CENTRE FOR THE LAW OF EU EXTERNAL RELATIONS

The Common European Asylum System and human rights: enhancing protection in times of emergencies

Claudio Matera and Amanda Taylor (eds.)

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THE COMMON EUROPEAN ASYLUM SYSTEM AND HUMAN RIGHTS: ENHANCING PROTECTION IN TIMES OF EMERGENCIES

CLAUDIO MATERA AND AMANDA TAYLOR (EDS.)

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LIST OF TERMS AND ABBREVIATIONS

AFSJ	Area of Freedom Security and Justice
CEAS	Common European Asylum System
CJEU	European Court of Justice
COI	Country of Origin Information
EASO	European Asylum Support Office
ECE	European Convention on Establishment
EChFR	European Charter of Fundamental Rights
ECHR	European Convention on Human Rights
ECRE	Pan- European Umbrella Organisation for Refugee
ECtHR	European Court of Human Rights
EEAS	European External Action Service
EPS	Early warning and Preparedness System
ESC	European Social Charter
EU	European Union
EUCFR	European Charter on Fundamental Rights
FRA	European Union's Fundamental Rights Agency
IMO	International Organisation for Migration
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
LTV	Limited Territorial Validity
MoU	Memorandum of Understanding
PEPs	Protected entry procedures
QD	Qualification Directive
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees

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PREFACE

This edited volume of the CLEER Working Papers Series is the second and last of two volumes dedicated to the theme '*Human Security: a new framework for enhanced human rights in the EU's foreign security and migration policies*'. This research programme was co-sponsored by the LLP Programme of the European Union through a Jean Monnet grant. This research project was elaborated by Dr. Tamara Takács, Academic Programme Coordinator of CLEER and Senior Researcher at the T.M.C. Asser Instituut and Claudio Matera, who was a researcher in EU law at the T.M.C. Asser Instituut until the Fall of 2014. The project ran until September 2014 and was implemented also in cooperation with Dr. Aaron Matta, now Senior Researcher at The Hague Institute for Global Justice.

    This volume is built upon the conference organised by CLEER on the 4th of July 2014 and elaborates further upon the different topics that were covered on that occasion. We would like to thank all the speakers and moderators that participated on that occasion and Tomasz Pradzynski for the help in preparing this volume.

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The Editors
The Hague/Brussels
December 2014

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TWO REALITIES: STRIKING THE BALANCE[1]

Robert K. Visser

INTRODUCTION

Asylum is as old as the world is. The history of mankind is a history of migration. When Adam and Eve left The Garden of Eden, they became the first migrants. Ever since, there has been a long history of migration. At the same time the subject of migration gives rise to emotions and debates. A closer look is therefore required. In order to do so, the two realities of migration have to be realised and recognised. Subsequently, it is necessary to strike the balance between the two. Human rights have different aspects that have to be brought together. After explaining the very nature of asylum and international protection, a state of play of the Common European Asylum System is given. The role of EASO, the European Asylum Support Office, concludes this article.

I.   THE OPPOSING REALITIES OF MIGRATION

Two realities to face

In the area of migration we have to face two opposing realities. We live in a world that recognises and values the fundamental rights of men and women. We are proud of these rights. We especially recognise human rights. These are acknowledged in the Universal Declaration of Human Rights[2] and in regional declarations, such as the European Convention on Human Rights,[3] the EU Charter of Fundamental Rights[4] and similar declarations in other parts of the world. We cherish the values they express. We hold them to be '*self-evident*'; we believe that all humans are created equal. Even though sometimes the interpretation of how to deal with human rights in practice might vary between different regions and cultures, the mere existence of human rights is undisputed. Even dictators often refer to human rights, although they reserve the right on how to interpret and how to apply them exclusively to themselves.

At the same time we have lived for many hundreds of years in communities. Maybe we have even done so already since the beginning of time. In these

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[1] This article is an adapted text of the author's contribution to the CLEER Conference on 'Human Security as a legal framework to analyse the Common European Asylum System', 4 July 2014, Centre for the Law of EU External Relations (CLEER) and T.M.C. Asser Institute, The Hague.

[2] UN General Assembly, Universal Declaration of Human Rights 1948, 217 A (III).

[3] European Convention of Human Rights as amended by Protocols Nos. 11 and 14, 1950, 5 ETS.

[4] Charter of Fundamental Rights of the European Union, *OJ* [2009] C 326/391, 26.10.2012.

communities we are bound together by tradition, by culture, or by the fate of history. As a community we claim the right and the obligation to take care of our collective safety and security; the right to protect the community, the right to organise in our own way, the way in which we want to live. All of this is aimed at the benefit and the general interest of the community.

It is these two different realities that make living together on the same planet sometimes so complicated. Here we have real dilemmas to face. To put it simply: how does one reconcile the legitimate principle that all humans are equal and have equal rights on the one hand and the even widely accepted principle that members of a community have the right and even the obligation to take care of each other and to protect and defend their common interests on the other hand? This is the very essence and intrinsic tension of the debate on migration.

To strike the balance

Is it possible to reconcile these seemingly contradictory principles? At this point it should be noted that both these principles are focused on protection, but with a seemingly opposite effect. One puts the universal character of protection first; the other prioritises the protection of the community. That is the real dilemma of migration. The only way to reconcile them is to make choices. A choice between two principles that is human, logical and legitimate. But this is the only way we can organise our world as it is right now. We have no choice, but to choose.

Why do people migrate?

We can easily imagine many reasons to migrate: getting away from a bad situation, fleeing from danger, seeking a better future, or just seeking adventure, looking for something new. We all might consider doing so. No one should be blamed when one actually does migrate.

At the same time, we have to take into account the other reality. That is the obligation to protect the legitimate rights of those who are members of the community, of those who also have the right to protection. We accept this principle, provided that it stays within the framework of universally accepted rights.

That is exactly where we have to strike the balance. Our response can and must be fair. The right to organise the internal affairs of any community also implies the right of the community to decide who can join it and under which conditions. This means that access to that community can in general be subject to scrutiny before entering, e.g. visa requirements, work permits, proof of subsistence, and other requirements to be met before entering the territory of the community. It does also mean the right to refuse entry if those requirements are not met. Moreover, it also implies the right to regulate the entry of those who are seeking a new life, a new future, in a new place. This is a logical consequence of the fact that we accept communities as legitimate entities. That is part of the concept of human society and its security as we know it.

At the same time we want to live up to the other reality, the one linked to universal human rights. That is where we have to draw the line. Starting from these two realities, we have to ask ourselves what is a fair way to cope with all this. What can we do to respect both legitimate principles? If we really want to live up to both expectations, the only way is to seek and strike a fair balance. We have to make a positive choice for those people who are really in need of protection. For those people, each community shall open up its borders. We call them asylum seekers. Those who are really in need shall not be stopped at the border, shall not be refused entry. They shall be able to enter the territory and seek protection. They shall be received with dignity as fellow human beings. That is the essence of universal human rights.

That is also where it comes to the test. The test is whether we can cope with those two realities. Two realities that we all claim to believe in. Two realities that we want to live up to in our day to day life. This balance means to determine between those who are really in need of protection and those who ask for entry for other reasons. That is a difficult choice. It is so much easier to give in to any request, any claim, and any situation. But that would be denying reality. A reality of differences between groups and the different situations that people find themselves in. On the one hand people have the right to move, but on the other hand people have the right to protect their community and their way of life. That is how we have organised the world. We have to face that reality.

Asylum is legal migration

Let us have a closer look at those migrants who ask for protection. What do they really ask for, what are they seeking? They seek a safe place for themselves and their families. They seek a safe place to live, a place with a future. They seek legal existence, a future as recognised and accepted citizens, a legitimate place in society. Let us realise that those who seek international protection are not illegal migrants. They are migrants who ask for legal entry to a country. Asylum is not about people who enter a country illegally and who try to hide and make a living by illegal means. Asylum is about people who seek protection in society in a legal way. Whatever the reason to apply for protection, whatever the reason to flee and ask for entry, asylum seekers want a new opportunity to build their life, their future and that of their family. Asylum seekers, therefore, are legal migrants.

The asylum reality

Let's turn to the reality of the asylum process. What does an asylum request mean? Asylum is a right.[5] As any right it has to be established, to be judged on

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[5] Art. 14 of the Universal Declaration of Human Rights states that 'Everyone has the right to seek and to enjoy in other countries asylum from persecution.' Moreover, Art. 18 of the EU Charter of Fundamental Rights states: 'The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to

its content. If it is requested on the right grounds it has to be granted and the consequences have to be provided, meaning integration in the receiving society. If there are no grounds for protection, the request has to be denied and the consequences have to be faced, meaning that the person does not get legal stay and has to leave the country. From a governmental perspective these two sides of the asylum process have always to be taken into account. Either the request is granted, or it is to be rejected. The asylum process is about these two sides, accepting and integration, or rejection and return. If one considers that only 34% in 2013 were granted protection and 66 % were rejected, one can realise the reality behind this.[6]

II.   A COMMON EUROPEAN ASYLUM SYSTEM

Organising the different realities in the EU

Within the two realities as described above, we want to be humane to all our fellow human beings. If someone is really in need we want to help. That is part of our human instinct, a very noble and good part. To live up to this we organise ourselves.

In the EU we have set up a system of protection to help those who really need it and Europe is a very positive example in this respect. This is maybe contrary to what is seen and said in the public debate. An unsuspected source, William Lacy Swing, the Director General of the International Organisation for Migration (IOM) recently said as follows:

> '*I should also like to pay homage to the EU: very few regions face greater migration challenges and opportunities; and very few regions of the world have devoted more thought and resources to migration issues than Europe.*'[7]

Maybe this comes as a surprise to many. It is contrary to the common tone of the public debate. It is maybe contrary to the common perception. We are so used to vehemently arguing about the issue of migration, that we have come to ignore what and how much we really do; what we do for migrants and asylum seekers. The EU has set up a positive system that is providing protection to those in need. A system that is aiming to live up to the values we commonly assert. It is certainly not perfect, but it is much more than just a start. It is a comprehensive system. It is a system that is based on common values and human rights. It is a system that provides a compulsory EU legal framework for all Member States.

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the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union'.

⁶ EASO Annual Report on the Situation of Asylum in the EU 2013 2014, available at <http://easo.europa.eu/wp-content/uploads/EASO-AR-final1.pdf>.

⁷ Ambassador Swing, Director General, at the High-Level Conference 'Open and safe Europe – what's next?' (29/30 January 2014), available at <https://scic.ec.europa.eu/streaming/index.php?es=2&sessionno=8cbe9ce23f42628c98f80fa0fac8b19a>.

How it started

Let's go back to history for a moment. The debate on the protection of refugees really started in Europe in the aftermath of the Second World War. The result was the Geneva Convention of 1951. This Convention aimed at dealing with the large numbers of displaced persons in Europe after the war. Over the years a more general approach to refugees arose from this specific situation. The Geneva Convention has for many years aligned the question of how to deal with the subject of refugees. It has become the focus point for a universal approach. After the fall of the Berlin Wall and the end of the East-West conflict in 1989, the concurring globalisation and related migration, a new reality came about.

In this context need for new action was felt.[8] This resulted in a series of policy actions. The Treaty of Maastricht of 1992 provided the legal basis for EU actions in the field of Justice and Home Affairs. The European Council of Tampere in 1999[9] set out the first Programme on asylum and migration. This was followed by *The Hague Programme*[10] in 2004 and the *Stockholm Programme*[11] in 2009. The European Council of 27 June 2014 set out Strategic Guidelines[12] on this subject for the coming years. At the same time a comprehensive set of EU legislation was decided in 2004/2005, establishing the first phase of the Common European Asylum System and characterised by minimum standards. This package was improved and further developed in 2011/2013 in the second phase of the Common European Asylum System aimed at harmonisation.[13]

Furthermore, in 2011 the European Asylum Support Office (EASO) was established to provide operational and practical support and expertise to foster the implementation of the Common European Asylum System.[14] The EU asylum acquis takes the principles of the Geneva Convention[15] as a starting point. But the EU has built a system that is wider and elaborate, adding both rights and procedural guarantees. As will now be argued, the EU protection system goes beyond international refugee obligations.

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[8] For an overview of the development of the CEAS see the contribution by Myrthe Wijnkoop in this volume.

[9] The Tampere Programme, 'Towards a Union of Freedom, Security and Justice' (1999), available at <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/00200-r1.en9.htm>.

[10] The Hague Programme, 'Strengthening Freedom, Security and Justice in the EU' (2004), available at <http://easo.europa.eu/wp-content/uploads/The-Hague-Programme.pdf>.

[11] The Stockholm Programme, 'An open and secure Europe serving and protecting citizens' (2009), available at <http://easo.europa.eu/wp-content/uploads/Stockholm-Programme.pdf>.

[12] European Council Conclusions (27 June 2014), available at <http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/143478.pdf>.

[13] For the development of EU asylum legislation see S. Peers, *EU Justice and Home Affairs Law* (Oxford: Oxford University Press 2013); and J-C Piris, *The Lisbon Treaty, a legal and political analysis* (Cambridge: Cambridge University Press 2010).

[14] Regulation (EU) No. 439/2010 of the European Parliament and the Council establishing a European Asylum Support Office (19 May 2010), *OJ* [2010] L 132/11, 19.05.2010.

[15] Geneve Conventions 1949, available at <https://treaties.un.org/doc/Publication/UNTS/Volume%201125/volume-1125-I-17512-English.pdf>.

A comprehensive EU legal framework on asylum

At the national level, in our day to day work, we are very much used to looking at the legal side of asylum from the national perspective. There is national asylum law. We know that somehow that law contains elements of international legislation, especially the Geneva Convention, as well as EU legislation. Too little we realise that by now the legal reality is the other way around. The EU legal framework on asylum is the constituent factor for the asylum laws of Member States. Only when and where the EU framework leaves options, there is room for national legislation. National legislation that goes outside of the EU legal framework is not allowed. So from the legal perspective the EU is already implementing a real Common European Asylum System. Certainly with the adoption of the so called EU asylum package in 2013, there is a legal system in place that sets quality standards, harmonised procedures and common approaches. Of course there are always more elements to be desired and to further develop. The Common European Asylum System has now entered the second phase. New phases will follow.

From common legislation to law in action

So we have a common legal framework in place. But how does it work in practice? Does the operational situation in the Member States reflect this common system?
    One of the main instruments to build the European Union is by agreeing on European legislation, which means adopting common laws. In many aspects the EU is a legal construction, built by Treaties which are commonly agreed between Member States. The implementation and the enforcement of these common laws are mainly left to the Member States. To ensure the equal application is, finally, the task of the Court of Justice of the European Union, with of course a role for the European Commission as the 'Guardian of the Treaties'. In many areas this system works effectively. But in some areas the establishment of supporting structures was deemed necessary to ensure coherent implementation. EU agencies, such as Frontex, Europol and EASO have been established with that aim.

Similar cases, similar procedures, similar outcome

    In the end, the real goal of legislation is to influence the reality on the ground. In the case of asylum the aim is to have similar procedures and similar outcomes for similar cases.
    This situation has not been reached yet. But to what extent, we don't really know exactly. We should be cautious when comparatively analysing. We can compare certain situations, but we cannot compare any situation just like that. For example, it is clear that we cannot expect a country like Estonia to take as many asylum seekers as a country like Germany. Also the countries, from which asylum seekers are coming from, differ from Member State to Member State,

resulting in different outcomes for asylum requests. The reason for this can be very diverse, for example the existence of migrant communities, historical ties, a common language or geographical proximity. Furthermore there is a swiftly changing reality in the area of migration and asylum. For example: Poland, Hungary and Bulgaria are faced with large numbers of asylum requests, a situation not anticipated a few years ago. Italy has been for some years amongst the top receiving asylum countries. Currently EASO is working on more refined ways to look into the question of what is relevant to compare and what not.

III. THE ROLE OF EASO

So how is it possible to ensure effective implementation and adequate operational practices? How does one achieve the desired convergence on the ground? First of all it is the responsibility of the Member States. Let's not forget this essential part of reality. The Member States have to transpose and implement EU legislation.

In addition, there is a common European support structure in place. EASO has been established to support the Member States by stimulating more convergence in the field of asylum and by assisting Member States with the implementation of the Common European Asylum System.[16] In this context, EASO acts as a centre of expertise on asylum. EASO is an instrument of solidarity. The common goal is, similar cases, similar procedures, and similar outcomes. EASO provides support through a number of avenues.

i)   *Training*

An essential means to ensure EU-wide convergence of asylum practices is to implement similar training for all persons involved in the asylum process in the different Member States. To that end EASO provides training to asylum officials and develops training materials both in the area of the Common European Asylum System, as well as in practical skills such as interviewing minors and vulnerable groups. The cornerstone of EASO training activities is the EASO Training Curriculum,[17] a common vocational training system designed for asylum officials and other target groups such as managers and legal officers throughout the EU.

EASO training covers core aspects of the asylum procedure in interactive modules. EASO also develops training for the judiciary and engages in other relevant training initiatives. These include the development of training in cooperation with other EU agencies, such as Frontex. In addition to the permanent training activities, EASO delivers *ad hoc* training sessions in response to the specific needs of Member States under pressure. To this end it has delivered training sessions in Bulgaria, Greece, Italy, Luxembourg, and Sweden. In 2013

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[16] See Regulation No. 439/2010, *supra* note 14.
[17] EASO Training Curriculum (March 2014), available at <http://easo.europa.eu/wp-content/uploads/BZ0413152ENC.pdf>.

alone in total, over 2100 asylum officials were trained through the EASO Train-
ing Curriculum.[18]

ii) *Country of Origin Information*

Country of Origin Information (COI) is essential for asylum officials during the
asylum determination process. Country of Origin Information can also play a
significant role in the implementation of a Common European Asylum System.
Common Country of Origin Information will contribute to more convergence in
the assessment of a situation in country and thus to further harmonisation of
decisions. To stimulate more common COI, EASO now has set up 7 COI spe-
cialist networks (Iran, Iraq, Somalia, Syria, Pakistan, Afghanistan, and the Rus-
sian Federation), as well as a Strategic COI Network. These networks,
consisting of national experts, meet regularly with the aim of pooling information
and resources, exchanging good practices and jointly developing new products
and approaches. To support this work, EASO has developed a common COI
report methodology.[19] Moreover, EASO manages the EU-COI portal, which is
a single entry point to national COI databases, so COI researchers can search
for relevant COI in databases of other EU Member States and to EASO COI
documents. The COI portal is being further developed with connections to ad-
ditional national databases.

In 2013, over 2100 new COI documents were made available via this portal.
In addition, EASO drafts reports on key countries of origin, such as Afghanistan,
Somalia and Chechnya, reflecting this common format and methodology.[20]

iii) *Early warning and Preparedness System*

EASO Early warning and Preparedness System (EPS) provides risk analysis
of asylum influx from third countries. Regular data collection on asylum from
Member States allows for the assessment of the capacity of Member States to
cope with the influx of asylum seekers they are receiving and enables a prompt
detection of shortcomings and needs, thus allowing efficient and timely action
to prevent critical situations. By using this system, EASO provides a constant
informative function, i.e. monthly trend reports, quarterly asylum reports and ad
hoc trend analysis, which are published on the EASO website.[21]

iv) *Quality*

Quality is essential to the development of the CEAS. EASO maps procedures,
identifies, shares and contributes to the establishment of best practices. Based

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[18] Ibid.

[19] COI report methodology (July 2012), available at <http://easo.europa.eu/wp-content/up-loads/BZ3012618ENC.pdf>.

[20] For more information, please visit <http://easo.europa.eu/asylum-documentation/easo-publication-and-documentation/>.

[21] Available at <www.easo.europa.eu>.

on an analysis of the needs, EASO assists Member States to improve the quality of their asylum processes by developing and sharing practical tools, as well as manuals on the practical implementation of EU asylum legislation.

v)   *Operational support*

An essential instrument in EASO's toolbox is providing operational support to the Member States' asylum systems that are under pressure or presenting specific needs. By organising Asylum Support Teams of Member States experts and EASO experts, an effective system has been put into practice to assist Member States when needed. Since becoming operational, EASO has provided operational support to 6 Member States and has ongoing operational support missions in Greece, Italy, Bulgaria, and Cyprus. [22]

vi)   *External dimension*

The external dimension is a natural and indissoluble part of migration. EASO has an important role to play in the external dimension of the Common European Asylum System: support to third countries.

EASO seeks to strengthen asylum and reception capacity in third countries in order to better protect asylum seekers, facilitating the EU resettlement of refugees from outside the EU by EU Member States, and cooperating with third countries in matters connected with EASO's duties and activities. This includes supporting the implementation of regional protection programmes, and other actions relevant to durable solutions. In 2013, EASO has elaborated an external action strategy that defines the approach and general framework within which the agency will develop its work related to the external dimension of the CEAS.[23] In this context, EASO currently has an on-going project with Tunisia, Jordan and Morocco. This project promotes the participation in the work of both EASO and Frontex.

vii)   *Cooperation is key*

Cooperation is key in the area of migration. It is essential that all actors concerned join forces. EASO's cooperation with the Member States and the Commission is a day-to-day reality, as is the cooperation with UNHCR and civil society. Cooperation with the Commission and with Eurostat aims to improve the necessary statistical data and information. Cooperation with Frontex, the Fundamental Rights Agency and other EU agencies takes place in many fields, from operations and training, to sharing information and statistics. Cooperation on the external dimension means cooperation with the European External Action

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[22] Operating Plans and accompanying documents, available at <http://easo.europa.eu/asylum-documentation/easo-publication-and-documentation/>.

[23] EASO External Action Strategy (June 2012), available at <http://easo.europa.eu/wp-content/uploads/EASO-External-Action-Strategy.pdf>.

Service (EEAS) of the EU, the Commission, Frontex, UNHCR, and many other organisations. Training of asylum officials has been developed in close cooperation with many actors ranging from Member States, the Commission, and UNHCR to members of courts and tribunals and civil society.

viii)   *Facilitators of irregular migration*

There is also the other side of migration. Migration is also a business and often involves criminal activities. Now more attention is given to this side of the coin. Recently EASO has started a special project together with Frontex, Europol, and Eurojust to obtain a better understanding on how these criminal networks of facilitators operate. A dedicated project with Malta and Italy aims to get a better insight into the organisation and functioning of these networks. The first results are expected end of 2014.[24]

ix)   *Joint processing*

Joint processing has been an on-going discussion. Recently EASO has started a number of pilot projects to test its possibilities. In several areas, such as Dublin procedures, screening, and referral of vulnerable groups pilots have been realised. In this context, EASO has been able to test, together with Member States and Norway, in a very short period of time, the added value that practical cooperation in the field of joint processing can bring. The preliminary pilot projects clearly show that there are various aspects of the asylum procedure that can be done jointly and that many technical aspects contain similar elements. Moreover, the concept of joint processing is promising even though there are some challenges, mainly due to national legislation. Trust and mutual recognition are key to the success of such initiatives. Through the preliminary pilot projects, many Member States' officials experienced a new level of trust when they got access to other Member States' actual caseload. Recognising the fact that after all, challenges of a case worker or a decision maker are in nature the same as in other Member States, created an atmosphere of solidarity on a very practical level that should be further increased. EASO is currently conducting further and more wide-ranging pilot projects with a continuum of several steps of the asylum procedure.

IV.   CONCLUSION

Solidarity, what is it and what it is not?

To conclude, solidarity is a word often heard and used these days. It is an essential element of living together in a Union. What would the EU be if it were

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[24] For more information on this project see EASO's Newsletter (September 2014), at 14, available at <http://easo.europa.eu/wp-content/uploads/EASO-Newsletter-September.pdf>.

not a system of solidarity? But what does solidarity mean between Member States? Since the entry into force of the Lisbon Treaty[25] solidarity is part of the EU *acquis*. Solidarity is not charity. Solidarity between Member States must be based on the responsibility of each partner. Only if there is an equal understanding of responsibility there can be solidarity. This means that there must be mutual trust. Trust that all care in a responsible way for the common good. Based on this trust the discussion on solidarity can and will be a rational and honest one. This mutual trust and responsibility is the key to a common future. If one looks at the debate in the EU that feeling is sometimes lacking and that is maybe why many are afraid of thinking about the future, about the necessary next steps. Take for example mutual recognition. Mutual recognition of asylum decisions within the EU is the logical next step of an asylum system that functions within an area of free movement of persons and without internal borders (as far as Schengen is concerned).

A next step that is maybe less complicated and far-reaching as is sometimes thought. Look, for example, at the Qualification Directive, article 33 (2a): '*Member States may consider an application for international protection as inadmissible only if: another member States has granted international protection;.*'[26] This provision means in effect the acceptance of a decision of another Member State. Let's also look at the example of the Schengen visa, decisions of one Member State on the basis of common EU legislation and accepted by other Member States. Therefore, the foundations are already there, but it is clear that there absolutely needs to be a minimum of trust between Member States to make the next step. If myths and images distort reality and poison the debate, this will be difficult to achieve. That is why facts and figures are so important.

On this basis, the EU needs to have an open and sincere debate on the way ahead. It is only by working together that a truly Common European Asylum System can be further developed.

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[25] See for example in the area of asylum Art. 80 of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, *OJ* [2007] C 306, 13.12.2007, available at <http://europa.eu/lisbon_treaty/full_text/index_en.htm>. For more examples of solidarity clauses see J-C Piris, *supra* note 13, 275-276.

[26] Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection (26 June 2013), *OJ* [2013] L 180, 29.6.2013, 60–95.

Founded in 2008, the Centre for the Law of EU External Relations (CLEER) is the first authoritative research interface between academia and practice in the field of the Union's external relations. CLEER serves as a leading forum for debate on the role of the EU in the world, but its most distinguishing feature lies in its in-house research capacity, complemented by an extensive network of partner institutes throughout Europe.

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- To carry out state-of-the-art research leading to offer solutions to the challenges facing the EU in the world today.
- To achieve high standards of academic excellence and maintain unqualified independence.
- To provide a forum for discussion among all stakeholders in the EU external policy process.
- To build a collaborative network of researchers and practitioners across the whole of Europe.
- To disseminate our findings and views through a regular flow of publications and public events.

Assets

- Complete independence to set its own research priorities and freedom from any outside influence.
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CLEER's research programme centres on the EU's contribution in enhancing global stability and prosperity and is carried out along the following transversal topics:

- the reception of international norms in the EU legal order;
- the projection of EU norms and impact on the development of international law;
- coherence in EU foreign and security policies;
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- the fight against illegal immigration and crime;
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