCP Spain, EMN NCP Sweden **(22 in total)**

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## BACKGROUND INFORMATION

The Dutch government is currently reviewing its asylum procedures, as part of the implementation of the Pact on Asylum and Migration. One of the adaptations in the legislative proposals implementing the Pact contains the discontinuation of the 'preliminary decision procedure' in asylum applications. In this procedure, in cases where it intends to reject the application, the Immigration and Naturalisation Service (IND) gives a pre-notification of the intended decision to the applicant. This is a procedural step before the formal decision on the asylum application is taken. The asylum applicant is given the possibility to respond to the intended decision of the IND, before a final decision will be taken.

The legislative proposal is currently under revision at the Council of State. This judiciary advisory body advises the government on legislative proposals, before the proposal will be submitted to the Parliament. The Council of State has requested the ministry to

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draft a response regarding the discontinuation of the preliminary decision procedure, in which the ministry is asked to focus on potential similar procedures in other EU Member States as well as potential opportunities in other Member States for asylum applicants to object to a first instance (negative) decision before the applicant can file an administrative judicial appeal at the court.

The information of this query will be used as part of the official response of the Ministry of Asylum and Migration to the Council of State. Therefore, the deadline of this query will be shortened to 2 weeks in order for the ministry to include this query in their response. This shortened deadline has been approved by the AHQ WG co-chair.


### WE WOULD LIKE TO ASK THE FOLLOWING QUESTIONS:

We would very much appreciate your responses by **14 November 2025**.



1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO  
If YES, please explain.
2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.

### RESPONSES


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		<b>Unrestricted Dissemination ?</b>	
	<b>EMN NCP Austria</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>Austria currently has a so-called admission procedure, which primarily serves to clarify the admissibility of the application and Austria's jurisdiction. If, based on the findings of the investigation, the authorities intend to reject or dismiss the application during the admission procedure, the person concerned will be notified of the intended decision and given the opportunity to be heard. The rules are currently set out in Art. 28 and 29 Asylum Act 2005. As a rule, however, the authority's decision—provided that Austria's jurisdiction is assumed—is only issued after the procedure has been admitted, after further investigations have been carried out, and without prior notification.</p> <p>With the implementation of the Asylum and Migration Pact, the admission procedure in this form will be abolished, as it is no longer provided for in the Procedural Regulation in this form.</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p>



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			<p>No. ---</p> <p>Source: Ministry of the Interior</p>
	<b>EMN NCP Belgium</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>NO. After examination of the file, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) takes a decision immediately. There is no preliminary decision procedure.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>NO. The only way asylum applicants can object to a first instance negative decision, is through judicial appeal at the court.</p>
	<b>EMN NCP Bulgaria</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES,</p>



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			<p>please explain.</p> <p>No</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No</p>
	<p><b>EMN NCP Croatia</b></p>	<p><b>Yes</b></p>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>NO.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>NO.</p>



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	<p><b>EMN NCP Cyprus</b></p>	<p><b>Yes</b></p>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No</p>
	<p><b>EMN NCP Czech Republic</b></p>	<p><b>Yes</b></p>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>NO.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p>


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			NO.
	<b>EMN NCP Estonia</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>Yes, the applicant is given a possibility to provide his or her objections before the negative decision is taken.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No.</p>
	<b>EMN NCP Finland</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No.</p>



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			<p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No. The applicant can object the decision by going through court procedures.</p>
	<b>EMN NCP France</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>NO.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>NO.</p>
	<b>EMN NCP Germany</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p>


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			<p>NO. Although this is generally provided for under German law (sec. 28 Administrative Procedures Act (VwVfG)), it is not applicable to asylum law, as the asylum law (lex specialis) has specific regulations regarding the right to be heard.</p> <p>The opportunity to respond is therefore provided in the form of the personal interview on his or her application for international protection.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>NO. Generally, Germany provides for this procedure under German law, however sec. 11 of the Asylum Act (lex specialis) stipulates that there shall be no right to object to a first instance negative decision of the asylum authority before the administrative judicial appeal at the court.</p>
	<p><b>EMN NCP Greece</b></p>	<p align="center"><b>Yes</b></p>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an</p>



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			<p>administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No.</p>
	<b>EMN NCP Hungary</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No</p>
	<b>EMN NCP Italy</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>NO. Under the Italian legal system, within the international protection procedure, there is no</p>


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			<p>preliminary decision allowing the applicant to respond to a negative first-instance outcome before a final decision on the application is issued. Indeed, unlike what is generally provided for in administrative procedures (Law No. 241/1990), in the field of international protection Italian law does not require the Territorial Commission for the Recognition of International Protection (i.e., the authority deciding at first instance) to notify the applicant in advance of an intention to reject the application (Article 18 of Legislative Decree No. 25/2008).</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>NO</p>
	<p><b>EMN NCP Latvia</b></p>	<p><b>Yes</b></p>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No. There is no such kind of provision in the national legal acts or in practice and for the current moment it is not foreseen to introduce that.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p>


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			No. There is no such kind of provision in the national legal acts and for the current moment it is not foreseen to introduce that.
	<b>EMN NCP Lithuania</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No</p>
	<b>EMN NCP Luxembourg</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No, Luxembourg does not have a procedure similar to a preliminary decision procedure before a final decision on an asylum application is taken.</p>



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			<p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>Yes. In Luxembourg, asylum applicants have the possibility to submit, via their lawyer, a non-judicial administrative appeal, called a "recours gracieux", against a first-instance negative decision issued by the General Department of immigration. This recours gracieux allows the applicant to request the same authority that made the decision to reconsider or revoke it, for instance if new facts or evidence become available or if the applicant believes an error occurred in the initial assessment. However, this procedure is optional and non-suspensive — meaning that lodging a recours gracieux does not suspend the time limit for filing a judicial appeal before the Administrative Tribunal. Therefore, an applicant who wishes to challenge the negative decision before a court must still file the judicial appeal within the legal time limit (usually one month from notification), regardless of whether a recours gracieux has been submitted.</p>
	<p><b>EMN NCP</b> <b>Netherlands</b></p>	<p><b>Yes</b></p>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>YES. The Netherlands has a preliminary decision procedure. The Immigration and Naturalisation Service (IND) gives a pre-notification of the intended decision the IND will make on an asylum application. This procedure is a step before an official decision on the asylum application is taken. This way, the asylum applicant has the possibility to respond to the intended decision of the IND, before a final decision has been made. The IND can decide</p>



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			<p>whether the response to the intended decision leads to an alternative final decision on the application.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>NO.</p>
	<p><b>EMN NCP Poland</b></p>	<p><b>Yes</b></p>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>YES, Pursuant to the Polish Code of Administrative Procedure, in proceedings initiated at the request of a party, when informing the party of the opportunity to comment on the evidences and materials collected and the requests submitted, the public administration body is obligated to indicate the conditions that have not been met or demonstrated by the applicant which may result in the negative decision. This notification is sent to the applicant or his legal representative before the issuance of the administrative decision concluding the proceedings.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p>

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			<p>YES, Under Polish asylum law, decisions of the first-instance authority (the Head of the Office for Foreigners) may be appealed to the second-instance administrative authority (Refugee Board). According to the current law, administrative decisions of the Refugee Board may be appealed to an administrative court.</p>
	<b>EMN NCP Slovakia</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No.</p>
	<b>EMN NCP Slovenia</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p>

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			<p>No.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No.</p>
	<b>EMN NCP Spain</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p> <p>No.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>No.</p>
	<b>EMN NCP Sweden</b>	<b>Yes</b>	<p>1. Does your country have a preliminary decision procedure (or any other procedure) that allows the applicant to respond to the intended first instance (negative) decision of the competent authority before a decision on an asylum application is made? YES/NO If YES, please explain.</p>

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			<p>NO.</p> <p>2. Does your country have a procedure in place for asylum applicants to object to a first instance (negative) decision of competent asylum authorities before the applicant can start an administrative judicial appeal at the court? YES/NO. If YES, please explain.</p> <p>The procedure we have is within the same process, the appeals process. The appeals process starts when an appeal is submitted to the Swedish Migration Agency (first instance). The responsibility of the Migration Agency is to assess whether the appeal has been submitted within the time limit to appeal and if the first instance decision should be re-examined. Reasons for re-examination is if the first instance decision is not correct because of new circumstances or for other reasons. If the appeal was submitted in time and there are no reasons for re-examination the appeal will be handed over by the Migration Agency to the Migration Court. The Court will then carry on the process, the court process.</p>
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