



Obstacle course in the EU leads to unfair treatment of asylum seekers

There is still a long way to go in the establishment of a fair and efficient Common European Asylum System despite more than 12 years of harmonising national asylum policies and the adoption of the [‘asylum package’](#) in June 2013. Research published today by the [European Council on Refugees and Exiles \(ECRE\)](#) on asylum systems in 14 EU Member States illustrates huge differences as regards the procedural rules and safeguards for asylum seekers, their access to accommodation and employment, and the use of detention.

Brussels, 6 September 2013. When people fleeing violence and persecution manage to overcome the barriers that EU governments have put in place to prevent them from entering the EU, they still face additional obstacles to having their claim for protection fairly assessed. *“How can we expect refugees to be able to explain the reasons which forced them to flee their country and navigate through a complex legal procedure when in some cases they are not assisted by a lawyer and a qualified interpreter, when sometimes they have to sleep rough or in makeshift settlements or when months in overcrowded detention centres have left them psychologically broken?”* Michael Diedring, ECRE Secretary General, said at the launch of the report *‘Not There Yet: An NGO Perspective on Challenges to a Fair and Effective Common European Asylum System’*.

Given the increasing legal complexity of Europe’s asylum procedures, it is essential that asylum seekers can effectively access free quality legal assistance throughout the asylum procedure in order to ensure that those who are in need of international protection are recognised as such. However, to a greater or lesser extent, access to free legal assistance and representation is increasingly compromised in the 14 EU Member States covered in the report. The research shows that cuts to legal aid are reducing the number of legal representatives available to provide assistance to asylum seekers and refugees, and also that, paradoxically, effective access to quality legal assistance is least available where it is most needed, such as in accelerated procedures, at the border or in detention.

Moreover, asylum seekers’ right to lodge an appeal against a negative first instance asylum decision is in some of the EU Member States undermined in practice as lawyers are not allowed reasonable time to properly prepare the appeal. For instance, lawyers of asylum seekers detained in the UK under the ‘detained fast-track procedure’ only have two working days to challenge a negative asylum decision. In Hungary, a request for judicial review must be lodged within three calendar days if the asylum application is rejected as inadmissible, as is the case when it is considered that the person has transited a safe third country.

In certain cases, lodging an appeal does not automatically result in the suspension of the removal order as suspensive effect must be asked for separately. Such systems not only add to the workload of already overburdened courts, it also increases the risk that asylum seekers are sent back to their country of origin and subjected to serious human rights violations, in particular when there are obstacles to access free legal assistance.

Amongst others, the report also highlights the varying State practice with regard to detention. While some EU Member States such as Germany and Italy rarely detain asylum seekers, more than 13,000 asylum seekers entered detention in the UK in 2012 and Malta continues to detain for months the vast majority of asylum seekers arriving in the island, in overcrowded military barracks. In Greece, unaccompanied children apprehended crossing the border irregularly are systematically detained under the same conditions as adults until shelter has been ensured.

The transposition into national law of the new recast asylum legislation adopted by the EU in June constitutes an opportunity for governments to address these deficiencies and introduce high standards of protection at the national level. NGOs will continue monitoring implementation through the website www.asylumineurope.org. *“States now have to do the right thing and give asylum seekers a fair chance to have their claim properly examined, put an end to the detention of those fleeing persecution, and allow refugees to rebuild their lives and contribute to society”*, Diedring concluded.

Further information

'Not There Yet: An NGO Perspective on Challenges to a Fair and Effective Common European Asylum System' is published within the framework of [AIDA \(Asylum Information Database\)](#), a project of the European Council on Refugees and Exiles (ECRE), in partnership with Forum réfugiés-Cosi, the Hungarian Helsinki Committee and the Irish Refugee Council, and with the support of the European Programme on Migration and Integration (EPIM).

The database includes information on asylum procedures, reception conditions (including accommodation and access to the labour market) and detention in 14 Member States - Austria, Belgium, Bulgaria, Germany, France, Greece, Hungary, Ireland, Italy, Malta, Netherlands, Poland, Sweden, and the UK- through [country reports](#), [comparative indicators](#), [news](#), [advocacy resources](#) and the [accounts of refugees and asylum seekers](#).

ECRE is a pan-European Alliance of 76 non-governmental organisations advancing the rights of all individuals who seek refuge and protection in Europe. Our mission is to promote the establishment of just and humane European asylum policies and practices in accordance with international human rights law.

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