Input by civil society to the EASO Annual Report 2016

EASO has started production of the Annual Report on the Situation of Asylum in the European Union 2016, in line with Article 12 (1) of the EASO Regulation. The report aims to provide a comprehensive overview of important asylum-related developments at EU and national level, and the functioning of all key aspects of the Common European Asylum System (CEAS). The report will be finalised by collecting information from EU+ countries, civil-society stakeholders, UNHCR and other relevant sources on main developments in asylum policies and practices of EU+ countries in 2016.

Previous reports can be consulted on EASO's website: https://www.easo.europa.eu/information-analysis/annual-report

We would kindly like to ask you to provide your **observations,** - preferably bullet points to facilitate further processing of your input - **on developments in asylum law or practice in 2016 (and early 2017) in the areas listed below, reflecting the usual structure of the report**. Observations may concern national practices of specific EU+ countries or the EU as a whole.

The EASO Annual Report will not describe the national asylum systems in detail but present key developments in 2016, including **improvements and new/remaining concerns**. The topics listed below reflect the structure of chapter 4 of the EASO report on the 'Functioning of the CEAS'. We kindly ask all contributors to provide brief summaries only on those topics/issues that have seen important **improvements/deterioration as well as new concerns or where previous relevant concerns remained in 2016**.

Please bear in mind that the EASO Annual Report is a public document. Therefore, your input should be, whenever possible, supported with references to written sources to ensure transparency. That can be done by providing links to any documents such as position papers, important press releases, studies, comments, input to the other reports, public statements to government programs, etc.

While EASO endeavours to cover all relevant developments and strives to include as many references as possible, the final content of the EASO Annual Report remains bound by its terms of reference and volume. Therefore, while all contributions are gratefully received and recognised, EASO may edit contributions for length and clarity and use the submissions to best serve the objective of the Annual Report: to improve the quality, consistency and effectiveness of the CEAS.

Please provide your input by filling in this document (with attachments if required) and emailing it to ids@easo.europa.eu **AND** consultative-forum@easo.europa.eu **by 20 February 2017.**

Within the areas, please highlight the following **type of information:**

- NEW positive developments; improvements and NEW or remaining matters of concern;
- Changes in policies or practices; transposition of legislation; institutional changes; relevant national jurisprudence.
- Please use the topics listed below as a guide to providing input for each section. **DO NOT** provide information unrelated to relevant new developments.

Name of the contributing stakeholder:

:
The Dutch Advisory Committee on Migration Affairs (*Adviescommissie voor Vreemdelingenzaken*)
is an independent Committee that advises the Dutch Government and Parliament on immigration law and policy.

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1) Access to territory and procedure

2) Access to information and legal assistance

3) Providing interpretation services

4) Dublin procedure

'Sharing responsibility. A proposal for a European Asylum System based on solidarity'

December 2015 / January 2016

The Advisory Committee on Migration Affairs (ACVZ) was asked for advice by the State Secretary for Security and Justice on how the Common European Asylum System (CEAS) could be transformed into a system based on solidarity, in which the responsibilities of the member states vis-à-vis asylum seekers and permit holders can be shared fairly among them.

In this report the ACVZ proposes a permanent mechanism enabling member states to share asylum responsibilities. The Advisory Committee understands the term 'asylum responsibilities' as including not only the responsibility for processing asylum applications and providing reception during the application process, but also for the integration of asylum seekers whose application is accepted and for returning or dealing with those whose application is dismissed. Although questionable whether this advisory report can count on broad political support in all EU countries, the ACVZ deems the creation of a permanent responsibility-sharing mechanism to be inevitable. It has therefore attempted to forge a proposal that is both legally viable and practically feasible.

See English summary: https://acvz.org/wp-content/uploads/2016/01/Summary.pdf

5) Specific procedures (border, accelerated, admissibility)

6) Reception of applicant for international protection:

7) Detention:

8) Procedures at First instance:

9) Procedures at Second Instance:

10) Availability and use of Country of Origin Information:

11) Vulnerable applicants:

12) Content of protection – situation of beneficiaries of protection

13) Return of former applicants for international protection

'The strategic country approach to migration: between ambition and reality'

July 2015

The Dutch government aims to enhance the effectiveness of return policy by improving the cooperation of countries of origin in the forced return of their nationals. The problem is most common in the case of undocumented or insufficiently documented failed asylum seekers and other persons residing illegally in the Netherlands who have the nationality of the country of origin and who do not leave independently, with or without assistance.

On the basis of its research the Committee concludes as follows.

- The attempts to involve ministries other than Security and Justice and Foreign Affairs in return policy have not led to concrete results.a
- Whenever an evaluation takes place between return policy and other Dutch interests, the outcome is usually not in favour of return policy. Though good reasons may underlie these choices, the ACVZ notes that there is a discrepancy here between the lip service paid to return in the political debate and the importance it is given in practice.
- Instruments falling under the policy of Security and Justice and Foreign Affairs have sometimes produced results. Also international efforts have produced some results.

The Netherlands needs the scale of the EU in relation to certain countries in order to achieve the desired results.
On the basis of its conclusions, the Committee has arrived at the following recommendations. Invest in developing a coherent and integrated migration policy which, in addition to return and efforts to combat irregular migration, addresses highly skilled, labour and student migration and the internationalisation of migrants' social insurance rights. If forced return cannot be achieved in the case of a particular country at a particular time, reduce operational cooperation with the country in question to a minimum level. At the same time, continue to invest in diplomatic contacts through

members of government and high-ranking officials, keep the dialogue going at this level and try if possible to step it up. Invest in the long-term relationship with countries of origin, avoid explicit negative incentives as much as possible, and continue to work towards the promotion of forced or independent return in the EU framework.

See full version: https://acvz.org/wp-content/uploads/2015/07/Report_42-web-versie-Engels.pdf

14) Resettlement and relocation

'Profiling and selecting: an advisory report on the use of profiling in the implementation of immigration policy'

November 2016

The results of the use of profiling by organisations in the immigration system are presented in this report. The Committee recommends to ensure there is an explicit statutory basis for the exchange and linkage of data files and the use of profiles.
The use of profiling in implementing immigration policy is still at an early stage. In the ACVZ's view, technological developments in the field of data collection and analysis make it inevitable that, in the future, government will make increasing use of big data techniques on which profiling will more and more frequently be based. The same applies to the organisations responsible for implementing immigration policy. On the basis of the study, the ACVZ argues that it is essential to develop a clear and future-proof framework in which the use of profiles in immigration policy is subject to adequate safeguards.
The study further shows that organisations in the immigration system that use profiling have not yet or not yet fully introduced the appropriate working methods. In some cases, indicators have not been precisely defined, in others cooperation between the department responsible for analysis and operational staff is lacking. Adequate monitoring and evaluation are not always in place. In all the profiles studied, there was no regular comparison with random samples; as a result, the consequences of working with profiles are not sufficiently clear. Also there is usually no clear statutory basis for the exchange and linkage of files containing personal data and the use of profiles.

The ACVZ recommends to:

- Ensure there is an explicit statutory basis for the exchange and linkage of data files and the use of profiles; make sure that profiling is only employed if the requisite legal safeguards, such as the principle of non-discrimination, the criteria of necessity and proportionality, and the presence of independent supervision, have been met.
- Improve the quality of profile application, which means: conduct a privacy impact assessment, test the profile, guarantee feedback of results, compare the results of profiling with random samples, adequate monitoring and evaluation, address the question of whether the costs outweigh the benefits.

https://acvz.org/wp-content/uploads/2016/12/Profiling-and-selecting.-Conclusions-and-recommendations1.pdf