



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.

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#### Disclaimer:

Please only refer to the Ludwig Boltzmann Institute of Human Rights as a contributor to the annual report 2016 if (parts of) the input provided below is actually included in the report.

### 1) Access to territory and procedure

In Austrian law, the option of preventing asylum seekers from entering Austrian territory and accessing the asylum procedure based on the assessment that further asylum applications would constitute a threat to public policy and public security was introduced. These amendments were sharply criticized in light of possible violations with EU law, including the fundamental rights of asylum seekers according to Art 4, 18, 19 and 47 of the Charter of Fundamental Rights.

#### Sources:

Stellungnahme des Ludwig Boltzmann Instituts für Menschenrechte im Begutachtungsverfahren, available at [http://bim.lbg.ac.at/sites/files/bim/attachments/bim-stellungnahme\\_asylg.pdf](http://bim.lbg.ac.at/sites/files/bim/attachments/bim-stellungnahme_asylg.pdf)

Stellungnahme zur Verordnung der Bundesregierung zur Feststellung der Gefährdung der Aufrechterhaltung der öffentlichen Ordnung und des Schutzes der inneren Sicherheit, available at [http://bim.lbg.ac.at/sites/files/bim/attachments/stellungnahme\\_verordnung\\_ludwig\\_boltzmann\\_institut\\_fuer\\_menschenrechte\\_2016-10\\_corr.pdf](http://bim.lbg.ac.at/sites/files/bim/attachments/stellungnahme_verordnung_ludwig_boltzmann_institut_fuer_menschenrechte_2016-10_corr.pdf)

Frühwirth, Die Sonderbestimmungen zum sogenannten „Notverordnungsrecht“, in Eppel/Reyhani (Hg), Handbuch Asyl- und Fremdenrecht, WEKA-Verlag, Wien, 2016.

Keudel-Kaiser/Monina/Scholdan/Wladasch, A new Asylum Policy for Europe?!, Opting for a rights-based approach and what this would mean, available at [http://bim.lbg.ac.at/sites/files/bim/anhang/publikationen/keudel-kaiser\\_a\\_new\\_asylum\\_policy\\_for\\_europe.pdf](http://bim.lbg.ac.at/sites/files/bim/anhang/publikationen/keudel-kaiser_a_new_asylum_policy_for_europe.pdf)

### 2) Access to information and legal assistance

### 3) Providing interpretation services

### 4) Dublin procedure

The movement of asylum seekers along the “Balkan Route” created practical and legal challenges for the Austrian authorities and courts in the application of the Dublin Regulation. This led to the absurd situation that individuals, whose travel to Austria was state-organized, were returned to Croatia, Hungary and Slovenia, based on an interpretation of the Dublin Regulation, particularly of Art 3 (2) and Art 13 (1), considered as highly dubious.

#### Sources:

Reyhani/Steinwendtner, Das Dublin-Verfahren, in Eppel/Reyhani (Hg), Handbuch Asyl- und Fremdenrecht, WEKA-Verlag, Wien, 2016.

Klammer/Reyhani, VwGH zu Dublin III-VO: Fortsetzung der Kriterienprüfung bei systemischen Mängeln, Entscheidungsbesprechung, Migralex 03/2016, p. 81-82.

Keudel-Kaiser/Monina/Scholdan/Wladasch, A new Asylum Policy for Europe?!, Opting for a rights-based approach and what this would mean, available at

[http://bim.lbg.ac.at/sites/files/bim/anhang/publikationen/keudel-kaiser\\_a\\_new\\_asylum\\_policy\\_for\\_europe.pdf](http://bim.lbg.ac.at/sites/files/bim/anhang/publikationen/keudel-kaiser_a_new_asylum_policy_for_europe.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

In an amendment to the Austrian Asylum Act, the right of recognized refugees to residence in Austria was restricted to three years. This measure was mainly criticized for the administrative workload created by the mandatory reassessment of cases and the obstacles caused for the integration of refugees.

Furthermore, family reunification rights were significantly reduced, which was mainly criticized in light of contradictions with Art 8 ECHR. Amongst other measures, individuals granted subsidiary protection shall only be allowed to reunify with members of their core family three years after the status was granted, and only if they can prove regular income, health insurance and accommodation in Austria.

##### Sources:

Stellungnahme zum Entwurf eines Bundesgesetzes, mit dem das Asylgesetz 2005 geändert wird, 166/ME XXV. GP, available at

[http://bim.lbg.ac.at/sites/files/bim/attachments/stellungnahme\\_bim\\_asylgesetz\\_2015-11-30.pdf](http://bim.lbg.ac.at/sites/files/bim/attachments/stellungnahme_bim_asylgesetz_2015-11-30.pdf)

Reyhani, Wesentliche Konzepte des Asylrechts, Eppel/Reyhani (Hg), Handbuch Asyl- und Fremdenrecht, WEKA-Verlag, Wien, 2016.

Czech, Die Neuerungen des Asylrechtspakets 2016 – Einschränkungen des Familiennachzugs Hinterberger, in: FABL, 1-2016.

Hinterberger, „Asyl auf Zeit“ in Österreich: bloße Symbolik oder drastische Verschärfung der aktuellen Gesetzeslage?, available at <http://verfassungsblog.de/asyl-auf-zeit-in-oesterreich-blosse-symbolik-oder-drastische-verschaerfung-der-aktuellen-gesetzeslage/>

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

In early 2017, the Austrian Government agreed on measures that involve direct interference with the rights to liberty of former applicants for international protection. Although detailed plans are not yet available, these plans seem to include the detention of former applicants in so called “return centres” without an assessment of the risk of absconding or the hampering of return procedures.

#### Sources:

BIM Position Nr. 9: Zum Arbeitsprogramm der Regierung betreffend Fußfesseln für „Gefährder\_innen“ sowie „Rückkehrzentren“, available at [http://bim.lbg.ac.at/sites/files/bim/anhang/publikationen/bim\\_position\\_nr\\_9\\_arbeitsprogramm\\_gefahrder\\_ruckkehrzentren\\_0.pdf](http://bim.lbg.ac.at/sites/files/bim/anhang/publikationen/bim_position_nr_9_arbeitsprogramm_gefahrder_ruckkehrzentren_0.pdf)

### 14) Resettlement and relocation

### 15) Other relevant developments