



## 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](mailto:ids@easo.europa.eu) **AND** [consultative-forum@easo.europa.eu](mailto: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: Danish Refugee Council – Asylum Department

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**1) Access to territory and procedure**

**2) Access to information and legal assistance**

**3) Providing interpretation services**

**4) Dublin procedure**

The Danish Refugee Appeals Board suspended all returns to Hungary pursuant to the Dublin regulation in October 2015. Since then a great number of asylum-seekers have been waiting for a final decision. In December 2016, the Danish Immigration Service decided to process the majority of the cases because of the time lapse, but a number of cases are still pending at the Appeals Board for a principled decision on whether return to Hungary would be in violation of the Dublin regulation, including art 3 of the ECoHR and art 4 of the EU Charter.

The Danish authorities continue to apply a very narrow application of the family provisions, and the discretionary and humanitarian clauses in the Dublin regulation. As a result, the Danish Refugee Council has seen numerous cases where spouses are separated from each other, children are separated from one of their parents and pregnant women are separated from their spouses or partners etc.

The Danish Refugee Appeals Board has examined a number of cases regarding the transfer of families with minor children to Italy and has confirmed the decision of the Danish Immigration Service in all cases, based in particular on a letter provided by the Italian Ministry of Interior on 15 February 2016 to all Member States, which included a list of 85 places in Italian SPRAR facilities. In February 2017, the Danish Refugee Council and the Swiss Refugee Council published a report showing that a number of families who had been returned to Italy from Denmark and Switzerland were not accommodated in the SPRAR facilities as was assumed by the Danish Refugee Appeals Board in their decisions.

**5) Specific procedures (border, accelerated, admissibility)**

The Danish government has proposed to amend the Danish Aliens Act, introducing an option for the government in case of an 'emergency' and 'non-functioning' of the Dublin system, to suspend the Dublin regulation and instead reject an asylum seeker as inadmissible on the border to another Dublin-country. The proposal would include unaccompanied minors and there would be no suspensive effect in case of appeal.

**6) Reception of applicant for international protection:**

**7) Detention:**

**8) Procedures at First instance:**

### 9) Procedures at Second Instance:

The Refugee Appeals Board, which is the second instance in asylum cases in Denmark, has since 2013 consisted of members appointed by the Ministry of Immigration and Integration, the Council of the Danish Bar and Law Society, the Danish Ministry of Foreign Affairs and the Danish Refugee Council. The Board holds a judge as chairman. 1 January 2017 a change in the Danish Aliens Act came into force<sup>1</sup> changing the Refugee Appeals Board so that the members of the Board who have been appointed by the Danish Ministry of Foreign Affairs and the Danish Refugee Board will no longer be represented. The Governments' reason for this change is to secure the independence of the Board but the concern remains that this will weaken the Board because members who hold expert knowledge and experience both in regards to the legal framework as well as country of origin information no longer are represented in the Board.

### 10) Availability and use of Country of Origin Information:

### 11) Vulnerable applicants:

### 12) Content of protection – situation of beneficiaries of protection

On 5 February 2016 a change in the Danish Aliens Act came into force<sup>2</sup> which restricts the right to family reunification for persons who have been granted temporary protection status.

The change restricts the right to family reunification for a person who has been granted temporary protection status in accordance with the Danish Aliens Act Section 7 (3). A refugee with this status can only apply for family reunification when his/her residence permit has been extended after 3 years of residence. (Before the change it was 1 year of residence). Only if it follows from international conventions applicable to Denmark, will it be possible to obtain family reunification before 3 years have passed. This could be the case where "special grounds" are at hand, for instance if the refugees' spouse or children are severely handicapped or ill and reliant on the refugee living in Denmark. Practice in this regard is very strict.

The change also applies to refugees who received temporary protection status before the law entered into force but who did not receive family reunification with their spouse or children yet. This is irrespective of whether they applied for family reunification before or after the change in law.

If the refugees' residence permit is extended after 3 years, the family will have the same right to family reunification as other refugees (that is those who do not hold this temporary protection status).

The abovementioned also applies to unaccompanied minors who hold temporary protection status and throughout 2016 the practice surrounding this group of refugees and their right to family reunification with their families has become very strict. It is no longer regarded as a "special ground" in itself to be an unaccompanied minor.

### 13) Return of former applicants for international protection

<sup>1</sup> [http://www.ft.dk/Rlpdf/samling/20161/lovforslag/L11/20161\\_L11\\_som\\_vedtaget.pdf](http://www.ft.dk/Rlpdf/samling/20161/lovforslag/L11/20161_L11_som_vedtaget.pdf)

<sup>2</sup> <https://www.retsinformation.dk/Forms/R0710.aspx?id=177348>

#### 14) Resettlement and relocation

The Danish Government decided in 2016 to stop all resettlement to Denmark until the number of asylum-seekers has decreased to an unknown level. The responsible minister does not wish to explain when the programme will start again.

#### 15) Other relevant developments

In September 2016, the Danish Immigration Service (DIS) announced that they would start screening approximately 1200 cases of Somalis with subsidiary protection status in order to withdraw their residence permit and return them to Somalia based on an assumption that the security situation has improved in Somalia since the time when they were granted protection. The Danish Refugee Board decided on the first 5 cases in September 2016 and a majority of the members agreed with the decisions of DIS. Since then negative decisions regarding 4 more cases have been taken in first instance and DIS has announced that “only” 800 of the cases will be looked into further after the initial screening. The withdrawal of protection has been made possible based on an amendment of the Danish Aliens Law in 2015, where the cessation clauses of the 1951 Refugee Convention were restricted to refugees with Convention status and no longer applicable to other groups of refugees (subsidiary protection based on art 3 of the ECoHR). The assumption that the security situation in Somalia has improved is based on various COI including a fact finding report from DIS from 2015. Even though a more recent fact finding mission took place in December 2016 and the report is due in February 2017, DIS has announced that they will not wait for this report but will continue making decisions based on the old report.