



Common European Asylum System State of play

Constança Urbano de Sousa
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Common European Asylum System

- The completion of the Common European Asylum System by 2012 - key objective of the EU
- Adopted instruments
 - Regulation (EU) No 439/2010 of 19 May 2010 establishing a European Asylum Support Office (EASO) – operational since spring 2011;
 - Directive 2011/51/EU of 11 May 2011 (extension of the Directive 2003/109/EC – long term residence status to beneficiaries of international protection);
 - Qualification Directive (Directive 2011/95/EU of 13 December 2011);
 - Joint EU Resettlement Scheme (Decision 281/2012/EU of 29 March 2012 amending Decision No 573/2007/EC establishing the ERF)
- 4 outstanding files
 - Recast for the Reception conditions directive
 - Recast for the Asylum procedures directive
 - Recast for the Dublin Regulation
 - Eurodac regulation (December 2008 proposal; September 2009 amended proposal; October 2010 amended proposal).

EASO

- Main tasks:
 - develop practical cooperation among MS on asylum, by facilitating exchange of information on countries of origin, by providing MS with support for translation and interpretation, training of asylum officials;
 - support MS under particular pressure, in particular through the establishment of an early warning system, coordinating teams of experts to assist them in managing asylum applications and in putting in place appropriate reception facilities; assisting in the relocation of beneficiaries of international protection;
 - contribute to the implementation of the Common European Asylum System by collecting and exchanging information on best practices, drawing up an annual report on the asylum situation in the EU and adopting technical documents, such as guidelines and operating manuals, on the implementation of the Union's asylum instruments.
- Organisation
 - Management Board: planning and monitoring authority; composed by 1 representative of each MS and 2 of the COM;
 - Executive Director (Robert Visser), appointed by the Management Board, is in charge of the day-to-day management of the agency and acts as its legal representative;
 - May set up working parties composed of experts in the field of asylum.
 - EASO established consultative forum to maintain a close dialogue with civil society and competent bodies operating in the field of asylum policy at national, European and international level.

Directive 2011/51/EU of 11 May 2011

- Extension of the long term residence status Directive (2003/109/EC) to beneficiaries of international protection;
- Special provisions:
 - (art. 4 (2): Calculation of the 5 years period ‘Regarding persons to whom international protection has been granted, at least half of the period between the date of the lodging of the application for international protection on the basis of which that international protection was granted and the date of the grant of the residence permit referred to in Article 24 of Directive 2004/83/EC, or the whole of that period if it exceeds 18 months, shall be taken into account in the calculation of the period referred to in paragraph 1.’;
 - (art 12 (3.a, 3.b.):
 - Where a MS decides to expel a refugee residing in its territory as a long term resident, the other MS which granted international protection to him/her shall immediately readmit, without formalities, that beneficiary and his/her family members.
 - By way of derogation from paragraph 3b, the Member State which adopted the expulsion decision shall retain the right to remove, in accordance with its international obligations, the long-term resident to a country other than the Member State which granted international protection where that person fulfils the conditions specified in Article 21(2) of Qualification Directive 2011/95/EU (there are reasonable grounds for considering him or her as a danger to the security of the Member State in which he or she is present; or he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that Member State.

Reception conditions directive

- December 2008 proposal; June 2011 amended proposal
- On 21 March 2012, the COREPER mandated the Presidency to initiate negotiations with the EP on the recast for the Reception Conditions Directive;
- Main open/difficult questions
 - Grounds for detention – Article 8
 - Some MS wants to add situations where an asylum application is put forward as a mean to avoid to avoid the execution of a return decision;
 - Access to the labour market – Article 15
 - Many MS don't accept the obligation to ensure access to the labour market after 6 months following the date when the asylum application was lodged.

Asylum procedures directive

- October 2009 proposal; June 2011 amended proposal;
- Ongoing discussions in the Council;
- Several open issues, such as
 - applicants with special procedural needs (art. 2 d);
 - an applicant who due to age, gender, sexual orientation, gender identity, disability, serious physical illness, mental illness, post traumatic disorders or consequences of torture, rape or other serious forms of psychological, physical or sexual violence is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive;
 - Persons with special needs should primarily be supported through procedural guarantees or through social assistance?;
 - sexual orientation or gender identity – sufficient grounds for entitlement to special procedural guarantees?
 - exemption of unaccompanied minors from certain procedures art. 25 (6)) ;
 - Denial of free legal aid if the appeal is considered to have no tangible prospect of success (art. 20(3));
 - Extension of the time limit for the examination, when the applicant doesn't comply with her/his cooperation obligations (art. 31 (6))
 - Application of safe third country rules (art. 33 (2) and 38)
 - Border procedures (art. 43)
 - right to an effective remedy; right to remain in the territory during the appeal procedure (art 46(5) (6)).

Recast for the Dublin Regulation

- December 2008 proposal;
- On 4 April 2012, the COREPER mandated the Presidency to conduct negotiations with the EP.
- Main issues
 - Definition of family members – Article 2
 - Family of the applicant (core family)
 - Relative of the unaccompanied minor (adult aunt/uncle and grandparent); art. 8
 - Relation – dependent applicants – child, sibling, parent (art. 11)
 - Remedies – appeal against the transfer decision (Article 26)
 - Council: no general rule on suspension of transfers during appeals
 - Suspension mechanism- Article 31
 - Council: mechanism for early warning, preparedness and crisis management
 - When the application of the Dublin Regulation may be jeopardised due to a risk of particular pressure on a MS asylum system or because of problems in the functioning of the asylum system of a MS, the MS
 - shall draw up a **preventive action plan** and may call for the assistance of the COM, other MS, EASO and other relevant Agencies (upon its own discretion or on a recommendation of COM in cooperation with EASO)
 - Where the COM establishes on the bases of EASO analysis that the implementation of the preventive action plan has not remedied the deficiencies or where there is a serious risk of an asylum crisis – MS elaborates on the request of the COM and in cooperation with COM and EASO a crisis management action plan

Recast for the Eurodac Regulation

- December 2008 proposal;
- September 2009 amended proposal: introduction of a bridging clause to allow access for law enforcement purposes
- October 2010 amended proposal: withdraw the provisions referring to the access for law enforcement purposes (COM wanted to enable a swift conclusion of the negotiations)
- Negotiations remain on hold due to the fact that almost all MS continue to support the inserting of provisions enabling them to allow their law enforcement authorities' access to the EURODAC central database under strict conditions on data protection for the purposes of fighting terrorism and organised crime.