CCME

Advocacy Training on European Law on Asylum & Migration

Reader

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Churches' Commission for Migrants in Europe

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CCME
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Reader

INTRODUCTORY REMARKS

This reader has been developed as a tool for the CCME advocacy training on European law on asylum and migration.

It is intended as an introduction to central terms and basic concepts of European laws on asylum and migration as well as the legislative process behind them. It in many parts uses information and descriptions drafted by other organizations or institutions, trying to keep to a "neutral" tone. The definitions therefore do not present a specific position of CCME on these institutions or definitions. The reader also does not intend to interpret, analyze or evaluate the process and results of European law making on asylum and migration.

This reader is far from complete and has a strong focus on the European Union (EU), as the EU institutions are currently the most influential European institutions on asylum and migration – even beyond the member states of the EU.
The reader has been last edited in January 2024. The information in this reader reflects the situation at this point in time.

CCME'S MISSION AND MANDATE

"CCME is an ecumenical organisation that serves the churches in their commitment to promote the vision of an inclusive community through advocating for an adequate policy for migrants, refugees and minority groups at European and national level. In the fulfilment of this mandate it is responding to the message of the Bible, which insists on the dignity of every human being and to the understanding of unity as devoid of any distinction between strangers and natives.**"**

                    - CCME Mission Statement

CCME is the ecumenical agency on migration and integration, refugees and asylum, and against racism and discrimination in Europe. CCME members are Anglican, Orthodox, Protestant and Pentecostal Churches, Councils of Churches and diaconal agencies in presently 19 European countries. CCME cooperates with the Conference of European Churches (CEC) and the World Council of Churches (WCC) in advocacy for migrants', refugees' and minority concerns and rights with European institutions, and in promoting integration and anti-discrimination.

CCME'S OBJECTIVES

In particular, the objectives of CCME are:

01.

To monitor European and national migration, refugee and anti-discrimination policy, to inform the churches about these policies.

02.

To support and serve the churches in their advocacy.

03.

To challenge the European institutions to act in accordance with human rights and international obligations.

04.

To strengthen on a global, European, national and regional level the cooperation of churches, NGOs and others in this field.

05.

To support and challenge churches to include migrants (churches, groups or individuals) in the communion of churches.

06.

To address fears in societies around migration and facilitate churches' initiatives on finding ways to peaceful living together.

Working instruments of CCME are conferences, seminars, studies, information and communication, working groups and thematic ad hoc meetings.

PART
ONE

DEFINITIONS

ADVOCACY

UNICEF defines advocacy as: ".. a people's driven and organized political process through which ordinary citizens, especially the disadvantaged and marginalized, realize their rights and power and use them to effectively and equally participate in the decision-making process at all levels with the purpose of institutionalizing systemic equity and justice and positively impacting people's quality of life".

Advocacy encompasses a range of actions undertaken by various stakeholders, such as civil society and businesses, to influence decision-makers in shaping and implementing policies across political, economic, and social spheres. In the context of the European Union (EU), EU advocacy involves engaging at the EU level to impact policy and decision-making, particularly regarding migration and asylum matters.

Concrete EU advocacy actions encompass diverse strategies, including issuing press releases, joint statements, and organizing press conferences, direct contact and dialogue with policymakers, as well as more extensive efforts like comprehensive campaigns, drafting legislative amendments, influencing parliamentary activities, and engaging with key stakeholders to drive collaborative action. It is essential for effective advocacy to establish clear, concise, and achievable objectives for policy change, underpinned by a pragmatic approach.

For successful advocacy within the EU, a dialogue-based approach with EU institutions is crucial. This necessitates a deep understanding of their internal mechanisms, functioning, limitations, and agendas. By identifying relevant leverage points, key contacts, and opportunities, advocates can better navigate the EU landscape and enhance their effectiveness in bringing about meaningful policy shifts.

LOBBYING

The terms lobbying and advocacy are often used interchangeably, but their interpretation can vary based on the user or cultural context. While lobbying is typically associated with actions by the private sector, such as businesses or trade associations, advocating for their specific interests, advocacy is more commonly linked to civil society organizations advocating for the rights of particular target groups. In some cultures, lobbying carries a negative connotation. Lobbying can also refer specifically to direct meetings with politicians and decision-makers, stemming from its origin in parliamentary settings.
In a sense "lobbying" is done for one´s interest, "advocacy" on one's concern.

CAMPAIGNING

Campaigning involves a range of advocacy approaches and actions aimed at bringing about change by engaging the public, increasing awareness, and organizing communities. It consistently aims to involve a significant number of individuals or groups and encompasses well-structured, interconnected activities focused on mobilizing the public.

REFUGEE

The 1951 Refugee Convention defines a refugee as: "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion." Refugees have a right to international protection[1].

ASYLUM SEEKER

Amnesty defines asylum seekers as : "An asylum seeker is a person who has left their country and is seeking protection from persecution and serious human rights violations in another country, but who hasn't yet been legally recognized as a refugee and is waiting to receive a decision on their asylum claim. Seeking asylum is a human right. This means everyone should be allowed to enter another country to seek asylum."[2]

[1] https://www.unhcr.org/what-refugee#:~:text=The%201951%20Refugee%20Convention%20is,group%2C%20or%20political%20opinion.%E2%80%9D

[2] https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/

MIGRANT(S)

It has to be noted that contrary to the term "refugee", which is defined in the 1951 refugee convention, there is no international treaty or convention which clearly defines the term "migrant". Also according to Amnesty: "Migrants are people residing outside of their country of origin, who are not asylum seekers or refugees." Certain migrants depart their homeland for reasons such as work, education, or reuniting with family, while others are compelled to leave due to factors like poverty, political turmoil, violence, or natural disasters.
Others would include refugees within the term "migrants"

THIRD-COUNTRY NATIONALS

Third country national is a term used by the European Union and its members or in reference to the EU.
"A third-country national is a person who does not have the nationality of one of the Member States of the European Union, nor the nationality of one of the countries associated with the European Union (Iceland, Lichtenstein, Norway and Switzerland)."[3]

[3] https://dofi.ibz.be/en/themes/third-country-nationals

SUBSIDIARY PROTECTION

UNHCR defines Subsidiary protection as a status that is "complementary to refugee status. It means that someone cannot be returned to their country of origin or habitual residence because they face a real risk of serious harm. Serious harm means (i) the death penalty or execution; (ii) torture or inhuman or degrading treatment or punishment; (iii) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict."[4]

On EU level the "Qualification directive » defines that:

 '(a) person eligible for subsidiary protection' means a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm. (art 2 f)[5]" It later details serious harm as "the death penalty or execution; torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or

serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict[6]" (Art 15).

[4] https://help.unhcr.org/ireland/frequently-asked-questions/
[5] 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)
[6] ibid

INTRA EU MOBILITY

According to the EU Commission, intra-EU Mobility is defined as the "Action of persons (EU nationals or legally resident third-country nationals) undertaking their right to free movement by moving from one EU Member State to another."[7]

DEFINITIONS – EU DATABASES

EURODAC

EU-LISA (European Union Agency for the Operational Management of Large-Scale IT Systems) defines Eurodac as "a large-scale IT system that helps with the management of European asylum applications since 2003, by storing and processing the digitalised fingerprints of asylum seekers and irregular migrants who have entered a European country. In this way, the system helps to identify new asylum applications against those already registered in the database."[8]

[7] https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/intra-eu-mobility_en
[8] https://www.eulisa.europa.eu/Activities/Large-Scale-It-Systems/Eurodac

VIS

The Visa Information System (VIS) is a database for visa information, allows Schengen states to exchange visa data. And according to EU-LISA it also "connects consulates in non-EU countries and all external border crossing points of Schengen States. It processes data and decisions relating to applications for short-stay visas to visit, or to transit through, the Schengen Area."[9]

EES

It's the Entry/Exit System, and it's defined by The EU Commission as the "System which registers entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Schengen States." [10]

ETIAS

The European Travel Information and Authorisation System (ETIAS); it is :" an automated IT system created to identify any security or irregular migratory risks posed by visa-exempt visitors travelling to the Schengen area whilst ensuring fundamental rights and data protection."[11]

[9] https://www.eulisa.europa.eu/Activities/Large-Scale-It-Systems/Vis
[10] https://www.eulisa.europa.eu/Activities/Large-Scale-It-Systems/EES
[11] https://eur-lex.europa.eu/EN/legal-content/summary/the-european-travel-information-and-authorisation-systemetias.html#:~:text=ETIAS%20is%20an%20automated%20IT,fundamental%20rights%20and%20data%20protection.

ECRIS

European criminal records information system, it is a "decentralised IT system based on national criminal record databases. It allows for the exchange of information extracted from national criminal records between Member States' central authorities."[12]

SIS

According to EU-LISA, The Schengen Information System is "is a large-scale IT system that supports public security and the exchange of information on people and objects between national law enforcement, border control, customs, visa and judicial authorities."[13]

[12] https://eur-lex.europa.eu/EN/legal-content/summary/european-criminal-records-information-system-ecris.html
[13] https://www.eulisa.europa.eu/Activities/Large-Scale-It-Systems/Sis-Ii
[

DEFINITIONS – EU AGENCIES

FRONTEX

The European Border and Coast Guard Agency (Frontex) is "A European Union agency tasked with the implementation of the European integrated border management, the effective functioning of border control at the external EU borders in coordination with the national authorities of EU Member States and Schengen associated countries responsible for border management, the internal security within the European Union and migration management, including an effective return policy, while safeguarding the free movement of persons within the Union and full respect for fundamental rights."[14]

EUAA

The European Union Agency for Asylum - EUAA is an agency of the European Union mandated with supporting Member States in applying the package of EU laws that governs asylum and international protection.[15] It is the further developed successor to the European Asylum Support Office EASO.

14] https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/european-border-and-coast-guard-agency-frontex_en
[15] https://euaa.europa.eu/about-us

FRA

The European Union Agency for Fundamental Rights "maintains ongoing cooperation with EU institutions and governments, providing them with independent expert advice and fundamental rights analysis. It has set up networks and established links with partners at all levels, so that its advice and research can reach decision makers in national governments and the EU."[16]

COUNCIL OF EUROPE

Independent International organisation, based in Strasbourg, which was created in 1949 and now includes 46 European countries. Set up to promote democracy, human rights and the rule of law. Guardian of the European Convention on Human Rights, as interpreted by the European Court of Human Rights.[17]

OSCE

"The OSCE stands for the Organization for Security and Co-operation in Europe. With 57 States from Europe, Central Asia and North America, the OSCE is the world's largest regional security organization".[18] The OSCE Secretariat is based in Vienna , with its office on democratic institutions and human rights being based in Warsaw.

[16] https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/european-union-agency-fundamental-rights-fra_en
[17] https://www.coe.int/en/web/about-us/do-not-get-confused
[18]https://www.osce.org/#:~:text=The%20OSCE%20stands%20for%20the,world's%20largest%20regional%20security%20organization.

PART TWO

STAKEHOLDERS, INSTITUTIONS AND PROCEDURES

STAKEHOLDERS

CIVIL SOCIETY ORGANIZATIONS

Civil Society Organizations encompass a range of non-profit, non-governmental entities, including youth organizations. These groups work independently to address societal issues. They share roles and goals with terms like non-governmental organizations, non-profits, and associations. Their diverse missions involve both providing services and advocating for the common good.

SOCIAL MOVEMENTS

In recent times, a distinct stakeholder group has emerged: social movements and semi-organized civil society. They mostly arise as a response to disappointment with established organizations and cater to citizens' desire for less formal civic participation. Such movements differ in operations, actions, and engagement with policy-making. They possess less trust in authorities and adopt more decentralized governance, making dialogue with decision-makers challenging.

TARGET GROUPS

Target groups may refer to two phenomena:
It can refer to individuals directly impacted by the issue/policy being addressed. They may represent their interests or belong to marginalized communities. In advocacy, involving these groups at every stage is essential for legitimacy and accurate problem-solving. This engagement ensures that advocated changes truly meet the needs of the target group while maintaining a strong connection to the issue's real-world context.
In the context of advocacy, "target group" mainly will refer to the group you want to influence – be it policy makers or people who might influence policy makers.

MEDIA

While new communication channels expand, traditional media (TV, press, radio) maintain significant influence. For youth organizations, grasping media access strategies is invaluable. National-level traditional media substantially shape discussions and public concerns. Decision-makers regard major media topics as indicative of public opinions, making them susceptible to influence. Recognizing and navigating this dynamic offers a potent avenue for advocacy impact.

POLICY-MAKERS AND DECISION-MAKERS

Policy-makers and decision-makers hold formal power to drive or influence policy changes. Their roles are pivotal in youth-led advocacy focused on public policy transformation. Understanding their individual and group interests and motivations is crucial. This insight allows advocates to exert pressure effectively, be it accountability to constituents, re-election aspirations, legacy-building, or genuine concern for the cause. Thoroughly researching their interests beforehand enhances engagement strategies.

GENERAL PUBLIC

The broader population represents a unified stakeholder group. Assess their sentiments regarding the issue. Engaging the public, mobilizing online actions or protests, and gauging when to seek broader support are pivotal considerations for involving a larger audience effectively.

BUSINESS AND TRADE ASSOCIATIONS

Businesses and their trade associations wield significant influence, particularly in advocacy concerning economic or labor matters. The private sector's involvement frequently proves potent in various advocacy endeavors.

EU INSTITUTIONS: WHO IS WHO

OFFICIAL ONLINE DIRECTORY HERE.

THE EUROPEAN COMMISSION

The European Commission (often just called "the Commission"), with distinct departments led by Commissioners, shapes policies for specific domains. The Commission operates under a President's guidance, with a 27-member group of Commissioners making decisions on its strategic direction. A new Commissioner college is appointed every 5 years. The mandate of the currently European Commission started its mandate on 1st December 2019 and will end as soon as a new Commission is appointed after the EP elections in June 2024.

Comprising policy-focused Directorates-General (DGs), the Commission administers and develops EU policies, laws, and funding initiatives. It also monitors the correct application of EU law by the EU member states. Service departments address administrative matters, while Executive agencies manage Commission-initiated programs.[19]

The Directorate General for Home Affairs and Migration (DG Home) is the Commission department mainly responsible for EU policy on migration and home affairs

The seat of the European Commission is in Brussels.

[19] https://commission.europa.eu/about-european-commission/organisational-structure/how-commission-organised_en

THE EUROPEAN COMMISSION

The President of the Commission is proposed by the heads of state, the European Council, taking into consideration the result of the elections to the European Parliament. The President of the Commission needs to be confirmed by the European Parliament. After that, the other members of the European Commission are selected and appointed. The European Council, in agreement with the Commission President-elect, adopts a list of candidate Commissioners, one for each Member State. The Commission President then appoints them to a specific portfolio. These Commissioners-designate have to appear before parliamentary committees in hearings on their prospective fields of responsibility. The respective committees then issue an assessment if the candidate commissioners are appropriate for the position they are proposed for. The whole group of candidate commissioners is then put to a vote of approval by the European Parliament's plenary.

In past terms, the process of hearings in the EP has led to the respective EP committees reviewing negatively some candidate Commissioners. These have then usually withdrawn and either a new candidate Commissioner was proposed or portfolios were reallocated in order to achieve the EP´s approval.

THE COUNCIL OF THE EUROPEAN UNION/EUROPEAN COUNCILS

" Institution of the 27-member European Union, composed of representatives of the 27 EU member states. Defines the general political direction and priorities of the EU."[20].

Known informally as the EU Council or just Council.

The Council Presidency rotates among EU member states every six months (in 2024: Belgium from January to June and Hungary from July to December), leading meetings and setting priorities. The Council convenes in ten configurations based on topics, attended by representatives from member states. Decisions are made via qualified majority voting. One configuration is the Justice and Home Affairs (JHA) Council, discussing migration and asylum topics every three months. Preparatory bodies, such as COREPER II and working parties, prepare technical aspects and legal bases of proposals, making them potential advocacy targets for asylum and migration issues. [21]

The European Council also known as "EU summit" is a meeting of the heads of states. It usually does not work on legislation but issues political declarations on policy guidelines – which might lead to legislation.

The Secretariat of the Council is based in Brussels. Meetings of the Council may take place in Brussels, Luxemburg, or cities in the country holding the Council Presidency

[20] https://www.coe.int/en/web/about-us/do-not-get-confused
[21] https://www.consilium.europa.eu/en/european-council/

PERMANENT REPRESENTATIONS

Each EU member state has a representation towards the EU in Brussels, acting as a kind of embassy to the EU. These "PermReps" are structured according to the different policy areas of the EU (asylum and migration usually are part of a section on Home Affairs). The civil servants in the PermRep are usually those continuously following legislative discussions for their country, They will often represent their country in Council working groups, While their positions depend on instructions from the country´s government, the personalities and intentions of the civil servants involved can be very important, in particular for countries holding the Council Presidency.

THE EUROPEAN PARLIAMENT

The European Parliament represents citizens and safeguards democratic legitimacy. It is directly elected every 5 years, so far in national constituencies. It's actively engaged in the EU's legislative process, overseeing institutions on behalf of the public. With increased authority since the Lisbon Treaty, it influences legislation, budget, and treaty revision, ensuring democratic principles. In the areas of asylum, immigration, and border control, the Parliament works alongside the Council in adopting policies, it is co-legislator on equal footing with Council. Currently, the Civil Liberties, Justice and Home Affairs (LIBE) Committee primarily addresses migration and asylum policies. [22]
The European Parliament has its official seat in Strasbourg, where it meets in plenary one week per months. For most of the month, the work in committees and political groups in undertaken in Brussels.

[22] https://www.europarl.europa.eu/portal/en

THE ELECTIONS OF THE EUROPEAN PARLIAMENT

The European Parliament is the only directly elected institution of the European Union and as such sees itself as the voice of EU citizens.

It is elected every 5 years, with the next elections taking place from the 6th to the 9th June 2024 – the exact day depends on the national customs. The elections are organized according to a few common principles that apply EU-wide, but in practice largely follow different national sets of rules. [23] There is so far no transnational election process – members of the European Parliament (MEPs) are elected based on national (or even regional) proposals, often according to a list of national parties. The political groups in the EP are after the elections formed from the nationally elected MEPs. This means that the political groups in the EP are usually quite diverse – the voting pattern of individual MEPs in the EP is often more heterogeneous than in national parliaments. It is not unusual for individual MEPs or whole groups from one national party to switch their affiliation to a political group.

In recent EP elections half of the elected MEPs, sometimes even more, were newly elected.

[23] https://www.europarl.europa.eu/factsheets/en/sheet/21/the-european-parliament-electoral-procedures

COURT OF JUSTICE OF THE EUROPEAN UNION

"The Court of Justice of the European Union (CJEU) interprets EU law to make sure it is applied in the same way in all EU countries, and settles legal disputes between national governments and EU institutions."[24] – for example in so-called "infringement" procedures (see underneath). The CJEU is also responsible for helping national courts interpret EU law. National courts in this case ask the CJEU questions on how EU law should be interpreted , based on specific cases before the national court. It is not possible for an individual to bring a case to the CJEU.

EUROPEAN COURT OF HUMAN RIGHTS (ECTHR)

The ECtHR is an international court based in Strasbourg dealing with applications by states and individuals on alleged violations of the European Convention of Human Rights.[25] While it is an institution of the Council of Europe and refers to the Council of Europe´s European Convention on Human Rights, its judgment often plays an important role in the implementation of EU law.

[24] https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/court-justice-european-union-cjeu_en#:~:text=The%20Court%20of%20Justice%20of,national%20governments%20and%20EU%20institutions.
[25] https://www.echr.coe.int/home

EUROPEAN COURT OF HUMAN RIGHTS (ECTHR)

The most famous case in the area of asylum was the "MSS vs Belgium & Greece case"[26] in which the ECtHR came to the conclusion that deficiencies in the Greek reception system for asylum seekers violated the asylum seekers' human rights and that Belgium s practice of sending asylum seekers back under the EU´s Dublin regulation therefore amounted a violation of the European Convention on Human Rights Art 3 (prohibition of Torture, inhuman or degrading treatment). After the judgment many Dublin transfers to Greece were suspended – either as EU member states stopped them or as courts ruled against them, It is possible to bring individual cases to the ECtHR, but only once they have been brought to national courts, up to the highest instance.

The ECHR may apply so-called interim measures according to Article 39 of the rules of the court. These are urgent measures which, in accordance with the established practice of the Court, apply only where there is an imminent risk of irreparable damage. In practice, these have often been applied when an expulsion of a refugee/migrant might have endangered his/her life or severely affected his/her well-being. [27]

[26] ECtHR - M.S.S. v Belgium and Greece [GC], Application No. 30696/09

[27] https://www.echr.coe.int/documents/d/echr/pd_interim_measures_eng

THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (EESC)

The European Economic and Social Committee (EESC) functions as a consultative body within the EU, connecting Europe with organized civil society. Comprising 329 members, it offers mandatory opinions in treaty-established fields like social cohesion (including integration policies). The EESC also provides voluntary opinions for migration and asylum policies upon Commission, Council, or Parliament's request. It can issue independent opinions and operates without binding instructions, ensuring its members' complete independence for the Union's broader welfare.

THE COMMITTEE OF THE REGIONS (COR)

The Committee of the Regions (CoR) parallels the EESC, representing regional and local interests within the EU and sharing opinions with the Council and Commission. CoR's 2020-2025 priorities emphasize discussing and amending EU-level decisions on major societal changes, including migration policies, within the Civil Liberties, Justice and Home Affairs (LIBE) Committee.

EU OMBUDSMAN

"The European Ombudsman is an independent and impartial body that holds the EU's institutions and agencies to account, and promotes good administration. The Ombudsman helps people, businesses, and organisations facing problems with the EU's administration by investigating complaints about maladministration by EU institutions and bodies, as well as by proactively looking into broader systemic issues."[28]

The current ombudsman has on various occasions launched enquiries into the role of FRONTEX or the use of EU funding at the EU´s external border.[29]

[28] https://www.ombudsman.europa.eu/en/our-strategy/home/en
[29] https://www.ombudsman.europa.eu/en/press-release/en/172857

PROCEDURES

EU LAW ON ASYLUM AND MIGRATION: DIRECTIVES AND REGULATIONS

In EU legislation on asylum and migration, two different legal instruments are used: regulations and directives. A "regulation" is a binding legislative act. It must be directly applied in its entirety across the EU. A "directive" is a legislative act that sets out a goal that EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals[30].

Whereas most legislative acts on asylum and migration so far were directives, which left more discretionary space to member states, most proposals for the EU "pact" on asylum and migration are presented as draft regulations.

[30] https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en

ORDINARY LEGISLATIVE PROCEDURE: FROM THE PROPOSAL TO ADOPTION (OR NOT) [31]

The treaties of the EU foresee different types of legislation, mainly depending on the policy area. In the following the "ordinary legislative procedure", which is the most common procedure in general and specifically in the area of migration and asylum, is described. It was introduced by the EU´s Lisbon treaty[32] and largely took over what was known as the "Co-decision" procedure – deriving its name from that fact that Council and Parliament are equal co-legislators.

1

LAUNCH OF THE PROPOSAL

The right of legislative initiative lies with the European Commission. In certain cases, the European Commission might act upon request of Council or Parliament, but the European Commission is in the driving seat and addresses its proposal to Council and Parliament.

[31] The EDRi papers ACTIVIST GUIDE TO THE BRUSSELS MAZE3.0 – https://edri.org/files/Activistguide_V3_web.pdf
[32] Article 294 on the treaty of the functioning of the European Union

When a potential legislative issue is identified, it's added to the annual work program. The responsible Directorate General publishes consultation documents like Green Papers, White Papers, or Communications. Activists can respond to these documents, supporting positive thinking or opposing negative aspects.

After the responsible Directorate General adopts a Proposal, it goes to the rest of the Commission for a three-week Inter-service Consultation, that means other directorate generals are consulted. All parts of the Commission must support a proposed Commission Proposal for approval – this means that the European Commission as a whole must adopt a text before it becomes an official proposal by the European Commission.. This step is crucial, and Commissioners must ensure that opposing a measure doesn't hinder other legislation they support.

A draft Directive or Regulation is proposed, accompanied by an Impact Assessment. Impact Assessments, though intended for informed decision-making, sometimes show inconsistencies due to pre-existing political decisions. In a number of cases, the European Commission has in the area of asylum and migration not undertaken a prior impact assessment – for example the files of the proposed "pact". This omission cause strong criticism in the European Parliament which commissioned a substitute impact assessment[33]

[33] "The European Commission's New Pact on Migration and Asylum Horizontal substitute impact assessment", Study commissioned by the European Parliament Research Service 2021

2

FIRST READING IN THE EUROPEAN PARLIAMENT

Upon proposal by the European Commission, the legislative procedure is communicated to the European Parliament and the Council. The EP determines a committee in charge of the dossier. Given that most policy matters span multiple areas, several Committees often collaborate on a single Proposal. The Lead Committee is tasked to lead by drafting a report, along with other committees providing opinions.

Committee Procedure:

- Appointing MEPs: The Lead and Opinion Committees select the Rapporteur (MEP in charge). This is pre-agreed between the "coordinators" of the political groups for a specific committee. There is a rotating mechanism between the groups, so that each group sometimes is responsible for a report – also depending on its numerical strength in the EP. Other political groups also assign "Shadow" Rapporteurs.

- Debates: Committee meetings involve discussions on the file, including with the Commission and sometimes the Council. Commission actively seeks support.

- Draft Report/Opinion: the Rapporteur drafts report with proposed amendments to the proposal by the commission. Other MEPs can submit amendments, focusing on strategy, support, and clarity.

- Compromise Amendments: Political groups aim for consensus through compromise amendments, potentially influenced by lobbyists. The rapporteur and shadow rapporteurs usually try to find compromises prior to a vote in committee. This often results in new amendments proposed while individual amendments are withdrawn.

- Committee Vote: the committee votes on all amendments which have been tabled until a certain deadline and are upheld. The voting sequence prioritizes amendments furthest from the Commission's text to closest, adopting by simple majority.

- Plenary Vote: this is a full Parliament vote on the report adopted by the responsible Committee, with limited opportunity for new amendments. Commission's stance important, unanimity needed in Council for rejected amendments.

- In the end a report is either adopted or a new rapporteur may be appointed.

- First Reading Report: Lead Committee's amended Report after Plenary vote.

- Commission Response: European Commission produces a revised Proposal post-Report adoption.

3

FIRST READING IN THE COUNCIL

- The Council's working groups (composed of civil servants) relating to the issue (in our case asylum and migration) collaborate to agree on all aspects of the Commission's text, considering developments in the Parliament, but also suggesting points where Council would like to amend the Commission´s text. Matters of a more political level may be debated and agreed upon by very senior officials or the responsible ministers or secretaries of state. Debates are presided over by the rotating Council presidency. If the Council the same text as Parliament, the amended Commission Proposal becomes law, concluding the legislative process.

- IF EP and Council don't come to the same position , they officially need to enter into a second reading (see underneath)

- The Commission may at any point withdraw its proposal and table a new one if it considers that this will facilitate EP-Council agreement.

However, in recent years EP and Council try to avoid a second reading, as this is very formal and costing a lot of time and energy. EP and Council rather aim at "First Reading Agreements", where based on the Lead Committee's preliminary agreement, the Rapporteur negotiate with the Council and assisted by the Commission in closed "Trilogue" Meetings. The Rapporteur's power increases, making opposition challenging for other MEPs. This shift reduces independent adoption and has made First Reading agreements the new norm.

4

SECOND READING IN THE EUROPEAN PARLIAMENT

In the – nowadays limited – cases of a second Reading, only the Lead Committee produces a Report with the same Rapporteur and Shadow Rapporteurs. New elements and amendments contradicting the Council's common position are not allowed. Committee amendments are decided by a simple majority. The Parliament must respond within three months, extendable to four. After Committee work and Plenary adoption, three outcomes are possible: approval of the Council Common Position, rejection by absolute majority, or adoption of amendments with referral back to the Council.

5

SECOND READING IN THE COUNCIL

If the text is sent back to the Council, it must consider the Commission's view on the Parliament's text. If the Commission opposes any part, unanimous Council agreement is required for adoption.

6

CONCILIATION

If the Council rejects the Parliament's text, negotiations are held involving the Parliament, Commission, and Council. These lead to Conciliation Committee meetings involving Member States, MEPs, and the Commission. If a compromise is reached, both Council and Parliament usually adopt it. If not, the Proposal is abandoned.

Transposal into national law and practice

Most EU legislation is carried out by actions of the member states. They therefore either need to apply EU law directly (e.g. in the case of regulations) OR adopt national law to transpose it (e.g. in the case of directives). It is the responsibility of the European Commission to ensure that EU member states correctly apply EU law. If the European Commission has the knowledge or impression that a member state does in its legal text or in practice not correctly and fully apply EU law, it can start a procedure against that member state.

This procedure, the "infringement procedure" starts with a formal request for clarificationand can be escalated over several steps up to launching a procedure in the Court of Justice – which might result in penalties for that member state[34].

[34] https://commission.europa.eu/law/application-eu-law/implementing-eu-law/infringement-procedure_en

PART THREE

EU LAW AND POLICY ON ASYLUM AND MIGRATION

INSTITUTIONAL FRAMEWORK OF EU MIGRATION AND ASYLUM POLICY

The Institutional Framework of EU Migration and Asylum Policy refers to the provisions in the EU treaties, organizational structure, mechanisms, and entities established within the European Union to develop, coordinate, and implement policies related to migration and asylum. This framework facilitates cooperation among member states and ensures a unified approach to addressing challenges related to migration, refugees, and asylum seekers. The primary legal sources that define the Institutional Framework of EU Migration and Asylum Policy include:

Treaty on the Functioning of the European Union (TFEU):
The TFEU outlines the legal basis for EU actions in the field of asylum and immigration, specifying the competences of the EU and its member states in these areas.

Lisbon Treaty (2009):
The Lisbon Treaty introduced institutional changes that influenced the development of EU migration and asylum policy, including the establishment of the European Asylum Support Office (EASO) and the enhanced role of the European Parliament in shaping policy as an equal co-legislator.

FREEDOM OF MOVEMENT OF EU CITIZENS

All EU citizens and their family members have the right to <u>move and reside freely within the EU</u>. This fundamental right is established by <u>Article 21 of the Treaty on the Functioning of the European Union</u> and <u>Article 45 of the EU Charter of Fundamental Rights.</u>

The Free Movement Directive 2004/38/EC outlines the conditions for EU citizens and their family members to exercise the right of free movement and residence within Member States:

- EU citizens can reside in another EU country for up to three months with only a valid identity card or passport.
- Staying in another EU country for over three months requires meeting specific conditions based on their status (e.g., worker, self-employed, student) and complying with administrative formalities.
- EU citizens can attain the right of permanent residence in another EU country after legally residing there continuously for five years.
- Family members, whether EU citizens or non-EU nationals, have the right to accompany or join EU citizens, subject to certain conditions or formalities.

THE COMMON EUROPEAN ASYLUM SYSTEM (<u>CEAS</u>) AND ITS INSTRUMENTS

Since 1999, the EU has established a Common European Asylum System (CEAS). The Common European Asylum System establishes shared minimum standards and collaboration that aims to guarantee that asylum seekers receive equal treatment within an open and equitable system, regardless of where they submit their applications.

The system is governed by five legislative instruments and one agency: The Asylum Procedures Directive, the Reception Conditions Directive, the Qualification Directive, Dublin Regulation, EURODAC Regulation, and The European Union Agency for Asylum (EUAA).

In 2020, the European Commission proposed to reform the system, through The New Pact on migration and asylum.

THE PACT

The EU <u>Pact</u> on Migration and Asylum, introduced by the European Commission in September 2020, in several legislative and non legislative terxts outlines the EU's approach to migration, asylum, integration, and border management. It comprises five binding legislative proposals and four non-binding recommendations.

The legislative proposals include the Screening Regulation, amended Asylum Procedures Regulation, Crisis Regulation, Asylum and Migration Management Regulation, and amended Eurodac Regulation. The non-binding recommendations cover crisis situations, resettlement, humanitarian admission, search and rescue operations by private vessels, and facilitation of irregular entry.

The Commission proposes mandatory pre-entry screening for anyone entering the EU irregularly, involving security and identity checks. The pre-entry screening may lead to detention without judicial oversight. The proposals also introduce compulsory asylum and return procedures at borders, potentially lasting up to 40 weeks in crisis situations. The Pact aims to reform the EU asylum system, replacing the Dublin Regulation.

Undocumented individuals in Europe may undergo pre-entry screening and face detention, even if they have been living in the EU. Return procedures could be initiated, and the Pact limits access to residence procedures and regular pathways besides asylum.

People arriving irregularly in the EU or after search and rescue operations may face immediate detention during pre-entry screening. Asylum border procedures, lasting up to 12 weeks, may result in detention. Rejected asylum seekers could be subject to refusal of entry at external borders with fewer safeguards.

The Pact does not adequately consider alternative residence permits for those not granted asylum, potentially leading to deportations violating fundamental rights.

In crisis situations, timelines for procedures may be extended, and detention conditions broadened.

Children face risks under the proposed mechanisms, with insufficient safeguards in the Screening Regulation and fewer protections for children in families. The Pact lacks adequate provisions to assess a child's best interests before issuing a return decision.

The Pact's focus on returns overshadows labor migration and social inclusion aspects. While some promising elements for inclusion exist, the legislative proposals may increase migrant workers' precarity.

In summary, the EU Pact on Migration and Asylum introduces significant changes and raises concerns regarding human rights, especially for undocumented individuals and children, emphasizing returns over labor migration and social inclusion.

CCME and other Christian organizations had both prior to the publication of the pact proposals and after its launch expressed concern about this tendency of the pact [35]

[35] https://ccme.eu/wp-content/uploads/2020/09/2020-09-22-joint-Advocacy-statement-on-situation-of-migrants-and-refugees-in-Europe_Final.pdf
https://ccme.eu/wp-content/uploads/2021/04/2021-04-13_-ChristianGroup_EU_Pact_General-Comments.pdf

AGREEMENT REACHED DECEMBER 2023

MEPs and national governments have reached an <u>agreement</u> to overhaul the EU's asylum and migration legislation. The deal includes five regulations addressing the management of asylum and migration flows, crisis situations, and the processing of asylum claims. Member states can choose to host asylum applicants or make financial contributions, promoting solidarity. The regulations aim to expedite asylum claims, improve identification at arrival with facial images and fingerprints (including for children aged six and above), and mandate security and health checks for those entering the EU irregularly. The Eurodac reform enhances identification with facial images and fingerprints, addressing security concerns.

The agreement at the time of writing this reader is outlined in general terms, while details are still to be agreed . It awaits formal adoption by the Parliament and Council before becoming law, with a commitment to adoption before the 2024 European elections. EP President Roberta Metsola considers it a historic day, emphasizing a humane and fair approach to protection, eligibility, and tackling exploitation of the vulnerable.

<u>Amnesty</u> International, <u>Save the Children</u>, and many other NGOs criticized the agreement, stating that it will set back European asylum law for decades and lead to increased human suffering. They stressed that the agreement will make it harder for people to access safety, increase de facto detention at EU borders, reduce safeguards for asylum seekers, and channel more people through substandard border asylum procedures.

AGREEMENT REACHED DECEMBER 2023

The pact allows countries to opt out of EU asylum rules during increased arrivals or 'instrumentalization' of migrants, potentially breaching international obligations. The organization highlighted missed opportunities to address the mistreatment of those seeking protection and asserted that the pact risks legitimizing current violations while perpetuating a cycle of abuse.

CCME General Secretary Dr Torsten Moritz on 20th December 2023 commented on the agreement on the EU asylum and migration pact:
"we still need to analyse what has exactly been agreed in the trilogue between European Commission, Parliament and Council in the early hours of this morning. However, it seems that the concerns we had on Monday once again reiterated were very justified.

With the compromise we will for sure see that persons seeking protection in the EU will become more vulnerable. At the same time, it is very likely that arrival numbers will not change, that the chaos and system of failed responsibility for hosting and welcome will continue.

While we will as CCME critically accompany the implementation of the agreements in the next 2 years, what we will really need is a very different approach. In this approach we need to devise a system which protects people more than borders.

The resources are there – in the EU and member states budgets, in the solidarity of EU citizens, but they are currently wasted on deterrence and propaganda on "crisis". It's time to change that."

THE ASYLUM PROCEDURES DIRECTIVE

Asylum procedures, according to EU asylum law, refer to the established processes and regulations through which individuals seek international protection and asylum within European Union member states. These procedures are primarily governed by the Common European Asylum System (CEAS) and regulated in 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).

The Asylum Procedures Directive (recast) aims to establish an efficient and fair system for international protection applications. It outlines rules for swift application registration, sets a time limit for examination (typically six months), allows border procedures and safe country concepts, provides training for decision-makers, ensures legal assistance, and establishes rules on the right to stay and appeals.

The Commission proposed a new Asylum Procedure Regulation in 2016 to create a common and effective international protection procedure, addressing disparities among Member States. With no agreement reached, a revised proposal was presented in 2020 within the Migration and Asylum Pact. In theory, it emphasizes a common, clear, and time-bound procedure, procedural guarantees, attention to vulnerable individuals, prevention of system abuse, accelerated examination grounds, and harmonized rules for admissibility checks and safe country concepts.

The proposal also merges asylum and return procedures into a single legislative instrument.

THE RECEPTION CONDITIONS DIRECTIVE

Reception conditions, as defined by EU asylum law, encompass the standards and provisions governing the treatment and support of asylum seekers within European Union member states during the period when their asylum applications are being processed. These conditions are established to ensure the dignity, well-being, and basic rights of individuals seeking international protection. They are laid down in 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). The directive tries to guarantee consistent standards for the living conditions of asylum seekers throughout the EU. These standards encompass housing, food, clothing, and access to healthcare, education, or employment under specific conditions. The aim is to ensure a dignified standard of living in accordance with the Charter of Fundamental Rights.

THE QUALIFICATION DIRECTIVE

The so-called "qualification" directive tries to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection,
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).

THE DUBLIN REGULATION

The stated objective of the <u>Dublin Regulation</u> is to determine the Member State responsible for examining an asylum application within the EU. The criteria for responsibility include family considerations, recent possession of a visa or residence permit, and the irregular or regular entry of the applicant into the EU. The Dublin III Regulation, in force since July 2013, aims to enhance the asylum system's efficiency through various measures, such as protection of applicants, appeal mechanisms, legal assistance, and clear procedural guidelines between Member States. The entire Dublin procedure is designed to be completed within specific time limits, trying to ensure timely handling of asylum applications.

In 2016, the European Commission proposed revising asylum instruments to manage migration "flows" effectively and provide adequate protection. The European Parliament suggested an allocation system in 2017, replacing the first entry criterion. Council negotiations stalled, leading to a new proposal to replace the Dublin III Regulation with a Regulation on Asylum and Migration Management. The new framework tries to emphasize solidarity, introducing mechanisms for migratory pressure situations and search and rescue operations. It aims to offer various forms of solidarity, such as relocation and operational support. In theory, the regulation streamlines responsibility for examining international protection applications, strengthening safeguards for unaccompanied minors and refining family reunification criteria. It introduces a governance and preparedness system to ensure effective policy implementation.

CRISIS AND FORCE MAJEURE REGULATION

Introducing the Crisis and Force Majeure Regulation as part of the New Pact on Migration and Asylum, alongside the Asylum and Migration Management Regulation, is said to aim to enhance the resilience of the Common European Asylum System during extraordinary circumstances.

This proposed regulation claims to enable Member States to effectively manage crisis and force majeure situations in the realm of asylum and migration within the EU. In theory, the key provisions of the regulation include streamlining procedures and reducing timelines for activating the mandatory solidarity mechanism during pressure situations, broadening the scope of relocation to encompass all applicants and international protection beneficiaries (including those with immediate protection status) and irregular migrants.

Moreover, it aims to allow Member States facing a crisis to seek derogations (!) from the applicable rules concerning borders, asylum, and return. This possibility to derogate also applies in situation of so-called instrumentalization – i.e. if migration is "instrumentalised" by third parties against the EU. The concept of instrumentalization is poorly defined and had initially been addressed in a specific regulation [36] . It has in the end been largely integrated into the crisis regulation.

[36] https://www.europarl.europa.eu/legislative-train/theme-promoting-our-european-way-of-life/file-instrumentalisation-in-the-field-of-migration-and-asylum

SAFE PASSAGE INTO PROTECTION

Different ways of legal access/SAFE PASSAGEs to international protection have been debated and promoted in the last two decades, not least by CCME. However the legal framework of the EU is by many seen as very weak in this respect. The EU resettlement framework established a setup intended to allow for more resettlement and foresees financial incentives[37]. It however has no binding character towards the member states, which need to pledge places for resettlement.
The resolution of Parliament of 11th December 2018 asking the Commission to propose a regulation for a European Humanitarian Visa[38] did not lead to a legislative proposal by the Commission.

FAMILY REUNIFICATION

Family reunification, according to EU asylum law, refers to the legal process by which certain family members of an individual who has been granted international protection (asylum or subsidiary protection) in a European Union (EU) member state are allowed to join them and reside together in the same country.

Family reunification is aimed at preserving family unity and ensuring the well-being of refugees and beneficiaries of subsidiary protection. It enables family members who have been separated due to forced migration to be reunited and live together in the host country, thus contributing to their integration and social cohesion.

[37] [32] Article 294 on the treaty of the functioning of the European Union
[38] [32] Article 294 on the treaty of the functioning of the European Union

RETURN AND READMISSION

The Return Directive is the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

The Return Directive 2008/115/EC was adopted to provide common standards and procedures to be applied by member states to return migrants in an irregular situation, including the issuing of return decisions and enforcement of removals, the use of pre-removal detention as well as procedural safeguards.

It integrates a set of principles stemming from international law and EU law into the EU return policy, including the case-law of the European Court of Human Rights (ECtHR) and the EU Charter of Fundamental Rights (the Charter).

Objective "to establish an effective removal and repatriation policy, based on common standards and common legal safeguards, for persons to be returned in a humane manner and with full respect for their fundamental rights and dignity"

READMISSION

The process of readmission involves a state accepting the return of an individual, whether they are a national, third-country national, or stateless person. This aspect of return policy is considered a priority for the EU, with concerns expressed about insufficient cooperation by some third countries. This falls within the external dimension of the EU's migration policy, encompassing both EU policy documents and international forums

LABOUR MIGRATION

SINGLE PERMIT DIRECTIVE

The Single Permit Directive, established in 2011, streamlines the application process by introducing a single permit for both work and residence in the EU. It grants non-EU nationals working in the EU equal treatment in various aspects, such as working conditions, social security, qualification recognition, and tax benefits. Exclusions apply to certain categories like seasonal and posted workers. Currently applicable in 25 EU countries (excluding Denmark and Ireland), the Directive is undergoing revision following a proposal by the European Commission in April 2022, with ongoing negotiations between the Council and the European Parliament.

Objectives of the Directive include simplifying the application procedure, ensuring applicant protection, and preventing exploitation by guaranteeing equal treatment with EU nationals. Approximately 3 - 3.5 million non-EU nationals reside in the EU annually for work, addressing labor shortages not fully met by EU workers.

The proposed recast of the Single Permit Directive aims to enhance efficiency in the application process, allowing applicants to apply from non-EU countries and Member States. It addresses prolonged application durations and encourages international recruitment. The recast also introduces new requirements to strengthen safeguards, equal treatment, and protection against labor exploitation. Notably, the revised rules detach the single permit from a specific employer, enabling workers to change employers within the permit's validity, promoting labor matching, and reducing vulnerability to exploitation. Additionally, the proposal includes obligations for Member States to implement inspections, monitoring mechanisms, and sanctions against rule-breaking employers.

LONG TERM RESIDENCE DIRECTIVE

The Long Term Residence Directive emphasizes the importance of providing stable residence status for integration. After living legally in an EU country for an uninterrupted five years, non-EU nationals can obtain long-term resident status, subject to conditions such as a stable income, health insurance, and compliance with integration measures. The status grants uniform rights akin to those of EU citizens, covering work, education, social security, and access to goods and services.

The proposal to recast the Long-term Residents Directive, adopted by the European Commission on April 27, 2022, aims to create a more effective, coherent, and fair system for acquiring EU long-term resident status. Negotiations between the Council and the European Parliament are ongoing.

The recast facilitates the acquisition of EU long-term resident status by allowing the cumulation of residence periods across different Member States. This includes all periods of legal residence, regardless of the initial grounds for residence. The proposal strengthens the rights of long-term residents and their family members, allowing them to move and work in other Member States, similar to EU citizens. It establishes a mechanism for a level playing field between EU long-term residence permits and national permanent residence permits, promoting a real choice for non-EU nationals. The proposal also facilitates circular migration, making it easier for long-term residents to return to their country of origin without losing rights.

BLUE CARD DIRECTIVE

The EU Blue Card is designed to address labor and skill shortages in key EU sectors by attracting highly qualified workers from non-EU countries. The revised EU Blue Card Directive, effective since November 27, 2021, aims to make the scheme more appealing and applicable across EU countries. It introduces enhanced rules for attracting skilled workers, including flexible admission conditions and improved rights. The legal framework establishes conditions for entry and residence in 25 EU countries, with the EU Blue Card serving as the related permit. The objectives include enabling the EU to attract and retain highly qualified non-EU nationals, implementing a fast-track procedure for issuing the card, and facilitating the movement of skilled individuals within the EU.

INTRA-CORPORATE TRANSFERS DIRECTIVE

The Intra-Corporate Transfers (ICT) Directive addresses the increasing trend of multinational companies temporarily relocating managers, specialists, and trainees across their units. This facilitates knowledge transfer, innovation, and economic growth for host companies, contributing to the Union's knowledge-based economy. ICTs from non-EU countries also enhance the EU's global position.

The legal framework, outlined in the ICT Directive, governs the entry and work conditions for non-EU nationals temporarily transferred within multinational companies. The objectives include enhancing the EU's attractiveness for highly qualified workers and foreign investment, establishing a simplified admission procedure with common definitions, harmonized criteria, and ensuring attractive rights for ICTs and their families. The directive aims to facilitate ICTs' mobility within the EU, leveraging the benefits of the internal market.

SEASONAL WORKERS DIRECTIVE

The Seasonal Workers Directive addresses the structural need for seasonal labor in EU economies, often unmet by EU workers. The directive, adopted in 2014, aims to tackle issues of exploitation and sub-standard conditions faced by non-EU seasonal workers, particularly in sectors like agriculture, horticulture, and tourism. The European Commission is conducting a study to enhance the protection of third-country seasonal workers under this directive, with the adoption of the First Implementation Report planned for the first half of 2024.

The legal framework sets conditions for the entry and stay of non-EU nationals employed as seasonal workers. The objectives include establishing fair and transparent admission rules, ensuring decent working and living conditions, preventing unauthorized stay/work, and facilitating the return of seasonal workers in subsequent years. The Commission's guidelines during the COVID-19 outbreak emphasized the vulnerability of seasonal workers and their rights concerning working and living conditions. Accommodation conditions were highlighted as closely linked to their work, urging monitoring in this regard.

TALENT PARTNERSHIPS

The Talent Partnerships introduced in the new Pact on Migration and Asylum aim to strengthen legal pathways to the EU by strategically involving partner countries in migration management. These partnerships provide a policy framework and financial support to enhance international mobility, focusing on aligning labor market needs and skills between the EU and partner nations. Open to students, graduates, and skilled workers, the first Talent Partnerships are set to launch with North African partners, including Egypt, Morocco, and Tunisia, by the end of 2022.

Talent Partnerships involve direct support for nationals of partner countries to study, work, or train in the EU. Close collaboration among authorities, employment agencies, social and economic partners, and education providers is emphasized. Additionally, these partnerships aim to assist partner countries in areas like labor market intelligence, vocational education, integration of returning migrants, and diaspora mobilization. The establishment of Talent Partnerships aligns with the EU's commitment to building trust and fostering comprehensive partnerships with non-EU countries.

Objectives of Talent Partnerships include strategic engagement with partner countries on migration management, fostering mutually beneficial international partnerships, and addressing labor and skills needs between the EU and partner nations.

TEMPORARY PROTECTION

Temporary protection serves as an extraordinary measure to provide immediate and short-term shelter for displaced persons in the event of a mass influx or imminent mass influx from non-EU countries, where the individuals cannot return to their home country. The 2001 Temporary Protection Directive offers the European Union a mechanism to address such scenarios.

This directive comes into effect when the Council, based on a proposal from the Commission, determines that a mass influx poses a risk to the standard asylum system's ability to handle the demand arising from the arrival of displaced persons, potentially impacting the system's efficiency.

The Temporary Protection Directive was first activated by the Council in response to Russia's invasion of Ukraine on February 24, 2022, offering swift and effective aid to those fleeing the conflict. The unprecedented scale of displaced individuals from Ukraine created a risk that EU asylum systems would struggle to process applications promptly, affecting the efficiency and rights of those seeking international protection. Following a call from home affairs ministers on March 2, 2022, the Commission promptly proposed activating the Temporary Protection Directive, and on March 4, 2022, the Council unanimously adopted the decision, granting temporary protection rights to individuals escaping the war in Ukraine.

RIGHTS OF BENEFICIARIES OF TEMPORARY PROTECTION

- Residence permit for the entire duration of protection (lasting from one to three years).
- Adequate information about temporary protection.
- Guarantees for access to the asylum procedure.
- Access to employment, subject to relevant professional rules, national labor market policies, and general employment conditions.
- Access to suitable accommodation or housing.
- Access to social welfare or means of subsistence if necessary.
- Access to medical care.
- Access to education for individuals under 18 within the state education system.
- Opportunities for family reunification in certain circumstances.
- Access to banking services, including opening a basic bank account.
- Ability to move to another EU country before the issuance of a residence permit.
- Freedom of movement within EU countries (excluding the Member State of residence) for 90 days within a 180-day period after receiving a residence permit in the host EU country

INTEGRATION

The issue of integration of third country nationals is a hotly debated topic on EU level. The EU however has no competence to legislate in this area. The EU encourages cooperation between the EU member states through funding, coordination and other means. For more information see:
https://home-affairs.ec.europa.eu/policies/migration-and-asylum/legal-migration-and-integration/integration_en

ANTI DISCRIMINATION/NON DISCRIMINATION POLICIES

Anti discrimination policies, which among others try to address racial discrimination are part of EU policies. They are however not only affecting refugees and migrants and are therefore not part of the legislation on asylum and migration.
For more information on the EU´s anti-discrimination legislation see:
https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/know-your-rights/equality/non-discrimination_en

BORDERS CONTROL

Based on Article 3(2) of the Treaty on European Union (TEU) and Articles 67 and 77 of the Treaty on the Functioning of the European Union (TFEU).

THE SCHENGEN EXTERNAL BORDERS ACQUIS

The current Schengen external borders acquis is based on the original framework integrated into the EU legal system through the Treaty of Amsterdam (1.1.3). Its rules can be found across a broad range of measures, amongst those: The Schengen Borders Code and The Schengen Information System (SIS).

THE SCHENGEN BORDERS CODE

The Schengen Borders Code serves as a fundamental framework for managing external borders. It outlines regulations for external border crossings and the temporary reintroduction of internal border checks. Member States are required to conduct systematic checks, including on EU citizens, using databases like the Schengen Information System and Interpol's database. These checks are applicable at all external borders for both entry and exit. The Schengen Evaluation Mechanism, established by Council Regulation (EU) No 1053/2013, evaluates the implementation of the Schengen acquis, emphasizing respect for fundamental rights. The evaluation covers various components, including external border controls, visa policy, police and judicial cooperation, SIS, and data protection.

THE SCHENGEN INFORMATION SYSTEM (SIS)

The Schengen Information System (SIS) is a vital information-sharing database ensuring security in the Schengen area. It is a key IT system within the Area of Freedom, Security, and Justice (AFSJ), facilitating alerts for wanted individuals and objects. With over 80 million alerts, it was consulted more than 5 billion times in 2017, leading to 240,000 hits for foreign alerts. Recent updates to SIS, introduced in 2018, are defined by three separate regulations covering police and judicial cooperation, border checks, and the return of illegally staying third-country nationals. These regulations establish categories of alerts, enhancing the system's effectiveness.

EU CHARTER OF FUNDAMENTAL RIGHTS

The EU Charter of Fundamental Rights is a legally binding document that outlines the fundamental rights and principles that must be upheld by European Union institutions and member states when implementing policies, including those related to asylum. It serves as a key reference point for ensuring the protection of human rights in the context of EU asylum law. The main legal sources that define the EU Charter of Fundamental Rights and its significance in EU asylum law include :the Charter of Fundamental Rights of the European Union (2000/C 364/01), Lisbon Treaty (2009),Case Law of the Court of Justice of the European Union (CJEU).

EU CHARTER OF FUNDAMENTAL RIGHTS

Article 18 of the charter reads: "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 the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union " The EU Charter of Fundamental Rights therefore serves as a cornerstone of EU asylum law, ensuring that the rights and dignity of asylum seekers and refugees are respected and protected throughout the asylum process. It establishes a strong legal framework to safeguard the human rights of individuals seeking protection within the European Union.

THE EXTERNAL DIMENSION OF THE EU MIGRATION AND ASYLUM POLICY

The external dimension of the EU Migration and Asylum Policy refers to the aspects and measures taken by the European Union in managing migration and asylum issues beyond its borders. It involves dealing with countries outside the EU, international organizations, and other stakeholders to address challenges related to migration, asylum, and refugee flows. This dimension includes diplomatic efforts, cooperation agreements, and the development of policies aimed at managing migration and providing protection to refugees and asylum seekers outside the EU's immediate territory. The external dimension emphasizes collaboration with third countries, tackling the root causes of migration, and ensuring a comprehensive and effective approach to migration management at a global level.

PART FOUR

FOUR

EU LEVEL ADVOCACY

EU ADVOCACY IN PRACTICE: STEP BY STEP ADVOCACY STRATEGY PLANNING

1

IDENTIFY AND PRIORITIZE THE ISSUE

Effective advocacy requires focused efforts and careful selection of key goals. Organizations should prioritize areas aligned with their mandate, expertise, and geographic focus. Avoiding duplication and collaborating with others in the sector enhances impact. Each organization should identify areas where its skills can make the most difference – that includes seeing how many resources an organization can invest into advocacy.

2

SET THE GOAL AND OBJECTIVES

Advocacy should be structured like a project, with well-defined general and specific objectives tied to expected results. Clear description of objectives and priorities is crucial, avoiding vague goals. Define the desired change and the method to achieve it and a realistic timeline. Flexibility is key, allowing adjustments if a strategy proves ineffective.

3

BUILD ALLIANCES

Collaboration enhances advocacy impact. Alliances leverage strengths of each partner, dividing tasks for efficiency. Forming alliances with regions or countries facing similar issues is beneficial. So check who is out there, if you can link up. In some cases you will find that the activity you wanted to undertake has already been carried out by someone else...

4

IDENTIFY STAKEHOLDERS

Conducting a thorough stakeholder analysis is crucial for effective advocacy. It helps identify direct and indirect targets, potential allies, interests, conflicts, and existing relationships. It guides engagement levels throughout the plan. To implement it, list stakeholders, assess their relevance, map contacts including political and technical staff, and use tools like the Power and Participation matrices.

5

MAP YOUR RESOURCES

Evaluate internal resources available for advocacy efforts, considering financial, human, and expertise aspects. Identify gaps and explore collaboration opportunities. Prioritize resource allocation based on issue significance. Consider partnerships, grants, and fundraising strategies for additional resources.

6

DESIGN THE ACTION PLAN

Develop a detailed action plan outlining activities, timelines, responsibilities, and milestones. Define communication strategies, key messages, target audiences, and dissemination channels. Allocate tasks among team members, anticipate challenges, and outline contingency plans. Ensure alignment with overall advocacy goals.

7

IMPLEMENT, MONITOR AND EVALUATE

Execute the action plan systematically, adhering to timelines and milestones. Regularly monitor progress, collect data on key performance indicators, and adjust strategies as needed. Engage stakeholders, partners, and allies, maintaining open communication. Evaluate impact against predefined objectives, considering short-term and long-term outcomes. Adapt strategies based on evolving contexts and feedback. Document lessons learned and best practices for future initiatives.

EXAMPLES OF ACTIVITIES:

POSITION PAPERS

A position paper serves as a concise document that articulates your organization's perspective and analysis of a given situation, legislative proposal, or policy. Its primary advocacy use lies in providing visibility to your organization's views on a particular topic. This document can be shared when engaging potential partners for collaborative actions and can serve as a foundational advocacy resource on your website. While it may contain recommendations, it is not obligatory. Depending on your audience, it might be beneficial to make it available in multiple languages. The main targets for a position paper are EU entities and broader allies.

PRIVATE LETTERS

Private letters, typically one to two pages in length, are sent via email or regular mail to convey your organization's concerns, pose questions, seek clarifications, or call for action on identified issues or situations. These letters serve a main advocacy purpose as more formal and targeted means of communication, often leading to responses. They are effective in receiving written formal responses from EU-level institutions. Utilizing this approach may also provide an opportunity to request a call or meeting with your interlocutor. In case of a delayed response within 4 to 6 weeks, sending a follow-up letter is recommended. The primary targets for private letters are specific EU-level stakeholders.

EVIDENCE-BASED REPORTS

An evidence-based report is a thematic or country report grounded in evidence gathered from the field, including testimonies from displaced individuals. While it may include recommendations, it is not mandatory. The main advocacy use of such reports is to provide credibility and offer pertinent calls for actions and recommendations, ensuring that advocacy requests are substantiated by robust evidence. The primary targets for these reports are policymakers at the EU level and other Civil Society Organizations (CSOs) engaged in EU advocacy.

BRIEFINGS

A briefing is a concise overview providing essential information about the context, key points, and positions/recommendations related to a specific situation or issue. Briefings are highly valuable for sharing insights before legislative or policy debates, negotiations, field visits, or events. The main advocacy purpose of a briefing is to inform individuals, groups, or organizations, influencing their understanding and opinions on a particular situation or issue. The primary targets for briefings are EU decision and policy makers.

RECOMMENDATIONS

Recommendations are a standalone document consolidating an organization's primary suggestions regarding a legislative piece or policy. These recommendations need to be specific, targeted, and applicable to the relevant stakeholders. The main advocacy purpose of recommendations is to share CSO's proposals and informed inputs during legislative and policy debates on migration and asylum at the EU level. The primary targets for recommendations are EU decision and policy makers.

JOINT STATEMENTS

A (Joint) statement or open letter is a concise document urging specific targets to take defined actions, often urgently, on an issue. A joint statement involves relevant signatories supporting the call to action. While it may include recommendations, it is not mandatory. Typically used to address urgent situations and issues, its primary advocacy use is to create a clear and impactful call for action. The impact of the statement is influenced by the number and names of signatories and the quality of the dissemination strategy. The main targets for (Joint) statements are targeted EU-level stakeholders, including individuals or institutions.

PRESS RELEASES

A press release is a concise document directed to the press, clearly highlighting the advocacy message. Its main advocacy use lies in attracting media attention to create a snowball effect on mobilizing public opinion, thereby increasing pressure on the policymakers being influenced. Press releases are typically sent to media outlets in various EU Member States.

FIELD VISITS FOR STAKEHOLDERS / MEPS

Organizing field visits for Members of the European Parliament (MEPs, also representative of national governments) involves adopting a project-based approach, clearly defining objectives, and securing resources. It is crucial to identify relevant MEPs based on criteria such as their profile, interests, and prior engagement with the issue. Initiating contact through email, providing a clear invitation to the field visit, and introducing your organization concisely are key steps. During the visit, maintain a balance between site visits and meetings, ensuring a realistic schedule. Collaborate with MEPs to finalize the agenda and discuss expectations and rules for media coverage. Assist with logistics and address potential risks through a comprehensive risk register. Effective field visits enhance MEPs' understanding and support for the advocated issues.

APPENDECIS

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USEFUL
RESOURCES

- <u>Straight to the Point – Advocacy Tools</u>, Pathfinder International (with freely downloadable Tools in En, Fr and Pt);

- <u>3 Planning your advocacy strategy</u>, Save the Children and The Open University;

- <u>Making Advocacy Effective</u>, EuroMed Rights;

- <u>4 lessons I learned from taking a stand against drugs and gun violence</u>, Ilona Sazbó de Carvalho (video);

- <u>Introduction to Advocacy</u>, ILGA Europe and European AIDS Treatment Group;

- <u>Civil Society Guide: EU Advocacy on Asylum and Migration</u>, Refugee Rights Europe.

- <u>Official Directory of the European Union</u>

- <u>Advocacy Handbook</u>, European Youth Forum;

- <u>Booklet: Activist guide to the Brussels Maze 3.0</u>, EDRi;

- <u>Campaign Canvas</u>, Mobilisation Lab Collective;

LINKS TO BRUSSELS-BASED ORGANIZATIONS

- [Amnesty International, European Institutions Office](#)

- [A quick look at Parliamentary Committees, European Parliament](#);

- Common European Asylum System, [CEAS](#);

- [Caritas Europe](#)

- Centre for European Policy Studies, [CEPS](#)

- Churches' Commission for Migrants in Europe, [CCME](#)

- [Civil Society Europe](#)

- [COFACE](#) families Europe

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- [European Association for the defence of Human Rights , AEDH](#)

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- [European Federation of National Organisations Working with the Homeless, FEANTSA](#)

- [European Network on Statelessness, ENS](#)

- [European Policy Centre, EPC](#)

- [European Network of Migrant Women](#)

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- [European NGO Platform on Asylum and Migration, EPAM](#)

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- [Handbook on European law relating to asylum, borders and immigration, FRA, ECtHR;](#)

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- [Save the Children Europe](#)

- [Share Network](#)

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- [Solidar](#)

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- <u>The European Union: Facts and Figures</u>, Council of the European Union;

- <u>The European Union: What it is and what it does</u>, European Commission;

- <u>Who is who in International Protection</u>, European Union Agency for Asylum.

- <u>Website of the European Parliament</u>;

- <u>Website of the European Commission</u>;

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- <u>Website of the Court of Justice of the European Union</u>;

- <u>Website of the European Ombudsman</u>;

- <u>Website of the EU Agency for Fundamental Rights</u>;

- <u>Website of the EU Agency for Asylum</u>;

- **Brussels-based Media Organisations**

- EURACTIV.com – EURACTIV

- https://op.europa.eu/en/web/who-is-who

- POLITICO – European Politics, Policy, Government News

- EU Observer

- InfoMigrants

- Statewatch

"So then you are no longer strangers and aliens, but citizens with the saints and also members of the household of God."
(Eph. 2:19)