

# **EU Asylum law**

**EIPA Training**

**Introduction to EU law and EU policies for non-lawyers**

**Module 6 – The Area of Freedom, Security and Justice stream**

**Brussels, 13 December 2016**

# Categories of foreigners

(and internally displaced persons)

<b>Migration</b>			
<b>International</b>			<b>Domestic</b>
<b>Regular</b>	<b>Irregular</b>		
A longer than 1 year presence/absence, in accordance with the law	Not in conformity with entry and stay rules „illegal migration”	<b>Forced migration</b>	
Regular migrant (Worker, student, family unifier, etc.)	Undocumented foreigner, Persons with no right to enter and/or stay	Asylum seeker, Refugee	Internally displaced person, IDP

# DEFINITIONS

# Geneva Convention relating to the status of refugees – 1951

## Article 1. *Definition of the term “refugee”*

A. For the purposes of the present Convention, the term “refugee” shall apply to any person who:

(1) Has been considered a refugee ...[according to the interwar arrangements and the IRO constitution]

(2) As a result of events occurring before 1 January 1951 and owing to **well-founded fear** of being persecuted for reasons of **race, religion, nationality, membership of a particular social group or political opinion**, is **outside** the country of his nationality and is **unable**, or owing to such fear, is **unwilling to avail** himself of the **protection of that country**; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

## Definitions

# Convention Governing the Specific Aspects of Refugee Problems in Africa

## Article 1

### Definition of the term "Refugee"

#### 1. [ Geneva definition]

2. The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

# Definition

## **Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama**

Adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, held at Cartagena, Colombia from 19-22 November 1984.

The Colloquium adopted the following conclusions:

.....

3. To reiterate that, in view of the experience gained from the massive flows of refugees in the Central American area, it is necessary to consider enlarging the concept of a refugee, .... Hence the definition or concept of a refugee to be recommended for use in the region is one which, **in addition to** containing the elements of the **1951 Convention and the 1967 Protocol**, includes among refugees persons who have fled their country because their lives, safety or freedom have been threatened **by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.**

# European Union: subregional law

„Convention refugee”

„Political refugee”

Beneficiary of subsidiary protection

Victims of civil war or threatened with inhuman or degrading treatment or punishment or death penalty

Beneficiary of temporary protection

„Mass influx” from conflict, endemic violence or systemic violations of human rights

*Details later*

# **EU LAW**



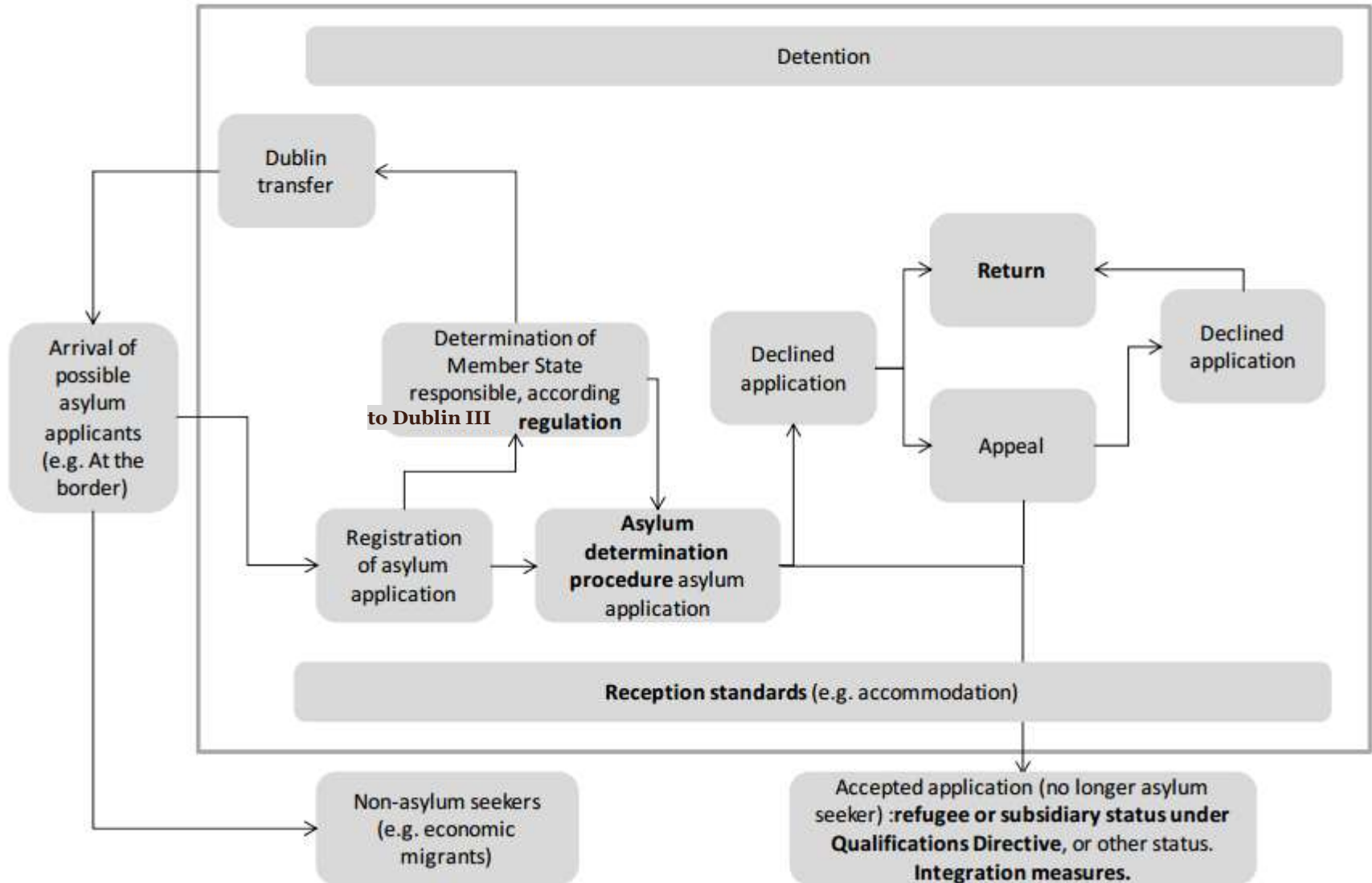
# ASYLUM ACQUIS

## Adopted and proposed measures

1. Regulation on **Eurodac** (2000) recast: **2013**. Proposal for regulation **2016**
2. Directive on **temporary protection** (2001)
3. **Reception conditions** directive (2003) recast: **2013** Proposal for directive (recast 2): **2016**
4. **Dublin II** Regulation and its implementing rules (2003) recast: **2013** Proposal for regulation (recast 2): **2016**
5. Qualification (**Refugee definition**) directive (2004) recast: **2011**. Proposal for regulation: **2016**
6. **Asylum procedures** directive (2005) recast: **2013**. Proposal for regulation: **2016**
7. Establishment of an **European Asylum Support Office** (2010) Proposal for regulation on **European Asylum Agency**: **2016**
8. Decision on the new **Asylum Migration and Integration Fund** – **2014**
9. Solidarity measures, 2015: **resettlement and relocation (See also 2016 Dublin proposal)**

# THE ASYLUM PROCESS MODEL AS IN 2016

Figure 1: Overview of the asylum process



Source: (European Parliament:) What system of burden-sharing between Member States for the reception of asylum seekers? A study written by Dr Christina Boswell, Dr Eiko Thielemann and Richard Williams. PE 419.620.. p-34

**THE DUBLIN SYSTEM,  
AND THE  
RULES ON TEMPORARY  
PROTECTION**

# The Dublin Convention the Dublin II and the Dublin III regulations (1990, 2003 and 2013)

Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (1990) OJ 1997 C 254/1

and

Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national OJ 2003 L 50/1

*Implementing regulation*

Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 222 of 5 September 2003, p. 1);

## **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 (recast)  
(OJ 2013 L 180/96)

COMMISSION **IMPLEMENTING REGULATION (EU) No 118/2014** of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national  
OJ 2014 L 39/1

# Purpose and philosophy of Dublin

Every asylum seeker **should gain access** to the procedure. There must be a MS to determine the case

**Only one procedure should be conducted** within the Union. **A decision** by any MS be taken **in the name of others** = no parallel or subsequent application should take place

**THE PHILOSOPHY OF DUBLIN:  
UNDER WHAT CONDITIONS IS TAKING CHARGE BY ANOTHER STATE –  
WITHOUT INVESTIGATION OF THE MERITS IN THE FIRST STATE FAIR**

**Fairness preconditions**

If the **substantive law** (the refugee definition) is identical

If **procedural rules** guarantee equal level of protection at least in terms of

legal remedies (**appeals**)

access to **legal representation**

**reception conditions** (support) during the procedure (detention, e.g.!) )

Criteria of identifying the responsible state (this is **the hierarchy**)

1 Minor

2 Adult applicant

3 Residence permit, visa

4 Irregular crossing of external border

5 Unnoticed stay (for 5 months)

6 Visa waived entry

7. Needy family members

Responsibility of the state **terminates** when the applicant **leaves** the territory of the EU for 3 months  
See: Abdullahi case, CJEU judgment, 2013 December

# REGULATION 604/2013/EU (DUBLIN III)

## PROCEDURE - DEADLINES

**Taking charge** (Another MS, in which the applicant did not apply, is responsible for the procedure, not where the applicant submitted the application)

The responsible state has to **be requested** as soon as possible but not later than **3 months** after the submission of the application.

If there is a **Eurodac hit**, request within **2 months**

If deadline missed: **loss of right to transfer** – the requesting state becomes the responsible state

**Reply: within 2 months. Silence = agreement**

In **urgent cases**: requesting state sets deadline. Min. **1 week**.  
Response may be extended to **1 month** by requested state



# REGULATION 604/2013/EU (DUBLIN III)

## PROCEDURE - DEADLINES

**Taking back** (Procedure is still pending in the requested state, applicant withdrew her application there or the application was rejected)

Request:

If no Eurodac hit: **3 months for request**

Eurodac hit: **2 months**

Response: **1 month** (no hit) ; **2 weeks** (Eurodac hit)

If taking back **not requested in time**: opportunity to submit a **new application** must be given

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**Transfer** must take place **within 6 months** from accepting responsibility

**A POSSIBLE CONCEPTUAL  
FRAMEWORK FOR  
APPROACHING THE PROBLEMS  
RELATED TO THE DUBLIN  
SYSTEM**

Field / Discipline Level of analysis	Moral and political philosophy	Practical, Political	Legal, Justice oriented	Social, sociological, psychological
<b>State / Comm- unity</b>	<p>Responsibility sharing or shifting? Allocation of „burdens”</p>	<p>What is „in the interest of the state?”</p> <ul style="list-style-type: none"> <li>• ever fewer asylum seekers?</li> <li>• Minimum expenses?</li> <li>• Avoidance of social tensions?</li> </ul>	<ul style="list-style-type: none"> <li>• Compatibility with Geneva 51?</li> <li>• Criteria of fairness: <ul style="list-style-type: none"> <li>○ Procedural rights</li> <li>○ Substantive interpretation of definition</li> <li>○ Material reception conditions</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Social identity construction of receiving society : why to protect refugees, (or why not)</li> <li>• Selectivity according to country of origin</li> </ul>
<b>Indi- vidual / Family</b>	<ul style="list-style-type: none"> <li>• Freedom of movement (choice of residence)</li> <li>• Decreasing vulnerability</li> </ul>	<ul style="list-style-type: none"> <li>• Can she reach her preferred destination?</li> <li>• Where is social integration the smoothest?</li> </ul>	<ul style="list-style-type: none"> <li>• ECHR, Article 3, 8, 13 issues (Torture, inhuman degrading treatment or punishment, right to privacy and family, effective remedies)</li> </ul>	<ul style="list-style-type: none"> <li>• Extended trauma</li> <li>• Loss of trust in democracy (and its superiority over authoritarian regimes)</li> </ul>

# **Temporary Protection Directive, 2001**

**2001/55 EC Directive on Giving Temporary Protection in  
the Event of a Mass Influx of Displaced Persons and on  
Measures Promoting a Balance of Efforts Between  
Member States in Receiving Such Persons and Bearing the  
Consequences Thereof**

**2001 July 20, OJ L 212/12**

# TEMPORARY PROTECTION DIRECTIVE

## Goal:

**minimum standards** for giving temporary protection  
in the event of a mass influx of displaced persons

+

to promote a **balance of effort** between Member  
States

## Basic principles:

**Neither replaces nor excludes** recognition as  
Convention refugee

Any **discrimination** among persons with temporary  
protection is **forbidden**

# TEMPORARY PROTECTION DIRECTIVE

Beneficiaries = 'displaced persons'

who

have **had to leave** their country or region of origin,  
or have been **evacuated**,  
and are unable to return in safe and durable conditions

in particular:

- (i) persons who have fled areas of **armed conflict or endemic violence**;
- (ii) persons at **serious risk of**, or who have been the victims of, **systematic or generalised violations** of their **human rights**;

# TEMPORARY PROTECTION DIRECTIVE

**Mass influx** means arrival in the Community  
of a large number of displaced persons,  
who come from a specific country or  
geographical area

The **Council decides by qualified majority** the start and end of  
T.P.

Duration

**1 year** + max **two times 6** months  
= total max: **2 years**

Council may end it earlier, but must not exceed two years'

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Not applied until December 2016

***Syria?!***

# PROCEDURES DIRECTIVE

**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)**

**(OJ L 180/60 of 29. 6. 2013)**

Replacing

Council Directive 2005/85/EC of 1 December 2005 on **minimum standards on  
**procedures**** in Member States for granting and withdrawing refugee status  
(OJ L 326/13 of 13.12.2005)



# PROCEDURES DIRECTIVE, 2013

Cathryn Costello: the dual vision behind the norms. Some are based on the image of **the abusive asylum** seeker and others on **the vulnerable a.s.**

**Purpose:** common procedures on recognizing and withdrawing refugee status and subsidiary protection

**Scope:**

„**all applications** for international protection made in the territory, including at the border, in the territorial waters or in the transit zones of the Member States” (not on high seas or extraterritorially but within jurisdiction!)

**More favourable provisions:** MS may maintain or introduce „insofar” as are compatible with this directive (5 §)

# PROCEDURES DIRECTIVE, 2013

## GUARANTEES (SELECTED LIST)

- Access to procedure
- Right to stay - (until first instance decision)
- Counselling in detention and border zone
- Procedural requirements: **appropriate examination**: individual, objective, impartial, based on up to date country of origin and transit info, by person knowledgeable about asylum law
- **Decision: in writing**, justification if negative (!)
- Interpreter** „whenever necessary
- Access to **UNHCR** or an agency working on its behalf

# PROCEDURES DIRECTIVE, 2013

## GUARANTEES

**Interview:** Compulsory, with exceptions

Preferably same sex interviewer

### Requirements:

- Substantive interview to be made by the **competent authority**
- „Steps” to ensure **comprehensive account**
- **Interviewer „sufficiently competent”,** (to take account of applicant’s **cultural origin** and vulnerability **gender, sexual orientation, gender identity**)

### Legal assistance:

- Applicant must have **access to lawyer** (at her cost)

Lawyers access to closed areas may be curtailed but not rendered impossible

- States shall permit the **presence of lawyer** at the interview

**Free** legal assistance/representation: after negative decision, with limits

# Exceptional procedures/applications



### Accelerated procedures

- no relevant issue raised
- safe country of origin
- misled the authorities by presenting false information or documents with respect to his/her identity
- in bad faith destroyed or disposed of an identity or travel document that would have helped establish identity
- the applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict verified COI info

### Inadmissible applications

- Dublin III applies
- Refugee status in another MS
- Non MS = first country of asylum (already recognized there as refugee)
- „Normal” safe third country applies
- Dependent repeating parents rejected application

# Exceptional procedures/applications



### Accelerated procedures

- **subsequent** application that is not inadmissible = new elements arouse or presented
- merely in order to **delay or frustrate removal**
- **entered** or prolonged his/her stay **unlawfully** and, without good reason, has either **not presented himself/herself** and/or **did not file an application** for asylum as **soon as possible**
- applicant **is** may, for serious reasons, be considered a danger to the **national security or the public order**
- refuses to have his/her **fingerprints** taken

### Inadmissible applications

- Identical **subsequent application**
- **European safe third country** (optional)

C-69/10 *Diouf v* Ministre du Travail, de l'Emploi et de l'Immigration (Luxembourg) decided: 28 July 2011.  
**No separate appeal against a decision to examine in accelerated procedure**, 15 days for appeal are enough, one level court review constitutes effective remedy

# PROCEDURES DIRECTIVE, 2013

## PROCEDURES

### Border procedures

(keeping persons in transit zones or at entry points)

Guarantees apply !

Limited to

- decision on **admissibility of the applications,**
- to **accelerated procedures**

Maximum: **4 weeks** – then: entry to the country

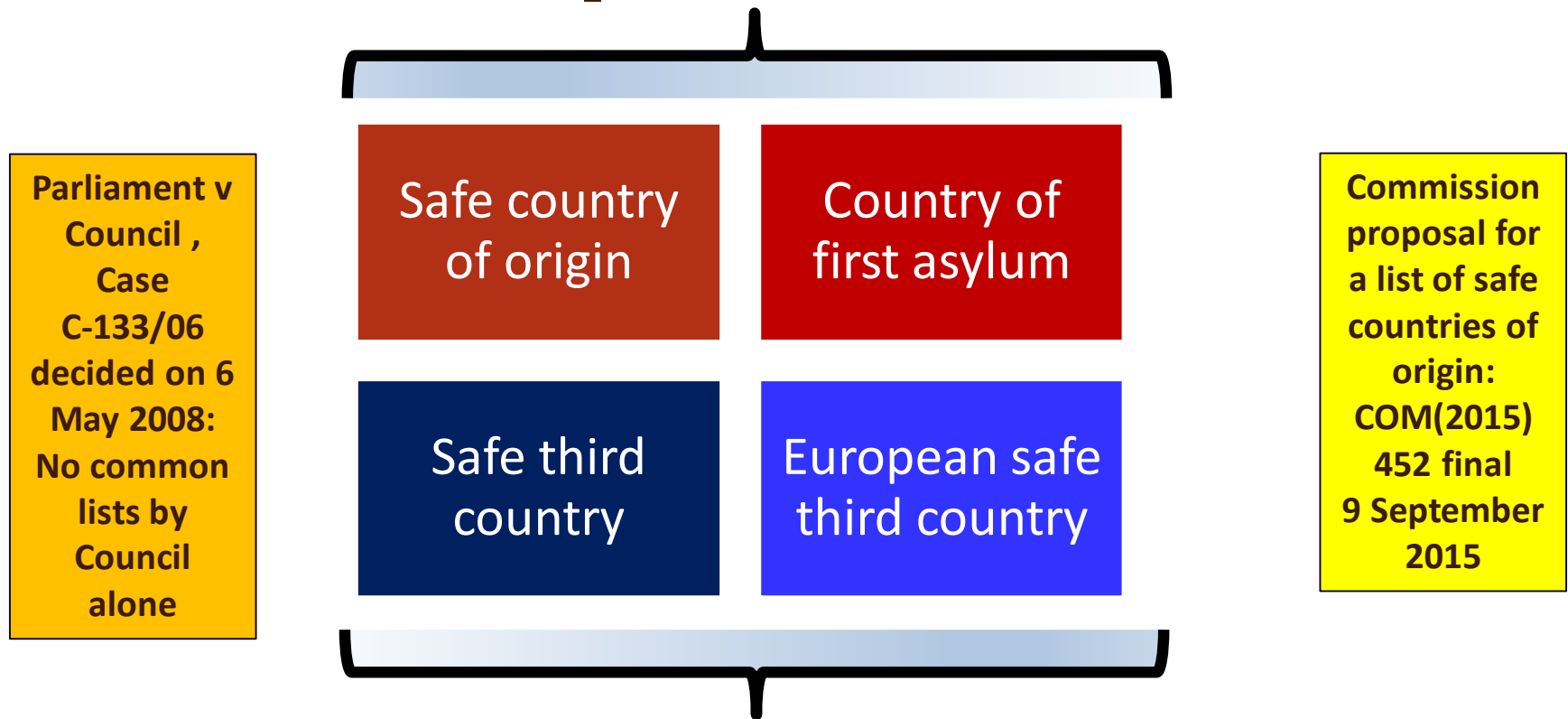
If **large numbers** arrive: border procedures (no entry) even if accommodated „at locations in **proximity of the border** or transit zone” (§ 43 (3))

# PROCEDURES DIRECTIVE, 2013

## KEY TERMS

Presumption: person **not in need of protection**, because

- not threatened or:
- protected elsewhere



Presumption: **another state should determine** if the person needs protection

**No judgment on the presence of threat of persecution or harm**

# SAFE COUNTRY OF ORIGIN

it can be shown that there is **generally and consistently no persecution** and no torture or inhuman or degrading treatment or punishment; and no threat by reason of indiscriminate violence in situations of international or internal armed conflict

This is proved by **the legal situation**, the **application of the law** within a democratic system and the **general political circumstances**.

Account shall be taken of the extent to which **protection** is provided **against persecution or mistreatment** through:

the relevant **laws and their application**;

**observance** of the **European Convention of Human Rights** and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture,

respect of the **non-refoulement** principle

provision for a system of **effective remedies**



# FIRST COUNTRY OF ASYLUM

First country of asylum (§ 35) the a.s. has been recognised in that country as a refugee and he/she can still avail himself/herself of that protection,

or

he/she enjoys otherwise sufficient protection in that country, including benefiting from the principle of non-refoulement,

provided

that he/she will be re-admitted to that country.

Applicant may challenge FCA

## SAFE THIRD COUNTRY

„Normal” **safe third country** (defined nationally) (§ 27)

- **life and liberty are not threatened** on account of 5 Geneva Convention grounds; and no risk of serious harm
- the principle of **non-refoulement** is respected; and
- the prohibition on removal in breach of the right to freedom from **torture and cruel, inhuman or degrading treatment** as laid down in international law is respected; and
- the **possibility exists to request refugee status** and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

# SAFE THIRD CONT'D

Minimum requirements concerning national rules on determining that a state is safe for a particular applicant:

**meaningful link** between applicant and s.t.c.

**investigation if a particular country is safe** for the particular a.s.(or national designation of s.t.c.)

**a right** of the asylum seeker **to challenge the safety**

If application inadmissible because of s.t.c. :

- inform asylum seeker accordingly,
- **provide asylum seeker with document informing the s.t.c.** that the application has not been examined in substance

# EUROPEAN SAFE THIRD COUNTRY

Member states may designate European countries as European Safe Countries

## Conditions

A **Non-EU member European** country

„has ratified and observes the provisions of the **Geneva Convention** without any geographical limitations;

it has in place **an asylum procedure prescribed by law**; and

it has ratified the **European Convention for the Protection of Human Rights and Fundamental Freedoms** and **observes its provisions**, including the standards relating to effective remedies.”

## Consequence

**No examination** of the application or **no full examination**+no right to stay during appeal

Applicant has **right to challenge**

If returned there: **info that no examination „in substance”** took place

# **QUALIFICATION DIRECTIVE, 2011 DECEMBER**

## **A few salient features**

**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)**

# QUALIFICATION DIRECTIVE

## Well founded fear

= Assessment of applications for international protection  
(Chapter II) = objective theory

**burden of proof: shared** between applicant and assessing state;

**assessment: individual**, based on the statement of the applicant + his documents

country of origin: **law and reality** should be assessed

opening for subjectivization (4§ (3. (c)) (Taking into account the „**individual position and personal circumstances**” of the applicant ...to assess whether the acts to which (s)he could be exposed amount to persecution)

**Past persecution /serious harm** = serious indication of well-founded fear unless „good reasons to consider” that they „will not be repeated”.

Credibility issues - see next slide

# QUALIFICATION DIRECTIVE

## WELL-FOUNDED FEAR (CONT'D)

### Credibility /benefit of doubt

„where aspects of the applicant’s statements are not supported by... evidence” these need no confirmation if:

- applicant made **genuine effort** to substantiate
- **submitted all** available evidence and **explained the lack** of others
- the statement is **coherent and plausible** and does not contradict available information
- the a. has **applied „at the earliest possible time” unless** good reason for not having done so
- „the **general credibility** of the applicant has been established” (4§ 5. (e))

# QUALIFICATION DIRECTIVE

## PERSECUTION

### Acts of persecution

(a) [„must be”] sufficiently **serious**  
by their nature or repetition

as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

or

(b) be an **accumulation** of various measures,  
including violations of human rights which is  
sufficiently severe as to affect an individual in a similar  
manner as mentioned in (a).

Acts: violence (physical, mental, sexual), discriminatory measures and punishment, **prosecution for denial of military service in a conflict entailing crimes or acts justifying exclusion, gender specific or child-specific acts**

Nexus (for reasons of) need not be with persecution  
It may be with absence of protection.



## QUALIFICATION DIRECTIVE PERSECUTION (CONT'D)

### Persecutor / serious harm doer

the State;  
parties or organisations  
controlling the State  
or a substantial part  
of the territory of the  
State;  
**non-State actors**, if the  
state or other agents  
are **unable** or  
unwilling to provide  
protection

### Protector

the State; or  
parties or organisations, **including  
international organisations**,  
controlling the State or a substantial  
part of the territory of the State.

Protection means at least that

- an effective legal system for the  
detection, prosecution and  
punishment of persecution or  
serious harm is operated
- the applicant has access to such  
protection.

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Protection **must be effective and non-  
temporary** and can only be provided by  
the above mentioned actors if they are  
**willing and able to enforce the rule of  
law.**

## QUALIFICATION DIRECTIVE PERSECUTION (CONT'D)

### Internal relocation alternative (8§)

- Optional! (MS „may” determine)
- In a **part of the country** of origin
  - there is **no well-founded fear** of being persecuted / **no real risk** of suffering serious harm
  - The applicant **has** (actual) **access** to protection
  - the applicant can **„safely and legally” travel** there **and gain admittance** and **„reasonably be expected to stay** in that part of the country”
- „Have regard” to – general circumstances + personal circumstances of the applicant
- **Authorities must have up-to-date info**

**QUALIFICATION DIRECTIVE**  
**PROCEDURE, INCLUDING REVOCATION OF REFUGEE STATUS**

MS **must** „grant” (i.e.: recognise) refugee status to those who qualify! (13 §)

MS **must** „revoke, end or refuse to renew” refugee status if **cessation grounds** apply or „he or she **should have been or is excluded** from being a refugee” (14 § 3. (a)) or his or her **misrepresentation or omission of facts**, including the use of false documents, were decisive for the granting of refugee status.

MS **may** „revoke, end or refuse to renew” status **when GC exceptions to non-refoulement** (33§ (2)) apply, i.e. national security or danger to the community

Burden of proof:

cessation: MS „demonstrate” on an individual basis

Exclusion: „establish”

**See: CJEU - C-57/09 and C-101/09 Bundesrepublik Deutschland v B and D – Grand Chamber judgment of 9 November 2010**

## QUALIFICATION DIRECTIVE: SUBSTANTIVE RIGHTS

Without prejudice to GC

**Same rights** to refugees and beneficiaries of subsid. prot - **unless otherwise** indicated!

Specific attention to **vulnerable groups** + best interest of the child

In „manufactured cases” (refugee and subs. prot.) MS „**may reduce the benefits**”

21 § **confirms non-refoulement** both for asylum seekers and recognized refugees

## QUALIFICATION DIRECTIVE: SUBSTANTIVE RIGHTS

MS shall ensure family unity (23 §)

(definition – see there, unity and benefits according to national law)

national security or public order: grounds for refusal, reduction or withdrawal of benefits from fam. members

MS may extend to other close relatives, who lived together and were dependent on the beneficiary of ref or subsid prot status before his/her departure

**Residence permits:** min 3 years for refugees 1 year for subsid.

prot.

**Travel document:** refugees: as in GC, subsid. prot: „document” which enables travel outside MS territory

## QUALIFICATION DIRECTIVE: SUBSTANTIVE RIGHTS

### Employment, self employment, vocational (further) training:

Refugees: subject to rules applicable to the profession  
Subsidiary protection beneficiaries: the same

**Education:** Minors: full access; adults: as third country nationals.

-MS must facilitate (by grants and loans) access to **employment related education and training**

-Access to procedures for **recognition of qualifications** of those, who do not have documents to prove it

# QUALIFICATION DIRECTIVE: SUBSTANTIVE RIGHTS

## Social welfare and health care:

national treatment, but for subsid. prot. beneficiaries MS may limit to core benefits

### Accommodation:

As legally resident third country nationals

Allowing „national practice of dispersal”

**Freedom of movement:** As legally resident third country nationals

**Integration:** MS must create integration programmes. Access may be dependent on pre-conditions

**Repatriation:** MS **may** provide assistance to voluntary return.

**Unaccompanied minors:** 31 § details the protection of their special interests

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Entry into force: **10 January 2012**

Transition: by **21 December 2013.**

# **THE EUROPEAN TURBULENCE 2015-2016**



## THE CRISIS OF 2015-2016 THE CAUSES OF FAILURE

**Design failure:** Dublin: after family and visa/residence permit the external border crossed → perimeter states exposed to large numbers of application → Greece defaults in 2011, Hungary, Croatia, Slovenia in 2015

**Overload** number of (first) applications, EU 27 or 28:

	2013	2014	2015	2016 until last available
EU 27/28+	431,090	626,960	1,321,600	1,093,729
Hungary	18,895	42,775	177,135	28,075

End of October for EU 28+, end also for Hungary. Cumulated figures. EU data from EASO Latest Asylum trends, 2016 October, <https://www.easo.europa.eu/sites/default/files/Oct16%20-Latest%20Asylum%20Trends%20.pdf> Hungarian data from Office of Migration and Nationality

But:

- **Highly uneven distribution** (2015: Germany: 476,620, Sweden: 162,550, Austria: 89,675 <--> UK: 41,100, Poland: 11,400, Spain: 14,600)
- Major groups with **unlikely claims** (Serbia, Kosovo, BiH, etc.)

# EFFORTS TO CURE – EU LEVEL

**Relocation:** distributing applicants with a good chance of being recognised – i.e. members of groups with 75% recognition rate in the previous quarter (Syrians, Iraqis and Eritreans)

2 decisions:

COUNCIL DECISION (EU) 2015/1523 of 14 September 2015

40 000 persons 24,000 from Italy, 16,000 from Greece

COUNCIL DECISION (EU) 2015/1601 of 22 September 2015

120 000 persons First year: 15,600 from Italy and 50,400 from Greece Second year: 54,000 either from the same two or from elsewhere.

No relocation to Denmark, Ireland, UK, Greece and Italy – 23 MS take up the 40 plus 120 thousand

Relocating MS get 6000 euros/head

In exchange: Greece, Italy must develop „roadmap”

# EFFORTS TO CURE

## New asylum acquis package, 2016 Spring and Summer

### Priorities

1) Establishing a **sustainable and fair system for determining** the Member State responsible for asylum seekers

Adapting the Common European Asylum System to deal better with the arrival of a high number of asylum seekers/refugees → amend the Dublin Regulation → corrective fairness mechanism based on a distribution key.

2) **Reinforcing** the **Eurodac** system

3) Achieving **greater convergence** in the EU asylum system

Strengthening and harmonising further the Common European Asylum System rules, so as to ensure more equal treatment across the EU and reduce undue pull factors to come to the EU.

→ Regulation establishing a single common asylum procedure, → a new Qualification Regulation

→ replacing targeted modifications of the Reception Conditions Directive.

4) **Preventing secondary movements** within the EU

Sanctions in the new regulations and the reception condition directive to discourage and sanction irregular moves to other Member States.

5) Creation of a **European Asylum Agency**

with new policy-implementing role as well as a strengthened operational role and providing sufficient financial resources and legal means for that purpose.

# THE PROPOSED CHANGES AFFECTING INTER-STATE SOLIDARITY IN DUBLIN IV.

- In take back situations – only notification – no request – duty to take back. (Responsibility does not expire with time)
- Chapter VII: **Corrective allocation mechanism**
  - Disproportionate number of applications (after eligibility)
  - Exceeds **150 %** of reference key (including resettled refugees)
  - **Reference key** = total of application in EU – share by MS based on
    - population size
    - total GDP

50 -50 % weight

If unwilling to participate **250 000 Euros/per each applicant**, who would have been allocated

Automated system

# **THANKS!**

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