



Input by civil society to the EASO Annual Report 2017

EASO has started the production of the 2017 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). 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. Previous reports are [available for review at EASO's website](#).

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 2017 (and early 2018) in the areas listed on page 2**. The topics listed there reflect the structure of Chapter 4 of the EASO 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. Overall, the EASO Annual Report is not meant to describe the national asylum systems in detail, but present key developments in 2017, 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 2016 Annual Report](#). If you do not consent on EASO making your submission available, please inform us accordingly.

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 by filling in this document (with attachments, if needed) and returning it to ids@easo.europa.eu **AND** consultative-forum@easo.europa.eu **by 16 February 2018**.

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.

1) Access to territory and access to asylum procedure

The Swedish border is still “closed”. You need a passport or national id-card and if you are from outside the EU passport and visa to pass the border or seek asylum. The main travelling route is in the south -Denmark-Sweden by train. Carrier liability has been withdrawn and all checking is now carried out by the police in Hyllie, the first stop on Swedish territory. For people leaving the train (to take buses to Hyllie, mostly many commuters) the check is just outside the train, for people continuing on the train the police go into the train. The police seem mainly interested in passports with other colours than the EU red cover. The procedure runs quickly but is still an obstacle for the many commuters. However, since May 10 2017 the checks on commuters no longer take place and they do not have to present an id-card

The number of new asylum seekers in Sweden is quite low. There are no problems with access to apply for asylum, but the Migration Agency works with different tracks depending on country of origin. The procedure can run fast for nationals from for example Serbia or Kosovo as these countries are considered safe. However, an individual assessment is made

2) Access to information and legal assistance

Migration Agency informs, but still a lot of misunderstanding and not understanding. Legal assistance on 1-3 level in the asylum procedure. Not after that. If the asylum request is considered without grounds there is no legal assistance. See above p. 1. The same mostly if considered Dublin cases.

3) Providing interpretation services

There are interpreters, but sometimes only on telephone, and sometimes with low quality and misunderstandings.

4) Dublin procedure

Since April 2017 Sweden doesn't Dublin deport to Hungary.

5) Specific procedures (border, accelerated, admissibility)

There are tracks in the procedure, which stop admissibility in an accelerated process. See p. 1-2. There is no border procedure in Sweden

6) Reception of applicants for international protection

Receptions are spread over the country, are mostly in smaller communities, sometimes quite far away from urban areas and with not the best communications – to go with bus cost rather much money. For single minors there are many homes in bigger cities, as in Stockholm, Gothenburg and Malmö with its suburbs. Shortly before the temporary law was taken in parliament 2016 (see p. 12) the Swedish Migration Agency decided about immediate restrictions in the rights to housing, day support and subsistence-card issued by the authority. The restrictions are for those who finally have been denied protection in Sweden if there is not a child in the family. Results from this we have met in large scale during 2017 when many single minors have been upgraded in age to 18, denied protection and quickly have become homeless. This happens long before return to country of origin is possible to be made. Such evictions and no daily money support has happened also to old, sick, single persons.

7) Detention of applicants for international protection

The number of detained persons grew during 2017. Partly because of overcrowding some have been transferred to police custody, where some have stayed for months although they are not criminal. The police custodies have much harder everyday life restrictions than detentions. The civil society protests.

The issue of undocumented – paperless – sans papiers – has become more focused in politics after the terrorist attack in central Stockholm 7 April - 5 persons dead and many victims with injuries for life. Politicians have argued for harder controls of undocumented and expulsions of people without rights to stay in Sweden. The terrorist was a paperless who had been denied protection. It is argued by politicians from the

right to social democrats to give the police more resources and more legal rights to have id-controls and take fingerprints and photos. The discussions are not about “if” but about “how much” money to the police and “how many” more police officers. As a fact the political parties are competing on suggestions to find and deport paperless. Behind discussions about more resources to the police is also criminal gangs’ death shootings in city areas and other crimes.

Because of many denied asylum requests – not only single minors – undocumented are supposed to become many more. Most of them have strong reasons for not returning to their country of origin and their life in Sweden will not be easy.

As part of the government’s plans to reduce the number of undocumented people in Sweden the state is preparing to build more detention places

8) Procedures at First instance

FARR and other organisations for legal support to asylum seekers and undocumented asylum seekers have since long found deficiencies in the legal safeguards of the asylum procedure. One problem is about the burden of proof. Without documents as evidence the oral narrative of the asylum seeker shall be accepted according to well-established knowledge. Sometimes it is very obvious that decisions are based on subjective ideas about memories, cultures and countries, not based on proper knowledge.

In 2017 Gothenburg university published an evaluation of oral narratives in the context of decisions at the Migrations Agency. It was made in close contact with the Agency and will hopefully be used in the Agency. The study highly emphasises the importance of knowledge on memory psychology, effects of trauma, the importance of building reliance and that judging shall not be made out of subjective ideas about how to perform, culture in country of origin and so on. What a person really says shall be judged, not how she/he performs. From the study is understood that interviews and judgments are made as they should not be made. FARR hope this study/evaluation will improve the situation.

The Migration Agency published early in 2017 a report of their own, which showed that many decisions had lowy.in their legal reasoning. This applied both to negative and positive decisions The report found it was common that a person’s rights to refugee status were not assessed which can have as a very serious consequence that families are not reunified. FARR showed on its’ website how such decisions could be appealed.

9) Procedures at Second Instance

2017 the courts returned to the first instance (Migration Agency) 18 percent of the decisions about single minors, meaning almost one of five. In general 8 percent of the courts’ cases about deportation were changed to the better for the asylum seeker. In courts there are opinions expressed by some judges that the quality of 1st instance decisions has dropped.

An interesting PhD thesis in Stockholm university, Department of Science of State, published in April 2017, studied how legal security was created in Swedish Migrations courts. The study found great legal uncertainty in the asylum judgements. 1. The two parts – the asylum seeker and the Migration Agency – don’t have equal resources. The asylum seeker and her/his legal support often lack enough economic resources to investigate what speaks to the advantage of the seeker. 2. Norms about how to answer questions often make his/her narrative appear as poor of details and with too little of constancy. As the judgements of the courts often are built from the oral narrative, this can make it more difficult for the asylum seeker to get asylum. 3. There are not-outspoken norms in the courts where civil servants from the Migration Agency who are sceptical to the asylum seeker’s narrative is considered professional. The ones in the court who believe in the narrative is experienced as if he/she/they have been influenced emotionally or have decided out of political reasons, and then as unprofessional. This put press on the lay members of the court.

10) Availability and use of Country of Origin Information

On the website of the Migrations Agency there are since about ten years ago a wealth of COI reports made by state and civil society organisations in and outside Sweden. Other ways to find COI information are also used by lawyers and legal assistants and accepted. But can also not be given weight. There is a great belief within the Migrations Agency on their own COI journeys to countries, for example Afghanistan, and these

direct the Agency's decisions about security of countries even when there are reports suggesting the opposite.

11) Vulnerable applicants

See p. 12 about single minors, and briefly children in apathy.

12) Content of protection – situation of beneficiaries of protection

From July 2016 Sweden has a 3 years temporary law which puts international protection to the minimum of obligations in the EU. With some exceptions related to a date in November 2015, when the government informed about the new law, this temporary law is used now.

From the temporary law follows problems we from the civil society have got in close contact with during 2017. The law recognizes only convention refugees and protection according to subsidiary protection. Refugees are given 3 years, subsidiary protected 13 months with permissions to apply again and get 2 years. Among those who asked for asylum after the 24th of November 2015, only recognized refugees are allowed family reunification. The family member in Sweden must be able to support the family (proper housing and work with an income way over normal income level for newly arrived.) The support condition applies to anyone without minor family members in the part of the family staying in Sweden. It can be avoided in certain situations, but only after applying within three months after the first family member got permission to stay, something that is difficult to achieve due to bureaucratic procedures. Other restrictions are about age, both partners must be at least 21 years old. Most people who get protection in Sweden now, as Syrians, get it according to subsidiary protection. Those who applied after the 24th November 2015 will be able to start family reunification only if they get permanent residence. This is given only to those who found permanent employment, or an employment of at least two years - this is not common for newcomers.

This temporary law was taken after huge protests and campaigns against it from the civil society during 2016. As a consequence of the law problems with family reunification is a big issue in Sweden now and a hinder for integration.

We also see many problems for people who have succeeded in establishing themselves on the working and housing market but can't get their families here because of restrictions from the Ministry of Foreign affairs. Family members in third country must apply and have their interview made in a Swedish Embassy situated in a country to which the person is allowed to enter and where the Swedish embassy is prepared (space, security). As it is now Syrians in Syria can, because of visa restrictions, only go to the Swedish embassy in Sudan where the waiting time is 22 months. Family reunifications should according to EU rules be made within 9 months. Before even applying for the appointment at the embassy, the applicant must get an answer of the first application by internet - this can take many months. After interview at the embassy, the procedure at the Swedish Migration Agency starts, ID documents will be checked (and can have been nonvalid as time passed) etc. The total time can be three years or more.

There are also long-lasting problems for people with other nationality to reunify with their families because of Swedish bureaucratic obstacles.

Protection on the basis of exceptionally distressing circumstances is also granted for traumatized children, for example children in apathy (falling in a deep coma for months, even years), who usually later are given permanent residence and slowly recover. Some of these children are also now given permanent recognition according to a clause in the law. But not all. Children in apathy is a well-known medical phenomenon in Sweden today, they are estimated to be 50-100.

Two big issues 2017 have been the unaccompanied minors and to stop the deportations to Afghanistan. Of the 34 000 who got negative decisions during 2017 almost half of them – 15 500 – are to be sent to Afghanistan, where war is on-going The number of Afghans denied protection has grown highly at the same time as the security in Afghanistan has become worse. 9 600 of the 15 500 Afghans who were denied protection during 2017 were single minors. Totally 12 500 of the unaccompanied minors from Afghanistan have been denied protection during the last two years. Few of them have gone back. Either they are in Sweden or somewhere else, probably in the EU.

Most single minors are male but there are a smaller number of girls also.

According to law single minors are not sent back to their country of origin if there is no safe reception as family, close relatives or home for children. During 2016 and not at least 2017 the Swedish Migration Agency has turned around this law by upgrading the minors' age to 18. Most of them have Afghan nationality, many have grown up in Iran with their families and have no practical connection to Afghanistan.

Or they get temporary protection until they become 18, after which they soon receive a negative decision and are told to go to Afghanistan.

Upgrading of age has been a hot fact in the issue of the single minors from Afghanistan. FARR published in January 2017 a study, which showed that the Migration Agency had quite systematically changed age without investigation. Nothing had showed that the children were grown up and papers from professionals around the children were left without concern.

Technical/medical methods of upgrading age have periodically been used and deeply criticised as not reliable and not based on enough reliable scientific methods. Professionals of high scientific knowledge have protested and refused to work with it. The National Board of Health and Well-fare have also taken part. Different methods have been recommended as scientific, but have again been considered not safe and have also been not right interpreted. It is obvious that many minors wrongly have been considered 18.

This has mostly happened to Afghan single minors who's personal id-documents are not considered reliable by the Migration Agency. When nor their own narratives neither opinions from their social surrounding are considered as evidence the Migration Agency have decided the person as a grown up. The youngsters must then show proof of not being grown up, which is not easy when their id-cards are not accepted as true. The majority are boys/young men. Screening of girls stopped after a while.

Another fact is that many really became 18 after entering Sweden because the asylum procedure takes too long time - up to 2 years until they come to interview.

It seems also been quite a system to send message about updating of age and quickly after a negative answer to their asylum request. With an age of 18 rights as a single minor (guider, social worker, place in a home for minors which can be a family home, and right to go to school) stop. They are transferred to camps for adults, which mostly are far away. Many have chosen to stay where they are and continue school. They become homeless and stay with friends and where ever they find a place. Here civil society comes in as helpers. Some disappear.

Swedes knowing the minors (teachers, social workers, parents of family homes or employed in homes for single minors, psychologist, doctors, nurses, sport coaches and so on) have formed active civil society support movements since September 2016, the largest one under the name of #We can't stand it (about 10 000 members, 50 000 followers on Facebook). It is active and respected and works with many well-established organisations. The contact with FARR is close. Many of them have youngsters living in their home. There have been many open letters, name collections, manifestations and contacts with politicians. There are also supports with shelters for the youngsters from churches, humanitarian organisations and communities – with some special extra money from the state to the communities.

In August 2017 single youngsters themselves started a day and night “sitting strike” in the centre of Stockholm, organised by themselves and in good contact with the police. A couple of times they were attacked by ultraright wing groups. They had support from grown-ups and they got entry to a civil society kitchen to make food, tea and coffee. The strike was going on for more than 2 months and got a lot of media. Their main claim was to stop deportations to Afghanistan.

There have been joint meetings between the civil society and politicians close to the government to find solutions for the youngsters and to stop deportations to Afghanistan. Members of the government as well as the parliament are split. Splits are also within the political parties.

Group deportations to Afghanistan have continued, with much demonstrations and organized protest from the civil society outside detentions and airports, including FARR.

The government suggested in April 2017 a temporary upper -secondary school law for single minors with the right to study four years in gymnasium, and then have possibilities to remain in Sweden if they find work within six months. The law was partly welcomed but had a lot of peculiarities and was complicated to understand. FARR made instructions on its website how to apply. Many didn't apply because it was too difficult. It later became obvious that many of the youngsters were not accepted according to how the rules were interpreted by the Migration Agency. Late this autumn 2017 the government suggested another version of the law, which would probably save around 8 000 youngsters. There are some doubts whether it will get majority in the parliament.

We have now a growing number of undocumented youngster who have been denied protection in all 3 levels and who are still in Sweden. Others have left Sweden for other countries in the EU. Some hundreds have been deported back to Afghanistan during the year. Swedes who have been closely involved with them continue to support in different ways. It is known that they who have been deported back to Afghanistan try to leave the country again, many for Iran where many have families. In Iran they will probably stay

undocumented. FARR and other organisations mean that research ought to be made to get larger knowledge about what happens over time to deported.

The deportations to Kabul have continued during 2017. The government is until now not willing to stop them.

The huge problem for many single minors from Afghanistan is that their reasons for protection are not accepted. FARR and many organisations in the civil society mean that this ought to be changed.

13) Return of former applicants for international protection

Deportations are made, individual and group deportations.

14) Resettlement and humanitarian admission programmes

Sweden resettled in cooperation with UNHCR quite a large number compared to many other EU-countries.

15) Relocation

Sweden has relocated under the EU Relocations agreement 1 658 from Greece according to Greek Asylum Service. Slightly fewer were accepted from Italy

16) Other relevant developments

See p.12