

Annual General Conference (AGC) 2017

Tallinn, 16-18 October 2017

The reform of the Common European Asylum System

Agenda

Objectives

The objectives of the workshop are twofold: (1) to inform ECRE members of the progress made in the negotiations on the Commission's asylum package at EU level; and (2) to identify and discuss opportunities to further move Member States' positions in line with ECRE recommendations and in light of NGOs' assessments of existing practice.

Format

These topics will be discussed through the lens of the practical experience of ECRE members in their national context and, where possible, to get a better understanding of the reasoning behind Member States' positions. This will allow ECRE members to share their experience as to which proposed solutions are feasible or not in a constructive manner and update our recommendations and positions with practical examples. Both practical and policy challenges as well as positive impact of some of the Commission proposals / amendments put forward by the co-legislators will be discussed.

Topics

Following a short overview of the state of play, the discussion will be structured around two key strands: (1) the challenges relating to procedures at points of first arrival in EU Member States, including the hotspot-type of approach as a possible blueprint for the future CEAS and (2) solidarity within a reformed Dublin system. Both topics raise important questions both from a policy and practitioners' perspective and relate to a range of issues that are currently being discussed by the Council and the European Parliament, the outcome of which will be decisive for the architecture and direction of the future CEAS.

1. Procedures at points of first arrival in the EU

The reform of the CEAS as proposed by the European Commission is premised to a large extent on fast identification, registration and filtering of applicants for international protection at the external land and air borders of the EU Member States of first arrival. Building on the philosophy of the hotspot approach implemented in Italy and Greece, the asylum package aims to mainstream the use of fast procedures at points of first arrival with a view to quick referral of those arriving at the external border either to the asylum procedure or return and fast-decision making. This is reflected in various parts of the asylum package, such as:

- The mandatory application of initial checks of certain admissibility grounds (safe third country, first country of asylum) by the Member State of first arrival, before the application of the Dublin criteria;
- The introduction of tight deadlines for decision-making in admissibility procedures, including an extremely short 10 working day time limit for the Member State of first arrival to decide on the application of the safe third country or first country of asylum concept.

Note that other grounds (safe country of origin, security risk) are also included in these initial checks by the Commission proposals, whereas the European Parliament discussions currently lean towards a mandatory security check and a possible “filter” of “applicants manifestly unlikely to qualify for international protection” before the application of certain Dublin criteria. Applicants with family members present in another Member State as per the Dublin family provisions and vulnerable applicants would always be excluded from such “filter”.

Furthermore, the scope of border procedures can be broadened through the possibility of applying such procedures in locations in proximity to the border or transit zone in case of large numbers of applicants for international protection arriving simultaneously at the border.

This is combined with modifications to the definitions of the first country of asylum and safe third country concepts, potentially allowing for broader use of such concepts. The latter concept in particular is subject to discussion at various levels. European Council conclusions adopted in June 2017 call for the “strict alignment of the safe third country concept to the Refugee Convention and EU primary law”, referring to removing the sufficient connection criterion as a requirement for the application of the safe third country concept. Furthermore, a number of Member States also oppose the list of criteria in the Commission proposal to define the notion of “sufficient protection” under the First Country of Asylum and Safe Third Country concepts, in particular access to the right to family reunification and access to labour market. The safe third country definition was also discussed at technical level in the Council and at the level of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA).

Whereas vulnerability assessment obligations are strengthened in the Commission proposals, Member States would nonetheless maintain the possibility of applying accelerated and border procedures to applicants with special needs.

Research on Member States’ practice regarding the use of border procedures, safe third country and first country of asylum concepts and the treatment of applicants with special needs has revealed huge disparities as well as efficiency and protection gaps. Topics for discussion include:

- The overall efficiency of fast track procedures at points of first arrival in practice;
- The impact of such procedures on quality of decision-making / access to international protection;
- The feasibility and implications of vulnerability assessments at points of arrival as part of fast-track procedures and exemptions of vulnerable applicants from such procedures;
- The application of the safe third country concept in practice, in light of ongoing discussions on its definition.

2. The reform of Dublin: distribution of asylum seekers as a solidarity tool

The proposed mandatory corrective allocation mechanism remains the key stumbling block for reaching a Council position on the proposed reform of the Dublin Regulation. There is a strong divide between EU Member States, in particular on the mandatory nature of the distribution mechanism and the way in which it should be triggered. While discussions in the European Parliament had initially resulted in broad consensus in principle for replacing the current irregular entry criterion with a permanent corrective allocation mechanism that would operate without any numerical threshold, recent discussions on the aforementioned “filter” to exclude manifestly unfounded applications from the Dublin system, seem to have further nuanced this approach.

Rather than a conceptual discussion on the meaning of solidarity, the workshop aims to discuss the pros and cons of an EU-wide dispersal system from an operational and policy perspective, through the lens of national dispersal schemes and experience with dispersal of relocated persons. Insight in national debates on dispersal schemes and how resistance at local or regional level has been overcome would also be relevant. Topics for discussion include:

- The feasibility of mandatory and automatic distribution of asylum seekers across the EU in light of national experiences with dispersal mechanisms;
- Lessons learned from the implementation of the Relocation Decisions in Italy and Greece as well as Member States of relocation, including as regards the dispersal of relocation beneficiaries in different regions of destination countries, where relevant;

- Incorporating asylum seekers' preferences / circumstances and addressing vulnerabilities in the dispersal process.

3. Engaging with the CEAS reform at the national level

ECRE's engagement with Council discussions on the asylum package requires involvement of ECRE member organisations at the national level in order to influence States' positions on the Commission proposals still under discussion. A meeting of the ECRE CEAS working group in June 2017 identified a number of challenges as well as opportunities for advocacy efforts at the national level. The workshop will also be an opportunity for participants to share ongoing or upcoming advocacy initiatives at the national level on the CEAS reform negotiations and to discuss existing information exchange channels and advocacy tools.