



# **SCREENING SERBIA**

## **Analytical examination of the acquis**

### **Chapter 24: Justice, freedom, security**

#### **Common European Asylum System**

**Brussels, 4 October 2013**



# History

## **1999 – European Council in Tampere**

- Creation of a common asylum policy & establishment of a Common European Asylum System (CEAS)  
*first set of standards established by 2004 (1<sup>st</sup> phase)*

## **2004 – The Hague Programme**

- establishment of a common asylum procedure & uniform protection status
- development of practical cooperation & external dimension  
*measures adopted by 2010*

## **2010 – Stockholm Programme**

- confirms objectives of The Hague Programme
- establishment of a common procedure & uniform status
- enhanced solidarity





## **CEAS is built on three pillars**

### **(1) Legislation:**

create a level playing field in asylum  
across the EU

### **(2) Practical cooperation:**

harmonise practices of national  
administrations

### **(3) External dimension:**

develop capacity and increase solidarity  
vis-à-vis third countries





## **LEGISLATION:**

### **Reception Conditions Directive**

Directive 2003/9/EC

- > to establish minimum standards for the reception of asylum seekers that will normally suffice to ensure them a dignified standard of living and comparable living conditions in all Member States
- **housing, food, clothing, financial allowances and proper healthcare for asylum seekers**
- **access to the labour market after 12 months**
- **information on organisations that could provide relevant assistance**

specific provisions for particularly vulnerable applicants such as minors, unaccompanied children, pregnant women and victims of torture and violence.





## **LEGISLATION:**

### **Qualification Directive**

Directive 2004/83/EC

- > specifies who should be recognised as a refugee or as a beneficiary of subsidiary protection as a result of persecutions or serious harm suffered in the country of origin as well as who does not deserve protection because they have committed serious crimes
- **refugee > Geneva Convention**
- **person eligible for subsidiary protection > a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm**



**LEGISLATION:**  
**Qualification Directive**  
Directive 2004/83/EC

- > establishes minimum standards on protection from refoulement, information, maintaining family unity, residence permits, travel documents, access to employment, access to education, social welfare, healthcare, access to accommodation, freedom of movement





**LEGISLATION:**  
**Asylum Procedures Directive**  
Directive 2005/85/EC

- > establishes same minimum standards for procedures for granting and withdrawing asylum status at first instance
- **opportunity of a personal interview, comprehensive information about the procedure at the very initial stage of the process**
- **a motivated decision on the asylum claim**
- **access to an effective remedy before a court or tribunal**
- **special needs of unaccompanied children**





## LEGISLATION

### Dublin Regulation and EURODAC Regulation

- > **Dublin Regulation:** determines which Member State is responsible for examining an asylum application lodged in one of the MS on the basis of a set of objective criteria
- > **EURODAC Regulation:** database containing asylum seekers fingerprints to support the operation of the Dublin Regulation







## Practical cooperation

Approximation of legislation not enough to guarantee protection equality:  
national practices in force need to be harmonised

Creation of the **European Asylum Support Office** (EASO), situated in  
Malta, operational since June 2011

- > support practical cooperation on asylum;
- > support for Member States under particular pressure;
- > contribute to the implementation of CEAS





## **PRACTICAL COOPERATION:** **EASO**

### (1) Support practical cooperation on asylum

- > exchange of information and best practice between Member States
- > promote and coordinate activities on countries of origin information
- > establish and develop training on asylum (European Asylum Curriculum)





## **PRACTICAL COOPERATION:** **EASO**

(2) Support Member States under particular pressure

- > EASO coordinates the deployment, for a limited time, of one or more asylum support teams in the territory of a Member State or States subject to particular pressure that so requests;
- **The asylum support teams provide in particular expertise on interpreting services, information on the countries of origin and knowledge of the handling and management of asylum cases**
- > EASO coordinate relocation activities: voluntary transfers of beneficiaries of protection between Member States





## **PRACTICAL COOPERATION:** **EASO**

### (3) Contribution to the implementation of CEAS

- > organise, coordinate and promote the exchange of information between national asylum authorities, and between the Commission and national asylum authorities.
- > create factual, legal and case-law databases on national, European and international asylum instruments.
- > gather information on national legislation and legislative developments in the field of asylum, including case-law.
- > annual report on the situation of asylum in the EU





## **External dimension - Resettlement**

- *Concept: Resettlement is considered a permanent and durable solution, with refugees being transferred from a country of temporary stay to a third country that agrees to provide them protection, with no intention of returning to the country of origin. It is one of three durable solutions UNHCR is mandated to implement, along with voluntary return and local integration*
- *Purpose: Instrument to meet protection needs of refugees in third countries and to show solidarity with third countries of first asylum*
- *Definition under the voluntary Joint EU Resettlement Programme established for 2013 under the European Refugee Fund (ERF): Resettlement means the process whereby, on a request from UNHCR based on a person's need for international protection, third-country nationals or stateless persons are transferred from a third country to a MS where they are permitted to reside with one of the following statuses: (i) refugee status within the meaning of Article 2(d) of Directive 2004/83/EC, or (ii) a status which offers the same rights and benefits under national and Community law as refugee status.*
- *Outlook on humanitarian admission and resettlement under the future Asylum, Migration, and Integration Fund (AMF)*



## **New challenges: second stage of CEAS**

- > Evaluation of first phase legislation showed shortcomings in protection and divergent application in MS
- > Lisbon Treaty: beyond minimum standards
- > December 2011: Adoption of the recast Qualification Directive
- > June 2013: Adoption of the recast Reception Conditions Directive, Asylum Procedures Directives, Dublin Regulation, EURODAC Regulation





## Dublin system – amendments

### Three main objectives:

- > increasing the system's **efficiency** in order to facilitate its application by Member States;
- > ensuring **higher standards of protection** for the asylum-seekers falling under the Dublin procedure and facilitate family reunification;
- > contributing to **reinforce the solidarity** towards those Member States faced with situations of particular migratory pressure

More efficient use of EURODAC database and better norms on data protection





## Reception Conditions Directive - amendments

- > establish clear rules on detention: only used in exceptional well defined cases and never for minors, unless in their best interest;
- > better address the needs of vulnerable groups and guarantee appropriate treatment;
- > guarantee an adequate level of material reception conditions;
- > facilitate access to the labour market







## **Qualification Directive – amendments**

Directive 2011/95/EU – to be implemented by end 2013

- > clarify certain legal concepts such as "actors of protection" or "internal protection" used to define the grounds for protection, thus enabling decision-makers throughout the EU to apply the criteria consistently;
- > eliminate the differences between the rights of refugees and beneficiaries of subsidiary protection which are not objectively justified;
- > facilitate the recognition of qualifications, access to vocational training and employment as well as to integration facilities





## Asylum Procedures Directive - amendments

- > streamline examination process: general time limit of six months for completing procedures at first instance (with possibility of extension);
- > improve quality of asylum decisions;
- > increase procedural guarantees for vulnerable persons such as victims of torture or unaccompanied children;
- > facilitate access to effective remedy





*Thank you!*

