

Annual General Conference 2023, 15 June, Torino

Europe and Displacement: What works?

Polo del '900

Workshop 4: Sala del '900, 14h30 – 16h30

Title: EU asylum reforms: into the home strait?

Lead organisation(s): ECRE

Objectives:

- To discuss the latest developments on the EU asylum law reform proposals and the most likely fate of the reform
- To assess the potential impact of the new measures on displaced people and on the Common European Asylum System
- To discuss recommendations on the future of the asylum reform given the state of play

Moderator: Claudia Bonamini, JRS Europe

Speakers:

- Ms Catherine Woollard, Director, ECRE
- Ms Marie De Somer, Justice and Home Affairs Counsellor, Permanent Representation of Belgium to the European Union
- Ms Delphine Rouilleault, France terre d'asile

Structure/method: Following input from the speakers, there will be a moderated discussion to which all participants are welcome to contribute.

Description:

At the end of March 2023, the European Parliament agreed on its positions on four of the legislative proposals for reform of the Common European Asylum System - the Regulation on Asylum and Migration Management (RAMM), the amendments to the Asylum Procedure Regulation (APR), the Screening Regulation, and the Crisis Regulation. This led the Council to accelerate the pace of negotiations, with Member States increasing their efforts to reach an agreement at least on the RAMM and APR texts(which may have been obtained by the time of this meeting.)

Despite Member States initially aiming to centre negotiations on finding a balance between responsibility and solidarity – in particular, on the increased use of border procedures in exchange for a compulsory solidarity mechanism – in the last months of the Swedish Presidency, the debate has moved to the possibility to increase the use of border procedures in exchange for derogations from common rules.

The Council's recent positions including several concerning elements, both from a protection perspective and in terms of implementation challenges. Among the risks for displaced people, legislative changes are likely to have an impact on the level and number of pushbacks and the fundamental rights violations at Europe's borders.

The potential changes could also lead to an escalation of the use of smuggling routes for people on the move, who would increasingly try to avoid being detected by national authorities at the borders. At the same time, they would cause an increased administrative burden for border countries, as well as a spike in litigation stemming from people blocked at EU's borders. Furthermore, the proposals have become highly complex, which will likely hinder implementation. The high degree of flexibility granted to Member States will render monitoring compliance very challenging and increase legal uncertainty in the field of asylum. Several notable differences are already emerging between the positions of the co-legislators. The European Parliament positions, while remaining close to the original text presented by the Commission, are more protection-oriented and include several elements which are difficult to reconcile with the approach emerging from the Council.

The need for new legislation is often presented as the only route to avoid European citizens losing faith in European asylum policies. However, the new system risks further exacerbating existing compliance issues. By allowing countries to derogate at will from EU law, it will lead to the creation of substantially different asylum systems throughout European countries. In view of this, it is crucial to analyze the possible outcomes of the current reform process and of implementation of the new rules. The possibility to conclude a partial reform of the system and thus close the reform process, with withdraw of proposals that are harmful in their current form, could be explored as a potential solution that would maintain a functional Common European Asylum System.