

# Input by civil society to the EASO Annual Report 2018

Fields marked with \* are mandatory.

## Input by civil society to the EASO Annual Report on the Situation of Asylum in the EU+ 2018

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EASO has started the production of the 2018 Annual Report on the Situation of Asylum in the European Union, 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). [Previous reports are available at EASO's website](#)

While the final product comes out of an analytical and synthetic process that takes place in-house, a critical part of information is elicited through valuable contributions by a multiplicity of stakeholders from EU+ countries, civil society organizations, UNHCR, and other actors possessing in-depth knowledge on main developments in asylum policies and practices in EU+ countries.

We would like to kindly invite you to take part in this process, by sharing your observations on developments in asylum law, policy or practice in 2018 (and early 2019) in the areas listed on the online survey. The topics listed there reflect the structure of Chapter 4 of the EASO Annual Report, which focuses on the 'Functioning of the CEAS'. To this end, your observations may concern national practices of specific EU+ countries or the EU as a whole. You can fill in all or only some of the points. Overall, the EASO Annual Report is not meant to describe the national asylum systems in detail, but present key developments in 2018, including improvements and new/remaining concerns. In terms of format, your contributions would be preferably offered in the form of bullet points, which would facilitate further processing of your input.

Please, bear in mind that the EASO Annual Report is a public document. Accordingly, it would be desirable that your contributions, whenever possible, be supported by references to relevant sources. Providing links to materials such as analytical studies, articles, reports, websites, press releases, position papers/statements, and press releases, would allow for maintaining transparency. For your reference, you may review the [contributions offered by civil society actors for the 2017 Annual Report](#). If you do not consent on EASO making your submission available, please indicate so in the relevant part of the online survey.

In our effort to provide an inclusive overview of all relevant developments, we strive to incorporate as

many contributions as possible. At the same time, the final content of the EASO Annual Report is subject to its set terms of reference and volume limitations. To this end, your submissions, which are gratefully received and acknowledged, may be edited for length and clarity so that the final product concisely serves the objectives of the Annual Report: to improve the quality, consistency, and effectiveness of CEAS. From our side, we can assure you that the valuable insights you offer feed into EASO's work in multiple ways and inform reports and analyses beyond the production of the Annual Report.

Please, kindly provide your input completing the online survey by **Thursday, 7 March 2019**.

## Instructions

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Within each area, 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.**

*You are kindly requested to make sure that your input falls within each section's scope. Please, refrain from including information that goes beyond the thematic focus of each section or is not related to recent developments. Feel free to use Section 16 to share information on developments you consider important that may have not been covered in previous sections.*

*Prior to completing the survey, please take a moment to review the list of areas and the types of information that needs to be included in each area.*

*Please contribute your feedback online or copy and paste your answers from an editable type document*

## Questions

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### **1. Access to territory and access to asylum procedure (including first arrival to territory and registration)**

## REMAINING CONCERNS:

- Access to the territory and to the asylum procedure at the airport is still limited, as asylum seekers themselves, with no exceptions, cannot exercise that right. APC in 2018, noted only one case where an asylum seeker independently exercised the right to access the territory and the asylum procedure at the airport. That is to say, they were registered and released into the territory of Serbia, while a large number of asylum seekers were unable to exercise this right on their own. Asylum seekers who spoke to APC testify that the border police completely ignored their intentions to seek asylum, even when APC had sent them to try to speak with border police officers again. However, it is with the legal assistance of non-governmental organisations, access can be achieved.
- Access to the asylum procedure within the territory is more limited than before. Police stations often turn away asylum seekers, with reasons that they do not have the capacity to register (in people, technicalities, or translators) and instruct them to come in later. While in some police stations, inspectors for foreigners completely reject asylum seekers and instruct them to try in other cities. Asylum seekers often gain access to the asylum procedure and are registered with the assistance of non-governmental organisations, who often bring them to a police station, or through legal representations, whereas unlike in previous years, it was rarely noted that asylum seekers without anyone's assistance exercise their rights. Cases in Belgrade have been noted that inspectors for foreigners, instead of registering asylum seekers, often refer them to NGOs providing humanitarian assistance and to representatives of the Commissariat for Refugees and Migration (KIRS) who is in charge of accommodation.
- Certain categories of foreigners, such as those who have previously been denied to stay, or received an entry ban and an order to leave the country, have difficulties accessing asylum, and the practice of state authorities is still arbitrary and differs from case to case.
- Access to the asylum procedure is still limited because state authorities are encouraging asylum seekers to leave or not to enter the asylum procedure, by giving them a chance to continue their way to EU countries by putting them on "the list for Hungary" which is unofficial and unbinding list of those who would like to access the territory of Hungary. Moreover, state authorities (Commissariat for Refugees and Migration and Asylum Office) are conditioning persons to give up their asylum application if willing to stay assigned to "the list for Hungary" and not to be removed from same list, promising them safe passage to Western Europe across Hungary if they give up seeking asylum in Serbia.

## **2. Access to information and legal assistance (including counselling and representation)**

- The adoption of the new Law on Asylum and Temporary Protection (which took effect on June 3, 2018) and the Law on Foreigners (took effect on October 3 2018) did not lead to accessing asylum more easily, but rather the contrary. The law has tightened obligations for asylum seekers from their registration to their application for asylum, without providing procedural guarantees for it. Namely, there is a failure to comply with the instructions in the registration certificate and to, within a period of 72 hours arrive to a certain asylum center without a justified reason leads to their loss of the right to asylum and a misdemeanor liability, Whereby the content of those certificates is not in practice translated into a language the asylum seeker understands, due to the lack of interpreters in police stations. The certificates themselves contain unclear instructions, in the Cyrillic alphabet of the Serbian language. There is furthermore, no legal assistance during registration, and asylum seekers are not explained the information on the certificate, their rights and obligations and the consequences of not arriving on time, nor is transport made available for them to the asylum centers.

- It often happens that asylum seekers are arbitrarily sent and received by (KIRS) in accommodation facilities against the strict order of MoI which often lead to the loss of their rights in initiating the process of asylum, in accordance with the new Law on Asylum and Temporary Protection.
- Although the new Law has given the opportunity for asylum seekers to apply for asylum on their own, without being in the presence of an official from the Office for Asylum, as had been the case previously, they must be registered, as previously indicated, which is often denied, and the aforementioned new legislations did not improve access to asylum. In addition, the asylum application itself must be submitted in the Serbian language, on a form that is also all in Serbian. While there are no official translations of the application for asylum in foreign language, making it impossible for asylum seekers without legal aid, interpreters and technical capacities to complete an application on their own.
- The new Law on Asylum does not allow for the submission of new asylum requests in situations of previous suspensions of procedure, except in the case of when the suspension was due to the withdrawal of the request in writing, and only with the possession of new evidence, so that many of those whose procedure is suspended for reasons of inaccessibility to state authorities, cannot apply for asylum.

#### CONCERNS:

- Free legal assistance to asylum seekers are still provided by NGOs according to the law, which are financed from projects, and not from budgets.
- Access to migrants in reception centers organized to accommodate illegal migrants is limited to representatives of non-governmental organizations providing information and free legal aid, although asylum seekers are accommodated in these centers for asylum. This is especially true for reception centers in the north of the country. In addition to this, at one point, legal representatives were denied access to their clients and to asylum seekers in reception centers (e.g Bujanovac), while in some access continues to be limited (e.g Bujanovac). There were also cases where access was restricted in asylum centers and physical expulsion by officers of the Commissariat for Refugees and Migration.
- Government agencies (e.g.KIRS)) are still not sharing common and reliable information to asylum seekers. The dissemination of information by the KIRS on the so-called "Hungary List" discourages refugees from seeking asylum in Serbia because they see it as a possibility to go to the EU for what they believe is a legal way. However, the "Hungary List" is an illegal practice introduced by the as a measure of migration management in a way for migrants to be placed on a list, which is then delivered to the Hungarian commander's officers, on two gates on the fence at border with Serbia, and for the purpose of gaining access to Hungarian territory, even though Hungarian border officers are in no way obligated to let people on the list through. This leads to the long-term detention of migrants in Serbia in the gaps and outside of any system, considering that often wait times on the list last over a year.
- Migrants in reception centers usually do not receive any information about their position in Serbia nor about the possibility to seek asylum and the asylum procedure, but rather they are provided with accommodation and minimum rights such as food, water, clothing and footwear and basic medical assistance.

#### 4. Providing interpretation services

REMAINING CONCERNS:

- There is still a lack of interpreters in the asylum procedures. Asylum Office is still missing interpreters for some languages (e.g. Pashtu, Kurdish). Furthermore, the lack of an interpreter in the asylum procedure is superseded by indirect translation (from the language of the asylum seeker to English, and then to Serbian, using two interpreters). However, this often leads to a delay in the procedure, which results in asylum seekers agreeing to an interpreter for a language they do not know well, in order to avoid additional delays in the procedure, which already lasts for a long time.
- There are still no hired interpreters in police stations. NGOs are facilitating state institutions (Police stations, The State Prosecutor Office, Health care centres, Social Welfare centres, etc.) with interpreters in numerous cases.
- Violation of the right on translation within the right on fair trial, is still highly concerning (still raises concerns) in Magistrate court procedures, where Magistrate courts were not using interpreters, or using wrong speaking interpreters, or conducting proceedings in the Serbian language. Consequently, there have been several cases where misdemeanour procedures were conducted against minors unaccompanied by parents, with the violation of the right to translation, even in the presence of representatives of the Center for Social Work who did not oppose the aforementioned.

NEW CONCERN:

- The lack of an interpreter in registering asylum seekers is a big problem, which makes them uninformed and aware about the content of the registration certificate and the order for going to a specific accommodation facility, and what may result in missing the deadlines in the asylum procedure, in accordance with the new law. On the other hand, we recorded the case of an asylum seeker registered at the airport, on which occasion he was provided with an interpreter employed by the embassy of his country of origin, where he said he has been threatened by him to be returned.

**4. Dublin procedure (including the organisational framework, practical development and suspension of transfers to selected countries, detention in the framework of Dublin procedures)**

- n/a

**5. Specific procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)**

LEGISLATIVE CHANGE:

- Although the new Law on Asylum and Temporary Protection introduced the possibility of an expedited procedure, this procedure has so far been rarely used in practice, while the procedure at the border and in the transit area, which was also introduced by the new Law on Asylum and Temporary Protection, is not applied in practice. Another novelty of the Law on Asylum and Temporary Protection is the omission of the List of Safe Third Countries by the Government, which has so far served as a reason for dismissing asylum applications in most cases. Nevertheless, the concept of safe third countries as such is retained in the new law. Since the Asylum Office have made a small number of decisions on the merits from the beginning of the implementation of the new law with the application of the new law, it is not currently possible to talk about the scope of the new legal solutions

**6. Reception of applicants for international protection (including information on reception capacities – rise/fall/stable, material reception conditions, i.e. housing, food and clothing and financial support, contingency planning in reception, access to labour market and vocational training, medical care, schooling and education, residence and freedom of movement)**

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**7. Detention of applicants for international protection (including detention capacity – rise/fall /stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)**

REMAINING CONCERNS:

- Information on accommodation is given after the registration, but not in the language that asylum seeker understands, the certificates that refer to accommodation are not in the language of the asylum seeker or in English, but in Serbian cirilic, the certificates are not understandable, as they usually contain more than one name of the accommodation centers (asylum center and reception center), without any instructions for reaching the same or specific addresses.
- There is still no transport provided to the asylum centers, while the transport from the reception centers to the asylum centers is organized irregularly. Some NGOs and international organisations irregularly cover transportation costs from project funds.
- There is still a lack of available accommodation capacities for asylum seekers. Asylum seekers are still accommodated both in reception centres (urgent shelter for illegal migrants due to humanitarian reasons) and asylum centers, because of lack of accommodation capacities in asylum centres.

- Arbitrary reception, removal and throw-out from accommodation facilities by the Commissariat for Refugees and Migration continues, and there are cases where the Commissariat for Refugees and Migration acts contrary to the police order from the registration certificate and does not receive the asylum seekers , even when it comes to unaccompanied minors or they throw-out them from accommodation, which leads to the suspension of their asylum procedures and the prevention of access to asylum. Also, a case of collective forced eviction of the asylum seekers with the assistance of the police, from an asylum center to the reception center, was recorded in 2018, as a punitive measure for alleged violation of the house rules.
- Bad material reception conditions in reception centers, where asylum seekers are accommodated as well, where refugees complain about the lack of hot water, sometimes cold water and drinking water, insufficient clothing for children, insufficient food portions and quality of the food . Also, asylum seekers complain about the conditions in certain asylum centers, such as food quality, lack of clothing, especially clothing for children and baby food. There is financial aid provided by state, except from cash cards sometimes shared by non-governmental and humanitarian organizations.
- There is no specialised accommodation for unaccompanied minors. They are partly accommodated in the same accommodation as adult asylum seekers, to reception centers or asylum centers, and partly in state institutions for the protection of children and youth .
- Health protection functions, with less administrative obstacles and resistance to health centers due to lack of information about the rights of asylum seekers and internal procedures.
- Vocational trainings are not within the competences of state bodies and they do not provide it. However, some NGOs and international organizations sometimes organise, in some camps, vocational trainings.

**NEW CONCERN:**

- Asylum seekers are almost always, after being registered, directed and accommodated in reception centers that are not intended for asylum seekers but for illegal migrants, and where the asylum procedure does not take place, and not in asylum centers. Only if they, after being accommodated, urge by themselves for their transfer or through their legal counsellors, they are transferred to asylum centers in order to continue the asylum procedure, leading to the conclusion that it is only one of the steps for limiting access to asylum and making triage between "real" asylum seekers.
- There was an attempt by National Unemployment Service to limit the access to the labor market by changing the practice of issuing personal work permits free of charge, which attempt was successfully stopped by work of APC lawyers, near the end of the year.

**8. Procedures at First Instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, international protection status determination, decision making, timeframes, case management, including backlog management)**

#### REMAINING CONCERNS:

- Asylum procedure in first instance is slow and often pending for many months beyond envisaged limits prescribed in the law. Illustratively, APC has cases where asylum requests were submitted in 2017 and still pending first instance decision. Moreover, proceedings are often returned to first instance multiple number of times due to the procedural mistakes or failing to act in line with the instructions given by second instance body in second instance decisions.

- Only positive decisions- granting asylum, are followed with proper explanation, while negative decisions are remaining unexplained. Submitted proofs are mentioned in decisions but not assessed nor being consulted. Moreover, questions of the legal representatives of asylum seekers are not included nor mentioned in the decisions. COI reports are rarely consulted or addressed in the decisions, mostly outdated (dating as far as four years old). Even then, same COI reports are assessed selectively.

#### LEGISLATIVE CHANGE and NEW CONCERNS:

- With new law on asylum and temporary protection (June 2018) there were no improvements in speeding up existing usually long-lasting proceedings. Since the beginning of implementation of new law, extremely low number of decision in merits were brought, while extremely high number of asylum seekers are still waiting for first, second instance and not to mention final decisions.

- Decision in especially sensitive and vulnerable cases are often pending for a long time period beyond procedural limits. APC witnessed many cases that were pending in first instance for more than a year.

- Especially worrying is violation of principle of immediacy due to the fact that more than 3 asylum RSD officers take part in one case (one at submission of asylum request, other during the interview, third in phase of preparing decision), while fourth is bringing decision.

#### IMPROVEMENTS:

- Staff capacities of Asylum Office are increased. Asylum Office staff more regularly visiting asylum camps and conducting asylum actions. In spite of that, asylum procedure is extremely slow and inefficient.

### **9. Procedures at Second Instance (including organisation of the process, hearings, written procedures, timeframes, case management, including backlog management)**

#### REMAINING CONCERNS:

- Commission for Asylum does not decide in merits but almost always returns cases to the first instance for renewal even in circumstances when the case has already been returned to the first instance several times before, causing many cases to last for an extremely long period of time. Extremely rarely, in two cases since the beginning of the asylum system functioning in Serbia (in 2008) up to now, Asylum Commission has decided in merits by changing first-instance decision.

### **10. Availability and use of Country of Origin Information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)**

REMAINING CONCERNS:

- There is no special COI unit in MoI nor in Asylum Office, according to APC knowledge
- Many RSD officers don't know English language and non of them knows any of dominant asylum groups languages
- There is no COI database available on Serbian language
- COI reports Asylum Office is recalling upon are totally outdated (even as old as four years)

**11. Vulnerable applicants (including definition, special reception facilities, identification mechanisms/referral, applicable procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children).**

REMAINING CONCERNS:

- Absence of special unaccompanied minors (hereinafter UAM) migrants/refugees/asylum seekers accommodation facilities. UAM are accommodated in existing Serbian local UAM accommodation centers, that don-t have enough capacities for majority of UAM migrants/refugees/asylum seekers (then accommodated in asylum/reception centers for adults)
- Age assessment is being done often de facto by unauthorized staff of KIRS, while police is conducting age assessment without clear and established criteria
- Temporary guardians are not professional staff of Local Welfare Centers, but are appointed by Local Welfare Centers from the staff of just one NGO. Same staff/appointed guardians are lacking experience and without social welfare licences, failing under double control - of Social Welfare Center and UNHCR (who is donating same NGO). Independence and proficiency of appointed guardians in acting in the best interest of child is highly disputed. Capacities of Local Welfare centers are totally insufficient to respond to the need of vulnerable applicants.
- Vulnerable applicant are still not provided with the necessary support, there are no special accommodation facilities for vulnerable applicants, as e.g. for unaccompanied minors, injured persons, persons with disabilities
- The efficiency of local social welfare centres related to unaccompanied minors' protection is of concern, lacking human and technical capacities and interpretation, no systematic solutions for their professional human capacities. The most of the staff engaged is dependable on projects and direct finances from international organizations instead of state funding (UNHCR). In 2018, Social Welfare protection of vulnerable applicants is de facto outsourced from the existing State Welfare System to UNHCR and other international donors' projects, in spite State's clear jurisdiction and obligations envisaged in the existing laws and regulation.

**12. Content of protection – situation of beneficiaries of protection (including access to social security, social assistance, healthcare, housing and other basic services; Integration into the labour market; Measures to enhance language skills; Measures to improve attainment in schooling and/or the education system and/or vocational training)**

REMAINING CONCERNS:

- No referral mechanism for those in need of integration support services. KIRS does not have office for reception of beneficiaries nor willing to engage in concrete cases. Thus, direct access to integration is prevented for beneficiaries.
- Serbian classes are introduced but with bad or inadequate teaching staff engaged resulting with less efficient learning of Serbian language .
- Social financial aid is only accessible upon legal representation and intervention of professional NGOs.
- Access to labor market is only possible with gal representation and intervention of professional NGOs.
- Financial aid for housing in one year period for refugees is only possible with gal representation and intervention of professional NGOs.
- Persons granted asylum don't have travel documents issued by the Serbian state in spite of existing regulation and concrete bylaw adopted and beside decision of Asylum Commission ordering that to Asylum Office and Mol. In same cases APC is legally representing refugees before Constitutional Court.

**13. Return of former applicants for international protection**

REMAINING CONCERNS:

- The State is not undertaking returns of former applicants for international protection, but is tolerating their de facto stay in Serbia due to lack of financial, operational international cooperation capacities

IMPROVEMENTS:

- New bylaw concerning conditions for forced return was adopted in 2018, relying on provisions of new Law on Asylum and Temporary Protection

**14. Resettlement and humanitarian admission programmes including EU Joint Resettlement Programmes; national resettlement programme (UNHCR); National Humanitarian Admission Programme; Private sponsorship programme/scheme and Ad-hoc special programmes)**

- n/a

**15. Relocation (any relevant developments concerning persons transferred under the EU relocation programme and relocation activities organised under national schemes/on bilateral basis)**

n/a

**\* 16. Other relevant developments**

1 character(s) minimum

- Issue of discrimination and violence toward irregular migrants/asylum seekers/refugees is appearing in larger scales. There is strong raise in discrimination of mentioned beneficiaries in the field of provision of services (food, other services, telecommunication, bank services, daily life, public services, visible also in acting of institutions and private actors). There is increase in cases of violence and abuse of irregular migrants/asylum seekers/refugees, with cases of human trafficking done not only by local citizens, interest, criminal or smuggling groups, but even by corrupted individuals - representatives of some institutions.

## References and Sources

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**\* 17. Please provide links to references and sources and/or upload the related material in pdf format using the following box**

<https://www.amnesty.org/en/countries/europe-and-central-asia/serbia/report-serbia/>  
[https://twitter.com/APC\\_CZA/status/1078625154803159041](https://twitter.com/APC_CZA/status/1078625154803159041)  
[https://twitter.com/APC\\_CZA/status/1063244373457076224](https://twitter.com/APC_CZA/status/1063244373457076224)  
Law on asylum and temporary protection, "Official Gazette of RS", no. 24/2018  
Law on foreigners, "Official Gazette of RS", no. 24/2018  
Law on asylum and temporary protection, "Official Gazette of RS", no. 24/2018, art. 35  
Law on foreigners, "Official Gazette of RS", no. 24/2018, art. 72, art. 122  
Law on asylum and temporary protection, "Official Gazette of RS", no. 24/2018, art. 46  
[https://twitter.com/APC\\_CZA/status/1087777251767259137](https://twitter.com/APC_CZA/status/1087777251767259137)  
[https://twitter.com/APC\\_CZA/status/1054508436417863682](https://twitter.com/APC_CZA/status/1054508436417863682)  
[https://www.b92.net/info/vesti/index.php?yyyy=2018&mm=10&dd=19&nav\\_category=12&nav\\_id=1458201](https://www.b92.net/info/vesti/index.php?yyyy=2018&mm=10&dd=19&nav_category=12&nav_id=1458201)  
<https://beta.rs/vesti/drustvo-migranti/99339-trazioca-azila-iz-irana-na-silu-izbacili-iz-kampa-u-krnjaci>  
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[https://twitter.com/APC\\_CZA/status/1077976595867021315](https://twitter.com/APC_CZA/status/1077976595867021315)  
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<https://www.hrw.org/world-report/2019/country-chapters/serbia/kosovo>  
Law on asylum and temporary protection, "Official Gazette of RS", no. 24/2018 art. 77  
Decision on detention, Asylum office, RS, no. 26-697/18 dated 29.10.2018.  
Decision by Higher court in Belgrade, no. 224/18 dated 02.22.2018.  
The by-law on home rules and staying in detention, "Official Gazette of RS", no. 42/2018  
<https://www.hrw.org/world-report/2019/country-chapters/serbia/kosovo>  
The by-law on conditions on deportation of foreigners, "Official Gazette RS", no. 69/18  
<https://beta.rs/vesti/drustvo-migranti/105235-mobilni-operater-diskriminisao-izbeglicu-iz-iraka>

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## Consent for making the input publicly available

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\* Do you consent on making your input available on the EASO website?

- Yes  
 No

## Case law

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Please include relevant case law and/or submit cases to [EASO Portal IDS on Caselaw](#)

## Contact details

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\* Name of the contributing stakeholder

Asylum Protection Center (APC)

Contact person, Role

\* Email

\* I accept the provisions of EASO [Legal and Privacy Statements](#)

## Contact

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