

**EASO Consultative Forum Plenary
Brussels, 11-12 December 2014**

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

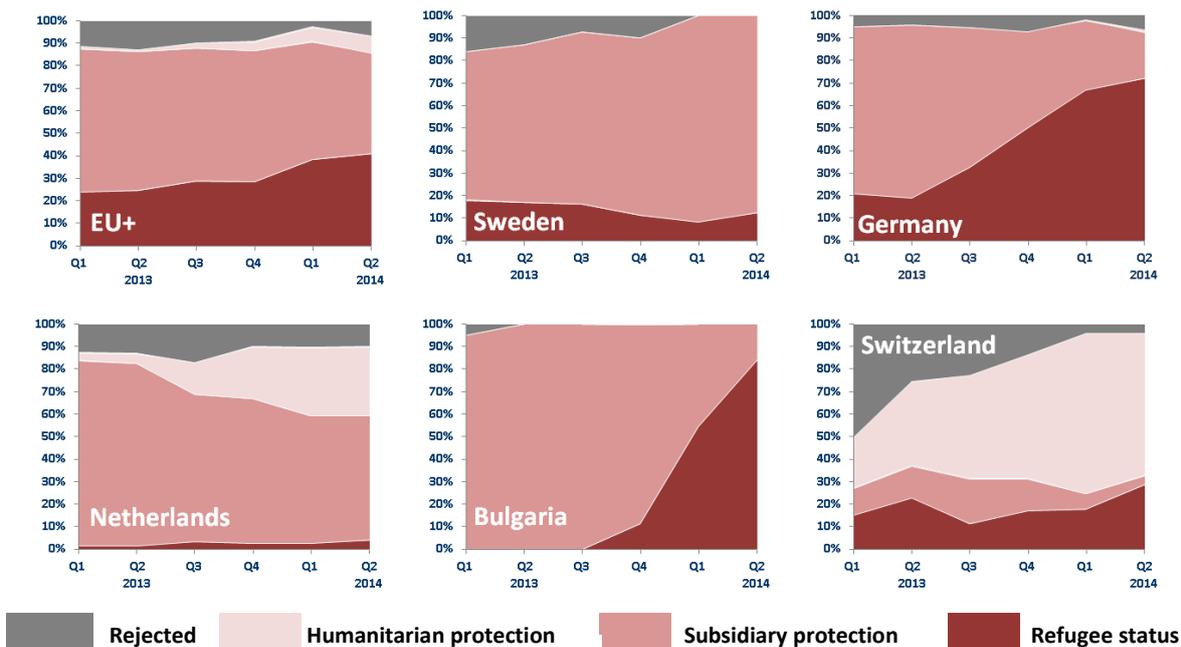
Moderator: Doris Peschke, General Secretary Churches' Commission for Migrants in Europe

Speakers: Nele 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, (PIU)
 Ursula Countess Praschma, Bundesamt für Migration und Flüchtlinge, Germany

1. Aim
<ul style="list-style-type: none"> To inform discuss factors influencing Member States' use of legal regimes to provide protection To identify possible roles of external stakeholders in improving harmonised practice

2. Background

As analysed by EASO in the Annual Report on the Situation of Asylum in the European Union 2013, Syria became the main country of origin of asylum in 2013 with a 109 % increase in applications for international protection. The surge was widespread; the volume of Syrian applicants increased in nearly all Member States (MS). While almost all first instance decisions issued to Syrian applicants were positive across MS, there was significant variation in the legal regime used in those positive decisions: in the United Kingdom, Denmark, France, Austria and Hungary, for example, Syrians were mainly granted refugee status, while in Sweden, Germany, Bulgaria, Belgium, Romania, Malta, Cyprus, Finland, Spain and the Czech Republic Syrians were most commonly granted subsidiary protection status.



Syria, Type of decisions issued in the EU+ Q1 2013 – Q2 2014, evolution in EU+ and 5 selected countries
 Source: Eurostat

As the graphs above showing first instance decisions on Syrian applications from Q1 2013 to Q2 2014 above illustrate, the use of legal regimes can be different among MS and changes differently over time based on unknown factors peculiar to each.

The example of recent influx of Syrian applicants, the vast majority of whom have obvious protection needs clearly illustrates how MS continue to use different legal regimes when affording protection to applicants. Differences in profile of applicant even from the same country of origin mean that certainty can never be gained about actual difference in decision practice without examination of individual cases. However, the Syrian cases seem indicative of a need for more harmonised practice in choice of legal regime in a Common European Asylum System (CEAS).

In parallel, it raises a more general question of the relationship between refugee status and subsidiary protection as two forms of international protection regulated under EU law. The definition of subsidiary protection in the EU *acquis* implies a sequence; that eligibility for subsidiary protection should be assessed after it has been established that a person does not qualify as a refugee. That aspect is particularly valid in light of a single uniform procedure where assessment of both forms of protection is done by one authority in one procedure. At the same it should be noted that some MS apply a single status system, where content of protection is actually identical for refugee status and subsidiary protection.

Information gathered by EASO during a recent Practical Cooperation Conference on Syria indicates that individual MS take different approaches toward Syrian cases: some MS apply a blanket policy for the whole country (whereby upon establishing Syrian citizenship, applicants receive protection), while other differentiate their decision-making practices based on the actual region within Syria where the applicants come from. In some MS the assessment of protection needs depends on analysis of specific aspects of COI such as, among others, number of fatalities, security incidents, and arbitrariness of violence and how widespread it is.

As the outlook for Syria remains very negative, it can be assumed that Europe will continue to be confronted with increasing numbers of Syrian nationals applying for international protection in the following years. It is therefore important that MS and EASO continue efforts to harmonise practices.

3. Expected outcomes

- To identify factors influencing MS practice
- To identify possible roles for civil society and other stakeholders in this field

4. Discussion points

- What factors do MS use to determine choice of legal regime in regard to certain citizenships (in particular Syria) or profiles of applicants?
- What factors induce MS to change policy over time?
- Can common points of reference (in interpreting legal concepts and applying them to individual cases) be established to harmonise practice where appropriate?
- What role is there for EASO and other stakeholders to provide input to MS on such common points of reference?