



## FOURTH EASO CONSULTATIVE FORUM PLENARY MEETING

11 & 12 December 2014

### Round table 3: Different forms of protection granted to Syrian applicants: analysis of similarities and differences in MS application of legal concepts

- Report -

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Moderated by: **Doris Peschke**, General Secretary Churches' Commission for Migrants in Europe

Supported by: **Jadwiga Maczynska**, Information and Analysis Coordinator, EASO

Participants:

**Nelle Allenberg**, Legal Officer Evangelical Church in Germany,

**Michael Williams**, FARR Swedish Network of Refugee Support Groups,

**Blanche Tax**, UNHCR Geneva, Head of Protection Information Unit,

**Ursula Countess Praschma**, German Office for Migration and Refugees (BAMF).

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### Summary

EASO presented statistical data on Syrian applicants for international protection in EU+ countries, indicating the steady rise since 2011, very high current numbers of applicants and wide distribution across EU+ states. Syrian applicants tend to be granted protection in most cases, though the type of protection differs among EU+ states and practices also change over time.

UNHCR summarised current developments in Syria and made an assessment on the nature of the crisis as a refugee movement. Panellists from Germany (Ursula Countess Praschma, BAMF and Nelle Allenberg, Legal Officer Evangelical Church in Germany) and Sweden (Michael Williams, FARR Swedish Network of Refugee Support Groups) presented the policies and practices of both Member States (MS), focusing on how the policies evolved in response to the changing situation in Syria.

Plenary discussions included: aspects of uniform protection status and comparison between various forms of protection, related rights and benefits, and procedures used to grant either form of protection; importance of family reunification for beneficiaries of international protection; MS practices regarding Syrian draft evaders; and humanitarian admission programmes put in place for Syrians.

### Details

Doris Peschke (General Secretary Churches' Commission for Migrants in Europe) introduced the session reiterating that the number of Syrian applicants for international protection has increased since 2011. Given the scope and nature of the applications, the situation requires priority treatment.

As illustrated by EASO in the lead-off presentation, the flow of Syrian applicants remained relatively stable between 2008-2010 with 800-900 applicants per month in EU+, which is 3% of the EU+ total. In 2011, exponential growth started with a year-to year increase of 65% in 2011, 78% in 2012, 107% in 2013 and 89% in 2014 (until October). There were more than 100 000 applicants in the first 10 months of 2014; this has since increased and now one applicant in five is Syrian. The two main



Member States receiving applications from Syrians are Sweden and Germany (together taking 55% of the total). Syria was the primary source of asylum applications in 21 MS in October 2014.

Recognition rate at EU+ level amounts to 93% and is fairly equally distributed, with the notable exception of Greece and Italy. Comparison of forms of protection granted to Syrians at the end of third quarter of 2014 reveals that at EU+ level refugee status and subsidiary protection account respectively for approximately 45% of all decisions, whereas humanitarian protection and negative decision equal 5%. In some Member States, such as Sweden and the Netherlands, the main form of protection granted is subsidiary protection. Some other countries, such as Germany, Denmark and Bulgaria, mainly grant protection via refugee status. The type of decisions most commonly made on Syrian applicants in an individual Member State tends to change over time, often very significantly.

Blanche Tax (UNHCR) described the current situation in Syria based on available country of origin information. According to UNHCR International Protection Considerations for Syria (updated in October 2014), the situation in Syria can be classified as a refugee movement and UNHCR believes Syrians generally meet the refugee definition and their displacement may be due to many reasons. A case study followed, illustrating the point that seemingly indiscriminate violence in Syria often involved fear of persecution, including on grounds of imputed political opinion. It was emphasised that there was a need for careful analysis of specific circumstances of the case. In view of the proportion of Syrian applicants in Europe compared to countries neighbouring Syria, UNHCR emphasised the importance of resettlement pledges by MS concerning Syrians and the need for solidarity measures regarding access to Europe, including, for example, broadening of family reunification criteria.

Ursula Countess Praschma (BAMF) supported UNHCR's assessment and reiterated the specific elements of the situation in Syria that support granting refugee protection.

Michael Williams (FARR Swedish Network of Refugee Support Groups) presented the evolution of Swedish decision-making practices prompted by the changing security situation in Syria. In 2007, the case law of the Appeal Court supported the analysis of each application with regard to, in sequence, refugee protection, and then subsidiary protection including protection provided on the basis of Article 3 of the European Convention on Human Rights (where return to the country of origin would include risk of torture and degrading treatment or punishment). In 2012 the position was revised to grant temporary permits (with limited options for family reunification), followed by the halting of all expulsions to Syria. In 2013 the policy was revised to offer permanent permits, including the right to family reunification, and the decision-making focused on the group aspect of persecution (catalogue of persons/groups eligible for refugee protection) and the issue of imputed political opinion as a ground for persecution. Syrian cases in Sweden also include particular issues such as stateless applicants, applicants of dual nationality, and exclusion cases (where the Swedish Migration Board issued a policy-guidance document ensuring, for example, legal assistance by experienced providers).

Nelle Allenberg (Evangelical Church in Germany) explained the German practice, emphasising the importance of family reunification for beneficiaries of international protection (in particular the no German-language requirement for family members to be joining their relatives in Germany).

The plenary discussion included the following points:

- MS maintaining a uniform status system, where rights and benefits offered to beneficiaries of various forms of protection are fundamentally the same. This would be an important element if the MS decided to introduce mutual recognition mechanisms, where protection granted by one MS would be recognised throughout the EU.



- Mechanism of “changing tracks” during the procedure to ensure that all suitable forms of protection are analysed in view of emerging circumstances of the case.
- Practices regarding draft evaders from the Assad regime motivated by the risk of participation in military action condemned by the international community as contrary to basic rules of human conduct (and UNHCR Handbook and guidelines in that regard)
- The importance of quick decision and speedy possibility of family reunification. These considerations may make certain forms of protection (other than refugee status) more convenient and desirable for an individual applicant, if the rights attached are equivalent. Such considerations may even discourage applicants from presenting certain elements of their claim.
- Humanitarian admission mechanism and the need to potentially expand such programmes (with the advantage of people being granted protection and access to rights and benefits practically upon arrival).
- Discussion on the need to properly apply the 1951 Geneva Refugee Convention to claims for international protection made by people fleeing a war situation marked by indiscriminate violence, and what the actual added value is of subsidiary protection according to article 15 b QD (on the basis of article 3 of the European Convention on Human Rights) and 15c QD (individual threat of harm on basis of indiscriminate violence).

### **Next steps**

The discussion revealed that practices of MS are very diverse, with regard to forms of protection applied, availability of national forms of protection, rights attached to different statuses and actual practices concerning Syrian applicants. Existing data (particularly statistical data collections) only provides general information in that regard. No comprehensive data is available at EU level on categories of grounds claimed by applicants for international protection or on grounds for which protection is granted. Participants suggested EASO look at possibilities to gather, analyse and disseminate such information to support evidence-based policies. It was furthermore suggested that approximation of rights may be studied further in a practical cooperation context.