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2.1.1 First and second phases of CEAS and the 2016 reform proposals

2.1.1 First and second phases of CEAS and the 2016 reform proposals

The Common European Asylum System (CEAS) is a legal and policy framework developed to guarantee harmonised and uniform standards for people seeking international protection in the EU. Based on an understanding that the EU needs to have a common approach in implementing transparent, effective and equitable procedures,[75] CEAS emphasises a shared responsibility to process applications for international protection in a dignified manner and ensuring fair treatment.[76] At its core, CEAS aims to achieve:

- A clear and functional process to determine which country is responsible for examining an application for protection;
- A set of common standards to conduct fair and efficient asylum procedures;
- A set of common minimum conditions for the dignified reception of applicants for protection; and
- Convergence on the criteria for granting protection statuses and for the content of protection associated with those statuses.[77]

In the first phase of CEAS (1999-2005), six key legislative instruments were adopted in order to establish minimum standards for the asylum procedure across EU countries: the Temporary Protection Directive, the Eurodac Regulation, the Reception of Asylum Seekers Directive, the Dublin II Regulation, the Qualification Directive and the Asylum Procedures Directive. During this period, EU countries had varied experiences with asylum flows, while protection standards were deemed not to be strong enough. To improve the functioning of CEAS, a number of substantive amendments were introduced to five of the key legal instruments that govern the minimum standards of the European asylum system:[78], [79]

- The recast Asylum Procedures Directive;[80]
- The recast Reception Conditions Directive;[81]
- The recast Qualification Directive;[82]
- The recast Dublin III Regulation;[83] and
- The recast Eurodac Regulation.[84]

The increased – and often uneven – pressure that national asylum and reception systems in EU+ countries faced since 2015 underlined the importance of having an EU-wide framework to manage

mixed migration flows in a consistent and coordinated way. To further refine CEAS, in 2016 the European Commission presented two packages of reform proposals for core components of CEAS, including:[vi]

- A reform of the Dublin system to better balance responsibility and solidarity for processing asylum applications by EU+ countries;[85]
- Steps toward reinforcing the Eurodac regulation, including increasing the efficiency of the EU database on fingerprints for asylum applicants;[86]
- Strengthening the mandate of EASO toward a fully-fledged agency for asylum;[87]
- Replacing the Asylum Procedures Directive with a regulation directly applicable in national asylum systems to harmonise procedures across EU+ countries and achieve convergence in recognition rates;[88]
- Replacing the Qualification Directive with a regulation directly applicable in national asylum systems to further harmonise protection standards and rights of beneficiaries of international protection;[89]
- Reforming the Reception Conditions Directive to ensure that applicants for international protection benefit from harmonised and dignified reception standards and prevent secondary movements and abuse;[90], [91] and
- As part of the initiatives on reforming CEAS, the European Commission put forth a proposal to establish a permanent Union Resettlement Framework to provide legal and safe pathways to the EU, replacing existing, ad hoc schemes.

While considerable work was accomplished in policy implementation and practical cooperation among Member States during 2016-2019, the negotiations for the reform package seemed to have reached an impasse. With 2019 being a year of institutional transitions at the EU level, further advances were expected as of 2020. Since the proposals were set forth, progress toward their adoption was uneven. The discussions on the EU Asylum Agency, the Eurodac Regulation, the Union Resettlement Framework, the Qualification Regulation and the Reception Conditions Directive made significant headway.[92] At the same time, agreement on the proposals for a reformed Dublin system and an Asylum Procedures Regulation could not be reached due to fundamental political differences among EU Member States. In addition, some Member States expressed reservations in adopting one or more of the proposals separately before all were ready for adoption.

[vi] For a detailed description of the proposals, see the EASO Annual Report on the Situation of Asylum in the European Union 2017

[75] European Commission. (2021, May 12). *Common European Asylum System*. https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en
[76] European Commission. (2021, May 12). *Common European Asylum System*. https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en
[77] European Council | Council of the European Union. (1999). *Tampere European Council 15-16.10.1999: Conclusions of the Presidency*. https://www.europarl.europa.eu/summits/tam_en.htm
[78] Raithel, S. (2016). The Common European Asylum System: its History, Content, and Shortcomings. *The Michigan Journal of International Law (MJIL)*, *37*. http://www.mjilonline.org/the-common-european-asylum-system-its-history-content-and-shortcomings/
[79] European Commission. (2021, May 12). *Common European Asylum System*. https://ec.europa.eu/home-affairs/what-we-

do/policies/asylum_en
[80] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast). https://eur-lex.europa.eu/eli/dir/2013/32/oj/eng
[81] Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast). https://eur-lex.europa.eu/eli/dir/2013/33/oj/eng
[82] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast). https://eur-lex.europa.eu/eli/dir/2011/95/oj/eng
[83] Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person. https://eur-lex.europa.eu/eli/reg/2013/604/oj/eng
[84] Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice. https://eur-lex.europa.eu/eli/reg/2013/603/oj/eng
[85] Proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) COM/2016/0270 final/2 - 2016/0133 (COD). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0270(01)
[86] Proposal for a regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person] for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast). https://eur-lex.europa.eu/procedure/EN/2016_132
[87] Proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 COM/2016/0271 final - 2016/0131 (COD). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0271
[88] Proposal for a regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU COM/2016/0467 final - 2016/0224 (COD). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016PC0467
[89] Proposal for a regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents COM/2016/0466 final - 2016/0223 (COD). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2016%3A0466%3AFIN
[90] Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52016PC0465
[91] European Commission. (2016, July 13). *Completing the reform of the Common European Asylum System: towards an efficient, fair and humane asylum policy*. https://ec.europa.eu/commission/presscorner/detail/en/IP_16_2433
[92] European Commission. (2018, December 4). *Communication from the Commission to the European Parliament, the European Council and the Council.: Managing Migration in all its aspects: Progress under the European Agenda on Migration, COM(2018) 798 final* . https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/policies/european-agenda-migration/20181204_com-2018-798-communication_en.pdf

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