

THE EUROPEAN ASYLUM SUPPORT OFFICE (EASO) CLOSING THE PROTECTION GAP IN EUROPE?

AMNESTY
INTERNATIONAL



Since 1999, efforts have been underway to harmonize asylum policies in the European Union (EU) and fully realize a Common European Asylum System (CEAS). There has been some progress with the adoption of a first package of asylum measures setting out common minimum standards and with a number of practical cooperation measures, such as the adoption of a common approach to country-of-origin information and the establishment of a common European Asylum Curriculum. However, despite practical cooperation and greater convergence in the asylum laws of the member states, there are still wide gaps between member states in the recognition rates of refugees, reception conditions and procedural guarantees available to asylum-seekers.

The proposal to establish an EASO was made by the Commission in 2009 after the idea to have a dedicated structure to support and coordinate all forms of cooperation between member states relating to asylum was advanced by the European Council in the 2004 Hague Programme. The office is to be based in Malta.

OBJECTIVE AND TASKS OF THE EASO

The purpose of the EASO is three-fold:

1. Contributing to the implementation of the CEAS
2. Supporting the practical cooperation among member states on asylum
3. Supporting member states whose asylum systems are under particular pressure

The EASO does not have any power or influence in the decisions taken in member states on individual asylum applications.

Asylum seekers from Afghanistan in an improvised shop in the Pashtun camp known as the 'Jungle' which is home to hundreds of migrants camped in makeshift huts in sand dunes near the port of Calais

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MAJOR TASKS OF THE EASO INCLUDE:

- Complementing and contributing to the Commission's mandate in monitoring correct implementation of the EU asylum acquis
- Creating databases to gather information on human rights and security situations in third countries, developments in International and European human rights, refugee and asylum law and processing of asylum applications
- Drafting of reports on countries-of-origin and developing a common format and methodology for these reports
- Supporting member states who are faced with particular pressure on their asylum and reception systems by facilitating and coordinating exchanges of information on relocation within the EU, deploying an 'Asylum Support Team' with necessary expertise to assist the national system, in cooperation with the UNHCR, and coordinating reception facilities to be made available (accommodation, transport and medical assistance)
- Coordinating exchanges of information and other action regarding resettlement from third countries, as well as assisting third countries in asylum capacity building
- Providing training to relevant national services on both legal and practical asylum matters.



ROLE OF EXECUTIVE DIRECTOR AND NGOS

The EASO consists of a Management Board - with representatives of the member states, the Commission and the UNHCR as a non-voting member - an Executive Director and an Executive Committee, advising the Executive Director. There is also a Consultative Forum where NGOs and civil society institutions are represented. The EASO can set up working parties composed of experts including judges, the Commission and UNHCR representatives. Working parties play a central role in analysis of country-of-origin information, as well as in the technical documents on the implementation of the EU asylum instruments.

INVOLVEMENT OF NGOS

Everyday practice shows that the involvement of NGOs and civil society assisting asylum-seekers and refugees in the EU through various ways is crucial in establishing a functioning asylum system. They often play a role as interlocutors between authorities and asylum-seekers, or as experts on country-of-origin information and moreover assisting in practical ways. Despite this, NGOs involvement is not formalized in the structures of the EASO. NGOs are only represented in the Consultative Forum, may be invited to participate as experts in the working parties, and be involved in the EASO's development of training for national asylum authorities.

THE CONSULTATIVE FORUM

The Forum is to serve as a mechanism for the exchange of information and pooling of knowledge, as well as to respond to specific needs of the EASO. It is to meet at least once a year. The Forum's tasks are: make suggestions on the annual work programme, provide feedback and suggest measures as a follow-up on the annual report and communicate conclusions and recommendations of external activities of relevance. An operating plan, to be adopted by the Executive Director in consultation with the Forum, will outline the rules on the frequency and nature of consultation, and the 'workings' of the Forum.

Within the operating plan to be adopted for the Consultative Forum, the EASO should recognize the vital role that civil society and NGOs, such as Amnesty International, play in asylum matters.

THE EXECUTIVE DIRECTOR

The Executive Director is responsible for the work programme and day-to-day running of the EASO. Most importantly he/she is responsible for the drafting of reports on the country-of-origin as well as having the exclusive decision to deploy an Asylum Support Team to a member state whose asylum systems are under 'particular pressure.'

Given the predominant role of the Executive Director, the appointment of the post requires a transparent and democratic procedure, as well as accountability within the role. Selected through an open competition by the Management Board, the candidate is then invited to make a statement before the relevant committee of the European Parliament, which then adopts an opinion setting out its view of the selected candidate. The Management Board must inform the European Parliament of the manner in which its opinion has been taken into account.

In terms of accountability, the Executive Director is required to report to the Parliament and the Council on the performance of his/her tasks when invited.

SUPPORT TO MEMBER STATES UNDER 'PARTICULAR PRESSURE'

Member states experiencing 'particular pressure' on their asylum and reception systems can request assistance of the EASO, which will then make an assessment of the needs in question. It is unclear and somewhat vague as to what can trigger a request for support.

The Regulation establishing the EASO stresses as factors the 'geographical and demographic situation' and 'sudden arrivals of large numbers of third country nationals who may be in need of international protection'.

The assessment of whether a member state is under 'particular pressure' should focus on whether or not all conditions are in place to ensure a fair and satisfactory asylum procedure and all reception conditions are consistent with EU and international standards.

The EASO will be able to support member states experiencing 'particular pressure' in coordinating action to facilitate an initial analysis of asylum applications, establishing appropriate reception facilities, including emergency accommodation, transport and medical assistance, deploying asylum support teams, as well as promoting and facilitating intra-EU relocation. If the decision is made to deploy asylum support teams, an operating plan is agreed on. Within the initial assessment and subsequent operating plan, Amnesty International and other organizations' expertise can be used - as they are often on the ground and involved with the reception and applications of asylum-seekers in EU member states as well as in third countries. Intra-EU relocation needs the agreement of the member states and individuals concerned and, where appropriate, be carried out in consultation with UNHCR.

The relocation of asylum seekers from one member state to another must not be at the expense of resettlement of refugees from third countries, in which the EASO also has an important role to play.



World Refugee Day exhibition at Amnesty International's International Secretariat
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COUNTRY OF ORIGIN INFORMATION

Whilst it is made explicitly clear that the EASO holds no power or influence on individual applications for asylum, the country-of-origin information is an important element in the assessment of protection needs of an applicant. Moreover, information sharing on countries of origin, and training of asylum officials, should help to close the gap in asylum recognition rates across the EU.

A prerequisite for high quality decision-making in asylum cases is impartial, reliable, independent and up-to-date country-of-origin information, common to all member states and accessible to asylum authorities, asylum-seekers and their representatives. Human rights organizations such as Amnesty International have expertise in documenting and collecting information on human rights violations worldwide. It is therefore logical that, for the drafting of country-of-origin reports as well as the annual report on the situation of asylum in the EU, the EASO is required to gather information from various independent sources, including NGOs. However, the EASO should also consult on common standards and the method for producing country-of-origin reports, ensure transparent and reviewable research practices, and allow full access to the EASO reports to all stakeholders in an asylum process.

Transparency and full access to documents, legal and case-law databases and information gathered by the EASO is imperative to discovering gaps and consequently, the development of further legislative action where necessary.

In pursuit of achieving the highest international protection for asylum-seekers, country-of-origin information must be accessible to all stakeholders in the asylum process.



An Afghan boy, who says he travelled to France from his Afghanistan overland, is among the hundreds of people living at a makeshift settlement near the city of Dunkerque, June 2009 © UNHCR/H. J. Davies

COOPERATION WITH OTHER EU AGENCIES AND THIRD COUNTRIES

COOPERATION WITH OTHER EU AGENCIES

The relationship between EASO, the Fundamental Rights Agency, FRONTEX (External Borders Agency) and the European External Action Service (EEAS) requires coordination and cooperation, not only to prevent duplication of effort in the work of the respective agencies – as stated in the Regulation - but mainly to ensure the highest protection standards.

FRONTEX, tasked with coordinating controls at the external borders of the EU member states, has no 'formal protection mandate'. Close cooperation between the EASO, as a coordinating body and centre of expertise, can fill this gap, and increase the focus on protection.

Activities and cooperation between EASO and other EU Agencies, such as FRONTEX, must be in a spirit of ensuring protection for asylum-seekers and refugees.

COOPERATION WITH THIRD COUNTRIES

The EASO is mandated to facilitate operational cooperation with third countries in the framework of the EU's external relations policy. This is a very broad call and seems to go beyond coordinating resettlement and promoting asylum capacity building in third countries, such as in the context of regional protection programmes. There should be a clear definition and clarification of such cooperation. However, this should not become the main aspect of the EASO's work as this agency was established as a tool to improve standards of protection within the EU. Also, given its role in gathering and producing information on the human rights and security situations in third countries, there is a potential conflict between maintaining good working relations with the countries of which the asylum-seekers originate from, and providing credible and impartial country-of-origin information.

Engagement with third countries should be primarily for the purposes of resettlement of refugees, and promoting asylum capacity in line with international standards in the third countries.

AMNESTY INTERNATIONAL'S POSITION ON THE EASO

Overall Amnesty International welcomes the EASO and believes that it has the potential to provide support to member states with a view to enhancing asylum standards and closing the protection gap in the EU.

However, Amnesty International believes there are three areas that need to be monitored with regard to the EASO's work:

1. Transparency of the EASO's activities and collection of country-of-origin information must be guaranteed
2. NGOs involvement must be enabled and supported in the EASO's activities and bodies
3. Cooperation with other EU agencies and third countries must clearly serve the purpose of enhancing protection

RECOMMENDATIONS

AMNESTY INTERNATIONAL CALLS ON THE EASO TO:

- Ensure transparency with regard to activities, collection of information on countries-of-origin, and other information gathered. In particular:
 - Provide full access to all documents to asylum-seekers and other stakeholders in the asylum process

- Enable and support the role and involvement of NGOs and civil society in the structures and workings of the EASO:
 - Ensure Consultative Forum representation in the Management Board
 - Grant access to all working parties and Executive Committee meetings
 - Ensure consultation and input in drafting of country-of-origin information and other office documents
 - Ensure consultation and input into the EASO's assessment of assistance needed by member states experiencing particular pressure on their asylum and receptions systems
 - Ensure consultation and substantial involvement in the development and implementation of training programmes

- Clearly define the scope of cooperation with other EU agencies and third countries
 - Ensure that cooperation with EU agencies serves the purpose of guaranteeing respect of the fundamental rights of asylum-seekers and migrants
 - Clarify that cooperation with authorities of third countries may be developed only with a view to enhancing protection in accordance with international refugee law and human rights standards.



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