Information Note on Syrian Asylum Seekers and Refugees in Europe

November 2013

Foreword

The European Council on Refugees and Exiles (ECRE) is a pan-European alliance of 81 NGOs protecting and advancing the rights of refugees, asylum seekers and displaced persons. Our mission is to promote the establishment of fair and humane European asylum policies and practices in accordance with international human rights law.

The European Legal Network on Asylum (ELENA) is a forum of legal practitioners who aim to promote the highest human rights standards for the treatment of refugees, asylum seekers and other persons in need of international protection in their daily individual counselling and advocacy work. The ELENA network extends across most European states and involves some 500 lawyers and legal counsellors.

ECRE is funded by the European Commission, the Atlantic Philanthropies, the Sigrid Rausing Trust, the Joseph Rowntree Charitable Trust, EPIM and UNHCR.

Acknowledgements

ECRE/ELENA are very grateful for the contributions of the Ashurst LLP office in the UK, Kinstellar offices in the Czech Republic, Hungary, Slovakia and Romania, Latham & Watkins LLP offices in France and Spain, McDermott Will & Emery offices in Belgium, Germany, Ireland and Poland and White & Case LLP office in Sweden for the information on national jurisprudence. We would also like to thank the Global Network for Public Interest Law (PILnet), which facilitated our work with the abovementioned law firms.

We would like to acknowledge the information provided by the Asylum Information Database (AIDA) and the European Database of Asylum Law (EDAL). We are also thankful to UNHCR Bureau for Europe for their support and input.

Finally, we would like to express special thanks to the following people in the ELENA network and ECRE membership:

Belgium
Tristan Wibault
Katrin Verhaegen
Ruben Wissing
Comité Belge d'Aide aux Réfugiés

Bulgaria
Iliana Savova
Bulgarian Helsinki Committee

Croatia
Tatjana Budimir
Croatian Law Centre

Cyprus
Corina Drousiotou
Future Worlds Centre
Nikoletta Charalambidou
KISA, Action for Equality, Support, Antiracism

Czech Republic
Eva Holá
OPU: Organization for Aid to Refugees

Denmark
Dorte Smed
Signe Søndergaard
Danish Refugee Council

Finland
Piritta Raivio
Refugee Advice Centre Finland

France
Matthieu Tardis
Anais Elbassil
France Terre d'Asile

Germany
Prof. Dr. Holger Hoffmann
University of Applied Sciences of Bielefeld

Hungary
Julia Ivàn
Grusa Matevzic
Hungarian Helsinki Committee

The Netherlands
Sadhia Rafi
Dutch Council for Refugees

Greece
Maria Papamina
Greek Refugee Council
Erika Kalantzi
Attorney-at-Law at the High Court

Ireland
Nick Henderson
Irish Refugee Council

Norway
Halvor Frihagen
Advokatfirmaet Andersen & Bache-Wiig

Poland
Karolina Rusiłowicz
Helsinki Foundation for Human Rights

Portugal
Monica d'Oliveira Farinha
Portuguese Refugee Council

Slovakia
Viera Orichova
Slovak Humanitarian Council

Spain
Natalia Cañiz
ACCEM
Paloma Favieres
CEAR

Sweden
George Joseph
Caritas Sweden

Switzerland
Seraina Nufer
Schweizerische Flüchtlingshilfe SFH (OSAR)

Table of Contents

I. Key findings 6
II. Recommendations 11
III. Methodology 14
IV. The Situation in Syria and the Neighbouring Countries 16
V. The EU Response to the Situation of Syrians in the Region 17
VI. An Overview of the Situation of Syrian Asylum Seekers and Others Displaced by the Syrian Conflict in Europe 19
Asylum Applications from Syrians in Europe 19
Protection Rates and Statuses 20
Detention 31
Reception conditions 35
Residence permits 37
Family Reunification 38
Resettlement and humanitarian admission 42
Returns 44
VII. Conclusions 46
VIII. List of Annexes 48
Annex 1: An Overview of Country Practices Across Europe 49
Annex 2: ELENA Research Questionnaire 107
Annex 3: Bibliography 110

I. Key findings

Asylum Applications from Syrians in Europe

1. 24,110 Syrian nationals sought asylum in the EU in 2012 (25,665 including Switzerland and Norway), a 206% rise compared to 2011.[1] Syria became the largest single source of new applicants in 2012 with 20,780 asylum applications in the EU.[2]
2. From 1 January to 31 August 2013, there were 20,000 new asylum applications from Syrian nationals to the EU+[3] countries, making Syria one of the main countries of origin after Russia (about 27,000)[4].

Protection Rates and Statuses

3. Syrian applications registered the highest recognition rates granted by EU Member States with 91% positive decisions for all types of international protection. Practices for assessing Syrian applications generally followed the negatively-evolving situation in Syria. Following an initial 'freeze' on assessing claims, there was a significant increase in the granting of subsidiary protection and the acceptance rate.[5]
4. The treatment of Syrian asylum applications is divergent across Europe and evolved over time.
5. Some European countries recognised **refugee status** for Syrian asylum applicants in the majority of cases. For example, 100% of all the protection grants for Syrians in **Ireland**, 94% in the **UK** and 91% in **Denmark** in 2012 were of refugee status. Similarly, in the first quarter of 2013, the **UK** recognised refugee status in almost[6] 100% of all positive decisions regarding Syrians, and **Denmark** in 81%. The refugee recognition rate decreased to 50% in **Ireland** in the first quarter of 2013.[7]
6. **The Netherlands**[8], **Sweden** and **Germany**[9] granted mainly **subsidiary protection** pursuant to Article 15(b) of the Qualification Directive, while other European countries, such as **Finland, Hungary, Spain and Switzerland**[10][11], mostly provided protection in accordance with or equivalent to Article 15(c) of the Qualification Directive.

[1] Aggregated data from Eurostat, accessed on 25 September 2013
[2] Compared to 6,205 new applications in 2011.
[3] EU+ is a term used by EASO to include the EU Member States and Associated Countries Norway and Switzerland. See EASO, Quarterly Asylum Report, Q1 2013, p.4. Note: EU+ figures from EASO currently public data does not include information from Croatia.
[4] EASO, September 2013 Newsletter, p.8
[5] EASO, Annual Report on the Situation of Asylum in the EU in 2012
[6] Eurostat rounds the recorded results to the nearest 5
[7] Based on the Eurostat statistics, accessed on 25 September 2013.
[8] Information provided by the Dutch ELENA coordinator
[9] EASO, Annual Report on the Situation of Asylum in the EU in 2012
[10] Information provided by the ELENA coordinators in the countries concerned.
[11] National protection status in Switzerland on the grounds of situation of genaralised violence

7. Subsidiary protection was granted in 100% of all positive decisions in **Bulgaria and the Czech Republic** in both 2012 and the first quarter of 2013, and in **Croatia** in 2012 alone.[12]
8. **No positive decisions** were recorded in **Greece** and **Spain** in 2012 compared to 150 and 20 rejections respectively. The positive decision rate improved slightly in both countries in the first quarter of 2013.
9. Only 5 applicants from Syria have been granted **humanitarian protection** in **Cyprus** in 2012, while 30 applicants were rejected.[13]

Access to Asylum Procedures

10. As the conflict in Syria worsens, those fleeing seem to be increasingly facing problems reaching Europe's territory and finding protection there.[14] The lack of safe legal channels to access Europe often forces people affected by the conflict in Syria to take life-threatening risks.[15]
11. Legal practitioners in a number of European countries, such as **Bulgaria, Cyprus** and **Greece**[16], highlighted concerns relating to access to the territory of their states by those fleeing the Syrian conflict, as well as to their inability to register asylum applications, and to a lack of information provided about such an opportunity.
12. Many Syrians prefer not to apply for protection in the abovementioned countries, **fearing prolonged detention, push-backs or criminal proceedings for illegal entry,** which could be instigated against them despite lodging asylum applications. Many instead choose to travel to European countries with more efficient asylum systems or due to family ties.
13. Systematic push-backs of Syrian asylum-seekers from **Greek** sea and land borders to Turkey, as well as cases of severe ill-treatment occurred during these push-backs, present specific concern.[17]
14. The Dublin Regulation[18] is usually applied to those fleeing the conflict in Syria in the same way as to asylum seekers of other nationalities.[19]

Detention

15. The detention practices and conditions of detention for those fleeing the Syrian conflict do not differ much from those of asylum applicants of other nationalities but, in general, detention practice itself differs across the European countries.

[12] Based on the Eurostat statistics, accessed on 25 September 2013.
[13] Eurostat statistics, accessed on 25.09.2013
[14] Not there yet: AIDA Annual Report 2012-2013
[15] Ibid, see also: UNHCR highlights dangers facing Syrians in transit
[16] Based on the information provided by the ELENA coordinators
[17] See Pro Asyl, Pushed Back, November 2013
[18] Dublin II Regulation: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:050:0001:0010:EN:PDF
[19] See The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

16. In many countries covered by this note, including **the Czech Republic**, **Finland**, **France, the Netherlands, Poland, Portugal, Slovakia,** and **the UK**, those fleeing the conflict in Syria could be detained in order "to determine or verify their identity or nationality" or "in order to decide, in the context of a procedure, on the applicant's right to enter the territory".
17. The findings of this report also show that, in the majority of the countries covered by this information note, except for **Cyprus** and **Greece**, Syrian nationals whose asylum claims have been rejected have not been detained pending removal since the escalation of the Syrian conflict.
18. A worrying practice was documented in **Bulgaria**: to address accommodation short-falls, Bulgarian authorities have tended to rely on two detention centres designed to house irregular migrants awaiting deportation.[20]
19. Information collected for the purpose of this report also highlighted appalling detention conditions for Syrian nationals in **Cyprus** and **Greece.**

Reception

20. Syrians arriving in the EU are often families, with children. In a number of Member States, including **Cyprus** and **Bulgaria**[21], concerns have been expressed over the lack of appropriate reception conditions, because national reception systems are in some cases better suited to individuals than to families, which constitute the majority of applications from Syria. [22]
21. Like for asylum seekers of other nationalities, the absence of a specific mechanism or procedure to identify vulnerable asylum seekers or special reception needs was reported in a number of the European countries covered by the present note, such as **Cyprus** and **Croatia**.[23]

Residence permits

22. Only in a few EU countries analysed, for example **Denmark**, is the duration of residence permits (four years) aligned for both refugees and subsidiary protection beneficiaries. Following the new assessment of the situation in Syria by the Swedish Migration Board in September 2013, the new policy in **Sweden** is to grant Syrians in need of international protection permanent residence permits, regardless of the type of protection provided.[24]
23. Many EU members, like **Bulgaria, Hungary, Ireland, the Netherlands** and **the United Kingdom** grant residence permits to subsidiary protection beneficiaries for a duration of three years or more.[25]

[20] Information provided by the ELENA coordinator in Bulgaria
[21] For more information see EASO to provide support to Bulgaria
[22] EASO, Annual Report on the Situation of Asylum in the EU in 2012
[23] Information provided by ELENA coordinators and the NGO "KISA" (Cyprus)
[24] See the Swedish Migration Board's website for more information: "New judicial position on Syria opens up for a higher number of permanent residence permits"
[25] See European Commission, *Report on the application of Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as*

24. At the same time, some EU countries, for example **Cyprus and Poland,** follow the Qualification Directive (Directive 2004/83/EC) and its recast (Directive 2011/95/EU) requirements[26], and provide beneficiaries of subsidiary protection with a residence permit of less than three years.

25. Non-EU Member States apply national protection statuses with their own rules as to residence permits. In **Norway**, all beneficiaries of protection pursuant to Article 28 of the Immigration Act of 2008 (refugee status and subsidiary protection) are entitled to similar residence permits. However, residence permit duration is contingent on whether the applicant's identity is substantiated by documentary evidence.

Family Reunification

26. In a majority of European countries, national authorities in general do not envisage any accelerated procedures for those fleeing the Syrian conflict.

27. In many European countries the family reunification rules for refugees and beneficiaries of subsidiary protection are similar, such as **Denmark**, **Poland, Spain** and **Belgium**[27]. However, in some, for example **Switzerland**[28] **and Hungary**, the family reunification rules for refugees and beneficiaries of subsidiary protection are different.

28. Legal practitioners who contributed to this note indicated a number of hurdles involved in seeking family reunification visas which must be overcome by family members of Syrians who have a protection status in Europe. They include the absence of valid passports and a limited number of embassies in Syria's neighbouring countries that issues such visas.

Resettlement and humanitarian admission

29. The findings of this report show that the number of places the European countries provided to Syrian refugees under resettlement and humanitarian admission programmes in 2012 and the first half of 2013 has been **extremely low**.

30. Following UNHCR's appeal for humanitarian admission and resettlement of Syrians in acute need in June 2013, a number of European countries have come forward with a positive response, with some programmes mainly aimed at the 2014 calendar year.[29]

31. For example, **Germany** has committed 5,000 places for humanitarian admission, with the priority given to Syrian refugees present in Lebanon and to those who already have family in Germany. The first 107 of these refugees from Lebanon

---

persons who otherwise need international protection and the content of the protection, 16 June 2010, COM(2010)314 final.

[26] See ECRE's Information Note on the Qualification Directive (recast), published 7 October 2013.

[27] Please note that the practice in Belgium has recently improved following the Constitutional Court judgment as of 26 September 2013.

[28] National protection status in Switzerland. For more information see Annex 1

[29] See UNHCR, *Syria Regional Response Plan: January to December 2013;* UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013

arrived in Germany on 10 September 2013.[30] The **Norwegian** Ministry of Foreign Affairs announced a proposal to accept the resettlement of 1,000 Syrian refugees, on top of the existing annual quota with UNHCR of 1,200.[31]

Returns

32. Returns to Syria are reported as suspended in all European States included in the note.
33. However, whereas some Member States, such as **Denmark**, **Poland** and **Germany**, have adopted formal moratoria on returns to Syria, this is not the case in other States.[32]
34. Cases were reported where Syrian asylum applicants were returned from **Cyprus, Poland** and **Spain** to countries with no functioning asylum systems in place, such as **Lebanon, Turkey** and **Belarus**, without being able to file their asylum claims.

[30] See UNHCR Briefing Note, 10 September 2013: 107 Syrian refugees to depart Lebanon for temporary relocation in Germany
[31] http://www.regjeringen.no/nb/dep/ud/pressesenter/pressemeldinger/2013/syria_flyktninger.html?id=735913
[32] UNHCR, *Responding to protection needs of displaced Syrians in Europe*, June 2013; and information received from ELENA Coordinators in June 2013

II. RECOMMENDATIONS[33]

International protection for those fleeing the Syrian conflict and seeking asylum in Europe

Access to Asylum Procedures and procedural guarantees

1. European countries must facilitate access to Europe for those fleeing Syria, including by relaxing current visa restrictions and family reunification rules and by using protected entry procedures (PEPs) and other legal avenues. European countries must stop requiring airport transit visas for persons fleeing the Syrian conflict as they may constitute an additional obstacle for those fleeing Syria to reach safety in Europe.

2. All asylum seekers, including those coming from Syria must be given the opportunity to lodge an asylum application and have it processed with full respect for procedural guarantees.

3. Asylum applications from Syrians and stateless persons, who enjoyed protection in Syria, should be assessed on the presumption that they are likely to meet the refugee definition contained in the 1951 Convention Relating to the Status of Refugees. Where they do not meet the definition, they should be granted subsidiary protection or equivalent.

4. Adequate access to an effective remedy in line with the European Convention on Human Rights and the Charter of the Fundamental Rights of the European Union should be guaranteed for all people fleeing the conflict.

5. European states should increasingly apply discretionary clauses under the Dublin Regulation and its recast, in the best interests of all asylum seekers, including those fleeing the Syrian conflict, and, taking into account their obligations under international law and the humanitarian purpose of those clauses. States should ensure a proactive application of family provisions in the Dublin Regulation in full respect for family life and the principle of family unity. The Dublin Regulation should be applied correctly and in full compliance with the hierarchy of criteria allocating responsibility.

Data collection and transparency

6. European governments should collect and publish prompt, accurate and adequate data on the arrivals of Syrians in Europe as well as improved statistics on all asylum applications and decisions.[34]

[33] ECRE has already made a number of recommendations to the EU and the Member States in relation to treatment of Syrian asylum seekers in the EU. See ECRE Recommendations to the Cypriot Presidency of the EU and Joint statement by Amnesty International, Churches' Commission for Migrants in Europe (CCME), the International Catholic Migration Commission (ICMC), the European Council on Refugees and Exiles (ECRE) "Syria Refugee Crisis – EU should do more"

[34] It has to be noted that information we received from domestic statistical sources (MOI, migration officials, etc.) often varied from the statistics indicated by the EUROSTAT

7. Specific state policies in relation to the treatment of asylum seekers and refugees, including those fleeing the conflict in Syria, should be transparent and publicly accessible.

Returns to Syria and the neighbouring countries

8. All European countries should introduce moratoria on returns to Syria and its neighbouring countries. European states should not promote any voluntary returns to Syria as long as the conflict in Syria continues.

Detention

9. European States should not detain Syrian nationals and habitual residents of Syria for immigration-related purposes in view of the absence of foreseeable prospects of removal to the region.

Reception conditions

10. Adequate reception conditions, in line with the principle of human dignity, enshrined in the European legal tradition, should be guaranteed for all asylum seekers, including those fleeing Syria. Families and vulnerable groups should be provided with specialised reception facilities.

Residence permits

11. Those fleeing the Syrian conflict and provided with protection in Europe should be granted the right to permanent residence.

Family Reunification

12. Family reunification criteria should be applied in a flexible manner for beneficiaries of international protection from Syria. Taking into account the specific challenges they are facing, such applications should be assessed according to an accelerated procedure.

13. For family members of Syrian beneficiaries of international protection in Europe, there should be a possibility for family reunification visas to be attached to other travel documents, such as *laissez-passers* or separate sheets affixing a visa, instead of requiring a passport. European States must ensure that family reunification visas for Syrian nationals and others affected by the Syrian conflict can be issued from all European embassies in Syria's neighbouring countries.

Resettlement

14. In the spirit of solidarity with the countries neighbouring Syria, European states must commit to receive persons in need of international protection affected by the conflict in Syria through resettlement and humanitarian admission schemes.

Support to EU Member States

15. EASO should provide support as necessary to EU Member States facing challenges in reception conditions and processing of asylum applications as a result of an increased number of Syrian asylum seekers in an open and transparent manner.

Continued humanitarian assistance in the region

16. In addition to ensuring that European countries provide adequate support to those who flee the Syrian conflict and reach Europe, humanitarian and development support to those displaced in Syria and to countries with a large influx of Syrian refugees should continue.

III. Methodology

This information note provides an overview of selected country practices regarding the situation of those who fled the Syrian conflict claiming asylum in Europe. The aim of this information note is twofold. Firstly, the comparison of country practices enables an assessment of best practices in Europe so as to provide recommendations to European States on how to better respond to the situation of refugees seeking protection across Europe. Secondly, as the note gathers data on the experiences of lawyers supporting Syrian asylum claims in Europe, it also aims to contribute to a better understanding of the treatment of refugees and asylum seekers from Syria, including Syrian nationals and stateless persons, identify protection gaps, and formulate recommendations on how to address those gaps.

This information note in no way purports to provide a comprehensive assessment of the situation on the ground in each State for those affected by the Syrian conflict. For an easy reference "those affected by the Syrian conflict, including Syrian nationals and stateless persons (e.g. Palestinian refugees), who enjoyed protection in Syria" will be referred to as Syrian refugees/asylum seekers. The recommendations indicated in this note are also applicable to refugees provided with protection by Syria (e.g. Iraqis) and displaced by the conflict, acknowledging their particularly vulnerable situation.[35]

The following countries are included in the scope of this note: **Belgium**, **Bulgaria, Cyprus, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland,** the **Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland** and **the United Kingdom.**

The research was conducted from June to October 2013. Information concerning country practice in Europe was analysed on the basis of primary data obtained from questionnaires submitted by the European Legal Network on Asylum (ELENA) national coordinators. This information was complemented by an analysis of several secondary resources in the form of published articles, reports and literatures. The domestic case law analysis was facilitated by the Global Network for Public Interest Law (PILnet), which requested a number of leading law firms to assist ECRE in analysing national jurisprudence on this topic.

One of the main challenges for collecting detailed information on the treatment of Syrian nationals in Europe is the lack of up-to-date and publically available information by European governments on their policies in relation to Syrian asylum seekers. Moreover, the legal practitioners in certain European countries reported an inability to access information on practices in relation to first instance decisions as well as jurisprudence in the countries with no publicly accessible judicial databases. Some information included in this Note is based on the testimonies of the legal practitioners, who interviewed Syrian nationals in need of international protection. However, the absence of effective and independent detention and forced returns monitoring programmes made it at times difficult to verify certain worrying practices.

[35] See UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013

This information note should be read in conjunction with the ECRE AIDA Annual Report 2012/2013 "Not there yet"[36] as well as **AIDA** national reports on **Belgium, Bulgaria, Germany, France, Greece, Hungary, Ireland, the Netherlands, Poland, Sweden** and **the UK**, which include information on asylum procedures, reception conditions and detention in relation to persons in need of the international protection in general.

[36] http://www.asylumineurope.org/news/10-09-2013/not-there-yet-aida-annual-report-launched

IV. The Situation in Syria and the Neighbouring Countries

General Overview

In March 2011, the "Arab Spring" reached Syria, when activists demonstrated against the regime of President Bashar Al-Assad in the southern town of Deraa. Protests were violently repressed by the authorities and the first deaths were reported. Protests quickly spread throughout the country and have been met with increasing violence. According to UNHCR's October 2013 Update on Syria, 'the number of persons killed since the violence began has reportedly surpassed 100,000, with 6.8 million persons, or one third of the population in need of humanitarian assistance; a significant increase from 1 million in March 2012' [37] The humanitarian situation is dire, with accusations of human rights violations being carried out by both sides.[38] UNHCR continues to receive reports from inside Syria of the killing of civilians, as well as arbitrary arrest, detention, disappearance, rape, and torture and ill-treatment, particularly affecting women and children.[39] About 7,000 children have been killed during the conflict, according to the Office of the High Commissioner for Human Rights (OHCHR)[40].

According to the UNHCR's estimate, as of November 2013, the number of registered Syrian refugees in the region stands at 2,139,559 persons, while 84,074 are awaiting registration.[41] More than 97 per cent of Syria's refugees are hosted in the surrounding region.[42] This comprised 126,632 in Egypt, 202,040 in Iraq, 549,642 in Jordan, 814,002 in Lebanon, and 516,383 in Turkey. Some 100,000 Palestine refugees [43] are experiencing increasing displacement from their camps in Syria, where they have had six decades of relative stability and security, thereby adding to the growing political complexity of the regional refugee crisis.[44] In the period between 15 and 29 August 2013 47,000 refugees of Kurdish origin fled into the Kurdish region of Iraq.[45]

According to UNHCR, women and children make up 75% of the refugee population.[46] Latest figures show that, of the one million Syrian refugees under the age of 18, some 740,000 are children under the age of 11.[47] According to the OHCHR, a further 4.25 million people are displaced inside Syria (end of August 2013). UNHCR and UNICEF estimate that more than 2 million of these are children.[48]

---

[37] UN High Commissioner for Refugees (UNHCR), International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013, available at: http://www.refworld.org/docid/5265184f4.html [accessed 18 November 2013]
[38] See reports by Amnesty International, by Human Rights Watch http://www.hrw.org/news/2012/03/20/syria-armed-opposition-groups-committing-abuses, ww.hrw.org/reports/2011/06/01/ we-ve-never-seen-such-horror and by the FIDH International Federation for Human Rights.
[39] UNHCR, *Responding to protection needs of displaced Syrians in Europe*, June 2013
[40] The Updated Statistical Analysis of Documentation of Killings in the Syrian Arab Republic, report, commissioned by the OHCHR, 12 June 2013
[41] Accessed on 13 November 2013. For regularly updated figures on registration of Syrians, see: Syria Regional Refugee Response Information Sharing Portal, at http://data.unhcr.org/syrianrefugees
[42] UNHCR Press release: Two million Syrians are refugees, 3 September 2013
[43] UNRWA is providing direct support to those who flee to Lebanon (expected to total 80,000 by the end of 2013), Jordan (10,000) and Gaza (1,350) and is appealing for funds. Some Palestine refugees have also sought refuge in Egypt, Turkey and further afield in countries beyond the operational mandate of UNRWA.
[44] UN Syria Response Plan 2013
[45] Syria Crisis ECHO Factsheet 3 September 2013
[46] See UNHCR Needs Support to Aid up to 700,000 Syrian Refugees by Year's End, 27 September 2012
[47] See UNHCR, A million children are now refugees from Syria crisis, News Stories, 23 August 2013
[48] For regularly updated figures see: http://www.unicef.org/appeals/syria.html

V. The EU Response to the Situation of Syrians in the Region

As mentioned, 97% of the displaced by the Syrian conflict still remain in the region. The EU has pressured the Syrian state to end the violence and start transition to democracy through the implementation of economic sanctions and other restrictive measures, and by terminating EU-Syrian bilateral cooperation.[49]

The humanitarian situation continues to deteriorate as violence intensifies and fighting continues throughout the country. The situation in Damascus, Aleppo, Hassakeh, Hama and Homs is particularly dire. An estimated 6.8 million people are affected by the on-going violence and require humanitarian assistance. Large numbers of people in need are in inaccessible areas under siege. The focus of assistance is primarily on life-saving activities.

On 7 June 2013, the United Nations launched the largest appeal in its history with the revised Syrian Government Response Plan and Syrian Regional Response Plan calling for US$4.4 billion in total, to provide humanitarian aid to Syria and neighbouring countries.

The European Union and its Member States are the largest donors to the international response to the crisis in and around Syria. Following the pledges delivered after the donors' conference in Kuwait on 30 January 2013 and the adoption on 6 June 2013 of a new package of EU assistance in response to the Syria crisis for the total amount of € 400 million, including € 250 million in humanitarian aid, the total for committed EU humanitarian assistance now stands at over € 1 billion (over € 493 million from Member States and € 515 million from the Commission). In-kind assistance has also been provided to Turkey and Jordan through the activation of the Monitoring and Information Centre, which led to the delivery of ambulances, blankets, heaters and other items with a total value of € 2.5 million. A further € 328 million have also been mobilised through other non-humanitarian EU instruments (i.e. for education, support to host communities and local societies), bringing the total funding from the EU in response to the crisis to more than € 1.3 billion.[50]

Moreover, the non-EU countries included in this information note also provided financial contributions in order to tackle the humanitarian crisis in Syria's neighbouring countries. As of 26 September 2013, Norway contributed $15,793,594 and Switzerland contributed $2,254,791 towards the Inter-Agency Syria Regional Response Plan.[51]

In addition, the EU is developing a Regional Protection Programme, which should be operational by the end of 2013, aiming at strengthening the long-term capacity of Syria's neighbouring countries. The Programme, which has a current total budget of €13.2 million, aims to facilitate the transition from current humanitarian assistance to development, and to support solutions for displaced persons through empowerment and self-reliance; it will

[49] The European Response to the Syrian Refugee Crisis What Next? Philippe Fargues, Christine Fandrich, MPC Research Report 2012/14
[50] Syria Crisis ECHO Factsheet 3 September 2013
[51] The Inter-Agency Syria Regional Response Plan is the result of an inclusive process bringing together the coordinated efforts of 55 international and national humanitarian agencies, including 34 international non-governmental organizations (NGOs), 12 United Nations agencies and 9 local partners. For more information, see http://reliefweb.int/report/syrian-arab-republic/syria-regional-response-plan-2013-income-26-september-2013-2013-funding

include a strong protection component through assistance with registration, administrative capacity building and the enhancement of access to socio-economic rights such as education and health care. Its exact scope however will depend on the readiness of the host countries neighbouring Syria to engage in certain actions.[52]

While humanitarian assistance is a crucial need for Syria and the neighbouring countries and such response should be strengthened and continued, some European countries tend to see this type of assistance as the main solidarity measure needed. However, given the scale of the refugee crisis, it is paramount that European countries engage in other forms of solidarity with those fleeing the conflict in Syria as well.

In a joint letter addressed to the EU Justice and Home Affairs Ministers, Amnesty International EU office, ECRE, ICMC and CCME called on the EU not only to remain a generous donor but also to resettle refugees from the region, both Syrians and those third country nationals who were living in Syria when the conflict started.[53] Members of the European Parliament have voiced such concern recently.

> "We have been working hard to set up a common European asylum system that offers fair and equal treatment to those seeking protection. The EU should consider issuing temporary humanitarian visas for Syrians fleeing their country with Member States committing to share the responsibility, just as they would commit money at a donor conference", said[54] Cecilia Wikstrom (MEP, Folkpartiet, Sweden).

In its Resolution of 9 October 2013 on EU and Member State measures to tackle the flow of refugees as a result of the conflict in Syria[55] the EU Parliament called on Member States and the EU to guarantee safe entry and access to fair asylum procedures in the EU for refugees from Syria, and encouraged Member States to address acute needs through resettlement in addition to existing national quotas and through humanitarian admission. The Resolution also urged the EU to continue its funding for humanitarian and non-humanitarian actions in the region and to monitor the distribution of that funding.

[52] European Commission and High representative of the EU for Foreign Affairs, *Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions towards a Comprehensive EU Approach to the Syrian Crisis*, 24 June 2013,
[53] Amnesty International EU office, ECRE, ICMC and CCME, *Joint Statement: Syria Refugee Crisis- EU should do more*, 17 January 2013
[54] See press release of Cecilia Wikstrom.
[55] Read the full adopted Resolution of the European Parliament

VI. An Overview of the Situation of Syrian Asylum Seekers and Others Displaced by the Syrian Conflict in Europe

Asylum Applications from Syrians in Europe

24,110 Syrian nationals sought asylum in Europe in 2012 (25,665 including Switzerland and Norway), a 206% rise compared to 2011.[56] Syria became the largest single source of new applicants with 20,780 asylum applications in the EU in 2012.[57]

From 1 January to 31 August 2013, there were around 20,000 new asylum applications from Syrian nationals to the EU+[58] countries, making Syria one of the main countries of origin after Russia (about 27,000)[59].

According to EASO data, asylum claims from Syrian applicants rose 15% in August 2013 compared to July 2013 and reached the highest levels so far experienced by the EU+ (nearly 4,000 per month). In August 2013, applications were made in an increasing number of EU+ states, leaving Syria in the top 3 countries of origin for 15 Member States and Associated countries[60]. EASO also reported a sharp increase in asylum claims by Syrians in Bulgaria in August and early September 2013.

Table 1: Asylum applications from Syrian nationals in the EU[61]

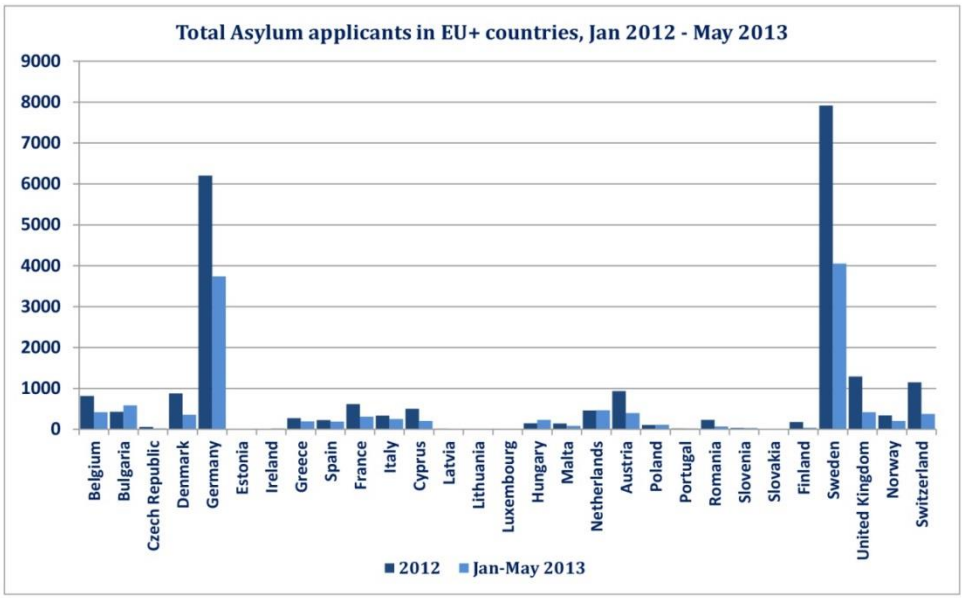


Figure no 21: Distribution of Syrian asylum applicants in European destination countries; Source: Eurostat login: 15.7.2013

[56] Aggregated data from Eurostat, accessed on 25 September 2013
[57] Compared to 6,205 new applications in 2011.
[58] EU+ is a term used by EASO to include the EU Member States and Associated Countries Norway and Switzerland. See EASO, Quarterly Asylum Report, Q1 2013, p.4. Note: EU+ figures from EASO do not appear to include Croatia yet.
[59] EASO, September 2013 Newsletter, p.8
[60] EASO, September 2013 Newsletter, p.8
[61] EASO, Quarterly Asylum Report, Q1 2013, Figure No 21

Germany and **Sweden** alone received two thirds of all the asylum applications in 2012. As of May 2013, 58% of asylum applications lodged in EU and Schengen Associated States have been received by Germany and Sweden. [62]

Despite these figures, the number of Syrians in need of protection present on EU territory is probably higher: for instance, only 275 Syrians claimed asylum in **Greece** in 2012, while close to 8,000 arrests of Syrian nationals for irregular entry were recorded by the Greek authorities. Due to the limited access to procedure and the dysfunctional asylum system, most Syrians arriving in Greece cannot or choose not to submit an asylum claim in Greece.[63]

The findings of this report do not show any major difficulties in the submission of subsequent applications by Syrian asylum seekers in general. However, in **Cyprus**, Syrian nationals filing subsequent applications from immigration detention were not released and remained in detention for the whole asylum process. Moreover, those who were not detained while submitting subsequent applications remained without a formal asylum status, and at risk of detention and deportation pending examination of whether new elements were submitted with the subsequent application.[64]

Many Syrian applicants enter the EU as families. According to EASO this results in a large proportion of accompanied children, a more balanced distribution between the sexes, and, should the inflow continue at the same rate, a more challenging situation in which to provide appropriate reception conditions, because national reception systems are often better suited to singles than to families.[65] This fear is materialising in some European countries, for example **Bulgaria**.

Protection Rates and Statuses

Syrians became the single largest group of persons granted protection status in the EU28 in 2012. They registered the highest recognition rates afforded by EU Member States with 91% positive decisions for all types of international protection.[66] Practices for assessing Syrian applications generally followed the negatively-evolving situation in Syria. Following an initial 'freeze'[67] on assessing claims, there was a significant increase in the granting of subsidiary protection and overall protection rates in general.[68]

Of the 15,575 positive decisions in relation to asylum applications from Syrian asylum seekers in the EU28 in 2012 and 6320 in the 1st quarter of 2013, more than 70% were recorded in two Member States: **Germany** (7,465 and 2230 accordingly) and **Sweden** (4090 and 2340 accordingly).

[62] Not there yet: AIDA Annual Report 2012-2013
[63] UNHCR, *Syrians in Greece: Protection Considerations and UNHCR Recommendations*, 17 April 2013
[64] See Report on the Asylum Procedures in Cyprus in 2012 by the Future Worlds Centre.
[65] EASO, Annual Report on the Situation of Asylum in the EU in 2012
[66] Refugee and subsidiary protection statuses as well as national protection statuses.
[67] The states were withholding assessments except in clearly well-founded cases.
[68] EASO, Annual Report on the Situation of Asylum in the EU in 2012

According to the EASO analysis of the asylum statistics, Syria was not among the top ten countries with positive Refugee Convention decisions, though it was ranked fourth with 63% of positive subsidiary protection decisions in 2012.[69]

Table 3 Overview of the protection decisions for Syrian asylum applications in the EU [70]

Country	Positive decisions		Convention status		Subsidiary protection		Humanitarian status		Rejections	
	2012	Q1 2013[71]	2012	Q1 2013	2012	Q1 2013	2012[72]	Q1 2013[73]	2012	Q1 2013
EU 28	15,575	6,320	5640	1785	9770	4490	165	45	1525	760
Belgium	595	450	130	25	470	425	n/a	n/a	30	15
Bulgaria	55	100	0	0	55	100	n/a	n/a	30	5
Czech Republic	10	5	0	0	10	5	0	0	5	5
Denmark	680	160	620	130	55	30	5	0	115	40
Germany	7465	2230	1985	490	5475	1740	5	0	290	120
Estonia	0	0	0	0	0	0	n/a	0	5	0
Ireland	15	10	15	5	0	5	n/a	n/a	5	0
Greece	0	5	0	0	0	5	0	0	150	20
Spain	0	20	0	5	0	15	0	0	20	5
France	340	95	175	45	165	50	n/a	n/a	35	5
Croatia	10	0	0	0	10	0	n/a	n/a	0	0
Italy	200	70	95	30	100	40	5	0	15	5
Cyprus	5	0	0	0	0	0	5	0	30	5
Latvia	15	5	0	0	15	5	n/a	n/a	0	0
Lithuania	0	0	0	0	0	0	n/a	n/a	0	0
Luxembourg	5	0	5	0	0	0	n/a	n/a	5	0
Hungary	45	10	0	0	30	10	15	0	30	15
Malta	115	105	0	0	0	75	115	35	0	0
Netherlands	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Austria	740	205	485	105	255	100	n/a	n/a	70	45
Poland	5	5	0	0	5	5	0	0	0	0
Portugal	0	0	0	0	0	0	n/a	n/a	0	0
Romania	120	n/a	65	n/a	60	n/a	0	n/a	45	n/a
Slovenia	0	0	0	0	0	0	n/a	n/a	15	5
Slovakia	0	5	0	0	0	0	0	5	5	0
Finland	145	55	75	25	70	30	0	0	20	5
Sweden	4090	2340	1130	495	2960	1845	5	0	380	445
UK	915	435	865	435	35	5	15	0	230	30
Norway	245	200	55	60	190	140	0	0	60	15
Switzerland	415	65	185	20	135	15	95	30	175	65

The treatment of Syrian asylum applications is divergent across Europe. Many European states 'froze' the applications for a period of time, withholding assessments except in clearly well-founded cases, or proved more inclined to grant subsidiary protection.[74] For example, from 15 June 2011 to 25 March 2013, the **Swiss** Federal Office for Migration (FOM) suspended the processing of all applications from Syrian nationals except where a positive

[69] Ibid
[70] Aggregated data from Eurostat, accessed on 25 September 2013
[71] At the time of the writing the statistical data for Q2 2013 was only available for Spain, Poland and Sweden.
[72] The data is only available for the EU27
[73] The data is only available for the EU27
[74] EASO, Annual Report on the Situation of Asylum in the EU in 2012

decision could be taken, awaiting an assessment of the situation in Syria. However, no expulsions to Syria took place during that time or since.[75]

Applications from Syrian nationals and stateless persons with habitual residence in Syria are treated in a similar manner in most European countries, for example, in **Finland** and **Sweden**[76]. However, the protection needs of those who were recognised as refugees by Syria (e.g. Iraqi nationals) are usually assessed in light of the situation in their countries of origin.[77]

Some European countries[78] specifically recommended their case workers to grant subsidiary protection to Syrian nationals only when the applicant could not be recognised a refugee, and indicated that even in a situation of generalised violence an applicant may be entitled to asylum where s/he fulfils the Refugee Convention grounds.[79] For example, 100% of all the protection grants for Syrians in **Ireland**, 94% in the **UK** and 91% in **Denmark** in 2012 were of **refugee status**. A similar situation occurred in the 1st quarter of 2013, with the **UK** recognising refugee status in almost[80] 100% of all positive decisions regarding Syrians, and **Denmark** in 81%. The refugee recognition rate decreased to 50% in **Ireland** in the 1st quarter of 2013.[81]

UNHCR considers that most Syrians seeking international protection are likely to fulfil the requirements of the refugee definition contained in Article 1A(2) of the *1951 Convention relating to the Status of Refugees*, since they will have a well-founded fear of persecution linked to one of the Convention grounds. For many civilians who have fled Syria, the nexus to a 1951 Convention ground will lie in the direct or indirect, real or perceived association with one of the parties to the conflict. In order for an individual to meet the refugee criteria there is no requirement to have been individually targeted in the sense of having been "singled out" in past persecution or for future risk. Syrians and habitual residents of Syria who have fled may, for example, be at risk of persecution for reason of an imputed political opinion[82] because of who controls the neighbourhood or village where they used to live, or because they belong to a religious or ethnic minority that is associated or perceived to be associated with a particular party to the conflict.[83]

[75] Information provided by the ELENA Coordinator in Switzerland
[76] Information provided by the ELENA coordinators in Finland and based on the information available on the Swedish Migration Board's website: "New judicial position on Syria opens up for a higher number of permanent residence permits" and case-law, identified by White & Case LLP office in Sweden
[77] Information provided by the ELENA coordinators in Finland and the Netherlands
[78] In line with the Directive 2013/32/EU of the European Parliament and of the Council of the EU for the relevant EU member states
[79] Please see UK Border Agency Operational Guidance Note: Syria, 15 January 2013
[80] Eurostat rounds the recorded results to the nearest 5
[81] Based on the Eurostat statistics, accessed on 25 September 2013.
[82] Indeed according to the information by the ELENA coordinator in Finland, political opinion was the most frequently invoked ground for refugee recognition
[83] See UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013

Positive practice in relation to refugee status recognition

Germany: In view of the current situation in Syria, German administrative courts have held that Syrians who have irregularly left Syria and applied for asylum, thus spending a longer time abroad, are likely to be subject to persecution upon re-entry into Syria, due to the suspicion of having dissident political beliefs. This justifies their recognition as refugees according to para 3(4) of the Asylum Procedure Act, in conjunction with para 60(1) of the Residence Act.[84]

Sweden: In a case concerning a Palestinian asylum seeker from Syria the Migration Court found it non-contentious that the applicant was a statutory stateless person with residency in Syria. It ruled that Council Directive 2004/83/EC envisages a right for statutory stateless persons to receive refugee status, if they cannot take advantage of the protection they recently had from a UN body, on condition that the protection stopped due to circumstances beyond the person's control. The Court determined that when the authorities in the Member State responsible for the asylum examination have confirmed that the protection from the UN body has stopped, the Member State should recognize the asylum seeker as a refugee.[85] The Court found that the appellant was forced to leave the refugee camp in Yarmouk, which is under UNWRA's mandate, because of factors that he was not able to affect or control, and that his personal safety was seriously threatened and that UNWRA was unable to guarantee such adequate living conditions. Consequently he was recognized as a refugee.[86]

The Netherlands[87], **Sweden** and **Germany**[88] granted mainly **subsidiary protection** pursuant to Article 15(b) of the Qualification Directive, while the other European countries, such as **Finland, Hungary, Spain and Switzerland**[89], mostly provided protection in accordance with or equivalent to Article 15(c) of the Qualification Directive.

[84] See OVG Munster, judgment of 14 February 2012 – 14 A2708/10.A=BeckRS 2012, 47626; VG Aachen, judgment of 11 January 2012 – 9 K 1698/10.A=BeckRS 2012, 47611; VG Aachen, judgment of 11 January 2012 -9K 1698/10.A= BeckRS 2012, 46726; VG Stuttgart, judgment of 15 March 2013 – A7 K 2987/12=BeckRS 2013, 48932; VG Hannover, judgment of 8 May 2013 – 1 A 5409/12= BeckRS 2013, 51351. Judgments identified by McDermott, Will and Emery LLP

[85] Swedish Migration Court tended to recognise refugee status to Palestinian refugees from Syria in general: Migration Court 2013-05-20, case No UM 527-13; Migration Court 2013-02-22, case No UM 9159-12; Migration Court 2013-04-22, case nr 170-13, identified by White & Case LLP office in Sweden

[86] Migration Court 2013-02-22, case nr UM 9159-12, identified by the White & Case Advokat AB in Sweden

[87] Information provided by the Dutch ELENA coordinator

[88] EASO, Annual Report on the Situation of Asylum in the EU in 2012

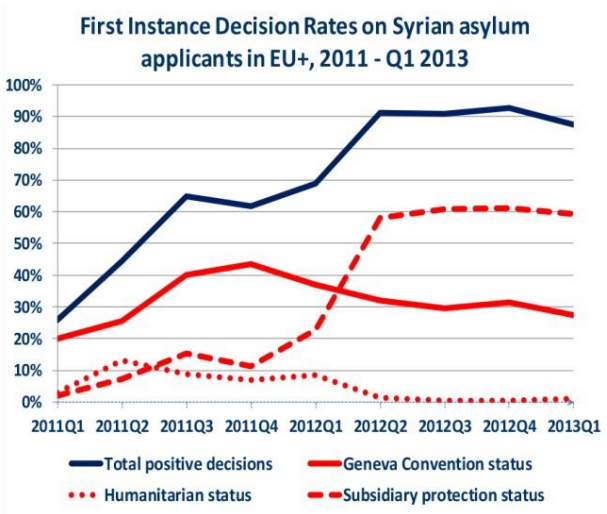
[89] Information provided by the ELENA coordinators in the countries concerned.

Subsidiary protection was granted in 100% of all positive decisions in **Bulgaria** and the **Czech Republic**, in both 2012 and the 1st quarter of 2013, and in 2012 in **Croatia**.[90]

Even though 275 new asylum applications from Syrians were registered in **Greece** in 2012, **no positive decisions** were issued. At the same time, 150 rejections were recorded. No positive decisions, compared to 20 rejections, were also recorded in **Spain** in 2012. The situation in both countries slightly improved in relation to Syrians in the 1st half of 2013 with 10 positive decisions registered in **Greece** and 65 in **Spain**, while the number of negative decisions decreased to 5 in Spain and 30 in Greece. Eurostat statistics show that only 5 applicants from Syria have been granted protection (all were humanitarian status) in **Cyprus** in 2012 and 30 applicants were rejected. In the first half of 2013, there were no positive decisions and 20 rejections. In 2012 and the first half of 2013 combined, 800 Syrian nationals (new and subsequent applicants) applied for international protection in **Cyprus**.[91]

EASO noted a slight decrease in the recognition rate issued by European countries concerning Refugee Convention and subsidiary protection rates in relation to Syrian nationals in the 1st quarter of 2013. This decrease was attributed to a number of factors such as, *inter alia,* Dublin transfers and/or lack of credibility in relation to the Syrian nationality of asylum seekers.[92]

Table 4: First Instance Protection Decisions on Syrian Asylum Applicants in Europe[93]



Some Member States tried to provide alternative solutions so that Syrian nationals could legally prolong their stay without having to go through the asylum procedure. For instance, in the **United Kingdom**, where Syria was the 4th highest source country, a limited opportunity

[90] Based on the Eurostat statistics, accessed on 25 September 2013.
[91] Eurostat statistics, accessed on 25.09.2013
[92] EASO, Quarterly Asylum Report, Q1 2013
[93] EASO, Quarterly Asylum Report, Q1 2013

for Syrians lawfully present was introduced which allows them greater flexibility to extend their stay (e.g. as a student) or swap their immigration route (e.g. visitor to student).[94]

Positive development

Sweden: In September 2013, Sweden became the first European Union country to announce it will give asylum to all Syrians who apply for asylum in Sweden[95]. This policy followed the new assessment of the situation in Syria by the Swedish Migration Board (SMB), according to which "the present safety situation in Syria is extreme and characterised by general violence". Moreover, the Agency estimated that conflict will continue for a long time ahead.[96]

Access to Asylum Procedures

Ensuring access to asylum procedures has been a key concern of EU asylum legislation[97] and guidance[98], CJEU case law[99], UNHCR Reports[100], and ECtHR jurisprudence[101].

Access to asylum procedures for people in need of protection entails granting access to the territory, but also providing guarantees that claims made are actually registered, and that people are effectively informed about the possibility to apply for asylum.[102]

As the conflict in Syria worsens, those fleeing it seem to be increasingly facing problems reaching Europe's territory and finding protection there.[103] The lack of safe legal channels to access Europe often forces people affected by the conflict in Syria to take life-threatening risks.[104]

The imposition of visa requirements on nationals of refugee-producing countries, including Syria, puts refugees in the situation of having to resort to irregular forms of migration to enter

[94] AIDA National Country Report: United Kingdom
[95] See, for example, http://theworldoutline.com/2013/09/sweden-offers-asylum-syrian-refugees/
[96] See the website of the Swedish Migration Board
[97] Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status. Recast: 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)
[98] Commission Report on the application of Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status COM(2010) 465, 8 September 2010
[99] Case C-69/10 Diouf, 5 February 2010; Case C-277/11 MM v Ireland, 22 November 2012; Case C‑175/11 HID, BA v Ireland (AG Opinion: 6 September 2012)
[100] UNHCR, Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice, A UNHCR Study on the application of key provisions of the Asylum Procedures Directive in Selected Member States (UNHCR, Brussels, March 2010).
[101] Application No. 9152/09 IM v France 2 February 2012; Application No 33210/11 Singh and Others v Belgium 2 October 2012
[102] Hirsi and Others v. Italy, 29 March 2011, Application no. 27765/09 (in particular, paras 203-205)
[103] Not there yet: AIDA Annual Report 2012-2013
[104] Ibid, Please also see: UNHCR highlights dangers facing Syrians in transit

Europe and seek protection. In some instances visa requirements are especially excessive and, apart from general entry visa requirements, some European countries impose airport transit visa (ATVs)[105] on nationals of certain countries. ATVs are used to prevent asylum applications at airports from individuals in transit towards further destinations, and are often introduced in response to an increase in asylum applications by people travelling a given route.[106]

Eleven countries[107] in the Schengen area have imposed airport transit visas on Syrian nationals and all European countries have closed their embassies in Syria[108]. Certain EU Member States requested that Syria be added to the common list of nationalities subject to the ATV requirement, but the European Commission believed it was not appropriate, and this practice was not introduced.[109] The meaning and effect of ATVs are hard to estimate as there is no separate publicly accessible data available on Syrians not in possession of ATVs, when required, who were refused boarding in their respective countries of departure or refused entry in the European countries of "transit". However, it is certainly more complicated for Syrian asylum seekers to apply for two visas instead of one, especially when access to the embassies of potential host countries is difficult. Moreover, the ATV requirement excludes the opportunity to travel to visa-free destinations, transiting through a potential host country and applying for protection while in transit. CEAR indicates that obtaining an ATV from the Spanish diplomatic missions is almost impossible for Syrian nationals.[110]

According to Eurostat statistics, 10 Syrians were refused entry in Belgium, 15 in the UK and 130 in France in 2012[111] due to the absence of a valid visa or residence permit.[112] However, no information on the type of visa required and served as a basis for refusals is available.

It should be also noted that carriers across Europe are required to ensure that third country nationals who intend to enter the territories of European countries do possess the necessary travel documents and, where appropriate, visas, including when in transit. [113] Even though financial penalties in relation to carriers do not apply to cases where the third country national is seeking international protection, this carrier liability practice is not without risks for asylum seekers. Refugees and asylum seekers are likely to be refused ticket sales because they do not meet visa requirements laid down by the airlines or ferry companies. Carriers are

[105] This visa entitles the holder to transit through the international transit area of airports situated on the territory of a State without actually entering the territory of that Member State, during a stop-over or transfer between two stages of an international flight.
[106] For more information see ECRE's website
[107] Austria, Belgium, the Czech Republic, France, Germany, Hungary, Italy, the Netherlands, Spain, Switzerland, the UK
[108] Joint communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: Towards a Comprehensive EU Approach to the Syrian Crisis.
[109] European Commission and High representative of the EU for Foreign Affairs, *Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions towards a Comprehensive EU Approach to the Syrian Crisis*, 24 June 2013
[110] La situación de las personas refugiadas en España, Informe 2013: CEAR. Unofficial translation by ECRE
[111] Countries with the ATV requirement
[112] Based on Eurostat data, accessed on 14 November 2013
[113] For more information on the practice in the EU see Directive 2001/51/EC, Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) and "Analysis of the external dimension of the EU's asylum and immigration policies –summary and recommendations for the European Parliament", European Parliament, 2006

anxious not to be penalised by the country of destination, even though irregular arrival with the aim of seeking protection should not result in sanctions, and should not in principle be a problem for those seeking to travel. This filtering technique is all the more problematic as no legal alternative is offered to those who need to flee their country urgently but do not meet the conditions.[114]

Example of ATV practice

France: French authorities, who temporarily reintroduced the airport transit visa for Syrian citizens in January 2013, stressed that such practice was adopted for reasons of "public order" and that the main goal of this practice was to fight against a massive influx of Syrian nationals seeking to use airport transit to enter France, according to the French Council of State (Conseil D'Etat)[115]. French officials stressed that, with this system, Syrians can stay in the international area of an airport while waiting for a connecting flight, and added that refugees have access to all French embassies and consulates.[116]

Apart from an increased use of visa restrictions, the impact of strengthened border controls, including through the FRONTEX-led Poseidon Operation[117] at the Greek/Turkish border, on the number of applications from Syria in the EU is also not to be under-estimated.

Excessive visa requirements, carrier sanctions and, in some European countries, lack of protection-sensitive border management, among other factors, prevent the arrival of persons in need of international protection from Syria to Europe's borders.

Moreover, none of the researched European countries use protected entry procedures (PEPs). A PEP would allow those affected by the conflict in Syria to apply for asylum through the European country embassies[118] in the neighbouring countries and be granted an entry permit in case of positive response[119]. If correctly applied, PEPs would become a safe legal way to access protection in Europe and would allow Syrians to seek asylum without risk to life. It is unfortunate that improved **Swedish** policy on treatment of asylum applications by Syrians does not mean that applications for asylum can be lodged at a Swedish Embassy

[114] See "Analysis of the external dimension of the EU's asylum and immigration policies –summary and recommendations for the European Parliament", European Parliament, 2006
[115] Conseil d'Etat, 15 February 2013, n° 365709, case identified by Latham and Watkins LLP
[116] Information provided by Latham and Watkins LLP
[117] Joint Operation "Poseidon" provides operational assistance to Greece, was composed of several projects covering land and sea borders.
[118] Conditions for benefiting from PEPs should be first of all the personal security of the applicant; the need for obtaining international protection; the impossibility to obtain effective protection in the third country; the vulnerability of the person; links to family members resident in one of the Member States; other relevant links to any of the Member States.
[119] For more information on PEPs, see Exploring avenues for protected entry in Europe, produced as part of the Entering the Territory (ET) Project, and written by members of the Italian Council for Refugees (CIR)

abroad. An application for asylum must be lodged in person by the applicant to an Application Unit in Sweden[120].

Other legal avenues to protection in Europe for Syrian refugees hosted by Syria's neighbouring countries are very limited, especially for those with no family ties in European countries. Only a few countries, for example **France**, facilitate visas for a very limited category of Syrian nationals for humanitarian reasons. According to information provided by France Terre D'Asile, French officials issue protection visas of some sort to Syrian nationals. However, there is no publicly available information or data regarding this unofficial practice and it is unclear in which instances and how frequently protection visas are being issued.

All this makes access to asylum in Europe increasingly difficult, and legal channels for entering the EU are almost non-existent.[121]

Legal practitioners in **Bulgaria, Cyprus** and **Greece**[122] highlighted concerns relating to access to the territory of their states by Syrian nationals in need of international protection. They also reported an inability to register asylum applications and a lack of information provided to the applicants concerning such an opportunity.

Cases were reported where Syrian asylum applicants were returned from **Cyprus, Poland** and **Spain** to countries with no functioning asylum systems in place, such as Lebanon, Turkey and Belarus, without being able to file their asylum claims. A refusal of leave to land, allegedly involving Syrian nationals, was also reported in **Ireland**. However, a lack of transparent official data on admissions and refusals at the border, as well as a lack of efficient border monitoring, makes it hard to record and check all concerns.

Negative practice

Poland: According to information received by the Polish Helsinki Foundation for Human Rights from the Belarusian Helsinki Committee on 3 January 2013, two Syrians tried to cross the Polish border in Terespol and were refused entry. It is unknown whether this was an isolated incident or not.[123]

[120] See SMB's website
[121] Not there yet: AIDA Annual Report 2012-2013
[122] Based on the information provided by the ELENA coordinators
[123] Information provided by the ELENA coordinator in Poland

Negative practice

Spain: On 17 December 2012, the ship Smaragd[124], travelling from Algeria and under an Antigua and Barbuda flag, docked in the port of Valencia (Spain). Upon arrival, they reported the presence of five stowaways, who had hidden inside a container. They claimed to be Syrians and two claimed to be minors. After they were removed from the container and provided with medical assistance, all were returned to the ship, because the police considered that their nationality had not been proven and medical tests did not confirm their status as minors.

The Spanish Commission of the Assistance to Refugees (CEAR) called upon the Delegation of the Central Government[125] to ensure legal aid for these people and requested access to the vessel by their lawyers. However, the vessel departed for Barcelona, where the Legal Service of the Catalan Commission of the Assistance to Refugees (Comissió Catalana d'Ajuda to Refugiat) informed the OAR and UNHCR about the accident and once again urged the Delegation of the Central Government in Barcelona to assist these people.

It was reported informally that the stowaways were questioned and, according to the police, did not prove their nationality. However it was never checked whether they had protection needs and they did not have an effective opportunity to lodge an asylum application.

Negative practice

Cyprus: There has been at least one reported case of a Syrian woman who came from Syria with her children, through Lebanon, transiting through Cyprus, who was denied access to the territory and access to asylum. After her request was refused, she and her children were sent back to Lebanon.[126]

Many Syrians prefer not to apply for protection in **Bulgaria, Cyprus,** and **Greece**, **fearing prolonged detention, push-backs or criminal proceedings for illegal entry**, which could be instigated against them even if they apply for asylum. Instead, they choose to travel to the European countries with more efficient asylum systems or family ties.

[124] La situación de las personas refugiadas en España, Informe 2013 : CEAR. Unofficial translation by ECRE.
[125] An authority, to which asylum seekers must submit their claims.
[126] Information provided by the NGO “KISA”

Negative Practice

Bulgaria: Currently, criminal proceedings in Bulgaria are instituted against anyone caught crossing the border irregularly, including Syrians, regardless of their need for international protection. The Bulgarian Helsinki Committee[127] has criticised both the state prosecution and the courts for refusing to apply the provision of the Criminal Code that exempts asylum seekers from criminal liability. Refugees receive suspended sentences and fines.

UNHCR has voiced concerns over the absence of swift access to protection in some states and believes that this may account for the high rate of cases "otherwise closed" in those states. UNHCR 2012 statistics indicate that 83% of asylum claims by Syrian nationals in **Cyprus**, 80% in **Poland**, 55% in **Hungary**, 43% in **Greece** and 38% in **Bulgaria** were "otherwise closed" rather than adjudicated on the merits.[128]

In a majority of European countries, national authorities in general do not envisage priority treatment of asylum applications for those fleeing the Syrian conflict. However, in some European countries, for example, **the Netherlands** and **Sweden**[129], migration officials do envisage such practice.

Positive practice

The Netherlands: The Dutch authorities started a pilot project regarding the asylum applications of Syrian nationals. The Immigration and Naturalisation Service (IND) tries to handle all Syrian applications within the short regular procedure and in most cases the asylum seeker is granted a residence permit after four days. This project constitutes a positive practice provided asylum applications are examined with all the relevant safeguards.

Moreover, some European countries introduced rather strict nationality tests in order to prove the nationality claimed by applicants. For example, in **Spain**, Syrian Kurds were subjected to two nationality tests and most of them found it difficult to respond to rigorous questions about Syria which related to Damascus, in particular as they might have only been to another part of Syria and never visited the capital.[130]

[127] BHC press release.
[128] UNHCR, *Responding to protection needs of displaced Syrians in Europe*, June 2013
[129] AIDA National report: Sweden
[130] La situación de las personas refugiadas en España Informe 2013 : CEAR. Unofficial translation from Spanish by ECRE

The Dublin Regulation is usually applied to those fleeing the conflict in Syria in the same way as to asylum seekers of other nationalities.[131] Concerns were reported about the insufficient use of discretionary clauses and the lack of application of family provisions under the Dublin Regulation and its recast.

Detention

The detention of asylum seekers, which differs among European countries, remains a major concern. According to international human rights law, asylum seekers should not be detained and detention should only be used in exceptional circumstances and with the provision of all relevant procedural safeguards.[132] The European Court of Human Rights (ECtHR) continues to remind states in its jurisprudence on Article 5 ECHR that where asylum seekers and migrants are deprived of their liberty the strongest safeguards must apply to protect them from arbitrariness, bearing in mind that "the measure is applicable not to those who have committed criminal offences but to aliens who, often fearing for their lives, have fled from their own country".[133]

The detention practices and conditions of detention for Syrian asylum seekers do not differ much from those of asylum applicants of other nationalities but, as mentioned above, in general detention practice itself differs across the European countries. The findings of this report show that, as a general rule, Syrian asylum seekers are not detained for the sole reason that they have made an asylum application. However, in **Cyprus**, detention of Syrian asylum seekers is used as a punitive tool and as a measure to encourage voluntary return back to Syria.[134]

In many countries covered by this note, including **the Czech Republic**, **Finland**, **France, the Netherlands, Poland, Portugal, Slovakia,** and **the UK**, those fleeing the conflict in Syria could be detained in order "to determine or verify their identity or nationality" or "in order to decide, in the context of a procedure, on the applicant's right to enter the territory". For example, on these grounds in **the Netherlands**, asylum seekers arriving at the international airport in Amsterdam, including Syrians, are routinely detained, and placed in the detention centre Justitieel Complex Schiphol.[135] In **Portugal**, asylum seekers, including Syrians, who presented asylum requests at border points, are detained at the Temporary Installation Centres in Lisbon and Oporto airports for up to five working days, which presents

[131] See The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

[132] Not there yet: AIDA Annual Report 2012-2013. See, for example: Article 31 Refugee Convention, interpreted in UNHCR 2012 Revised Guidelines on Detention; Article 9 ICCPR, interpreted by the UN Human Rights Committee in Communication No 560/1993 A v Australia (1997); Application No 13229/03 Saadi v United Kingdom [GC] 29 January 2008; Application no. 10816/10 Lokpo & Touré v. Hungary 20 September 2011; Abdelhakim v. Hungary, 30 March 2012 Application No 13058/11; Said v. Hungary, 30 March 2012, Application No 13457/11

[133] See for instance ECtHR, Case of *Suso Musa v. Malta*, Application No. 42337/12, Judgment of 23 July 2013, para. 93. Note: Article 5(1)(f) ECHR provides the following exception to the right to liberty, according to a procedure prescribed by law: 'the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition' Article 18 Procedures Directive provides that: '1. Member States shall not hold a person in detention for the sole reason that he/she is an applicant for asylum. 2. Where an applicant for asylum is held in detention, Member States shall ensure that there is a possibility of speedy judicial review'.

[134] Information provided by the NGO "KISA"

[135] Information provided by the ELENA coordinator in the Netherlands

the only detention-like situation in the national asylum procedure.[136] At the same time, between January and July 2013, no asylum seekers were subject to detention in **Hungary**, including Syrians. Also, no Syrian nationals were held in detention during the Hungarian Helsinki Committee's (HHC) visit to detention facilities in the summer of 2013, following new Hungarian legislation that provides for "asylum detention"[137]. However, HHC is concerned that detention practice could worsen in the future.[138]

It should be noted that Syrian asylum seekers flee a situation of 'internal armed conflict'[139] and, due to the lack of legal channels to access Europe, most of them arrive at Europe's border without proper documentation.

Negative practice

In **Greece**, administrative detention has been ordered indiscriminately, including for Syrians, without taking into consideration the circumstances of each individual case and without sufficient and specific reasoning, as required by international and national legislation for every measure of deprivation of liberty. When released from detention, Syrians have been issued with a Police Note instructing them to leave Greece (regularly with a deadline ranging from 7 to 30 days), following which they could be subject to renewed arrest and detention.[140]

Positive development

Greece: However, the Hellenic Police have recently issued a circular order suspending the execution of administrative orders for the detention, expulsion and the return of Syrians not in possession of valid documents, and ordering the release of Syrians already in detention. Major General Emmanuel Katriadakis of the Greek Ministry for Public Order and Citizen's Protection has said that an order has been in effect since 9 April 2013, according to which Syrians may only be detained for 'a few days' in order to identify their origin.[141]

[136] Information provided by the ELENA coordinator in Portugal
[137] On 1 July 2013, amendments to the Asylum Act entered into force by means of Act XCIII of 2013, providing for the detention of asylum seekers in 'asylum detention'. Asylum detention will be based on different legal grounds than immigration detention, which is regulated by the Third Country Nationals Act, but many of the rules relating to judicial review and detention conditions are quite similar. For more information see AIDA National report: Hungary
[138] The information provided by the ELENA coordinator in Hungary in summer 2013
[139] The International Committee of the Red Cross described the situation in Syria as 'internal armed conflict' on 17 July 2012.
[140] UNHCR, *Syrians in Greece: Protection Considerations and UNHCR Recommendations*, 17 April 2013
[141] Greece urged to improve its treatment of Syrian refugees, ECRE Weekly Bulletin, 19 April 2013

The findings of this report also show that, in the majority of the countries covered by this information note except for **Cyprus** and **Greece**, Syrian nationals whose asylum claims have been rejected have not been detained pending removal since the escalation of the Syrian conflict. It has to be noted that following the adoption of the above-mentioned MPOCP circular, the situation in Greece might improve. However, the situation in **Cyprus**, with the reports of Syrian nationals being detained pending deportation to Syria, remains of concern.[142] In some case, even though there was no indication that the Cypriot Government intended to commence forced returns to Syria, this was not communicated to the detainees and their legal councillors[143], and Syrian nationals were still kept in detention.[144] In Cyprus there have been instances where Syrian asylum applicants have been detained on the grounds of irregular entry, irregular stay, or their initial asylum applications have been rejected and they have not requested a re-opening of their claim, or the examination of their requests was pending[145], which often led to prolonged detention.

Negative practice

Cyprus: According to information received from the Future Worlds Centre, in July 2012 there were approximately 70 Syrian nationals being held in detention centres, including asylum seekers whose cases are still pending and irregular migrants. It is reported that they are being kept in confinement for long periods of time, often up to one year.[146]

Moreover, there was a reported incident in early July 2012 concerning a couple from Syria who were arrested in the early hours of the morning, separated from their two young children aged 4 and 7, and sent to two separate detention centres in Nicosia[147].

Moreover, there is concern regarding the absence of an effective remedy to challenge the lawfulness of immigration detention in **Cyprus**, in violation of Articles 5(1) and (4) ECHR.[148]

Another worrying practice was documented in **Bulgaria**. To address accommodation short-falls, Bulgarian authorities have tended to rely on two detention centres designed to house irregular migrants awaiting deportation.[149]

[142] For more information, please see: http://www.eapn.eu/en/news-and-publications/news/eapn-national-networks-news/kisa-member-of-eapn-cyprus-makes-a-statement-on-detention-conditions-in-cyprus
[143] It has to be noted that legal aid in Cyprus is only available at the Supreme Court level and during the 1st and 2nd instance proceedings Syrian asylum seekers as well as the asylum seekers of other nationalities could only rely on the legal assistance provided by the NGOs
[144] Ibid.
[145] Information provided by the ELENA Coordinator in Cyprus; Report on the Asylum Procedures in Cyprus in 2012 by the Future Worlds Centre.
[146] At the time of writing of this report all of them were released
[147] Information provided by the ELENA coordinator in Cyprus in July 2013. Strengthening Asylum Legal Portal, 'Is Cyprus Ready To Show Solidarity To The Syrian People?' 06 July 2012, accessed 27 September 2013.
[148] See for example MA v Cyprus (application N 41872/10)

Negative Practice

Bulgaria: In the detention centre Lyubimets, close to the Turkish border, and Busmantsi, on the outskirts of Sofia, asylum-seekers, including Syrians, find themselves behind bars and razor wire for up to 3 months or more, waiting for the State Agency for Refugees to move them to open asylum centres. However, even the detention centres are full and hosting numbers way beyond their capacity.[150]

The detention conditions for Syrian asylum seekers, if detained, do not differ from the conditions of detention for asylum seekers of other nationalities.[151] One of the general concerns is that detention of asylum seekers in prison for the purpose of the asylum procedure is possible in practice in **Greece, the Netherlands** and **Ireland**.[152] However, while there is no information available on whether such practice is applied to Syrian asylum seekers, it is worth noting a recent case concerning a Syrian national[153], who unsuccessfully applied for asylum in **Germany**. Following the rejection of her asylum claim in the region/Land of Hessen, she was subjected to detention pending deportation. The applicant was detained in a normal prison since Hessen does not have specialised detention centres for women. The national proceedings are stayed pending the request of a preliminary reference to the Court of Justice of the European Union (CJEU) on whether it is possible for a federal State (Land) to detain a person in a prison where, in the respective state, there is no specialised facility for detaining the individual pending their deportation (considering Article 16 of the Return Directive).[154]

Moreover, the information collected for the purpose of this report also highlighted appalling detention conditions for Syrian nationals in **Cyprus** and **Greece**. Documented evidence of detention conditions for migrants in Greece include a lack of privacy, a lack of maintenance of the buildings, poor lighting and ventilation, hygiene issues, a lack of information, inappropriate food, an absence of appropriate medical treatment facilities, and overcrowding[155]. UNHCR has also received a number of reports of police violence, insults or degrading and inhuman treatment suffered by persons in Greek detention[156]. Similarly, in **Cyprus**, Amnesty International report on poor natural light, small and overcrowded cells, no

[149] Information provided by the ELENA coordinator in Bulgaria
[150] See: UNHCR, Bulgaria's asylum centres bursting at the seams as more Syrian refugees enter Europe, 16 September 2013
[151] For more information please see Not there yet: AIDA Annual Report 2012-2013; Detention conditions and detention centres
[152] Ibid.
[153] http://www.refworld.org/docid/5214747c9.html
[154] CJEU Reference: C-473/13 and C-514/13 Adala Bero. In 10 out of the 16 Laender, individuals awaiting deportation are detained in prison facilities, as specialised detention facilities for women are lacking in the respective federal state.
[155] January 2012 Report on Greece by the Committee for the Prevention of Torture of the Council of Europe (CPT)
[156] See UNHCR news item, 31 January 2013.

access to fresh air, dirty sanitary facilities, door-less toilets, a lack of adequate medical care, allegations of ill-treatment and very limited time for exercise outside[157].

Negative practice

Cyprus: In June 2013, Syrian asylum seekers were held at the Menogia[158] detention centre for migrants in Cyprus for nearly three months and went on a hunger strike to protest against their mistreatment.[159] According to the information provided by KISA, even though these persons are in need of international protection, they were not provided with information on their right to appeal and legal aid. KISA accused the centre of using psychological cruelty to coerce detainees into signing a paper stating that they will voluntarily return to Syria. However, after the hunger strike, all individuals were released.

Reception conditions

Syrians arriving in the EU are often families with children, which corresponds to the situation in the neighbouring countries, where half of the Syrian refugees are female and half of the total numbers of refugees are children.[160] As described above, legal channels for reaching Europe are almost non-existent, and the majority of Syrian asylum seekers arrive in an irregular manner, often traumatised by their difficult and dangerous journeys. This pattern suggests that specific needs of, amongst others, asylum seeking children, elderly persons, and single females with children have to be taken into account during their reception in the host countries.

Like for asylum seekers of other nationalities, the absence of a specific mechanism or procedure to identify vulnerable asylum seekers or special reception needs was reported in a number of the European countries covered by the present note, such as **Cyprus** and **Croatia**.[161] This makes it difficult for the national authorities to assess the needs of the vulnerable groups.

Even if an assessment of vulnerability has been envisaged in the national legislation, for example in **Bulgaria**, there are no specific measures either in law or in practice to address the specific needs of these vulnerable categories. The law in **Bulgaria** only requires that vulnerability is taken into account when deciding on accommodation. However, due to

[157] Amnesty Report (18 June 2012): Punishment without a crime: Detention of migrants and asylum seekers in Cyprus
[158] The centre has been recently opened and holds the majority of immigration detainees. The center functions under a strict security system and detainees are restricted to their cells for most of the day, and are handcuffed when out of their cells. The incidents in relation to alleged violence by the center's staff do not result in official complaints for fear of reprisal.
[159] See Syrian detainees on hunger strike
[160] UNHCR, *Syria Regional Refugee Response: Inter-agency Information Sharing Portal*, Accessed 31 July 2013
[161] Information provided by ELENA coordinators and the NGO "KISA" (Cyprus)

restricted reception capacity and poor material conditions, this is only rarely applied in practice. [162]

It is reported that all reception centres in Bulgaria are overcrowded and all available spaces have been converted into dormitories – from the TV and internet rooms to the child-care spaces. The shower and toilet facilities are insufficient to cope with the new pace of arrivals The difficult living conditions in the centres are straining relations among the refugees themselves who, in normal circumstances, struggle to make ends meet on their meagre allowance of 65 BGN (just over 1 Euro) a day for food, clothes, medicine and other necessities. Now they also contend with overcrowded bathrooms, scant cooking facilities, and no education or recreational activities at all – including for the several hundred children missing out on school in Pastrogor transit centre near the Bulgarian-Turkish border.[163]

Bulgaria receives annually around €500,000 from the EU[164] to meet its obligation regarding the reception of asylum seekers. As a positive development, on 14 September 2013, Bulgaria announced that it would provide 1,000 extra reception places to deal with the arrival of refugees from Syria.[165][166]

Negative Practice

The newly opened reception centre in Vrazhdebna, according to the Bulgarian Helsinki Committee, is a crumbling building, with no heating, broken windows, and inadequate medical care for asylum seekers. On 27 September 2013, following a visit to the centre, the Bulgarian Helsinki Committee called for the resignation of the management of Bulgaria's State Agency for Refugees[167].

Upon arrival in **Greece**, refugees from Syria, like other third country nationals arriving in an irregular manner, face a number of serious problems. There is a continued lack of adequate first reception mechanisms at entry points, to address basic needs and to ensure appropriate identification and the provision of information in a language the applicant understands, in order to enable further procedures and treatment according to their needs[168].

[162] For more information on reception conditions in Bulgaria please see AIDA National Report: Bulgaria
[163] UNHCR, Bulgaria's asylum centres bursting at the seams as more Syrian refugees enter Europe, 16 September 2013
[164] See http://www.ecre.org/component/content/article/41-protection-in-europe/433-bhc-demands-resignation-of-bulgarias-agency-for-refugees-over-treatment-of-syrians.html
[165] The Sofia Globe, http://sofiaglobe.com/2013/09/15/bulgaria-to-provide-further-1000-places-for-refugees-within-days-interior-minister/ Accessed 16 September 2013.
[166] For more information on Bulgaria see Annex 1
[167] Press Release: http://www.bghelsinki.org/bg/novini/press/single/pressobshenie-bhk-prizovava-za-nezabavnata-ostavka-na-rkovodstvoto-na-drzhavnata-agenciya-za-bezhancite/ (accessed on 27 September 2013)
[168] For further information on reception conditions in Greece, see the ECRE and International Commission of Jurists (ICJ) Joint Submissions to the Committee of Ministers of the Council of Europe in the case of M.S.S. v Belgium and Greece (Application no. 30696/09)

EASO specified that a number of Member States, including **Cyprus** and **Bulgaria**[169], have expressed concerns over the lack of appropriate reception conditions, because national reception systems are in some cases better suited to individuals than to families, which constitute the majority of applications from Syria. [170] Moreover, on 17 October 2013, EASO and Bulgaria agreed an Operating Plan[171] for the period up to September 2014, which will focus on, among other, the identification and pre-registration of mixed migration flows and referral of vulnerable asylum seekers to appropriate procedures. The Plan arises from an official request for support from Bulgaria, in light of the country's overburdened asylum system.[172]

Residence permits

In **the EU**, Syrian nationals, like nationals of other countries, are afforded residence rights in accordance with what type of protection status they possess. Article 24 of the Qualification Directive and its recast[173] envisages that refugees shall continue to receive a renewable residence permit valid for at least three years. The subsidiary protection beneficiaries will receive a renewable residence permit which must be valid for at least one year and, in case of renewal, for at least two years.[174]

While some countries, for example, **Cyprus and Poland,** follow the recast Qualification Directive requirements, many others, like **Bulgaria, Hungary, Ireland, the Netherlands** and **the United Kingdom** grant residence permits to subsidiary protection beneficiaries for a duration of three years or more.[175]

Only in a few EU countries analysed, for example **Denmark**, is the duration of residence permit (four years) aligned for both refugees and subsidiary protection beneficiaries.

[169] For more information see EASO to provide support to Bulgaria
[170] EASO, Annual Report on the Situation of Asylum in the EU in 2012
[171] EASO Press Release: http://ec.europa.eu/bulgaria/documents/news/171013-easa.pdf. ECRE Weekly Bulletin article: http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/463-easo-to-provide-support-to-bulgaria-on-asylum-procedures-and-reception.html
[172] For more information see Annex 1: country page on Bulgaria
[173] For more information on the recast Qualification Directive, see ECRE's Information Note, published 7 October 2013.
[174] On numerous occasions ECRE regretted that during the recast negotiations the opportunity was lost to align the duration of residence permits for refugees and subsidiary protection beneficiaries, an approach in line with the principle of non-discrimination as required under the EU Charter of Fundamental Rights and interpreted by the ECtHR. See see ECRE's Information Note, published 7 October 2013.
[175] See European Commission, *Report on the application of Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection*, 16 June 2010, COM(2010)314 final.

Positive development

Sweden Following the new assessment of the situation in Syria by the Swedish Migration Board in September 2013, according to which "the present safety situation in Syria is extreme and characterised by general violence" and will continue for a long time ahead, there is a new policy of granting Syrians in need of international protection permanent residence permits, regardless of the type of protection provided.[176]

Non-EU Member States apply national protection statuses with their own rules as to residence permits. In **Norway**, all beneficiaries of protection pursuant to Article 28 of the Immigration Act of 2008 (refugee status and subsidiary protection), including Syrians, are entitled to similar residence permits. However, residence permit duration is contingent on whether the applicant's identity is substantiated by documentary evidence. If so, a three year permit is granted. In cases without documentary evidence, Syrian identity, for example, is assumed, and a one-year residence permit is granted, subject to future ID monitoring. Beneficiaries of international protection are then entitled to permanent residence permits if the conditions for protection are still present after three years.[177]

Family Reunification

In a majority[178] of European countries, national authorities in general do not envisage any accelerated family reunification procedures for those fleeing the Syrian conflict. Moreover, in many European countries, the family reunification rules for refugees and beneficiaries of subsidiary protection are similar, such as **Denmark**, **Poland, Spain and Belgium**[179]. However, in some, for example **Switzerland**[180] **and Hungary**, the family reunification rules for refugees and beneficiaries of subsidiary protection are different.

For example, there is no special procedure for the family members of Syrian refugees in **Hungary**. They must request reunification under the standard procedure and no preferential treatment is provided even for those family members that are fleeing an armed conflict. After a decision is issued granting refugee status, the family has six months to apply for family reunification with favourable treatment. They have to present the decision granting asylum to the family member in Hungary, valid travel documents for the family members, and evidence of the family link (no official documents can be required though). If the six-month deadline for this favourable treatment has passed, the family members have to prove that they can cover their expenses in Hungary (living expenses, accommodation, health care insurance). Similar

[176] See the Swedish Migration Board's website for more information: "New judicial position on Syria opens up for a higher number of permanent residence permits"
[177] Information provided by the ELENA coordinator in Norway
[178] The prioritised family reunification procedure for Syrians has been reported by the ELENA coordinator from Belgium
[179] Please note that the practice in Belgium has recently improved following the Constitutional Court judgment as of 26 September 2013.
[180] National protection status in Switzerland. For more information see Annex 1

procedures apply to the beneficiaries of subsidiary protection. Beneficiaries of other types of international protection should prove that they can support themselves, their housing will be arranged and they have health care insurance for the entire time of the stay[181].

The practice in **Belgium** has been improved following the judgment of the Constitutional Court as of 26 September 2013 (n° 121/2013)[182], according to which beneficiaries of subsidiary protection have been put on an equal footing with recognized refugees with regard to family reunification.[183]

Legal practitioners who contributed to this note indicated a number of hurdles involved in seeking family reunification visas, which must be overcome by family members of Syrians provided with protection in Europe.

First, family members usually do not have valid passports and, as a result, are not able to obtain the visas they are entitled to. Secondly, not all the embassies in Syria's neighbouring countries issue such visas. For example, the **Norwegian** embassy in Beirut has been directing that applications for family reunification must be made from Amman in Jordan. Applications made in Lebanon have been rejected. Applicants in Lebanon must therefore risk the dangerous journey to Amman through Syria. Thirdly, the administrative requirements are sometimes too strict, with no exceptions for Syrians. For example, requirements to provide officially translated and legalised documents (e.g. in **Spain and Belgium**) or where legalization of documents is not possible[184], a certificate of non-legalization (e.g in **Belgium**).

Former positive practice

Switzerland: From 4 September to 29 November 2013, visa requirements for relatives of Syrian nationals living in Switzerland were temporarily eased. Visa facilitations were introduced for non-core relatives (those who are not spouses or children under 18 years) of Syrians in Switzerland[185] and a broader group of Syrians residing in Switzerland were able to apply for family reunification[186]. The family relationship had to be shown credibly and comprehensively with no requirement of providing civil registry documents due to the difficult situation in Syria. The family member concerned had to be either in Syria, or in one of Syria's neighbouring countries, or in Egypt, and had to not have an ordinary residence permit in one of the neighbouring countries. Furthermore, it was not necessary to show that the person would leave Switzerland after expiration of the visa and it was not necessary to show a personal, immediate

[181] Information provided by the ELENA Coordinator in Hungary
[182] For full judgment: http://www.const-court.be/public/f/2013/2013-121f.pdf
[183] Information provided by the ELENA coordinator in Belgium. For more information, please see the Belgium country section of Annex 1
[184] European countries do not diplomatic representations in Syria anymore.
[185] Eligible Syrian nationals should either hold type B or C residence permit or have acquired Swiss nationality
[186] See https://www.bfm.admin.ch/content/bfm/en/home/dokumentation/medienmitteilungen/2013/ref_2013-09-041.html

danger in a third country. If the person did not have a valid passport, the visa could be put onto a form. Moreover, the financial means were not examined.[187]

Negative development

Regrettably, on 29 November 2013, the Swiss Council for Refugees (OSAR) learned that this positive development is no longer in place. The Federal Council's new position[188] is that most of the legitimate visa applications by family members in an immediate emergency have already made use of the facilitation, thereby making further facilitation no longer necessary. Furthermore, in recent weeks Swiss embassies have been faced with a very high number of applications, which lead to waiting times lasting months. As a consequence, the more stringent measures for non-core family members which were applied before the abovementioned initiative was introduced will once again apply. According to information provided by OSAR, a distinction is made between pending existing and non-pending future applications from non-core family members.

For pending applications, the above visa facilitation is still available, As before, non-core relatives of Syrians in Switzerland and a broader group of Syrians residing in Switzerland are covered, civil registry documents are not required, and the family concerned must be in Syria, a neighbouring country, or Egypt (without an ordinary residence permit). However, new conditions issued by the Federal Office for Migration on 12 November 2013 also apply:

- After 90 days of stay in Switzerland, the family member who was granted a visa has the duty to leave Switzerland again. If this is not possible, the person concerned has to contact the Migration Office of the specific canton (and can apply for protection on humanitarian grounds).
- If the embassy processing the facilitation assumes that the applicant does not have the intention to just "visit" his family member in Switzerland, but on the contrary has the intention to submit an asylum application, the family visa facilitation is not applicable. Instead, the ordinary and very restrictive conditions for a visa on humanitarian grounds apply.
- The financial means of the applicant will be examined. The family members residing in Switzerland have to show that they have sufficient financial means to host their families for the duration of 90 days. According to OSAR, some cantons demand a warranty statement of 30,000 Swiss francs, which is similar to an ordinary visitor visa.
- Visa applications by persons who are more strongly affected by the war than others must be treated with higher priority (OSAR regards this requirement as contradictory to the rule that the intention to make an asylum application is a ground for refusal of visa facilitation).

For non-pending future applications, visa facilitation will not be available. Non-core family members will therefore need to apply for either:

- A visa on humanitarian grounds, and comply with the stringent requirements: (a) The person concerned must show a real and concrete danger to his/her life or physical integrity; (b) The situation must be such that the person

[187] Information provided by the ELENA Coordinator in Switzerland. For more information see Annex 1
[188] See the Federal Council's press release, 29 November 2013

concerned cannot seek refuge in another country. (According to OSAR, in cases where the applicant has already reached a third country, the Swiss authorities assume that there is no concrete danger for the person in question any more).
- A visitor visa. For such a visa, the host family member must fulfill the abovementioned financial conditions and the relevant embassy must be sure that the applicant will leave Switzerland after his/her visit. (According to OSAR, in the case of Syrians, this is a condition they can never fulfill as they are all potential asylum-seekers).

OSAR knows of many people who fled Syria in the hope of visa facilitation but, due to waiting times of up to five months at the embassies mentioned above, did not manage to get an appointment until after the suspension of visa facilitation. This set-back in essence means that from late November onwards, only **immediate core family members** (spouses and children under 18 years) can apply for family reunification with family regularly residing in Switzerland.

It is also important to note that Syrians who are granted subsidiary protection can only apply for family reunification for their immediate family members **after three years** of legal residence in Switzerland and only if they have **sufficient means** to host and support family members. Temporary protection (which encompasses both subsidiary protection and protection on humanitarian grounds) is granted to the majority of Syrians in Switzerland[189].

As a result of this change in procedure there are virtually no safe legal channels for Syrians in need of protection to access asylum in Switzerland.

According to the Federal Council's press release, under the visa facilitation scheme, 719 Syrians have entered Switzerland, including 475 women and children. Of these, 385 people have made asylum applications. A total of 1,600 visas have been granted, and a further approximately 5,000 people have reserved at Swiss embassies an appointment to make a visa application[190].

In **Germany**, those eligible for humanitarian admission will receive a residence permit according to section 23 paragraph 2 of the German Aliens Act, which will be issued for a two year period with the possibility for prolongation.[191] Those Syrian nationals who enter Germany irregularly and do not apply for asylum may receive – according to specific

[189] According to information provided by OSAR
[190] See the Federal Council's press release, 29 November 2013
[191] Sec. 23 para 2 reads as follows "In order to safeguard special political interests of the Federal Republic of Germany, in consultation with the supreme Land authorities the Federal Ministry of the Interior may order foreigners from specific states or certain categories of foreigners defined by other means to be granted approval for admission by the Federal Office for Migration and Refugees. No preliminary proceedings shall take place pursuant to Section 68 of the Code of Administrative Court Procedure. The foreigners concerned shall be issued with a residence permit or settlement permit, in accordance with the approval for admission. The settlement permit may be issued subject to a condition restricting the permissible place of residence. The residence permit entitles the holder to pursue an economic activity."

regulations in the regions (Länder) - a residence permit on a humanitarian basis.[192] This residence title is issued for an 18 month period with the possibility of prolongation.

Member States such as **Cyprus**, **Hungary and Slovakia**[193] in many instances provided Syrians in need of protection with national protection statuses, affording them the minimum rights, with no right to family reunification.

At the same time, some countries have introduced more generous conditions for family reunification of Syrians as the Syrian conflict escalated. One example is **Sweden**, which in September 2013 became the only country to announce that it would issue permanent residence permits to all Syrian nationals seeking asylum, and before this improvement provided temporary residence permits with no right to family reunification[194]. Sweden will apply family reunification requirements in a more flexible manner and, in addition to automatic reunification for immediate family, will consider family reunification where there is 'a special relationship of dependence … as a result of which one cannot live separately … which was in force in Syria'. This exception may apply to children above the age of 18, or single parents, for example. However, the need for financial support or the serious situation in Syria is not a sufficient reason for granting an exceptional residence permit to a relative for family reunification[195].

Resettlement and humanitarian admission

The findings of this report show that the number of places the European countries provided to Syrian refugees under resettlement and humanitarian admission programmes in 2012 and the first half of 2013 has been **extremely low**. For example, two groups of Syrian families have been resettled in **Switzerland** (37 and 36 persons) in 2012.[196]

Refugee **resettlement** is defined by UNHCR as *'the selection and transfer of refugees from a state in which they have sought protection to a third country that admits them – as refugees – with a permanent residence status'.* According to the European Resettlement Network[197], resettlement is a protection tool for refugees whose lives and liberty are at risk; a 'durable

[192] Sec 25 para 3 of the Residence Act, which reads:(3) A foreigner should be granted a residence permit where a deportation ban applies pursuant to Section 60 (2), (3), (5) or (7). The residence permit shall not be granted if departure for subsequent admission to another state is possible and reasonable, the foreigner has repeatedly or grossly breached duties to cooperate or serious grounds warrant the assumption that the foreigner a) committed a crime against peace, a war crime or a crime against humanity within the meaning of the international instruments which have been drawn up for the purpose of establishing provisions regarding such crimes, b) committed an offence of considerable severity, c) is guilty of acts contrary to the objectives and principles of the United Nations, as enshrined in the Preamble and Articles 1 and 2 of the Charter of the United Nations, or d) represents a risk to the general public or a risk to the security of the Federal Republic of Germany. "

[193] Based on the aggregated data by Eurostat

[194] For more information see: http://ec.europa.eu/ewsi/en/news/newsdetail.cfm?ID_ITEMS=37746 and the SMB website: http://www.migrationsverket.se/info/7595_en.html

[195] See the Swedish Migration Board's website for more information: http://www.migrationsverket.se/info/7620_en.html

[196] See announcements by the Swizz Federal Office for Migration on 8 March 2013 and 19 September 2012.

[197] The European Resettlement Network comprises of International Catholic Migration Commissions (ICMC), International Organisation for Migration (IOM) and United Nations High Commissioner for Refugees (UNHCR). For more information see: http://www.resettlement.eu/page/who-we-are

solution' for refugees alongside local integration and voluntary repatriation; and an expression of solidarity with those developing countries that host the majority of the world's refugees.[198]

The European Resettlement Network defines **humanitarian admission** as the process by which *countries admit groups from vulnerable refugee populations in third countries so as to provide temporary protection on humanitarian grounds*. Humanitarian admission should not be confused with humanitarian or subsidiary protection status granted to in-country asylum applicants, or with humanitarian visas granted to individuals outside of receiving States via their national embassies in third countries. Beneficiaries of humanitarian admission are granted short-term residence in receiving countries, with the expectation of reviewing the ongoing need for protection in the future. As a complement to States' traditional resettlement programmes, this mechanism may be used for an identified refugee population in an extremely insecure or vulnerable situation and in need of urgent protection. It is an expedited process that can enable large numbers of refugees to depart quickly.[199]

Following UNHCR's request for humanitarian admission and resettlement of Syrians in acute need in June 2013, a number of European countries have come forward with a positive response, with some programmes mainly aimed at the 2014 calendar year.[200] The humanitarian admission and resettlement programmes are promoted by UNHCR for the most vulnerable Syrian refugees from the Middle East and North Africa (MENA) region to safe third countries.

Since UNHCR's request, **Germany** has committed 5,000 places for humanitarian admission, with the priority given to Syrian refugees present in Lebanon and to those who already have family in Germany. Moreover UNHCR is to consider submissions from those with specific skills, who could efficiently rebuild Syria once the conflict ends and they are able to return. UNHCR has been actively seeking similar commitments from other States.[201] The first 107 of these refugees from Lebanon arrived in Germany on 10 September 2013. Apart from Germany, **Austria** recently announced its readiness to admit 500 Syrians.[202]

In September 2013, UNHCR called for up to 30,000 Syrian refugees to benefit from resettlement or humanitarian admission by the end of 2014. Moreover, UNHCR has encouraged states to offer places for Syrian refugees in addition to their current resettlement quotas to ensure that resettlement opportunities continue to be available for refugees from the rest of the world.

UNHCR have reported that a number of other countries have come forward with offers of resettlement places. However, it should be noted that there are no practical arrangements in place concerning some of these countries. For example, on 19 September 2013, the **Norwegian** Ministry of Foreign Affairs announced a proposal to accept the resettlement of 1,000 Syrian refugees, on top of the existing annual quota with UNHCR of 1,200[203]. The

[198] Please see the European Resettlement Network's website for more information
[199] Ibid
[200] See UNHCR, *Syria Regional Response Plan: January to December 2013;* UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[201] UNHCR Projected Global Resettlement Needs 2014
[202] For more information see http://www.asyl.at/fakten_1/asyl_2013_05.htm
[203] http://www.regjeringen.no/nb/dep/ud/pressesenter/pressemeldinger/2013/syria_flyktninger.html?id=735913

Finnish Government has decided to provide an extra resettlement quota of 300 places for Syrian refugees in 2014. Moreover, 200 places out of the normal yearly quota of 750 resettlement places will be allocated for Syrian refugees.[204] **Sweden** will resettle 400 Syrian refugees, **the Netherlands** – 250. **Spain** will resettle 30 Syrians and **Hungary** - 10. **Ireland** has agreed to accept 90 persons from Syria for resettlement in 2013.[205] This is in addition to the annual UNHCR-led resettlement programme in which Ireland participates.[206]

On 12 September 2013, the Minister of Foreign Affairs, Laurent Fabius, stated that **France** will host more Syrian refugees with ties in France. However, he was unable to give more details.[207] Later UNHCR has reported that France will provide 500 humanitarian admission places.[208]

Denmark has still not made any specific offers to UNHCR to accept resettlement of Syrian refugees outside of their ordinary annual quota of 500 refugees in 2013.[209] **The UK** has also not offered to provide humanitarian admission and resettlement places for Syrian refugees[210]

Returns

Returns to Syria are reported as suspended in all European States. However, whereas some Member States, such as **Denmark**, **Poland** and **Germany**, have adopted formal moratoria on returns to Syria, this is not the case in other States.[211]

There have been some concerns about a number of European countries regarding the return of Syrians to countries other than their country of origin or former habitual residence. Cases were reported where Syrian asylum applicants were returned from **Cyprus, Poland** and **Spain** to countries with no functioning asylum systems in place, such as Lebanon, Turkey and Belarus, without being able to file their asylum claims. For example, human rights NGOs in **Cyprus** are concerned about reports of forced returns to Egypt and Lebanon which could include Syrian nationals. However, due to the lack of independent forced returns monitoring in Cyprus, it is hard to get official information on this alleged practice.

In addition, doubts have been raised about whether 'voluntary returns' are truly voluntary. For example, according to information provided by the Hellenic Police, in **Greece**, in the first eleven months of 2012, 44 Syrians returned voluntarily to countries neighbouring Syria. However, UNHCR has received testimonies from Syrians concerning informal forced returns ("push-backs") or attempted informal returns to Turkey. Moreover, human rights

[204] Information, provided by the Finnish Red Cross in September 2013
[205] Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[206] Alan Shatter Written Answers: Refugee Resettlement, April 16, 2013,
[207] See, Le Monde, 12 September 2013
[208] Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[209] Information as of October 2013
[210], Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[211]UNHCR, *Responding to protection needs of displaced Syrians in Europe*, June 2013; and information received from ELENA Coordinators in June 2013

organisations have made similar reports of such testimonies[212] and systematic push-backs of Syrian asylum-seekers from **Greek** sea and land borders to Turkey, as well as cases of severe ill-treatment occurred during these push-backs, present specific concern.[213]

Practice development

Greece: The Greek Ministry for Public Order and Citizen's Protection issued an order on 9 April 2013, according to which there will be a six-month suspension on all return orders of Syrians, with the possibility of renewal every six months until the situation is back to normal.[214]

However, it should be noted that the suspension decision provides no right in relation to reception conditions (housing), no right to work, and no right to healthcare. It is not clear whether the suspension entails the release of asylum seekers from detention. Furthermore, there is no provision concerning people coming from Syria who are not nationals of Syria (e.g. Palestinian refugees, Iraqis, etc.). Finally, according to this order, Syrians are not allowed to stay in Athens.[215]

[212] See UNHCR, *Syrians in Greece: Protection Considerations and UNHCR Recommendations*, 17 April 2013. See also, more recently, UNHCR concerned at reports that asylum seekers, including Syrians, denied entry to some EU countries, 15 November 2013,
[213] See Pro Asyl, Pushed Back, November 2013
[214] Greece urged to improve its treatment of Syrian refugees, ECRE Weekly Bulletin, 19 April 2013
[215] Information provided by the Greek ELENA Coordinator from GCR

VII. Conclusions

This information note examines the treatment of asylum seekers and refugees from Syria, including both Syrian nationals and stateless persons with habitual residence in the country. While acknowledging the vulnerable situation for refugees of other nationalities who sought safety in Syria, including many Iraqis,[216] the treatment of asylum applications of these refugees in Europe was not examined in this Note.

The findings of the report highlight that in many aspects, including access to asylum procedures, application of the Dublin Regulation, detention and reception, Syrian asylum seekers are treated in the same way and are facing the same challenges as asylum seekers of other nationalities. At the same time the overall protection rate for those affected by the conflict in Syria has been significantly higher than for other asylum seekers.

Amongst the findings, this research has shown that little information is publicly available on state practices and policies with regards to the treatment of Syrian asylum seekers across Europe. While States like **Sweden** provide regular and transparent information about their asylum policies, including the estimate of foreseen arrivals and their implications for their reception systems, other European countries prefer not to make their policies transparent and publicly available. The lack of reliable, prompt and adequate data on the situation of Syrian asylum seekers in Europe, segregated according to age, gender and vulnerabilities of the applicants, make it hard to outline the trends and highlight negative and positive practices in certain countries researched.

A number of European and international actors, including the European Parliament,[217] the European Commission[218], the Parliamentary Assembly of the Council of Europe[219], and the United Nations High Commissioner for Refugees (UNHCR),[220] have called for solidarity with the Syrian refugees and countries in Syria's neighbouring region that are hosting the majority of them. Despite this call, legal practitioners and human rights NGOs who contributed to this Note have reported worrying practices in relation to push-backs, inability to access asylum procedures, arbitrary detention that is difficult to challenge in the domestic courts, and inadequate reception conditions.

Only ten countries out of the twenty researched for this note positively responded to UNHCR's request for resettlement and humanitarian admission for Syrians displaced as the

[216] See UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013
[217] See European Parliament resolution of 9 October 2013 on EU and Member State measures to tackle the flow of refugees as a result of the conflict in Syria (2013/2837(RSP))
[218] See Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions towards a comprehensive EU Approach to the Syrian Crisis, 24.6.2013
[219] See PACE, Recommendation 2026 (2013) Provisional version, October 2013
[220] UNHCR, Solidarity and Burden Sharing, Background Papers for the High Level Segment, September 2013; UNHCR, *Responding to protection needs of displaced Syrians in Europe*, June 2013; UNHCR's paper for the Informal JHA Council, Vilnius, 18 July 2013

result of the conflict, offering 7,830 places[221] for the more than 2.2 million Syrians hosted in the region[222].

Some countries facilitate access to their territories for relatives of Syrian nationals regularly residing, others foresee application of slightly more flexible family reunification criteria, and others grant a limited number of protection or humanitarian visas of some sort. However, none of the countries researched apply protected entry procedures (PEPs).

The European governments should show solidarity with Syrian refugees and Syria's neighbouring countries that host the vast majority of those in flight by ensuring access to international protection in Europe and that the protection offered in Europe is in full respect of their human rights and human dignity. Moreover, European governments must uphold their duty to ensure that those affected by the conflict in Syria are not returned to Syria or the neighbouring region. Civil society organisations and the legal community in Europe stand ready to assist the European governments in this important task of supporting Syrian refugees.

For further information, contact:
Julia Zelvenska (JZelvenskaya@ecre.org)
European Council on Refugees and Exiles (ECRE)
Rue Royale 146, 1st floor
1000 Brussels
Tel: 32 (0)2 234.38.00
Fax: 32 (0)2 514.59.22
www.ecre.org

[221] Aggregated data from Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[222] Rounded figure for November 2013.

List of Annexes

1. An Overview of Country Practices Across Europe
2. ELENA Research Questionnaire
3. Bibliography

Annex 1

An Overview of Country Practices in Relation to Syrian Asylum Seekers and Refugees Across Europe[223]

Belgium

Access to the territory and to the asylum procedures: Belgium is one of the countries that has imposed airport transit visas on Syrian nationals, which might be among the reasons for the relatively low number of new asylum applications: 470 in 2011, 815 in 2012[224], and 830 in January-September 2013[225] .

Along with other European countries, Belgium does not provide many legal avenues for Syrian asylum seekers to access the country in a regular manner.

For example, the Belgian Refugee Council (CBAR) reports that it is difficult for extended family members who do not benefit from the right to family reunification (adult children, siblings, parents, …) to obtain a humanitarian visa to Belgium. According to CBAR there is no specific practice for Syrians.

Example of Practice

One case[226] concerns a mother of a recognized refugee of Iraqi origin that was residing alone in Damascus. The rejection of her visa application was suspended by the CALL (Council for Alien Law Litigation) because of the risk of violation of Article 3 ECHR. Subsequently, the Belgian state was ordered to deliver her a humanitarian visa by interim measures of the Court of First Instance in Liège[227]. As a result, she could come to Belgium with a humanitarian visa.

Examination of asylum applications: In 2011 and 2012, the examination of Syrian asylum applications was frozen for quite some time, while the study and documentation service (Cedoca) of the Commissioner General for Refugees and Stateless Persons (CGRS) tried to obtain trustworthy information and assess the rapidly changing situation on the ground in Syria. However, this freezing policy did not apply to particularly vulnerable persons from

[223] The country-specific information varies depending on the data available. More information was provided for the countries not already covered by AIDA reports. Information included in no way purports to provide a comprehensive assessment of the situation on the ground in each State for those affected by the Syrian conflict. Information pertaining to Slovakia is not detailed in Annexe 1

[224] Eurostat data, accessed on 25 September 2013. Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).

[225] Aggregated Eurostat data, accessed on 18 November 2013

[226] CALL 31 May 2012, no. 82.114.

[227] TPI Liège (réf) 29 juin 2012, n° 12/503/C

Syria seeking asylum, whose applications were examined.[228] The applicants who were not deemed to be particularly vulnerable were not returned, and remained asylum seekers with their cases on hold.

After the examination of Syrian asylum applications resumed in the summer of 2012, the Belgian authorities, for the most part, granted subsidiary protection to the applicants. Out of 595 positive decisions in 2012, only 130 applicants were granted refugee status, and out of 450 positive decisions in the first quarter of 2013 only 25 persons were granted refugee protection. An important sub-set of the claims introduced during 2012 were subsequent applications.

Example of practice

A Syrian couple of Kurdish origin applied for refugee status in Belgium, because the husband was actively involved in the Kurdish Political Party and was providing humanitarian aid from Belgium to Kurds in Syria. The CGRS refused to grant the applicants refugee status because there was deemed to be a lack of credibility and, as a result, they failed to fulfil the requirements of the Geneva Convention. Nonetheless, they were granted subsidiary protection. However, after the appeal before the Council for Alien Law Litigation (CALL), which found the record of the main applicant's political activities convincing, refugee status has been recognised in relation to both applicants.[229]

Family Reunification: Syrian nationals benefit from the same family reunification procedures as beneficiaries of international protection of other nationalities. Since the Constitutional Court judgment on 26 September 2013 (n° 121/2013)[230], beneficiaries of subsidiary protection are put on an equal footing with recognized refugees with regard to family reunification. Both forms of protection beneficiaries are now exempted from the requirements of means of subsistence, housing and health insurance if:

a) they lodge an application for family reunification within the year following the recognition of protection status, and
b) the relevant family tie existed before the arrival in Belgium.

This decision is important for Syrians, a majority of whom are granted subsidiary protection status. According to CBAR, the Immigration Office (the competent authority in charge of family reunification applications) has confirmed that they will no longer apply the conditions to beneficiaries of subsidiary protection. In addition, the Court clarifies that persons who have been regularized for medical reasons (article 9ter Law of 15 December 1980) are put on an equal footing as persons benefiting from subsidiary protection in the frame of asylum (article 48/4 Law of 15 December 1980).

[228] AIDA National Report: Belgium. (last updated 23 July 2013)
[229] Aliens Appeal Council case N 103921, 30 May 2013: information provided by McDermott, Will and Emery LLP
[230] For full judgment: http://www.const-court.be/public/f/2013/2013-121f.pdf

Family members of Syrians with subsidiary protection can apply for reunification from a Belgian diplomatic post in their country of origin (which is currently impossible as there is no Belgian embassy in Syria), Jordan (Amman), Lebanon (Beirut), Turkey (Istanbul, Ankara), and any other country for which they have a residence permit. By contrast, family of refugees can apply at a Belgian diplomatic post in any country in which they reside, regardless of a valid residence permit. CBAR has become aware that Syrians face difficulties and dangers in crossing the border in order to apply for family reunification, in particular those who are undocumented.[231]

According to information provided by CBAR, there are difficulties in obtaining official documents. Many Syrians who apply for family reunification encounter difficulties in collecting the necessary documents and getting them translated and legalized. The Immigration Office gives priority to Syrian files, but the Belgian authorities do not make exceptions for Syrians concerning document requirements. Legalization of Syrian documents by the Belgian authorities is not possible since Belgium does not have a diplomatic representation in Syria anymore. Instead of getting their documents legalized, Syrians have to provide an attestation of "non-legalization", despite difficulties in obtaining legalisation being well known. This document can be obtained at the Belgian embassy in Amman or at the Foreign Affairs service in Brussels.

Also the sponsor in Belgium sometimes faces problems related to document requirements. For example, the sponsor in Belgium must have the residence permit in order to start up the family reunification procedure. The procedure to subscribe at the municipality in Belgium and consequently obtain the residence permit can however, depending on the residence, take some weeks or even months.

Family members of those with subsidiary protection, if reunified, will be granted residence for the same duration as the primary recipient of protection. For refugees, their family do not receive permanent residence, and instead acquire a permit of limited duration.

Returns: There were no reports of returns of Syrian nationals to Syria or the neighbouring countries.

Resettlement: There is no indication that Belgium is willing to accept refugees outside their set-up resettlement quota for 2013 or 2014.[232]

For more information on **detention, reception conditions and Dublin transfers**[233] please see the AIDA National Country Report: Belgium, as there were no reports of differences in treatment of Syrian nationals.

[231] Information provided by the ELENA coordinator in Belgium

[232] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013. The resettlement quota, adopted by Belgium in 2013, stands at 100 cases. See EASO, Annual Report on the Situation of Asylum in the EU in 2012, Table 6

Bulgaria

Access to the territory and to the asylum procedures: Due to the concentration of a substantial number of Syrian nationals in Istanbul and Edirne who moved on to Bulgaria, Syrian nationals ranked first among the top five nationalities applying for asylum in Bulgaria in 2012, with a total of 609 applications.[234]

Currently Bulgaria is experiencing the highest number of arriving asylum-seekers on record. 45% of asylum claims registered at the end of August 2013 are from Syrian nationals (1,335 new asylum claims)[235]. In only 6 days (6th September – 11th September 2013), 256 Syrian nationals were detained by the Bulgarian Border Police for irregular crossing of the Turkish-Bulgarian border.[236] Bulgaria has recently announced[237] the construction of a 170-km long fence along a section of the Turkish border, due to be completed by the end of February 2014, aiming at preventing refugees from entering the territory through unofficial border crossings. UNHCR stated[238] that introducing fences or other deterrents 'may lead people to undertake more dangerous crossings and further place refugees at the mercy of smugglers'. Another section of the border, known as the 'green border', has been closed by installing over 1000 additional Bulgarian policemen and specially trained dogs to patrol the border. According to Novinite[239], the guards apprehend migrants attempting to reach Bulgaria and arrange for the Turkish authorities to take them back.

Negative Practice

Currently, criminal proceedings in Bulgaria are instituted against anyone caught crossing the border irregularly, including Syrians, regardless of their need for international protection. The Bulgarian Helsinki Committee (BHC) 240 has criticised both the state prosecution and the courts for refusing to apply the provision of the Criminal Code that exempts asylum seekers from criminal liability. Refugees receive suspended sentences and fines.

---

[233] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

[234] Annual Report on Border Monitoring: 2012, 31 March 2013, Bulgarian Helsinki Committee, UNHCR and Bulgarian Border Police. Note: according to Eurostat, the figure for new Syrian applications for 2012 is only 435: (extracted on 25 September 2013). Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).

[235] Aggregated Eurostat data, accessed on 18 November 2013.

[236] Sofia News Agency , 11 September 2013

[237] 26 October 2013. See http://sofiaglobe.com/2013/10/26/fence-against-refugee-flow-at-bulgarias-border-with-turkey-to-be-ready-by-end-of-february/ . See also: http://www.aa.com.tr/en/news/242348--bulgaria-to-build-fences-on-its-border-with-turkey ; http://www.news.nom.co/bulgaria-turkey-border-fence-to-be-ready-6816723-news/

[238] http://www.novinite.com/view_news.php?id=154840

[239] http://www.novinite.com/articles/155426/

[240] http://www.bghelsinki.org/bg/novini/bg/single/glavniyat-prokuror-sotir-cacarov-napravi-ryazk-zavoj-v-politikata-si-spryamo-bezhancite/

The BHC has indicated that access to asylum procedures remains one of the main problems for Syrian refugees, as well as for the refugees of other nationalities.

Negative practice

According to information from the BHC in late October 2013, the Bulgarian Interior Ministry has been providing the Syrian embassy in Sofia with biometric information about Syrian asylum seekers, such as fingerprints, in order to confirm their identity as Syrians[241]. BHC's open letter[242] to the Ministry calls the action a violation of principles of protection and a threat to the security of the asylum-seeker.

The open letter also alleges new plans of the government to accommodate asylum seekers in detention centres instead of open reception centres. At present, according to BHC, asylum seekers are often held in detention facilities upon arrival, and might wait weeks before the asylum procedure is initiated.[243]

The general situation in Bulgaria as of late October 2013, according to BHC, is that the country continues[244] to be unprepared for the housing and other reception needs of rising numbers[245] of asylum seekers. BHC references 'overcrowded spaces, dilapidated toilets, lack of medical care, lack of administration/consultation, lack of cooking utensils or stoves and broken windows'.

Examination of asylum applications: According to Eurostat, the number of rejections in relation to asylum applications submitted by Syrians in 2012 was quite high: 30 rejections against 55 positive decisions altogether. Nobody was recognized as a refugee in 2012. However, the situation in 2013 significantly improved: 100 positive decisions were taken in the first quarter of 2013 against only 5 rejections. However, nobody was recognized as a refugee.[246] On 17 October 2013, EASO and Bulgaria agreed an Operating Plan[247] for the period up to September 2014, which will focus on: the identification and pre-registration of mixed migration flows; referral of vulnerable asylum seekers to appropriate procedures;

[241] For more information, see ECRE Weekly Bulletin article: http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/478-bulgaria-accused-of-putting-asylum-seekers-at-risk-by-providing-information-on-syrians-to-syrian-embassy.html
[242] http://www.bghelsinki.org/bg/novini/press/single/otvoreno-pismo-otnosno-izgrazhdaneto-na-centrove-za-bezhanci-ot-zatvoren-tip-izgrazhdane-na-ograda-po-granicata-i-naj-veche-predostavyaneto-i-proverkata-na-daktiloskopichni-otpechatci-i-biometrichni-danni/
[243] Ibid
[244] 26 September 2013: BHC calls for immediate resignation of the management of Bulgaria's State Agency for Refugees - http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/435-bulgarian-helsinki-committee-demands-resignation-of-state-agency-for-refugees-over-treatment-of-syrians.html
[245] See http://www.novinite.com/articles/155002/472+Asylum+Seekers+Enter+Bulgaria+in+3+Days
[246] Eurostat statistics, accessed on 25 September 2013
[247] EASO Press Release: http://ec.europa.eu/bulgaria/documents/news/171013-easa.pdf. ECRE Weekly Bulletin article: http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/463-easo-to-provide-support-to-bulgaria-on-asylum-procedures-and-reception.html

support for the asylum decision-making process; updating Country of Origin information; delivering EASO training to new staff; providing advice on use of EU financial assistance. The Plan arises from an official request for support from Bulgaria, in light of the country's overburdened asylum system.

According to the ELENA coordinator in Bulgaria, the government has not adopted any special policy with regards to the treatment of Syrian nationals applying for protection in Bulgaria and all the applications were assessed on an individual basis.

Reception:[248] The numbers of new arrivals might not seem high, but the country's asylum system[249] has been overwhelmed by the rate. Reception centres are overflowing and all available spaces have been converted into dormitories – from the TV and internet rooms to the child-care spaces. The shower and toilet facilities are insufficient to cope with the new pace of arrivals. The difficult living conditions in the centres are straining relations among the refugees themselves who in normal circumstances struggle to make ends meet on their meagre allowance of 65 BGN (just over 1 Euro) a day for food, clothes, medicine and other necessities. Now they also contend with overcrowded bathrooms, scant cooking facilities, and no education or recreational activities at all – including for the several hundred children missing out on school in Pastrogor tranist centre near the Bulgarian-Turkish border. To address accommodation short-falls, Bulgarian authorities have tended to rely on two detention centres designed to house irregular migrants awaiting deportation.

Negative Practice

In the detention centre Lyubimets, close to the Turkish border, and Busmantsi, on the outskirts of Sofia, asylum-seekers, including Syrians, find themselves behind bars and razor wire for up to 3 months or more, waiting for the State Agency for Refugees to move them to open asylum centres. Now, even the detention centres are full and hosting numbers way beyond their capacity.[250]

Negative Practice

The newly opened reception centre in Vrazhdebna, according to the Bulgarian Helsinki Committee, is a crumbling building, with no heating, broken windows, and inadequate medical care for asylum seekers. On 27 September 2013, following a visit to the centre, the Bulgarian Helsinki Committee called for the resignation of the management of Bulgaria's State Agency for Refugees[251].

[248] For more information on reception conditions in Bulgaria please see AIDA National Report: Bulgaria
[249] Ibid
[250] See: UNHCR, Bulgaria's asylum centres bursting at the seams as more Syrian refugees enter Europe, 16 September 2013
[251] Press Release: http://www.bghelsinki.org/bg/novini/press/single/pressobshenie-bhk-prizovava-za-nezabavnata-ostavka-na-rkovodstvoto-na-drzhavnata-agenciya-za-bezhancite/ (accessed on 27 September 2013)

On 14 September 2013, Bulgaria announced that it would provide 1,000 extra reception places to deal with the arrival of refugees from Syria.[252]

Bulgaria receives annually around €500,000 from the EU to meet its obligation regarding the reception of asylum seekers.

Resettlement: The Government of the Republic of Bulgaria adopted a decision to participate in the joint European resettlement program on 13 June 2012. The Pilot Resettlement Programme is to start in 2014[253] and there is no publicly available information on how Syrian refugees will benefit from this programme, especially taking into account the current reception crisis in the country.

For more information on **detention, family reunification and Dublin transfers**[254] please see AIDA National Country Report: Bulgaria, as there were no reports of differences in treatment of Syrian nationals.

[252] The Sofia Globe, http://sofiaglobe.com/2013/09/15/bulgaria-to-provide-further-1000-places-for-refugees-within-days-interior-minister/ Accessed 16 September 2013. See also (above): EASO and Bulgaria agree Operating Plan. EASO Press Release: http://ec.europa.eu/bulgaria/documents/news/171013-easa.pdf
[253] EASO, Annual Report on the Situation of Asylum in the EU in 2012
[254] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

Croatia

Access to the territory and to the asylum procedures: No specific protection challenges were reported in relation to access to the territory and to the asylum systems by Syrian asylum seekers. However, as with all other Member States, Croatia does not facilitate any protected entry procedures for Syrian nationals.

Examination of asylum applications: The Croatian Government has not issued any official policies concerning the examination of applications for international protection by Syrian nationals. However, according to the Croatian Ministry, there were 9 and 86 asylum applications by Syrians in 2011 and 2012 respectively. In 2011, no refugee/subsidiary protection statuses were granted, but in 2012 one refugee status in the first instance procedure and 11 subsidiary protection statuses were granted to Syrian nationals.[255]

According to Eurostat[256], no one was provided with protection in the first quarter of 2013, both in the first instance and upon appeal.

No information available suggests that treatment of Syrians in relation to detention, reception conditions, and family reunification is different to that of other nationalities.

Reception conditions: A 2013 report by Human Rights Watch[257] suggests that Croatia continues to lack sufficient reception accommodation for asylum seekers. The main issues facing asylum-seekers and new refugees in Croatia continue to be the lack of services available for their employment, education, and integration, according to UNHCR.

The Jesuit Refugee Service reports that the lack of security in the reception centre at Porin, which may contain Syrians, has implications for the women and children living there. The reception centre is not a purpose built facility – it was originally built as a hotel. It is therefore spatially inconvenient and difficult to separate the women and children from the men. This lack of proper security and the resulting bouts of tension and violence that erupt in the centre is one of the reasons for the significant number of asylum claimants who depart from Croatia before the asylum application process is resolved.[258]

[255] Information provided by the ELENA coordinator in Croatia. The statistics are based on the data provided by the Croatian Ministry of Interior.
[256] Data on positive decisions, accessed on 25 September 2013. Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).
[257] For more information see HRW, World Report 2013: Croatia
[258] Jesuit Refugee Service Europe, From back door to front door: Forced migration routes through Macedonia and Croatia, June 2013

Cyprus

Access to the territory and to asylum procedures: The Cypriot Government[259] has not adopted any official policies with regard to the treatment of Syrian refugees. However, unofficially the government tries to discourage asylum applications by Syrians in need of international protection in Cyprus by the following measures:

- restricting access to the territory by strengthening external border and green line controls;
- restricting access to the asylum procedures for Syrians already in the country;
- restricting access to material reception conditions and access to basic rights by Syrians in need of international protection;
- using detention as a punitive tool[260].

Although Cyprus is not carrying out deportations to Syria, the majority of Syrian refugees are very often without papers and are given some sort of humanitarian status of a short duration instead of given full access to the asylum procedure[261]. In addition, applicants are often denied material reception conditions in line with Cyprus' obligations under international and EU law. It is believed that this practice is carried out with the intention of sending a message that Cyprus does not welcome Syrian refugees. The Minister of Foreign Affairs and the Minister of Interior have repeatedly made statements to reassure Cypriots that Cyprus will not be accepting refugees from Syria, and that they have taken "all necessary measures", in cooperation with Greece, to control spontaneous entries of Syrian refugees to Cyprus[262]. These measures seem to be effective as few Syrians reach the territory of Cyprus.[263]

The authorities have also mentioned that Cyprus can only assist with the Syrian crisis to the extent that it can act as a transit country and that they will assist evacuees fleeing from the neighbouring region in the event that the Syrian crisis deteriorates. To meet this future possibility, Cyprus has prepared the so called ESTIA plan[264] to accept 10,000 evacuees per day, provided that the evacuees will leave Cyprus within 48 hours.[265] In line with the above, the head of the Civil Registry and Migration Department (CRMD), Anny Shiakalli, has also stated that Cyprus is unable to receive even one single refugee for fear of an influx. She went on to affirm that Cyprus was ready to give assistance for the transit of third country nationals through Cyprus in the event of their evacuation from Syria[266].

[259] For the purposes of this Information note, the term "Cypriot Government" refers to the government of the Republic of Cyprus.
[260] Information provided by the NGO "KISA"
[261] Based on Eurostat data, accessed on 25 September 2013 and information provided by the NGO "KISA"
[262] Please see http://www.sigmalive.com/news/politics/63173
[263] Information provided by the NGO "KISA"
[264] For more information on the ESTIA plan, please see The Working Programme of the Cypriot Presidency for Civil Protection, June-December 2012
[265] For more information please see http://cyprus-mail.com/2013/09/03/greece-to-help-cyprus-with-possible-evacuation-of-foreigners-from-syria/
[266] ITAR-TASS News Agency; 'Cyprus unable to receive Syrian refugees' 05 July 2013, http://www.itar-tass.com/en/c32/796869.html, accessed 27 September 2013.

Asylum applications can be submitted at all entry points of the Republic as well as with Immigration Police on the territory. However, submitting asylum applications at the border points is difficult.

Negative practice

There has been at least one reported case of a Syrian woman with her children who came from Syria, through Lebanon, transiting through Cyprus, who was denied access to the territory and access to asylum. After her request was refused she and her children were sent back to Lebanon.[267]

Alongside arriving in the South by boat, the only other way asylum seekers can access the territory is through the north of Cyprus, i.e. the non-government controlled areas. Syrians coming through the northern part may face the following difficulties:

1. Some Syrians, when coming to the North, are apprehended by the Turkish Cypriot Police and are returned to Turkey unless UNHCR or their implementing partner in the North [268] receive information about them and intervene. Even in case of an intervention, there is often little that can be done. In northern Cyprus, there are no laws regulating asylum. This means that asylum-seekers, including Syrians, are criminalized for illegal entry, imprisoned and deported to Turkey (where they can presumably apply for protection)[269].
2. If they manage to come to the North and not get apprehended by the Turkish Cypriot authorities, and then cross to the South, they can then apply for asylum in the Government controlled areas. However, the policy of the Government is that if the person concerned has been in Cyprus before and his/her asylum claim has been rejected or s/he was deported for any reason, the person is immediately considered a "prohibited immigrant" and therefore, even though s/he applies for asylum, s/he will be detained for the purpose of return. The return will be suspended until the asylum claim has been heard and, in the case of Syrian asylum seekers, no return will be considered. The same applies if s/he does not submit an asylum application immediately after entering the territory. As a result, many Syrians crossing to the South do not file asylum applications as they are afraid of being detained. They then remain in an irregular situation until, if unlucky, they are apprehended by the police on other grounds, i.e. traffic offences etc., and then they are detained pending deportation.

[267] Information provided by the NGO "KISA" and ELENA coordinators in Cyprus
[268] The implementing partner in the South is the Future Worlds Center
[269] Information provided by the UNHCR implementing partner in the North, Refugee Rights Association (Mülteci Hakları Derneği'ne – MHD). For more information, read MHD's October 2013 newsletter: http://us7.campaign-archive1.com/?u=17c05ffb6d6c33ad8dd5bea25&id=8ec5241c38&e=[UNIQID]

Due to the inefficient asylum system, many Syrians that manage to reach the South without being detained prefer to travel to other countries with forged documents instead of, or in addition to, applying for asylum in Cyprus. Very often this presents another risk of apprehension by the police, accusation of using forged documents, and conviction for this offence. After they serve the sentence, they are kept in detention pending deportation as "prohibited immigrants", even though they cannot be deported. During their imprisonment or subsequent detention, very often they face serious problems in accessing the asylum procedure as they are not given an application by the police. Often people are only given access to the asylum procedure after an intervention by a legal counsellor and possibilities of getting legal advice are very limited.

Syrians whose asylum applications were previously rejected very often do not submit a subsequent asylum application because they are not aware of their right to submit it.[270] Applicants are also discouraged from making a subsequent claim by the following problems:

- Due to a recent amendment to the Refugee law, subsequent applications are heard directly by the Refugee Reviewing Authority, a second instance administrative body, thus removing one instance of examination;
- Cases have been known to remain pending for more than 8 months;
- Pending subsequent applications leave the asylum seeker without a formal asylum status and at risk of detention and deportation.
- Subsequent applications made from detention do not permit release pending a decision.[271]

Asylum applications and their examination: The number of new applications from Syrians during the last two years is not too high. For example, from September 2012 until May 2013, 375 applications were registered. The rest of the applications from Syrians, which the Government of Cyprus claims pose an intolerable burden on Cyprus and its asylum system, comprise about another 1465 applications[272], and were made before the Syrian crisis. They have been pending in the procedure in some cases for more than 8 or 9 years.[273]

According to the ELENA coordinator in Cyprus, the Asylum Service, which is responsible for the first instance examination of asylum applications, conducted personal interviews but has not issued decisions on a majority of the cases since the beginning of the conflict in Syria. Cases have been pending for approximately two years with no official reason for these delays. For example, Eurostat statistics show that, in 2012, only 5 applicants from Syria were granted humanitarian protection and 30 applicants were rejected. At the same time, in 2012, 565 Syrian nationals (new and subsequent applicants) applied for international protection in Cyprus.[274]

[270] Information, provided by the NGO "KISA"
[271] Information provided by the ELENA Coordinator in Cyprus in May 2013.
[272] Eurostat statistics 2008-2011, accessed on 25 September 2013. Please not that there is no data on monthly applications available for 2011.
[273] Information, provided by the NGO "KISA"
[274] Eurostat statistics, accessed on 25 September 2013. Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are

There has been a minor improvement, however, between January and August 2013, in which 25 Syrian nationals were granted subsidiary protection at first instance, mainly on the basis of Article 15(c) Qualification Directive. During this period there were 226 asylum applications lodged (based on 322 persons)[275]. During the same period, 32 Syrian national applications were withdrawn[276].

The Refugee Reviewing Authority (RRA), which carries out the second instance administrative examination, has been granting subsidiary protection to some Syrians in need of international protection. Between January and July 2013, the Reviewing Authority considered appeals against negative asylum decisions and requests related to the re-opening of asylum cases submitted by 45 Syrian nationals. 21 Syrian nationals were granted subsidiary protection and the appeals by 4 persons were rejected. The cases of 5 Syrian nationals were closed as their applications had been withdrawn.[277]

In May 2013, approximately 150 Kurdish Syrians camped outside the Interior Ministry for more than 11 days. They were protesting against waiting for prolonged periods for a decision on their asylum applications[278].

Negative practice:

Asylum seekers whose claims have been rejected by the RRA and who are subsequently detained pending deportation, even though they are awaiting an appeal to the Supreme Court, are still at risk of refoulement. This is because an application to the Supreme Court does not automatically suspend the deportation process. An application to suspend the deportation as an interim measure must also be lodged before the Supreme Court. The suspension is not granted automatically, because the applicant needs to establish 'blatant illegality' or 'irreparable damage'.[279]

based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).

[275] Information provided by the ELENA Coordinator in Cyprus

[276] The applications are usually withdrawn following asylum seekers' departure from Cyprus

[277] Information provided by the ELENA coordinator from Cyprus.

[278] KISA, 'Kurdish families camp outside Interior Ministry' 10 May 2013, http://kisa.org.cy/kurdish-families-camp-outside-interior-ministry/, accessed 27 September 2013

[279] Amnesty International, Cyprus: Punishment without a crime: Detention of migrants and asylum seekers in Cyprus, 18 June 2012

Example of practice

In the case of **MA v Cyprus** (application N 41872/10), the applicant, a Syrian Kurd, fled Syria in 2005 and made an unsuccessful claim for asylum in Cyprus. His file was reopened by the Asylum Service in 2008 because new information had been received. In 2010, while the re-opened asylum proceedings were still pending, the applicant joined a round-the-clock protest that was being staged against the Government's asylum policy. The authorities decided to remove the protestors, citing unsanitary conditions, the illegal use of electricity and complaints from members of the public. Early one morning in June 2010 250 police officers descended on the encampment, escorted the protesters to waiting buses and took them to police headquarters with a view to determining their immigration status. Those who were found to be refugees or *bona fide* asylum-seekers were allowed to leave. Those whose presence in the country was found to be unlawful were detained with a view to deportation. 22 protestors were deported on the same day and 44 others, including the applicant, were charged with unlawful stay and transferred to detention centres in Cyprus. The Asylum Service expressed the opinion that the information submitted by the applicant could not be considered as new evidence forming the basis of a new claim. The applicant was considered by the authorities to be unlawfully staying in the Republic and deportation and detention orders were issued against him despite the pending asylum proceedings.

The next day, the applicant and 43 other people of Kurdish origin submitted a request to the European Court for interim measures under Rule 39. The Court indicated to the Cypriot Government that they should not be deported until the Court had had the opportunity to receive and examine all documents pertaining to their claims. In August 2010 the Minister of the Interior declared the applicant an irregular immigrant on public order grounds, relying on allegations that he had received money from prospective Kurdish immigrants in exchange for residence and work permits in Cyprus. New deportation and detention orders were issued on that basis and the previous ones cancelled. The Rule 39 interim measure in respect of the applicant was reviewed by the European Court in September 2010 and maintained. The applicant brought habeas corpus proceedings before the domestic courts to complain of his detention. Ultimately, in 2012, his appeal to the Supreme Court was dismissed as, in the meantime, in May 2011, he had been released after being granted refugee status.

The ECtHR ruled that the applicant's deportation was halted only because of the Rule 39 interim measure. The Court pointed out that the deportation and detention orders were obviously based on a mistake committed by the authorities and that the applicant did not have an effective remedy in relation to his complaint under Articles 2 and 3 of the Convention. The Court found a violation of Article 13 of the Convention due to the lack of a remedy with automatic suspensive effect against a deportation order. The orders against the applicant continued to remain in force for more than two months during which the re-examination of his asylum claim was still taking place. No effective domestic judicial remedy was available to counter this error. Moreover, the Court noted, in this respect, the lack of any effective safeguards which could have protected the applicant from wrongful deportation at that time. The Court also found a violation of Article 5 (1) and (4) ECHR as the applicant did not have an effective remedy at his disposal to challenge the lawfulness of his immigration detention.

Detention: Foreign nationals can be detained in Cyprus for immigration purposes in the following circumstances:

- Irregular migrants or asylum-seekers whose claims have been dismissed and who are held until their removal/deportation is arranged;
- Irregular migrants or asylum-seekers whose claims have been dismissed who are detained for longer periods because their removal cannot be enforced, for example, because they have no travel documents and there are difficulties associated in re-documenting them, including instances where the authorities of their country of origin refuse to co-operate with the re-documentation process; and
- Asylum-seekers who are detained as "prohibited immigrants" (due to, for example, the alleged commission of an offence), pending determination of their claim.

Irregular entry and/or stay in Cyprus remain criminal offences. However, in November 2011, a new law came into being (Law 153(I)/2011) which kept this as a criminal offence, but the punishment is now a fine rather than a period of imprisonment.

Cypriot law does not allow for asylum-seekers to be detained simply for entering the country irregularly, as long as they apply for asylum without "undue delay" after their arrival and explain the reasons for their "irregular" entry. However, in addition the circumstances identified above, the Refugee Law[280] provides for detention ordered by a court on the grounds that:

- It is necessary to establish the identity or nationality of the person concerned;
- It is necessary pending the examination of new elements in the application for asylum filed by an applicant whose initial asylum claim was dismissed and whose deportation has been ordered.

In practice, however, the Refugee Law provisions are rarely used and asylum-seekers are much more likely to be detained under the Aliens and Immigration Law general provisions.[281]

There have been instances when Syrian asylum applicants have been detained on the grounds of either irregular entry, irregular stay, or their initial asylum applications have been rejected (and they have not requested a re-opening of their claim), or the examination of their requests was pending[282]. There have also been reports of Syrian nationals being detained pending return to Syria,[283] even though there was no indication that the Government intended to commence forced returns to Syria. This was however not communicated to the detainees and their legal councillors and Syrian nationals were still kept in detention.[284] It has to be noted that legal aid in Cyprus is only available at the

[280] Refugee Law 6(I)/2000, Article 7(4)(a).
[281] Amnesty International, Cyprus: Punishment without a crime: Detention of migrants and asylum seekers in Cyprus, 18 June 2012
[282] Information provided by the ELENA Coordinator in Cyprus; Report on the Asylum Procedures in Cyprus in 2012 by the Future Worlds Centre.
[283] For more information, please see: http://www.eapn.eu/en/news-and-publications/news/eapn-national-networks-news/kisa-member-of-eapn-cyprus-makes-a-statement-on-detention-conditions-in-cyprus
[284] Ibid

Supreme Court level; during the proceedings before the Asylum Service and the RRA, Syrian asylum seekers can only rely on assistance provided by the NGOs.

According to information received from the Future Worlds Centre, in July 2012, there were approximately 70 Syrian nationals being held in detention centres, including asylum seekers whose cases are still pending and irregular migrants. It is reported that they are being kept in confinement, for long periods of time, often up to one year. There was a reported incident in the beginning of July where a couple from Syria was arrested in the early hours of the morning, separated from their two young children aged 4 and 7, and sent to two separate detention centres in Nicosia[285].

Negative practice

In June 2013, Syrian asylum seekers were held at the Menogia[286] detention centre for migrants for nearly three months and went on a hunger strike to protest against their mistreatment.[287] According to the information provided by KISA, even though these persons were in need of international protection, they were not provided with the information on their right to appeal and legal aid.

KISA accused the centre of using psychological cruelty to coerce detainees into signing a paper stating that they will voluntarily return to Syria. The Syrians were not given food for a whole day and were only given water. They were also not provided with immediate medical care. After the hunger strike all individuals were released.

With regard to detention conditions for irregular migrants generally, Amnesty International report on poor natural light, small and overcrowded cells, no access to fresh air, dirty sanitary facilities, door-less toilets, a lack of adequate medical care, allegations of ill-treatment and very limited time for exercise outside[288].

Reception: The reception conditions in Cyprus are inadequate in general. According to the Future Worlds Centre[289], employment opportunities are diminishing in the sectors where asylum seekers are permitted to work, and where beneficiaries of international protection are encouraged to work (agriculture, livestock, fisheries). As a result, many have become dependent on the welfare system. This is not helped by the rule that asylum seekers are not allowed to work in the first six months they are in Cyprus. The benefits granted to each are

[285] Information provided by the ELENA coordinator in Cyprus in July 2012. Strengthening Asylum Legal Portal, 'Is Cyprus Ready To Show Solidarity To The Syrian People?' 06 July 2012, accessed 27 September 2013.
[286] The centre has been recently opened and holds the majority of immigration detainees. The center functions under a strict security system and detainees are restricted to their cells for most of the day, and are handcuffed when out of their cells. The incidents in relation to alleged violence by the center's staff do not result in official complaints for fear of reprisal.
[287] See Syrian detainees on hunger strike
[288] Amnesty Report (18 June 2012): Punishment without a crime: Detention of migrants and asylum seekers in Cyprus
[289] Future Worlds Centre OP-ED for ECRE Weekly Bulletin, 17 May 2013: 'Asylum seekers and refugees were already marginalised in Cyprus; now, with the crisis, their situation is deteriorating'

the minimum possible, and without regard to individual circumstances. Since January 2010, a parliamentary committee must approve all benefits paid to non-EU residents on a monthly basis. This practice results in delays of many months, and removes the capacity of the social services to respond immediately to emergency situations.

According to the Future Worlds Centre, alongside socioeconomic barriers, there have been attacks on non-Cypriots by the growing far-right groups, and increasing incidents of violence against immigration detainees by police officers. In addition, in early 2013, two of the country's three reception centres suspended their operations at short notice. Hundreds of residents were given one week's notice prior to their removal to arrange alternative accommodation and the Social Welfare Office did not give them access to emergency support.

According to the EASO Annual Report on the situation of asylum in 2012[290], the Cypriot authorities expressed concerns to EASO about the lack of appropriate reception conditions because the national reception system is better suited to single individuals rather than families, which constitute the majority of applications from Syria.

Family Reunification: It is reported that the Cypriot authorities have refused to provide visas for the families of Syrians legally residing in Cyprus[291].

Residence Permits: In Cyprus[292], the type of residence permit is dependent on the protection status that is granted. Refugees are given renewable residence permits of three year duration, with no prospect of national citizenship, permanent residence, or long term residence. Subsidiary protection beneficiaries are granted the same as for refugees, but of only one year duration. In addition, a temporary residence permit lasting a few months is available on humanitarian grounds. This permit is usually granted to:

- Otherwise rejected asylum seekers for a few months until their children finish school;
- Asylum seekers whose return must be delayed on health grounds;
- Unaccompanied minors, whose claims were rejected, until they become 18 years old.

This applies to applicants of all nationalities, including Syrians.

Returns: To date, there have been no returns to Syria.[293] Human rights NGOs in Cyprus are concerned about reports of forced returns to Egypt and Lebanon which could include Syrian nationals but, due to the lack of independent forced returns monitoring in Cyprus, it is hard to get official information on this alleged practice.

[290] EASO Annual Report 2012, p.31
[291] Strengthening Asylum Legal Portal, 'Is Cyprus Ready To Show Solidarity To The Syrian People?' 06 July 2012, accessed 27 September 2013.
[292] Information provided by the NGO "KISA" in October 2013
[293] Information provided by the ELENA coordinator in Cyprus in July 2013. On 26 June 2012, the Foreign Affairs Minister, Ms Kozakou-Marcoullis, stated that Cyprus "have taken the decision not to send back to Syria any of the asylum seekers 'or illegal immigrants who are here, until the situation is more clear" Strengthening Asylum Legal Portal, 'Is Cyprus Ready To Show Solidarity To The Syrian People?' 06 July 2012, accessed 27 September 2013.

Czech Republic

Access to the territory: The Czech Republic is one of the countries that has imposed airport transit visas on Syrian nationals, which might have an impact on the number of new asylum applications submitted in the country. According to Eurostat, only 50 new asylum applications have been reported in the country in January-August 2013.[294] There is no humanitarian visas policy for Syrian nationals envisaged to facilitate access to asylum in the Czech Republic. The Czech Ministry of Foreign Affairs states that visa applications for special humanitarian reasons are to be evaluated on a case-by-case basis by the Czech Embassy in Beirut.[295] However, there is no data available on how these applications are being treated.

Examination of asylum applications: According to statistical information from the Czech Ministry of Interior (which decides on applications in the first instance), out of 68 asylum applications[296] from Syrian nationals in 2012, 22 were granted subsidiary protection, while in the remaining cases the proceedings were discontinued due to procedural reasons (e.g. the application was withdrawn or the applicant left the Czech Republic). Statistics for January-May 2013 suggest that out of 30 asylum applications by Syrian nationals, 22 were granted subsidiary protection and in the remaining cases proceedings were discontinued. In no case was international protection refused.[297]

Example of practice

The Supreme Administrative Court (SAC) held in its decision 6 Azs 17/2011, concerning a subsequent asylum application by a Syrian Kurd, who applied for asylum before the conflict had started, that the principle of *non-refoulement* requires the courts to take into account facts that the applicant could not state for reasons outside his control (such as new developments in Syria which arose after the application has been lodged) when deciding on the granting of subsidiary protection, even though this is normally not allowed under Czech law.[298]

According to both Eurostat[299] and information provided by the Organization for Aid to Refugees (OPU), no Syrian national was recognized as a refugee in 2012 and for the first quarter of 2013. However, the OPU stated that they counseled a number of Syrians who fulfilled the criteria set out in the 1951 Convention. Moreover, the absence of state-funded

[294] Aggregated Eurostat data, accessed on 18 November 2013
[295] Information provided by the ELENA coordinator in the Czech Republic. The source: http://www.mzv.cz/damascus/en/visas_and_consular_information/important_notice.html
[296] Statistics by the Czech Ministry of Interior
[297] Ibid, information provided by the Czech ELENA coordinator
[298] The information was provided by the Kinstellar LLP office in the Czech Republic in August 2013 and by the ELENA coordinator in the Czech Republic
[299] http://epp.eurostat.ec.europa.eu/portal/page/portal/population/data/database

legal aid, affecting all the applicants for international protection, including Syrians, has a negative impact on legal representation and protection granted to the beneficiaries of international protection.

Returns: Although no official policy has been issued on returns to Syria, as this is not a practice of the Czech Ministry of Interior, there have been no returns to Syria since the conflict started.

Resettlement: The Czech Republic has not come forward with resettlement or humanitarian admission offers in relation to Syrian refugees.

Denmark

Asylum applications and their examination: On 18th September 2013, the Refugee Appeals Board (the Board) announced[300] that, due to the deteriorating situation in Syria, they will change their previous policy, according to which the Syrian situation had not yet reached the threshold of Article 3[301] of the European Convention on Human Rights. The Board now finds that asylum seekers – from areas within Syria where armed fighting and attacks directed against civilians occur – are at risk of treatment in breach of Article 3 of the European Convention on Human Rights. The Board also mentioned that not all areas of Syria are equally affected by the conflict.

Although there has not been any reported practice following the change of policy, it is expected that more or less all applicants who are believed to be Syrians will get protection.

Asylum applications from Syrian nationals are treated in the same way as any other asylum claim in Denmark and each case is considered on an individual basis. Since 1st May 2013, the National Police has transferred responsibility to the Danish Immigration Service for establishing the identity, nationality, travel route, and other relevant information on new asylum applicants. After the first interview, an asylum case can now follow one of four different tracks:

- the Dublin procedure,
- the manifestly unfounded procedure,
- the normal procedure (which includes a second interview), and
- the manifestly well-founded procedure, where asylum is granted after just one interview (this will apply to most Syrian applications).[302]

Many Syrian asylum seekers in Denmark are male Kurds who have engaged in some form of political activity. Since the outbreak of the conflict in March 2011, many asylum seekers have stated that they were against the Syrian regime and have participated in demonstrations. Some stated that they have been active in the Free Syrian Army (FSA).

Example of practice

A Note by the Danish Ministry of Foreign Affairs from 3 April 2013[303] describes the conditions concerning military service in Syria and indicates that the majority of men (18-42) are granted the Refugee Convention status since they may be considered political opponents if they refuse to perform military service. Moreover, if the asylum seeker's motivation for not wanting to serve in the military is based on political or religious causes, he may be granted a refugee status.

[300] For more information, see the announcement on the website of the Refugee Appeals Board.
[301] It should be noted that Denmark opted out from the EU Qualification Directive and its Recast
[302] Information provided by the ELENA coordinator in Denmark
[303] The Note is available online

In 2012, the Immigration Service (first instance) recognition rate was 89%, compared to 64% in 2011, with the majority of applicants being granted convention status. The recognition rate in 2013 has also been high, with over 81% of positive decisions resulting in refugee status.[304] According to Eurostat, the first quarter of 2013 records a recognition rate of 80% (160/200)[305]. 1065 new asylum applications from Syrians were registered in January – September 2013.[306]

Reception conditions: Reception conditions and access to employment and housing are also common to asylum seekers of all nationalities, including Syrians. After six months have passed, and on the condition of full co-operation with the application process and acceptance of the possibility of return if rejected, an asylum seeker can:

- Obtain employment (with financial support reduced in proportion to salary), and
- Reside outside the asylum centres, in either ordinary housing (paid for by the asylum seeker), private housing connected to the asylum centres, or with friends or family[307].

Detention: Syrians can be detained on the same grounds as other asylum seekers in Denmark, including 'to determine or verify their identity or nationality' or, in pursuance of the Danish Alien Act, if there is a risk that the asylum seeker would otherwise go underground during the processing of the case. However, Syrian nationals whose asylum applications have been rejected cannot be detained for the purpose of deportation since the Danish authorities at the moment do not forcefully return to Syria.

Dublin transfers: It has been reported that Denmark does not transfer the extremely vulnerable asylum seekers to Italy under the Dublin procedure.

Family reunification: The requirements for those with subsidiary protection and those with refugee status are similar. The Danish Immigration Service does not prioritise family reunification applications from Syrian nationals. Applications from Syrian nationals are dealt with on the same basis as any other applications. If the applicant is a refugee or has protection status in Denmark and still risks persecution in his/her country of origin, the general requirements for family reunification such as housing and collateral requirements will be suspended. The Danish authorities may in some family reunification cases initiate DNA testing, though it does not happen very often[308].

Residence permits: For both refugees and beneficiaries of subsidiary protection, the residence permit granted has duration of 4 years.

Resettlement: Denmark has not made any offers to UNHCR to accept resettlement of Syrian refugees outside of their ordinary annual quota of 500 refugees in 2013.

[304] Information provided by the Danish ELENA coordinator, based on statistics published by the Danish Immigration Service
[305] Aggregated statistics by Eurostat, accessed on 25 September 2013. Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).
[306] Aggregated Eurostat data, accessed on 18 November 2013.
[307] Information provided by the ELENA coordinator in Denmark
[308] For more information on the requirements for family reunification, see the 'New to Denmark' section of the Danish Immigration Service website.

Finland

The Finnish government has not issued any official policies with regards to the treatment of Syrians applying for protection in Finland. The Finnish Immigration Service indicates that all applicants should be treated equally and according to the law, notwithstanding their nationality.[309]

Examination of asylum applications: In half of all the positive decisions in 2012 (145) and the first quarter of 2013 (55), Syrian applicants were recognised as refugees (100)[310]. There were 20 rejections in 2012, and 5 in the first quarter of 2013. According to the Finnish ELENA coordinator, refugee status is mostly granted on the basis of political opinion and, where subsidiary protection is granted, Article 15(c) of the Qualification Directive is being used. Only a small number of applications resulted in humanitarian status. It should be noted that the number of asylum applications from Syrians has decreased during the first half of 2013. In January-June 2013, there were 41 asylum applications from Syria, when the corresponding number for the previous year was 80.[311]

Family reunification: Under the Aliens Act, a residence permit on the basis of family ties may only be granted to a member of the immediate family of a person resident in Finland. For other family members such as elderly parents or siblings' children, residence permits may only be granted in certain cases that are specifically defined by law. Even in these cases, however, a residence permit application must always be submitted in a country where the applicant is legally resident.[312]

Finland does not facilitate the issuance of visas to family members of Syrian refugees. It is almost impossible to get a (Schengen) visa to Finland at the moment and family members must apply for a residence permit at the Finnish Embassy in Syria's neighbouring countries on grounds of family ties. The Finnish Embassy in Syria has suspended its activities.[313]

Returns: Since the beginning of 2011, the Finnish authorities have not enforced returns to Syria.

Resettlement: Recently the Finnish Government decided to provide an extra resettlement quota of 300 places for Syrian refugees in 2014. Moreover, 200 places out of the normal yearly quota of 750 resettlement places will be allocated for Syrian refugees.[314]

[309] For more information please see FIS website
[310] Aggregated data from Eurostat, accessed on 25 September 2013: Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).
[311] For more information please see FIS website
[312] For more information please see FIS website
[313] Information provided by the Finnish ELENA coordinator
[314] Information, provided by the Finnish Red Cross in September 2013

France

Access to the territory: In January 2013, France temporarily reintroduced the airport transit visa for Syrian citizens, for reasons of "public order", according to the French Council of State (Conseil D'Etat)[315]. French officials stressed that, according to this system, Syrians can stay in the international area of an airport while waiting for a connecting flight, and added that refugees have access to all French embassies and consulates.[316]

The French Council of State confirmed[317] that the main goal of this practice was to fight against a massive influx of Syrian nationals seeking to use airport transit to enter France. It was further decided that the French authorities were correct to conclude that the situation of emergency justified the reintroduction of the airport transit visa, because the number of asylum applications from Syrians in the embassies of the neighbouring countries increased from 20 in 2010 to 180 in 2012[318].

According to information provided by France Terre D'Asile, the French officials issue protection visas of some sort to Syrian nationals. However, there is no publicly available information or data regarding this unofficial practice.

Asylum applications and their examination: According to the French Office for the Protection of Refugees and Stateless Persons (OFPRA), 7% of all asylum applications submitted at the border, principally at the Parisian airports, were by Syrian nationals.

From 1st January up to 31st July 2013, Syrian nationals submitted 688 asylum applications (applications were submitted by 485 adults and 203 dependent children).

Of the 458 requests[319] made to OFPRA in 2012 by Syrian nationals, 264 were examined by OFPRA and protection was granted in 243 instances – including 117 grants of subsidiary protection. This 92% recognition rate is to be compared with an average recognition rate of 9.4% for all decisions of OFPRA. Syrian citizens have by far the highest recognition rate among all nationalities (Iraqis with a 68.5% rate rank second).[320]

Based on OFPRA's annual report for 2012[321], 77% of OFPRA's asylum grants for Syrian nationals are based on the Geneva Convention, and 23% confer subsidiary protection.

Returns: There have been no reports of returns of Syrians nationals to Syria from France. However, French jurisprudence in relation to returns to Syria is divergent. For example, in accordance with Article L. 513-2 of the Code for Entry and Residence of Foreigners in France and the Right of Asylum (CESEDA), the Paris Court of Appeal confirmed the impossibility of removing a Syrian citizen to Syria, due to the potential violation of Art. 3

[315] Conseil d'Etat, 15 February 2013, n° 365709, case identified by Latham and Watkins LLP
[316] Information provided by Latham and Watkins LLP
[317] Conseil d'Etat, 15 February 2013, n° 365709, case identified by Latham and Watkins LLP
[318] Ibid
[319] This statistic includes both subsequent and new applications, but excludes applications submitted by accompanied children. The number with the applications from children stands at 637 applications. Clarification provided by France Terre D'Asile.
[320] Information provided by Latham and Watkins LLP office in France
[321] OFPRA Annual Report 2012

ECHR[322]. The same Court specified that a person cannot be returned to Syria, as it is "a country ravaged by civil war".[323] The Versailles Court of Appeal refused to return Syrian nationals to their country of origin on the basis of Article 3(1) of Convention on the Rights of the Child[324], which requires the "best interests of the child" to be a 'primary consideration'. The decision to return the Syrian father to Syria while the mother and the child stayed in France was said to potentially deprive the child of the presence of both parents. The Bordeaux Court of Appeal also refused to return nationals to Syria on the basis of article L. 511-1 of the CESEDA. This article provides that foreigners who may not be treated medically in their country of origin have to stay in France.[325]

At the same time, the Bordeaux and Lyon Courts of Appeal considered that Syrian citizens who are unable to establish the reality of risks in Syria should return to Syria.[326]

Resettlement: Following several written queries from members of the French parliament, the Minister of Interior indicated on 14 May 2013[327] and 27June 2013[328] that UNHCR had only submitted the cases of two Burundi nationals living in Syria to the French administration, which were accepted. However, it should be noted that the French resettlement programme is very small, with a resettlement quota of 100 cases in 2013[329], as well as a long selection process and data transfer delays, which might complicate quick submissions of resettlement requests by UNHCR.

On 12 September 2013, the Minister of Foreign Affairs, Laurent Fabius, stated that France will host more Syrian refugees with ties in France. However, he was unable to give more details.[330] According to UNHCR[331], France confirmed pledges of humanitarian admission of 500 Syrian nationals.

For more information on **detention, reception conditions and Dublin transfers**[332] please see AIDA National Country Report: France, as there were no reports of differences in treatment of Syrian nationals.

[322] Cour administrative d'appel de Paris, 5 juill. 2012, n° 12-00.285.
[323] Cour d'appel de Paris, December 8th 2012, n° 12-04.542, n° 12-04.543 ; Cour d'appel de Paris, June 5th 2013, n° 13-01.776).
[324] Cour administrative d'appel de Versailles, April 3rd 2012, n° 11-01.995
[325] Cour administrative d'appel Bordeaux, February 21st 2013, n° 12-01.875
[326] (Cour administrative d'appel de Bordeaux, June 12th 2012, n° 11-03.127 ; Cour administrative d'appel de Lyon, May 30th 2013, n° 12-02.253).
[327] Journal Officiel Assemblée Nationale, May 14, 2013, questions n°15941, 15513, 17291, 17495, 17497, 18730, 19512 and 20391.Information, identified by Latham and Watkins LLP
[328] Journal Officiel Sénat, June 27, 2013, question n°5010. Information, identified by identified by Latham and Watkins LLP
[329] EASO, Annual Report on the Situation of Asylum in the EU in 2012, Table 6
[330] See, Le Monde, La France accueillera davantage de réfugiés syriens
[331] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[332] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

Germany

Asylum applications and their examination: Germany is one of the main host countries for Syrian refugees. According to information provided by the German ELENA coordinator[333], 7063 Syrian nationals applied for asylum in Germany from 1st January to the end of August 2013. 6549 applications were lodged upon arrival in Germany, and 514 were subsequent applications.

In 2012, 96.3% (7,465/7,755) of first instance decisions on applications by Syrian nationals were positive. This must be compared with the average first instance acceptance rate in 2012 for applicants of all nationalities: 29.2% (17,140/58,765)[334].

Not all of the 2013 applications have been decided yet and many of the decisions taken in 2013[335] relate to applications already filed in 2012 or earlier. 5,604 cases were decided in 2013 up to the end of August. 133 persons obtained asylum according to Article 16(a) of the German Constitution, and 1008 persons acquired refugee status under the Geneva Convention (§60, section 1 of the Aliens Act).[336] Both groups received *a residence permit valid for three years* with the possibility of prolongation. A further 4,184 persons obtained protection against deportation according to §60 sections 2, 33, 4 or 7 of the Aliens Act, which leads to *a residence permit for one year*, with the possibility of prolongation. Only 10 cases were declared inadmissible or unfounded, and 239 were 'decided otherwise', which means that either the person left Germany again or acquired another kind of right to stay, for example as a family member. The overall protection rate therefore reaches 95%.

Positive practice in relation to refugee status recognition

In view of the current situation in Syria, German administrative courts have held that Syrians who have irregularly left Syria and applied for asylum, thus spending a longer time abroad, are likely to be subject to persecution upon re-entry into Syria, due to the suspicion of having dissident political beliefs. This justifies their qualification as refugees according to para 3(4) of the Asylum Procedure Act, in conjunction with para 60(1) of the Residence Act.[337]

[333] Based on the information published by the Federal Office for Migration and Refugees (BAMF) in September 2013

[334] Aggregated data from Eurostat, accessed on 20 November 2013: Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).

[335] See, for example, VG Hannover, judgment 8 May 2013- 1 A5409/12= BeckRS 2013, 51351, identified by McDermott, Will and Emery In May 2013 the administrative court of Hannover accepted the subsequent application of a Syrian national, whose application for international protection was rejected in 2013. The court found that the Arab Spring reached Syria in March 2011 and that violence escalated in the second half of 2011. Moreover, the German government suspended deportations to Syria in April 2011, which was prolonged for another six months on 15 April 2013. Due to continuous escalation of the conflict in Syria the time-limit for such application was met and therefore subsequent application should be granted.

[336] Information provided by the German ELENA coordinator, based on BAMF statistics

[337] Information provided by McDermott, Will and Emery LLP.

Some regional administrative courts have confirmed that subsidiary protection status according to the Residence Act is being granted in a number of cases, which provides for subsidiary protection in the case of a substantial and concrete threat to life (para 60(7)(1) of the Residence Act).[338] General threats to the population can be taken into account by national authorities in the context of a general ruling under paragraph 60(a) (1) of the Residence Act (suspension of deportation order for six months).

A common practice of the administrative courts is to postpone the decision until a clearer political situation comes about in Syria ("after the Civil War"), which may mean that the case is pending for a long time. As long as the court procedure is pending, the cases have suspensive effect, which means that the applicants have a right to stay in Germany, because the asylum case has not been finally decided. As far as cases are decided the courts are willing to give protection against deportation, but less often refugee status or subsidiary protection. There are no recent decisions of one of the 16 higher Administrative Courts or the Federal Administrative Court.[339]

Example of practice in relation to subsidiary protection

The administrative court in Augsburg decided in January 2012 that a Syrian national would face a serious and individual risk to life if returned to Syria, and granted subsidiary protection according to the Residence Act. The court based its assessment on the indiscriminate use of force by the regime in Damascus.[340]

Stateless persons from Syria are treated by national authorities and administrative courts as being equal to Syrian nationals applying for international protection in Germany.[341]

Other forms of protection: Syrian nationals who enter Germany irregularly and have not applied for asylum may receive – according to specific regulations in the counties/Länder - a residence permit on a humanitarian basis.[342] This residence permit is issued for an 18 month period, with the possibility of prolongation.

[338] Information provided by the ELENA coordinator in Germany
[339] Information provided by the German ELENA coordinator in August 2013.
[340] Information provided by McDermott, Will and Emery LLP.
[341] Ibid
[342] Sec 25 para 3 of the Residence Act, which reads:(3) A foreigner should be granted a residence permit where a deportation ban applies pursuant to Section 60 (2), (3), (5) or (7). The residence permit shall not be granted if departure for subsequent admission to another state is possible and reasonable, the foreigner has repeatedly or grossly breached duties to cooperate or serious grounds warrant the assumption that the foreigner a) committed a crime against peace, a war crime or a crime against humanity within the meaning of the international instruments which have been drawn up for the purpose of establishing provisions regarding such crimes, b) committed an offence of considerable severity,c) is guilty of acts contrary to the objectives and principles of the United Nations, as enshrined in the Preamble and Articles 1 and 2 of the Charter of the United Nations, or d) represents a risk to the general public or a risk to the security of the Federal Republic of Germany. "

Dublin transfers: At the moment Germany does not exercise Dublin returns to Greece, Italy or Hungary.[343]

Returns: In April 2011, the German government suspended returns to Syria, which was prolonged for six months on 15 April 2013.[344]

Resettlement and humanitarian admission: Germany has responded positively to UNHCR's appeal concerning resettlement and humanitarian admission. On 20 March 2013[345], the Federal Government announced that a group of 5,000 people who presently live in refugee camps in Lebanon shall be selected by UNHCR for admission to Germany through a Temporary Humanitarian Admission Programme (THAP) for Syrian refugees. The people selected will be those interested in coming to Germany or who have relatives living in Germany. People living in Germany who wish to bring their relatives from Syria have to apply to UNHCR. UNHCR has initiated a telephone hotline where the necessary personal data is collected ("Humanitäres Aufnahmeprogramm Syrien des UNHCR in Deutschland").

The main criteria are as follows:

1. Refugees who have been registered either by UNHCR or Caritas Lebanon up to 31 March 2013. Priority is given to children with parents, women with special needs, and members of religious minorities. A maximum of 3% of the quota is allocated to severely ill people.
2. Persons with the ties in Germany. This refers to people who are family members of those already living in Germany, people who speak German, or have other ties in Germany. A priority is given to applicants who can already present "sponsors" in Germany who will be willing to finance their living costs during their stay in Germany, at least in substantial part, so that no social benefits are necessary. This group is to be selected by the UNHCR branch office in Berlin on the basis of the web-form, and then the UNHCR's branch office in Lebanon will facilitate the humanitarian admission.
3. "People with specific potential for Syrian society" who would like to receive vocational training in Germany, and would be able to assist in the reconstruction of Syria after the end of the conflict.

4,000 persons of the 5,000 places offered shall be selected along the three criteria cited above (1/3 approximately for each criteria) and 1,000 persons will be selected from those registered by the German Embassy in Lebanon.

Reception conditions (for humanitarian admission): Once admitted to Germany through the THAP, Syrian refugees have to stay for two weeks in the centres in Bramsche or Friedland. They will then be distributed to the 16 regions according to a certain statistical procedure, which is also applied for asylum procedures.

[343] Information provided by the ELENA coordinator in Germany
[344] According to the information provided by McDermott, Will and Emery LLP, a general ruling in accordance with para. 60(a) 1 was adopted in April 2011.
[345] Notes and information on how to register an interest in the admission of relatives in the framework of the humanitarian admission programme for Syrian refugees, UNHCR Berlin, June 2013

They will receive a residence permit according to section 23 paragraph 2 of the German Aliens Act, which will be issued for a two year period with the possibility of prolongation. The holder of such a permit will have immediate access to the labour market, may claim for children's benefits, and may take part in an integration course. If no job could be found, a permit holder will be entitled to employment benefits.[346]

The first 107 of these refugees from Lebanon arrived in Germany on 10 September 2013.[347]

Positive political statement

At the end of August 2013, Chancellor Merkel, in an interview with the Mittelbayerische Zeitung, asked people in Germany to welcome Syrian refugees, "since everyone knows what they have been through".[348]

For more information on **detention, reception conditions and Dublin transfers**[349] please see AIDA National Country Report: Germany.

[346] Section 23 paragraph 2 reads as follows: "In order to safeguard special political interests of the Federal Republic of Germany, in consultation with the supreme Land authorities, the Federal Ministry of the Interior may order foreigners from specific states or certain categories of foreigners defined by other means to be granted approval for admission by the Federal Office for Migration and Refugees. No preliminary proceedings shall take place pursuant to Section 68 of the Code of Administrative Court Procedure. The foreigners concerned shall be issued with a residence permit or settlement permit, in accordance with the approval for admission. The settlement permit may be issued subject to a condition restricting the permissible place of residence. The residence permit entitles the holder to pursue an economic activity.

[347] See UNHCR Briefing Note, 10 September 2013: **107 Syrian refugees to depart Lebanon for temporary relocation in Germany**

[348] See http://news.yahoo.com/merkel-urges-germans-welcome-syrian-refugees-111501775.html

[349] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

Greece

Asylum applications and their examination: It is difficult to provide a precise number of Syrians who have fled to Greece due to persisting problems with the registration of asylum seekers. In 2012 and the first quarter of 2013, 9,203 Syrians were arrested for irregular entry[350] and 420 Syrians lodged new asylum claims[351]. The actual numbers of Syrians entering Greece is likely to be much higher in view of its location. Moreover, systematic push-backs of Syrian asylum-seekers from **Greek** sea and land borders to Turkey, as well as cases of severe ill-treatment occurred during these push-backs, have been documented.[352]

The majority of people arriving from Syria do not apply for international protection in Greece for various reasons, including a lack of trust in the asylum system or ties to Syrian communities in other EU Member States. There have also been reports of Syrians who have repeatedly attempted to register their asylum application without success, due to extremely limited possibilities to actually register a claim, particularly at the Attika Aliens Directorate.

Negative practice

The daily newspaper "Efimerida ton Syntakton" reported the tragic experience of a Syrian family who reached the north-eastern Aegean island of Samos on 21 July 2013. The couple with their two young children, aged 9 months and 3 years, walked for hours after landing on the island. Leaving to seek help, the father was intercepted by the authorities and detained pending deportation. The location of his wife and two children was unknown to him and the authorities. After repeated pleas, almost a month later, the police finally opened a file for the disappearance of his family members.[353] The newspaper further reported that the delayed alert of their disappearance resulted in their tragic death. The burned bodies of the mother with the young children were found on 6 September 2013.

Negative practice

The Greek Council for Refugees documented the case of a group of Syrians in Leros who were first detained for 20 days on Farmakonnisi and then transferred to the Police Department of Leros, without having been informed about the asylum procedure or their legal status and rights.[354]

[350] Greece urged to improve its treatment of Syrian refugees, ECRE Weekly Bulletin, 19 April 2013
[351] Aggregated statistics from Eurostat, extracted on 25 September 2013
[352] See Pro Asyl, Pushed Back, November 2013
[353] Reported by Efimerida ton Syntakton, 26 August 2013 and 9 September 2013. Included into UNHCR Greece Press Review: 24 - 27 August 2013 and 7-10 September 2013
[354] AIDA National Report: Greece, June 2013

For the people who actually submitted an asylum claim, 43% of the claims from Syrians in 2012 were "otherwise closed" rather than adjudicated on the merits.[355] Moreover, the Greek authorities did not take any positive decisions in 2012 and rejected 150 applications of Syrians at the first instance. In the first quarter of 2013, 5 positive decisions were made, while 20 claims were rejected.[356] Applications by Syrian nationals were at times examined under the accelerated procedure.[357]

According to the UNHCR Report 'Syrians in Greece: Protection Considerations and UNHCR Recommendations', the situation has been significantly different at the second instance of the asylum procedure, where appeals committees have not rejected a single asylum application by a Syrian national on appeal in their two and a half years of operation[358].

Reception conditions: Upon arrival in Greece, refugees from Syria, like other third country nationals arriving in an irregular manner, face a number of serious problems. The continued lack of adequate first reception mechanisms at entry points to address basic needs, to ensure appropriate identification, and to provide vital information in a language they understand severely hinders their ability to access the asylum procedure and treatment according to their needs.

Detention: New arrivals are regularly arrested and detained in inappropriate conditions, particularly on islands in the north-eastern Aegean Sea and the Dodecanese, where detention facilities are overcrowded and conditions fall short of applicable international human rights standards.

The European Parliament, in a Motion for a Resolution on 20 May 2013, mentions that 'Syrian refugees crossing the Turkish-Greek border face arrest and unacceptable conditions, and are not afforded the rights and assistance that should be granted to refugees'[359].

Documented evidence of detention conditions for migrants in Greece, which resulted in 11 violations of Article 3 ECHR from 2009 to 2012[360], include a lack of privacy, the lack of maintenance of the buildings, poor lighting and ventilation, hygiene issues, a lack of information, inappropriate food, an absence of appropriate medical treatment facilities, and overcrowding[361]. The UN Working Group on Arbitrary Detention observed in January 2013 that irregular migrants are mixed in with criminal detainees and that detention may take place for months in police holding cells and border guard stations designed for a maximum

[355] Protection of Syrians in the EU; UNHCR's paper for the Informal JHA Council,Vilnius, 18 July 2013
[356] UNHCR, *Syrians in Greece: Protection Considerations and UNHCR Recommendations*, 17 April 2013
[357] AIDA National Report: Greece, June 2013
[358] UNHCR, *Syrians in Greece: Protection Considerations and UNHCR Recommendations*, 17 April 2013 p.3
[359] EP Motion for a Resolution, 20 May 2013
[360] Council of Europe: Commissioner for Human Rights, Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013, 16 April 2013, CommDH(2013)6, available at: http://www.refworld.org/docid/516e76bb4.html [accessed 8 October 2013]
[361] January 2012 Report on Greece by the Committee for the Prevention of Torture of the Council of Europe (CPT)

stay of 24 hours[362]. UNHCR has also received a number of reports of police violence, insults or degrading and inhuman treatment suffered by persons in Greek detention[363].

Until recently (see Positive Practice below), administrative detention for the purpose of removal was ordered in cases of irregular entry and irregular stay in a systematic manner for a prolonged period of time, irrespective of the fact that returns of Syrians could not be implemented.

Furthermore, administrative detention was formerly ordered indiscriminately without taking into consideration the circumstances of each individual case and without sufficient and specific reasoning, as required by international and national legislation for every measure of deprivation of liberty. When released from detention, Syrians were issued with a Police Note instructing them to leave Greece (regularly with a deadline ranging from 7 to 30 days), following which they could be subject to renewed arrest and detention. According to official statistics, 7,927 arrests of Syrian nationals for irregular entry or stay in Greece took place during 2012.

Positive practice

However, the Hellenic Police have recently issued a circular order suspending the execution of administrative orders for the detention, expulsion and the return of Syrians not in possession of valid documents, and ordering the release of Syrians already in detention.

Major General Emmanuel Katriadakis of the Greek Ministry for Public Order and Citizen's Protection has said that an order has been in effect since 9 April 2013, according to which Syrians may only be detained for 'a few days' in order to identify their origin.[364]

Returns: According to official statements, no Syrian national has been deported by Greece in the course of 2012. According to information by the Hellenic Police, in the first eleven months of 2012, 44 Syrians returned voluntarily to countries neighbouring Syria. However, UNHCR has received testimonies from Syrians concerning informal forced returns (push-backs) or attempted informal returns to Turkey. Moreover, human rights organisations have made similar reports of such testimonies.[365]

[362] OHCHR - UN Office of the High Commissioner for Human Rights: Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece (21 - 31 January 2013), 31 January 2013 (available at ecoi.net)
http://www.ecoi.net/local_link/238325/347421_en.html (accessed 08 October 2013)
[363] See UNHCR news item, 31 January 2013.
[364] Greece urged to improve its treatment of Syrian refugees, ECRE Weekly Bulletin, 19 April 2013
[365] UNHCR, *Syrians in Greece: Protection Considerations and UNHCR Recommendations*, 17 April 2013

Since April 2013, there has been a six-month suspension on all return orders of Syrians, with the possibility of renewal every six months until the situation is back to normal.[366] The issuance of the above mentioned "six-month suspension" decision after the first expulsion/return order provides no right in relation to reception conditions (housing), no right to work, and no right to healthcare. It is not clear whether the suspension entails the release of asylum seekers from detention. Furthermore, there is no provision concerning people coming from Syria who are not nationals of Syria (e.g. Palestinian refugees, Iraqis, etc.). Finally, according to this order, Syrians are not allowed to stay in Athens.[367]

For more information on **detention, reception conditions and Dublin transfers**[368] please see AIDA National Country Report: Greece.

[366] See UNHCR Greece Syria Press Conference in April 2013. See also: Greece urged to improve its treatment of Syrian refugees, ECRE Weekly Bulletin, 19 April 2013

[367] Information provided by the Greek ELENA Coordinator from GCR

[368] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

Hungary

Asylum applications and their examination: According to the information provided by the Hungarian ELENA coordinator, no official public statement has been issued by the Hungarian government in relation to the treatment of Syrian asylum seekers. However, the Office of Immigration and Nationality (OIN) uses country of origin information in relation to Syrian nationals that recognises that the situation is dangerous for all (i.e. within the meaning of 'indiscriminate violence', under Article 15(c) of the Qualification Directive[369]) regardless of the asylum seeker's personal circumstances.

Statistics published by the Office of Immigration and Nationality (OIN) reveal 145 new applications submitted by Syrians in 2012, and 298 from January to the end of May 2013[370].

Negative practice

The statistics for April 2013 show that 6 asylum applications from Syrian nationals were rejected without even being examined on the merits, which gives rise to concerns regarding respect for the rights of Syrian asylum seekers in Hungary.[371]

According to statistics of the OIN, in 2013 no Syrian applicant was granted refugee status[372], while 21 people were granted subsidiary protection at the administrative instance[373]. In the majority of cases, subsidiary protection is being granted on the basis of the Article 15(c) of the Qualification Directive. The Asylum Act implements the Qualification Directive and fully provides for the opportunity to claim international protection in Hungary. The courts consistently apply this principle in practice, taking into consideration both the applicant's subjective circumstances and the objective status of his or her country of origin. The courts effectively apply Article 15(c) of the Qualifications Directive, citing it and the related judgments of the European Court of Human Rights. For example, the courts will assess whether there is a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.[374]

[369] Council Directive 2004/83/EC http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML
[370] Statistics provided via the ELENA Coordinator in Hungary
[371] Information provided by the ELENA Coordinator in Hungary
[372] Information as of May 2013
[373] According to slightly different statistics from Eurostat, accessed on 25 September 2013, the first quarter of 2013 saw 20 first instance decisions, half of which were positive. In agreement with the OIN statistics, none were grants of refugee status. Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).
[374] Judgment no. 3.K.35.586/2010/11, Metropolitan Court of Justice, identified by Kinstellar LLP

Example of practice

The situation in Syria has been qualified by the Metropolitan Court of Justice[375] as "reaching the level of crimes against humanity", which gives rise to at least subsidiary protection under Article 15(c) of the Qualification Directive. The assessment is made on the basis of country reports, public knowledge and information provided by the applicant and the immigration authority. If the court finds that:

- Violence within the country is becoming increasingly unpredictable,
- A large section of the population is threatened or seriously injured due to deteriorating domestic policy, economical, security conditions,
- Anarchy is predominant,
- There is almost a complete lack of life and property security, or
- There is a tendency of insecurity and hopelessness due to the situation changing (usually worsening) from day to day,

…then no specific danger has to be proven beyond a reasonable doubt by the applicant in order for them to qualify for international protection. This is because persecution, harm or other serious disadvantage will most likely occur and cannot be risked, thereby justifying international protection[376]. In addition, the court is required to assess any changes occurring in the situation until the date of passing down judgment[377]. Thus, if the situation improves and the conditions set out in Article 15(c) of the Qualification Directive no longer apply, international protection may not be granted.

Example of practice

A recent judgment of the Metropolitan Court of Justice[378] concerned a Syrian national who sought asylum on the basis that he feared persecution due to his political actions against the Syrian government. In 2005, the applicant was denied refugee status due to his involvement in drug dealing and his subsequent imprisonment. The applicant participated in a series of demonstrations in 2011 held before the Syrian embassy in Budapest. He re-applied for asylum in September 2011 and, even though the immigration authority rejected his application, the court reviewing the decision granted refugee status on grounds of a well-founded fear of being persecuted based on activities engaged by the

[375] Judgment no. 6.K.30.649/2012/13, Metropolitan Court of Justice, identified by Kinstellar LLP
[376] Judgment no. 3.K.35.586/2010/11, Metropolitan Court of Justice, identified by Kinstellar LLP
[377] Judgment no. 6.K.31.062/2011/15, Metropolitan Court of Justice, identified by Kinstellar LLP
[378] Judgment no. 6.K.30.649/2012/13, Metropolitan Court of Justice, identified by Kinstellar LLP

applicant since he left Syria. The court took into consideration that the situation in Syria had deteriorated so much that, due to the high number of those displaced and fatalities, *it had reached the level of crimes against humanity*.

In another case[379], the Metropolitan Court of Justice held, on the basis of country reports and public knowledge, that the increasing indiscriminate violence significantly affecting the civil population, even where primarily military facilities are targeted by armed forces, can justify international protection.

Detention: There is no data available on detention of Syrians following the adoption of the new legislation that provides for "asylum detention"[380]. However, during the Hungarian Helsinki Committee visit to detention facilities in the summer of 2013, no Syrian nationals were held in detention. However, HHC is concerned that detention practice could worsen in the future.[381]

Returns: No public statement has been issued on the moratorium of returns but, according to the HHC's experience, returns have not taken place since spring 2012.

Family reunification: There is no special procedure for the family members of Syrian refugees. They can reunite in the normal family reunification procedure and no preferential treatment is provided, even for those family members that flee an armed conflict.

Once a decision granting refugee status is issued, the family has six months to apply for family unification with more favourable conditions. They only have to present the decision granting asylum to the family member in Hungary, valid travel documents for the family members, and the evidence for the family link (no official documents can be required though). If the six-month deadline for the more favourable treatment has passed, the family members have to prove that they can cover their expenses in Hungary (living, accommodation, health care insurance). A similar procedure is also envisaged for the beneficiaries of subsidiary protection. However, they must always prove that they can support themselves, that their housing will be arranged, and they have health care insurance for the entire time of their stay.

According to information provided by the Hungarian ELENA coordinator, those with refugee status receive a Hungarian ID card (although not a residence permit, it is the same plastic card as issued for Hungarian nationals) for 10 years from the date of recognition. Beneficiaries of subsidiary protection receive the same ID card for 5 years. This is the major difference between the protection statuses. Alongside this difference, the right to family unity and access to citizenship is also significantly hindered in the case of beneficiaries of

[379] Judgment no. 6.K.31.775/2011/9, Metropolitan Court of Justice, identified by Kinstellar LLP

[380] On 1 July 2013, amendments to the Asylum Act entered into force by means of Act XCIII of 2013, providing for the detention of asylum seekers in 'asylum detention'. Asylum detention will be based on different legal grounds than immigration detention, which is regulated by the Third Country Nationals Act, but many of the rules relating to judicial review and detention conditions are quite similar. For more information see AIDA National report: Hungary

[381] The information provided by the ELENA coordinator in Hungary in summer 2013

subsidiary protection. For the latter, OIN argues that since subsidiary protection is temporary, beneficiaries are not entitled to obtain Hungarian citizenship.

The HHC reported that family members of the Syrian nationals, provided with protection in Hungary, are facing difficulties with getting family reunification visas where they have no valid passports. The agency is advocating before the OIN to adopt a practice for Syrians similar to the one in Switzerland, whereby a family reunification visa can be attached to other travel documents, such as *laissez-passes* or the EU unified format forms, instead of requiring a passport.

Resettlement: According to UNHCR[382], Hungary accepted to resettle 10 Syrian refugees in response to the 2013 resettlement and humanitarian admission appeal.

For more information on **asylum procedure**, **detention, reception conditions and Dublin transfers**[383] please see AIDA National Country Report: Hungary, as there were no reports of differences in treatment of Syrian nationals.

[382] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[383] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

Republic of Ireland

Access to the territory and asylum procedures: In general Syrian nationals do not encounter difficulties greater than the difficulties that persons of other nationalities have in attempting to access the territory.

Refusal of leave to land

11 people who presented as Syrian nationals at an Irish border were refused leave to land in 2012, three of whom were subsequently permitted to enter the State having made an application pursuant to the Refugee Act, 1996 (as amended). The remaining eight persons were returned to their last port of departure.[384]

Asylum applications and their examination: According to EASO, in the first quarter 2013, 20% of all grants of refugee status in Ireland were to Syrians (5 cases).[385] Out of 15 positive decisions in 2012 for Syrians[386], all applicants were granted refugee status[387].

To the knowledge of the Irish Refugee Council's (IRC) Independent Law Centre, Convention grounds argued in relation to Syrian refugee claims can include: imputed political opinion (on the grounds that the person has made an asylum claim abroad); imputed political opinion (professional and well educated and professional persons who are imputed to have a political opinion for or against a particular group); political opinion (i.e. pro or anti Syrian regime); religion (Sunni, Shia, Allawite etc.); race (Sunni 'race', Allawite 'race'); particular social group (single females, females without protection).

Dublin transfers: According to Irish Minister for Justice, Equality and Defence, Alan Shatter, since March 2011 no Syrian national has been transferred from Ireland to Greece under the Dublin system.[388]

Returns: According to Irish Minister for Justice, Equality and Defence, Alan Shatter, since March 2011, no Syrian national has been deported from Ireland.[389]

Resettlement: In response to a flash appeal by UNHCR, Ireland initially agreed to accept 30 persons from Syria for resettlement in April 2013[390]. This was in addition to the annual

[384] Alan Shatter Written Answers 29 January 2013
[385] EASO, Quarterly Asylum Report, Q1 2013, Table No 1
[386] It should be noted that 15 new asylum applications were submitted by Syrian nationals the same year. See Eurostat data, accessed on 25 September 2013. Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).)
[387] Eurostat data, accessed on 26 August 2013
[388] **Alan Shatter**, Written Answers: Human Rights Issues, June 13, 2013
[389] Ibid

UNHCR-led resettlement programme in which Ireland participates. However, according to the UNHCR[391] in October 2013, Ireland has accepted to resettle 90 Syrian refugees.

Family reunification: There is no special procedure or mechanism to grant asylum to family members of recognised refugees in Ireland who are still in Syria. Minister Alan Shatter has stated that applications can only be made by persons when they are in Ireland, and that applicants should seek asylum in the first safe country they reach.[392]

Those who have been granted refugee status or subsidiary protection in Ireland are entitled to make a family reunification application to the Minister for permission for a family member to enter and reside in the State.

For more information on **detention and reception conditions**[393] please see AIDA National Country Report: Republic of Ireland, as there were no reports of differences in treatment of Syrian nationals.

[390] **Alan Shatter** Written Answers: Refugee Resettlement, April 16, 2013,
[391] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[392] **Alan Shatter** Written Answers to the Parliamentary question from Dara Calleary TD; Dept. Of Justice and Equality: Refugee Status, Nov. 6, 2012 – Information provided by the ELENA coordinator in Ireland.
[393] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

The Netherlands

Asylum applications and their examination: There is currently no statistical data available on the recognition rates in the Netherlands, however according to provisional data published by Eurostat there were 575 asylum applications from Syrian nationals in the Netherlands in 2012.[394]

At the end of February 2013, the Dutch authorities started a pilot project regarding the asylum applications of Syrian nationals. The Immigration and Naturalisation Service (IND) tries to handle all Syrian applications within the short regular procedure and in most cases the asylum seeker is already granted a residence permit after four days. During these four days the following steps are taken:

Day 1: formal submission of the asylum application and the first interview by the IND
Day 2: review of the first interview with the lawyer
Day 3: second interview by the IND
Day 4: review of the second interview with the lawyer and/or granting of asylum[395]

Furthermore, the government has official policy guidelines in relation to the international protection applications by Syrians. According to the available country of origin information, serious human rights violations against Syrian civilians perpetrated by the Syrian authorities are widespread. It is therefore deemed likely that persons returning to Syria run a real risk of treatment contrary to Article 3 ECHR. An asylum seeker from Syria is eligible for protection under Article 3 ECHR when the following conditions are met:

- The asylum seeker does not qualify as a refugee
- The asylum seeker is not an active supporter of the Syrian regime
- There are no reasons to withhold a permit due to the fact that the asylum seeker has committed offences which exclude an asylum seeker from protection.

Subsidiary protection in the Netherlands is normally provided in accordance with Article 15(b) of the Qualification Directive.

Resettlement: According to UNHCR[396], the Netherlands has accepted to resettle 250 Syrian refugees.

For more information on **detention, reception conditions and Dublin transfers**[397] please see AIDA National Country Report: the Netherlands, as there were no reports of differences in treatment of Syrian nationals.

[394] Eurostat data extracted on 25 September 2013. Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).)
[395] AIDA National Report: the Netherlands
[396] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013

Norway

Access to the territory and asylum procedures: There is no evidence of new procedures that would facilitate access to Norway for Syrians in need of international protection.

Asylum applications and their examination: According to statistics from the Norwegian Directorate of Immigration (UDI), 137 Syrian asylum applications were received in the second half of 2011, 327 in 2012, and 463 in 2013 (up to the end of August)[398]. UDI's first instance decisions records for Syrian applicants in 2011-2013[399] are revealing. In 2011, only 8 decisions out of 111 were positive[400], with the remaining rejected, withdrawn or subject to Dublin transfer. However, in 2012, 319 decisions included 56 grants of refugee status[401] and 188 grants of subsidiary protection[402]. In 2013 up to mid-September, there were 153 refugee status grants and 257 subsidiary protection grants, out of a total of 484 decisions.

According to information of the Immigration Appeals Board (UNE) (for second instance decisions) for the second half of 2012, the UNE processed 190 applicants for asylum who claimed to be Syrian (100 of which were subsequent application appeals). 160 applicants were granted subsidiary protection based on the security situation in Syria. The 30 persons who did not get protection had either left Norway or were not considered credible regarding their Syrian citizenship[403].

Beneficiaries of protection pursuant to Article 28 of the Immigration Act of 2008 (refugee status and subsidiary protection beneficiaries) are entitled to similar residence permits: where the applicant's identity was substantiated by documentary evidence, a three-year residence permit was granted. In cases without documentation, Syrian identity was assumed, and a one-year residence permit was granted, subject to future ID monitoring. The beneficiaries of international protection will be entitled to a permanent residence permit if the conditions for protection are present after three years.

Family reunification: There are no special measures to facilitate family reunification for Syrian refugees with their family in Norway. The Norwegian embassy in Beirut has been directing that applications for family reunification must be made from Amman in Jordan. Applications made in Lebanon have been rejected. Applicants in Lebanon must therefore risk the dangerous journey to Amman through Syria[404].

Resettlement: On 19th September 2013, the Ministry of Foreign Affairs announced a proposal to accept the resettlement of 1,000 Syrian refugees, on top of the existing annual

---

[397] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation
[398] UDI website asylum application statistics (accessed on 17 September 2013)
[399] UDI website asylum decision statistics (accessed on 17 September 2013). Note that consideration of asylum applications and appeals by the UDI and the Immigration Appeals Board was suspended from April 2011 to June 2012 due to the unpredictable nature of the Syrian security situation.
[400] Including refugee status, subsidiary protection (see below) and Protection on humanitarian grounds pursuant to Article §38of the Immigration Act of 2008
[401] Refugee status pursuant to Article §28 (1)a) of the Immigration Act of 2008
[402] Subsidiary protection pursuant to Article §28 (1)a) of the Immigration Act of 2008
[403] UNE website, 2012 report on Syria (accessed on 17 September 2013)
[404] Aftenposten news website (accessed on 17 September 2013). Article published on 12 September 2013.

quota with UNHCR of 1,200[405]. However, this proposal is subject to an approval vote by Parliament, which is unpredictable in light of the forthcoming election.[406]

Returns: Forced returns to Syria of rejected Syrian applicants for asylum have been suspended since 28 April 2011. This, however, has not affected the operation of the Dublin II Regulation.

[405] http://www.regjeringen.no/nb/dep/ud/pressesenter/pressemeldinger/2013/syria_flyktninger.html?id=735913
[406] Information as of the end of September 2013

Poland

Access to the territory: In general Syrian nationals do not encounter difficulties greater than the difficulties that persons of other nationalities have in attempting to access the territory.

Example of practice

Information provided by the Belarusian Helsinki Committee and also reported in Belarusian news[407] suggests that on 3 January 2013 two Syrians tried to cross the Polish border in Terespol and were refused entry. On 18 January 2013 the Helsinki Foundation for Human Rights in Poland (HFHRP) sent a letter mentioning this case to the Commander-in-Chief of the Border Guard Headquarter, to the Head of the Office for Foreigners, to the Secretary of State in the Ministry of the Interior and to the President of the District Court in Biała Podlaska. The letter pointed at general problems with accessing the procedure for the border crossing point in Terespol. In his response from 21 February 2013 the Secretary of State in the Ministry of the Interior confirmed that there was such a case. He confirmed that two Syrians, staying lawfully in Russia as foreign students, tried to cross the border on 3, 4 and 5 January 2013, claiming that they wanted to go to Germany or Sweden. He wrote that, since they had no document which would entitle them to cross the border, they were refused entry.[408]

Asylum applications and their examination: Poland has adopted a policy regarding the examination of asylum claims by Syrian applicants, which envisages that they will be granted refugee status or subsidiary protection provided their nationality is established.[409]

According to the official statistics of the Polish Office for Foreigners, in 2012, five applicants were granted subsidiary protection and the cases of 24 persons were discontinued. UNHCR notes that almost all cases were discontinued because the applicant had left Poland.

In 2013, as of the end of June, 8 applicants were granted refugee status, 8 received subsidiary protection and 97 applications were discontinued. There has been one rejection so far in 2013.[410]

Family Reunification: In Poland, family reunification rules for those with refugee status and subsidiary protection are the same. Practice may differ across the voivodeships (provinces),

[407] See: http://naviny.by/rubrics/disaster/2013/01/08/ic_news_124_408625/
[408] Letter from the Secretary of State in the Ministry of the Interior from 21 February 2013 no DPM-WAM-078-4/2013
[409] The letter from the Head of the Office for Foreigners to the Helsinki Foundation for Human Rights no DPU-07-1410/2013 from 22 February 2013
[410] See: http://www.udsc.gov.pl/Statystyki,229.html

but normally (translated) official documents attesting to the relations are required[411]. According to information provided by the Polish ELENA Coordinator, DNA tests are not imposed, but DNA evidence can assist in proving the relations.

Residence Permits: The duration of residence permits is 3 years for those with refugee status, and 2 years for those with subsidiary protection[412].

Returns: Poland has declared a moratorium on returns to Syria.

Negative practice

HFHRP reported on the case of a Palestinian granted refugee status in Syria, who was then refused protection in Poland and issued a return order to Iraq by the Polish authorities.[413]

Resettlement: There is no indication that Poland has positively responded to UNHCR's pledges to accept Syrian nationals under humanitarian admission or resettlement programmes.[414]

For more information on **detention, reception conditions and Dublin transfers**[415] please see AIDA National Country Report: Poland, as there were no reports of major differences in treatment of Syrian nationals.

[411] According to information provided by the Polish ELENA Coordinator
[412] According to information provided by the Polish ELENA Coordinator
[413] No information is available on whether the return has been enforced
[414] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[415] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

Portugal

Access to the territory and to the asylum procedures: No specific difficulties in accessing the territory or procedure have been reported by Syrian asylum seekers.

Positive practice

The legal team of the Portuguese Refugee Council (CPR) has been able to obtain access to all asylum seekers at Lisbon airport and provide them with the same legal guidance that is provided to applicants within Portuguese territory.

Asylum applications and their examination: No official statements, policies or practices concerning the examination of applications for international protection from Syrian nationals have been issued by the Portuguese government. It is also not envisaged that such government policies will be created.[416] From January 2012 until end of August 2013, 89 Syrians applied for protection in Portugal. All claims from Syrians that were submitted either at border points or in Lisbon International Airport have been admitted to the second stage of the asylum procedure. No final decisions have been taken yet, due to the fact that the great majority of applicants have left the reception facilities. To the ones remaining in-country, it is expected that they will be granted subsidiary protection (humanitarian protection under article 7 of Asylum Act).

Detention: Asylum seekers applying for asylum at the border points could be detained at the "Temporary Installation Centres" located at Lisbon and Oporto airports during the admissibility stage (five working days). This represents the only detention-like situation in national asylum procedure. After this initial period, admitted asylum seekers are entitled to enter national territory and are provided with a Provisional Residence Permit.

Reception: The same reception conditions (at the Reception Centre for Refugees of the CPR) and assistance is provided to Syrian refugees as to other nationalities. In 2012 and 2013, CPR witnessed worrying shortcomings in the reception system in Portugal, in general due to a significant increase in asylum claims, with consequent delays in asylum procedure. This resulted in serious overcrowding, undignified living conditions and security incidents at the CPR's Refugee Reception Centre, the only existing accommodation for asylum seekers in the admissibility stage. For example, at present it has 70 residents, despite an official capacity of 42 residents. 27 adult asylum seekers are placed outside the Centre due to overcrowding. The Social Security Services that suspended all social allowances to admitted asylum seekers are slowly resuming their provision of support. Currently an admitted asylum seeker is immediately flagged to the Social Security Institute through a social report

[416] All information on this page provided by the ELENA Coordinator in Portugal

prepared by CPR. The period before assistance is transferred from CPR to the Social Security Services now ranges from 1.5 to 2 months.

The majority of Syrian asylum seekers leave the Reception Centre upon arrival. This might be explained by inadequate reception conditions and the small support/allowances that asylum seekers receive in Portugal. Nevertheless, this pattern is not noticeable among other groups of asylum seekers in Portugal.

Returns: No returns have been enforced by the Portuguese government to Syria or to the countries in the region.

Resettlement: Portugal has offered resettlement places for Syrian refugees within their 30 refugee resettlement quota for 2013.

Spain

Access to the territory and the asylum procedures: From September 2011[417], when Spain imposed transit visas on Syrian nationals, until the end of 2011, only three persons of Syrian nationality managed to enter the Spanish territory and apply for international protection. However, in 2012, 255 persons applied for protection, mostly in Barajas airport in Madrid.[418] In the instances where Syrians in need of international protection could not cross the border due to the absence of a visa, they applied or tried to apply for international protection at the border checkpoints.[419] According to the information provided by the ELENA coordinator from CEAR, almost 50 Syrian nationals applied for protection in Barajas airport in the 1st half of 2013. However, the majority of Syrian asylum seekers in Spain either entered the country on a tourist visa or were already present in Spain.

Negative practice

Mrs. Houda and her husband lived in Spain together with her son.[420] When she got pregnant with the second and third child, she travelled to Syria to give birth close to her family. Shortly after she gave birth to her third son, the Syrian conflict started. They had to leave Damascus as the neighbourhood was being bombed and many neighbours, family and friends were killed. Her brother-in-law, who served in the army and refused to shoot civilians, was arrested by the police and tortured. In the end, they had to leave Damascus and paid bribes to pass through the United Arab Emirates to get to Spain, where they had resided for many years and had a residence permit and many family members. The infant baby, who did not have a residence permit in Spain, could not leave the country with them. Upon arriving at Barcelona airport, police withdrew Mrs. Houda's residence and offended her, saying that she will be expelled. All this happened despite being a resident, despite UNHCR's recommendations, and despite the war in Syria. When Mrs. Houda managed to enter Spanish territory, she requested asylum at the Barcelona El Prat airport. Her case was pending at the time this report was written. Her husband sought family reunification with the baby, who stayed with the grandparents in a refugee camp, but this application was refused. At the time of writing this information note, the appeal against this refusal was also pending.

[417] Information provided by Latham and Watkins LLP. It should be noted that Spain was the first EU Member State to impose transit visas.
[418] La situación de las personas refugiadas en España Informe 2013 : CEAR. Unofficial translation from Spanish by ECRE.
[419] Information provided by the Spanish ELENA coordinator from ACCEM
[420] La situación de las personas refugiadas en España Informe 2013 : CEAR. Unofficial translation from Spanish by ECRE

Asylum applications and their examination: The Spanish authorities suspended the examination of asylum claims submitted by Syrian citizens since the beginning of the armed conflict in March 2011, awaiting an EU common position on the issue. In December 2012, it was decided that everyone seeking international protection, who could prove their Syrian nationality was to be granted subsidiary protection. Since October 2012, the Spanish courts have recognized[421] the worsening of the political situation in Syria, based on UNHCR reports recommending all states to provide some kind of international protection to Syrian citizens until the political situation stabilizes and people can be returned safely and in a dignified manner. The Spanish Supreme Court[422] has ruled to grant subsidiary protection to some Syrian citizens on the ground of the real risk of serious harm if returned to Syria due to the existing political conflict, which is considered as an "evident fact". Evident facts are those that do not need to be proved, as a result of being general and absolutely evident[423]. The Supreme Court stated that the Syrian conflict cannot be contested due to the amount of general information that the media publishes on a regular basis and the resolutions and recommendations made by numerous international agencies.

The Office of Asylum and Refugees introduced a nationality test into the interview in order to prove the nationality claimed by applicants. Syrian Kurds were subjected to two nationality tests. Most Syrian Kurds found it difficult to respond to questions about Syria which related to Damascus, in particular as they had never been there and were therefore not able to answer questions concerning, for example: location of mosques, names of hospitals, pharmacies, etc.[424]

Negative practice

A Syrian couple of Kurdish origin, who were traveling with their five children, four of whom were minors, were denied international protection as their nationality was not considered credible. They were subjected to an extremely rigorous nationality test without taking into account the background of the applicants, including that the mother of the family was illiterate. After notification of the denial of entry into Spanish territory, relatives of the applicant's family managed to provide CEAR with the birth records of the applicants, prompting a second request for international protection, which was accepted. Nevertheless, it should be noted that if the documentation had not arrived on time, the family would have been forced to return to the place of origin.

Subsidiary protection granted for Syrian nationals is based on Article 15(c) of the Asylum Law, and is provided in cases where there is a serious and individual threat to a civilian's life

[421] Information provided by Latham and Watkins LLP office in Spain
[422] Supreme Court Judgments of 10 February 2012; 8 July 2011; 21 December 2011, identified by Latham and Watkins LLP
[423] Article 281.4 Spanish Civil Procedural Law.
[424] La situación de las personas refugiadas en España Informe 2013 : CEAR. Unofficial translation from Spanish by ECRE

or person by reason of indiscriminate violence in situations of international or internal armed conflict.

Reception conditions: Reception conditions in Spain are good for beneficiaries of international protection of all nationalities, including Syrians. Refugees and subsidiary protection beneficiaries are entitled to work permits, along with access to public services for employment and the possible recognition of diplomas.

Residence permits: Refugees are entitled to permanent residence permits and beneficiaries of subsidiary protection are entitled to 5-year residence permits.

Family reunification: There is no specific policy in relation to family reunification of Syrian nationals. Syrian refugees or beneficiaries of subsidiary protection enjoy the procedure envisaged for all nationalities. A refugee or a subsidiary protection beneficiary must prove their family ties by providing documents proving family ties that are officially certified and translated into Spanish.[425] Practices concerning family reunification are similar for refugees and beneficiaries of subsidiary protection. The applications by vulnerable persons might be prioritized.

Returns: The Spanish Government is not enforcing returns to Syria and most of the Syrian citizens to whom asylum was denied before the armed conflict began managed to regularize their status via residence permits based on social ties.[426]

Resettlement: According to UNHCR[427], Spain has accepted to resettle 30 Syrian refugees.

[425] Ipacim, Mapping the Conditions of Stay and the Rationale for Entitlements and Restrictions for Family Migrants in Spain, July 2013
[426] Information provided by the Spanish ELENA coordinator
[427] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013

Sweden

Access to the territory and to the asylum procedures: Sweden is one of the main destinations of Syrian asylum seekers, with an average of around 1,800 people per week seeking asylum in Sweden since September 2013[428]. In November 2013 the Swedish Migration Board (SMB) indicated that more asylum seekers will come to Sweden this year and the next than previously foreseen, with an average estimate of 60,000 Syrian asylum seekers in 2014.

In 2012 and the beginning of 2013 a very high overall protection rate in relation to Syrian nationals and stateless persons was recorded in Sweden. In September 2013 the government announced it will give asylum to all Syrian refugees who apply for protection[429].

Even though the Swedish Migration Board (SMB) has decided to grant a permanent residence permit to all those Syrians in Sweden who already have a temporary residence permit[430], this improvement does not mean that applications for asylum can be handed in at a Swedish Embassy abroad. An application for asylum has to be handed in by the applicant to an Application Unit in-person in Sweden. The new decision will also not affect the possibility to get a visa to Sweden'[431].

Examination of asylum applications: In 2013 (prior to the positive change of policy in September 2013, according to which asylum will be granted to all Syrian asylum seekers who apply for protection), 80% of Syrian applications resulted in positive decisions. In 2012, only 1130 persons were recognised as refugees out of 4090 positive decisions (28%) and in the first quarter of 2013 only 21% of applications resulted in a refugee status.[432]

At present, the Swedish Migration Board gives priority to the processing of asylum applications submitted by Syrian refugees.[433] Until September 2013[434] the Swedish government had a policy of granting some Syrians refugee status with permanent residence permits and others subsidiary protection with three-year residence permits. The difference depended on an individual assessment of whether the applicant sought protection from personal persecution (refugee status) or general and indiscriminate violence (subsidiary protection). Prior to September 2013 when the practice changed, 2013 saw approximately half of the asylum-seekers from Syria (Syrian citizens and stateless people from Syria) granted permanent residence permits, and the other half three-year permits[435]. This was an exceptional policy for Sweden, as traditionally the tendency has been to grant permanent residence permits to all those who need protection.[436]

[428] See Swedish Migration Board's website for more information: The conflict in Syria means more asylum seekers
[429] See, for example: http://www.france24.com/en/20130903-sweden-grants-blanket-asylum-syrian-refugees
[430] SMB website announcement: http://www.migrationsverket.se/info/7595_en.html
[431] SMB Website: http://www.migrationsverket.se/info/7586_en.html
[432] Eurostat statistics, accessed on 25 September 2013
[433] AIDA National report: Sweden
[434] See the Swedish Migration Board's website for more information: "New judicial position on Syria opens up for a higher number of permanent residence permits"
[435] See the website of the Swedish Migration Board
[436] AIDA National report: Sweden

This policy has now changed following the new assessment of the situation in Syria by the SMB, according to which "the present safety situation in Syria is extreme and characterised by general violence". Moreover, the Agency estimated that the conflict will continue for a long time ahead. The new policy of granting Syrians in need of international protection permanent residence permits allows them the right to family reunification with immediate family members (husband, wife, partner and children under 18 years of age).[437]

Examples of Practice related to a refugee status recognition

Positive assessment

1. A woman from Syria was provided with temporary residence permit by the Swedish Board of Migration as a person otherwise in need of protection. She appealed against the decision and claimed before the Migration Court that she should be recognized as a refugee. The appellant stated that, if returned to Syria, she risked exposure to honour-related violence or murder, and that the Syrian State would not protect her from this. The Court did not question the appellant's allegations and stated that it was non-contentious that the tense situation in Syria made it impossible to get protection from the authorities. The Court found that the appellant would risk being exposed to violence by her relatives in Syria, in case of a return. The Court estimated that it was probable that the woman, if she returned to Syria, would be subject to gender-based persecution and the appellant was declared a refugee under the Aliens Act.[438]

2. The Migration Court found it non-contentious that a man was a statutory stateless person with residency in Syria. It ruled that Council Directive 2004/83/EC envisages a right for statutory stateless persons to receive refugee status, if they cannot take advantage of the protection they recently had from a UN body, on condition that the protection stopped due to circumstances beyond the persons control. The Court determined that when the authorities in the Member State responsible for the asylum examination have confirmed that the protection from the UN body has stopped, the Member State should recognize the asylum seeker as a refugee. The Court found that the appellant was forced to leave the refugee camp in Yarmouk, which is under UNWRA's mandate, because of factors that he was not able to affect or control, that his personal safety was seriously threatened, and that UNWRA was unable to guarantee such adequate living conditions. Consequently he was recognized a refugee.[439]

[437] http://www.migrationsverket.se/info/7586_en.html
[438] Migration Court 2013-04-19, case nr UM 7479-12, identified by the White & Case Advokat AB in Sweden
[439] Migration Court 2013-02-22, case nr UM 9159-12, identified by the White & Case Advokat AB in Sweden

Negative Assessment:

3. A man from Syria was provided with a temporary residence permit by the Swedish Board of Migration as a person otherwise in need of protection. The Migration Board regarded that the current situation in Syria was extreme and marked by a generalized violence, and, in principle, everyone returned to the country risks being subjected to treatment that would constitute a ground for protection. Since the violence in Syria was not limited to a specific part of the country, the Board considered that there were no possibilities of internal protection. However, the Board regarded the present situation in Syria as not permanent. The man appealed against the decision to the Migration Court and claimed that he should receive a permanent residence permit and refugee status. He stated that he risked being subjected to treatment that would constitute a ground for refugee protection as he was a Christian and was suspected of transporting weapons in his car. He also asserted that he was afraid of being returned to Syria due to the situation of generalised violence. The Court noted that, according to the Migration Court of Appeal case-law, being a member of a vulnerable group is not in itself enough to establish a risk of persecution. Moreover, the Migration Court did not find that the appellant had made it probable that he felt a legitimate fear of being exposed to persecution, either from state or non-state actors. The Court considered that the general situation in Syria could not in itself be a ground for a refugee status.[440]

Dublin transfers: Syrian nationals benefit from the same procedure as beneficiaries of international protection of other nationalities. Sweden interprets the Dublin Regulation rules rather strictly and respects the hierarchy established by the Regulation. The appeals procedure does not differ from the appeal system that applies in the regular procedure, except for the lack of suspensive effect. Occasionally the courts take into account the reception facilities of the destination country but this factor alone is not sufficient for the appeal to be successful. The appeal bodies consider the personal circumstances of the individual, but not recognition rates in the responsible member state, when reviewing the Dublin decision.[441]

[440] Migration Court 2013-03-20, case nr UM 8629-12, identified by the White & Case Advokat AB in Sweden
[441] Please see the AIDA National Country Report: Sweden for more information

Example of practice

The Swedish Migration Board decided to dismiss asylum requests from Syrian nationals and transfer them to France in accordance with the Dublin Regulation. The asylum seekers appealed against this decision to the Migration Court and claimed that a transfer to France would lead to return to Syria. The Court indicated that the Dublin transfer cannot be executed if that would lead to Sweden failing its obligations under the ECHR or the Aliens Act. It ruled that the Migration Board must consider whether the asylum seekers would risk return to Syria from France, and returned the case to the Board for a detailed investigation into a risk of return to Syria from France. [442]

Family reunification: According to the SMB, spouses, partners and children below the age of 18 of Syrians in Sweden can get a residence permit for family reunification in Sweden. Although other relatives are not normally granted residence permits, exceptions apply where there is 'a special relationship of dependence … as a result of which you cannot live separately … which was in force in Syria'. This exception may apply to children above the age of 18, or single parents, for example. The need for financial support or the serious situation in Syria is not a sufficient reason for granting an exceptional residence permit to a relative for family reunification[443].

Returns: The Swedish Migration Board has suspended all forced returns to Syria since the beginning of 2012 due to the rapidly deteriorating security situation in the country.[444]

Resettlement: Sweden is chairing a Core Group on Syrian Resettlement, established by UNHCR, and positively responded to the UNHCR pledge for resettlement and humanitarian admission of Syrians by offering 400 resettlement places.[445]

For more information on **detention, reception conditions and family reunification** please see the AIDA National Country Report: Sweden, as there were no reports of differences in treatment of Syrian nationals

[442] Migration Court 2013-04-17, case nr UM 2739-13, identified by the White & Case Advokat AB in Sweden
[443] See the Swedish Migration Board's website for more information: http://www.migrationsverket.se/info/7620_en.html
[444] See the Swedish Migration Board's website for more information: The Swedish Migration Boards stops all deportations to Syria.
[445] See UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013

Switzerland

Asylum applications and their examination: According to statistics of the Swiss Federal Office for Migration (FOM), 1,129 Syrians applied for protection in 2012, and 696 up to the end of August 2013. 184 applicants were recognised as refugees in 2012 and 53 from 1 January to 31 August 2013. 206 and 211 applicants were provided with a temporary protection[446] in 2012 and 1 January - 31 August 2013 respectively.

From 15 June 2011 to 25 March 2013, the FOM suspended the processing of all applications from Syrian nationals (except for positive decisions), awaiting an assessment of the situation in Syria. During this time, there were no expulsions to Syria.

The FOM decided on 25 March 2013 that Syrian nationals who are not recognized as refugees will generally receive national protection status (temporary protection, encompassing both subsidiary protection and protection on humanitarian grounds)[447]. The exceptions to this are people who can return to a safe third country or those who have committed a serious crime. Asylum applications from Syrian nationals are only treated as third priority and according to the capacity of the Office.[448]

Returns: The current situation in Syria is considered a situation of generalized violence, and return is considered generally unreasonable[449].

Dublin transfers: The Swiss Refugee Council (OSAR) was informed of a transfer of a Syrian family to Italy under the Dublin Regulation. In Italy, they received an order to leave the country and it is unclear whether they applied for asylum there.

OSAR recently represented a Syrian family that was sent back from Switzerland to Greece, where they had lived for several years with a residence permit. However, after having been sent back, they could not prolong their residence permit and only had the status of asylum seekers with pink cards. OSAR asked for re-examination of their case, which was refused by the FOM and by the Federal Administrative Tribunal. In addition, a second asylum application of the family is pending, as they have travelled to Switzerland again in the meantime.

According to the FOM statistics, there were 153 Dublin-Out procedures and 58 Dublin-In procedures concerning Syrian nationals from 1 January – 31 August 2013. There were 49 Dublin-Out transfers and 17 Dublin-In transfers of Syrian nationals in the same period.[450]

Access to protection from abroad: The main difficulty faced by Syrian refugees is getting access to protection in Switzerland from abroad. On 29 September 2012, the possibility to

[446] It has to be noted that it is a national protection status and the rights and entitlements under the national temporary protection, encompassing both subsidiary protection and protection on humanitarian grounds, are different from those of subsidiary protection under the Qualification Directive and its Recast.
[447] Letter to the Swiss Refugee Council (OSAR) on 15 April 2013
[448] The FOM has a very large caseload of pending cases, and they apply categories of priorities to deal with them. Usually, the Dublin cases and clear negative cases are decided first
[449] Article 83.4 Federal Act on Foreign Nationals
[450] FOM monthly statistics August 2013, p. 95.

ask for asylum at a Swiss embassy was abolished with immediate effect and the only legal possibility to get access to protection from abroad is to ask for a humanitarian visa. However, the practice is very strict and until September 2013 only 15 visas have been granted for Syrian nationals without family members in Switzerland. For Syrians, it is particularly difficult because there is no longer a Swiss embassy in Syria and Syrians have to travel to a third country to apply for a humanitarian visa. However, as soon as they are in a third country, the Swiss authorities will reject their application based on the safe third country concept.

Family reunification: Core family members of recognized refugees, including Syrians, can be reunited with their family in Switzerland. Those with temporary protection[451], which is a majority of Syrians in Switzerland, can only apply for family reunification after three years and they must have the means to host and support their family members.

Former positive practice

From 4 September to 29 November 2013, visa requirements for relatives of Syrian nationals living in Switzerland were temporarily eased. Visa facilitations were introduced for non-core relatives (those who are not spouses or children under 18 years) of Syrians in Switzerland[452] and a broader group of Syrians residing in Switzerland were able to apply for family reunification[453]. The family relationship had to be shown credibly and comprehensively with no requirement of providing civil registry documents due to the difficult situation in Syria. The family member concerned had to be either in Syria, or in one of Syria's neighbouring countries, or in Egypt, and had to not have an ordinary residence permit in one of the neighbouring countries. Furthermore, it was not necessary to show that the person would leave Switzerland after expiration of the visa and it was not necessary to show a personal, immediate danger in a third country. If the person did not have a valid passport, the visa could be put onto a form. Moreover, the financial means were not examined.[454]

Negative development

Regrettably, on 29 November 2013, the Swiss Council for Refugees (OSAR) learned that this positive development is no longer in place. The Federal Council's new position[455] is that most of the legitimate visa applications by family members in an immediate emergency have already made use of the facilitation, thereby making further facilitation no longer necessary. Furthermore, in recent weeks Swiss embassies have been faced with a very high number of applications, which lead to waiting times lasting months. As a consequence, the

[451] National protection status (which encompasses both subsidiary protection and protection on humanitarian grounds)
[452] Eligible Syrian nationals should either hold type B or C residence permit or have acquired Swiss nationality
[453] See https://www.bfm.admin.ch/content/bfm/en/home/dokumentation/medienmitteilungen/2013/ref_2013-09-041.html
[454] Information provided by the ELENA Coordinator in Switzerland. For more information see Annex 1
[455] See the Federal Council's press release, 29 November 2013

more stringent measures for non-core family members which were applied before the abovementioned initiative was introduced will once again apply. According to information provided by OSAR, a distinction is made between pending existing and non-pending future applications from non-core family members.

For pending applications, the above visa facilitation is still available, As before, non-core relatives of Syrians in Switzerland and a broader group of Syrians residing in Switzerland are covered, civil registry documents are not required, and the family concerned must be in Syria, a neighbouring country, or Egypt (without an ordinary residence permit). However, new conditions issued by the Federal Office for Migration on 12 November 2013 also apply:

- After 90 days of stay in Switzerland, the family member who was granted a visa has the duty to leave Switzerland again. If this is not possible, the person concerned has to contact the Migration Office of the specific canton (and can apply for protection on humanitarian grounds).
- If the embassy processing the facilitation assumes that the applicant does not have the intention to just “visit” his family member in Switzerland, but on the contrary has the intention to submit an asylum application, the family visa facilitation is not applicable. Instead, the ordinary and very restrictive conditions for a visa on humanitarian grounds apply.
- The financial means of the applicant will be examined. The family members residing in Switzerland have to show that they have sufficient financial means to host their families for the duration of 90 days. According to OSAR, some cantons demand a warranty statement of 30,000 Swiss francs, which is similar to an ordinary visitor visa.
- Visa applications by persons who are more strongly affected by the war than others must be treated with higher priority (OSAR regards this requirement as contradictory to the rule that the intention to make an asylum application is a ground for refusal of visa facilitation).

For non-pending future applications, visa facilitation will not be available. Non-core family members will therefore need to apply for either:

- A visa on humanitarian grounds, and comply with the stringent requirements: (a) The person concerned must show a real and concrete danger to his/her life or physical integrity; (b) The situation must be such that the person concerned cannot seek refuge in another country. (According to OSAR, in cases where the applicant has already reached a third country, the Swiss authorities assume that there is no concrete danger for the person in question any more), or;
- A visitor visa. For such a visa, the host family member must fulfill the abovementioned financial conditions and the relevant embassy must be sure that the applicant will leave Switzerland after his/her visit. (According to OSAR, in the case of Syrians, this is a condition they can never fulfill as they are all potential asylum-seekers).

OSAR knows of many people who fled Syria in the hope of visa facilitation but, due to waiting times of up to five months at the embassies mentioned above, did not manage to get an appointment until after the suspension of visa facilitation. This set-back in essence means that from late November onwards, only **immediate core family members** (spouses and children under 18 years) can apply for family reunification with family regularly residing in Switzerland.

According to the Federal Council's press release, under the visa facilitation scheme, 719 Syrians have entered Switzerland, including 475 women and children. Of these, 385 people have made asylum applications. A total of 1,600 visas have been granted, and a further approximately 5,000 people have reserved at Swiss embassies an appointment to make a visa application[456].

The reunification procedure is regulated in the following way: a family member residing in Switzerland should e-mail his/her relatives documents to prove the family relation (family register, photos, etc.). The relatives must apply for a limited territorial validity visa (LTV) in the closest Swiss Embassy. The visa will only be valid for entry into Switzerland and a stay of 90 days. The costs for the flight and visa must be paid by the relatives in Switzerland or the applicants. Health insurance must also be provided. Once the person has entered Switzerland, s/he can ask the cantonal migration authorities to apply to the Federal Office for Migration to grant them temporary protection (the status that Syrian asylum seekers generally get at the moment and which encompasses both subsidiary protection and protection on humanitarian grounds). If the persons have been individually and specifically persecuted during the civil war, they can also apply for asylum at one of the five federal reception centres. If they do not get refugee status, they will get temporary protection.

For Syrians who do not have any relatives in Switzerland, like for those who do not have core relatives, the stricter regulations mentioned above (humanitarian visa) apply. Given the difficulty in receiving a humanitarian visa, Syrians who do not have the necessary relatives in Switzerland have very little chance of getting legal entry to Switzerland.

Resettlement: Two groups of Syrian families have been resettled in Switzerland (37 and 36 persons) in 2012.457 In September 2013, the Swiss Minister of Justice announced that Switzerland will accept 500 refugees from Syria (and possibly also other countries) over the course of the next three years.458 It has to be noted according to UNHCR459, Switzerland has accepted to resettle 50 Syrian refugees following the 2013 UNHCR's appeal.

[456] See the Federal Council's press release, 29 November 2013
[457] See: http://www.bfm.admin.ch/content/bfm/de/home/dokumentation/medienmitteilungen/2013/ref_2013-03-084.html and http://www.bfm.admin.ch/content/bfm/de/home/dokumentation/medienmitteilungen/2012/2012-09-19.html
[458] Press release of 4 September 2013: http://www.bfm.admin.ch/content/bfm/de/home/dokumentation/medienmitteilungen/2013/ref_2013-09-040.html
[459] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013

United Kingdom

Access to the territory and to the asylum procedures: The UK is one of the countries that has imposed airport transit visas on Syrian nationals, which might be among the reasons for the relatively low number of new asylum applications: 1300 new asylum applications from Syrians submitted in the UK in January-August 2013. [460]

There is currently an immigration concession for Syrians who have immigration leave to stay in the UK. This allows them to extend their leave for a further temporary period in specified ways, but does not in itself permit them to claim asylum. The policy is to manage the situation through temporary immigration measures rather than through inviting asylum claims.[461]

Examination of asylum applications: The UK has one of the highest proportions of refugee status grants, with 865 statuses out of 915 positive decisions in 2012 and almost 100% (770) refugee statuses in the first half of 2013. Syria is also a country of origin with one of the highest success rates at appeal in 2012: 52% (102 successful appeals).[462]

The Upper Tribunal Immigration and Asylum Chamber has the power to make findings of fact which constitute binding 'country guidance' for other cases. Currently there is a country guidance case which says that, due to the high levels of repression in Syria, any forced returnee from the UK, including refused asylum seekers, would face a real risk of arrest and detention and of serious mistreatment during that detention. This does not result in a proactive granting of status by the asylum authorities, but can be relied on by asylum seekers and refused asylum seekers in making representations to the UK Border Agency (UKBA).[463]

Example of practice

Case **KB (Asylum seekers, whose claims were rejected, and forced returnees) [2012] UKUT 426**[464]. This case concerns a Syrian national of Arab ethnicity who was to be removed from the UK as an illegal entrant. The applicant successfully appealed to the First Tier Tribunal. The Secretary of State for the Home Department then appealed to the Upper Tribunal (UT), who, in this judgment, gave new country guidance on Syria (and adjourned the applicant's own appeal to a further hearing). The judgment offers new guidance as regards whether an asylum seeker, whose claim was rejected, would be perceived as being an opponent of the Assad regime simply by reason of having claimed

[460] Aggregated Eurostat data, accessed on 18 November 2013. Please note that Eurostat, according to confidentiality policies, round figures to the nearest 5, and all asylum applications statistics provided by the Member States are based on the number of persons seeking asylum. (i.e. when a single asylum claim refers to several individuals all these individuals are reported).)
[461] AIDA national report: United Kingdom
[462] Based on Eurostat statistics extracted on 18 November 2013.
[463] AIDA National Report: United Kingdom
[464] View the full judgment of the Upper Tribunal here.

> asylum abroad and in the absence of additional aggravating factors. The judgment recognises that, in the context of the extremely high level of human rights abuses currently occurring in Syria, and a regime which appears increasingly concerned to crush any sign of resistance, it is likely that a failed asylum seeker or forced returnee would, in general, on arrival face a real risk of arrest and detention and of serious mistreatment during that detention as a result of imputed political opinion. That is sufficient to qualify for refugee protection. The position might be otherwise in the case of someone who, notwithstanding a failed claim for asylum, would still be perceived on return to Syria as a supporter of the Assad regime (paragraph 32 of the KB judgment).[465]

In order to determine nationality, language analysis testing was re-launched in the UK at the end of 2011, with testing levels increasing during 2012. During this time the use of language analysis testing was closely monitored. This resulted in sufficient evidence concerning those claiming to be of Palestinian national origin and Syrian nationality to permit an Equality Act exemption for targeted testing (which is usually prohibited as discriminatory). This targeted testing came into force in February 2013.[466]

In January 2013, the UKBA adopted an Operational Guidance Note (OGN) on Syria[467], which provides case owners with guidance on the nature and handling of the most common types of claims received from Syrian nationals. For example, case owners are advised to assess protection needs under Article 15(c) of the Qualification Directive only if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR). Case owners are reminded that an applicant who fears return to a situation of generalised violence may be entitled to asylum where a connection is made to a Refugee Convention reason. Alternatively, an applicant may be entitled to Humanitarian Protection because the Article 3 threshold has been met.

It has also been noted that the levels of violence in large areas of Syria change in intensity and location depending on the level of fighting between the government and opposition, and that government forces are additionally targeting urban and rural areas of perceived support for the opposition. Overall, the level of violence in Syria is sufficiently high to meet the threshold for subsidiary protection under Article 15(c) of the Qualification Directive for most applicants who originate from the cities and surrounding areas. Case owners are to nevertheless consider whether the 15(c) threshold is met in each case individually, taking account of the circumstances of the individual applicant. The possibility of internal relocation to another part of Syria should similarly be considered on an individual basis. However, relocation is very unlikely to be possible or reasonable for the vast majority of applicants.

The UKBA Operational Guidance Note also specifies that there is no policy which precludes the enforced return to Syria of failed asylum seekers who have no legal basis of stay in the

[465] Information on judgment provided by Ashurst LLP UK office.
[466] EMN Questionnaire
[467] See the full UKBA Operational Guidance Note on Syria.

United Kingdom. It has been indicated that minors applying in their own right who have not been granted asylum or humanitarian protection can only be returned where (a) they have family to return to; or (b) there are adequate reception and care arrangements. UKBA does not have sufficient information concerning adequate reception, support and care arrangements in place for minors with no family in Syria. Those who cannot be returned should, if they do not qualify for leave on any more favourable grounds, be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

Family Reunification: No specific rules are envisaged for Syrian asylum seekers. The UKBA provides advice on reunification on their website[468]. Dependants can be included in the original application for asylum, if those dependants have travelled with the original asylum seeker to the UK. In addition, reunification is available for recognised refugees and beneficiaries of humanitarian protection in relation to:

- Pre-existing family (husband, wife, civil partner or unmarried/same-sex partner, plus any children under 18 who formed part of the family unit prior to seeking asylum)
- Other family members if there are compassionate reasons why their case should be considered.

Returns: Syrian nationals may in principle return voluntarily to any region of Syria at any time on their own, through the voluntary departure procedure, arranged through the UK Border Agency, or under one of the Assisted Voluntary Return (AVR) schemes. [469] Forced returns to Syria are not exercised.

Resettlement: The UK has not offered to provide humanitarian admission and resettlement places for Syrian refugees.[470]

For more information on **detention, reception conditions and Dublin transfers**[471] please see the AIDA National Country Report: United Kingdom, as there were no reports of differences in treatment of Syrian nationals.

[468] See the UKBA's webpage on family reunification for more information.
[469] UK Border Agency Operational Guidance Note: Syria, 15 January 201. No AVR statistics has been researched by this report.
[470] Please see UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
[471] Please also see The Dublin II Regulation: Lives on Hold comparative report, February 2013 for more information on the general application of the Dublin II Regulation

Annex 2

ELENA Research Questionnaire

Questionnaire on Country Practices re: Syrian Asylum Seekers

Relevant Case Law (Please provide summaries of findings and links to judgments, where available)

1. Are there any leading judgments from courts in your jurisdiction concerning:
    a. Risk upon return to Syria?
    b. Questions regarding Syrian nationality?
    c. Assessment of international protection claims?
    d. Assessment of the situation in Syria for the purposes of subsidiary protection under Article 15(c) of the Qualification Directive (concerning indiscriminate violence in situations of armed conflict)?
    e. Issues regarding subsequent applications?
        i. Besides jurisprudence, are there any practical obstacles that impede filing subsequent applications?
    f. Grounds for exclusion?

Examination of Asylum Claims

2. Has your government issued any official statements, policies, or practices concerning the examination of applications for international protection by Syrian nationals?

    a. Do actual government practices differ from these stated policies? If so, in what way?
    b. Are lawyers assisting with the creation of these government policies?

3. Are Syrian nationals able to access legal services to assist with their asylum claims?

4. Has your government suspended or otherwise delayed the processing of asylum claims by Syrian nationals? If so, please give the timeframes and reasons for any such action.

5. Do Syrian nationals have the same access to reception conditions as asylum seekers from other countries?

6. Are Syrian nationals encountering difficulties crossing the border into your country? If so, please describe.

    a. Are they being granted access to the country on a humanitarian basis?

7. Are Syrian asylum seekers able to access effective remedies under Art. 47 of the Charter of Fundamental Rights of the European Union (Right to an effective remedy and fair trial)?

8. Are Syrian asylum applicants subject to detention? If so, generally on what grounds?

Assessment of Protection Needs (both at the initial administrative level and upon appeal)

9. As regards granting asylum on the grounds of refugee status, what are the most common Convention grounds that arise in the context of applications from Syrian nationals?[472]

10. Are any Syrian nationals granted a humanitarian status based on medical and/or other grounds?

11. On what basis are Syrian nationals granted subsidiary protection (Art. 15(b) or (c) of the Qualification Directive)?

12. Has the internal protection alternative been applied in cases concerning Syrian nationals in your country? If so, in what way?

13. Have non-State actors of protection been considered in the context of Syria? If so, in what way?

Treatment of non-Syrian refugees fleeing from Syria

14. Were there any policy changes regarding the treatment of non-Syrian refugees who fled from Syria (e.g., Palestinians and Iraqis)?

    a. Are their protection needs assessed in a different way than those of Syrian nationals?
    b. Are you aware of any resettlement initiatives concerning these groups?

Statistical Data (Please attach supporting documentation)

15. Do you have official data regarding the number of protection claims filed by Syrians in your country since the outbreak of the conflict in March 2011?
16. Do you have official data regarding the number of Syrian applicants who are granted refugee status, subsidiary protection, and/or other (non-EU-harmonised) forms of protection, both in first instances and appeals?

Returns

17. Does your government enforce returns to Syria?

    a. Has the government placed a moratorium on returns?
    b. When was the last time a Syrian national was returned to the country, if known?

18. Does you government enforce returns of Syrian nationals to other countries in the region? If so, where?

19. Has there been any relevant protection issues related to Syrians and the application of the Dublin II Regulation in your country?

[472] We acknowledge that grants of asylum are not always accompanied with the reasons explaining why asylum was granted as per the Asylum Procedures Directive, thus it may be difficult to determine without examining the case file as a whole.

Family Reunification

20. Does the government facilitate the issuance of visas to family members of Syrian nationals taking refuge in your country?

    a. What evidence is required before the government will issue a visa to family members?
    b. How long does the process generally take?
    c. Are specific vulnerabilities taken into account?
    d. Do practices concerning family reunification differ for those who receive subsidiary or other non-Convention forms of protection?

Annex 3

Bibliography

- Amnesty International, Churches' Commission for Migrants in Europe (CCME), the International Catholic Migration Commission (ICMC), and ECRE Joint statement, Syria Refugee Crisis – EU should do more, 17 January 2013
- Asylum Information Database (AIDA), Not there yet: AIDA Annual Report 2012-2013, 6 September 2013
- European Asylum Support Office (EASO), Quarterly Asylum Report Q1 2013, and Quarterly Asylum Report Q2 2013, 2013
- EASO, September 2013 Newsletter, 30 September 2013
- EASO, Annual Report on the Situation of Asylum in the EU in 2012, 8 July 2013
- European Commission and High representative of the EU for Foreign Affairs, Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions towards a Comprehensive EU Approach to the Syrian Crisis, 24 June 2013
- European Council on Refugees and Exiles (ECRE), Information Note on the Qualification Directive (recast), 7 October 2013
- ECRE, Recommendations to the Cypriot Presidency of the EU, 20 July 2012
- European Commission, Syria Crisis ECHO Factsheet, 7 November 2013
- European Parliament, Resolution: EU and Member State measures to tackle the flow of refugees as a result of the conflict in Syria, 9 October 2013
- Office of the High Commissioner for Human Rights, Updated Statistical Analysis of Documentation of Killings in the Syrian Arab Republic, 12 June 2013
- Parliamentary Assembly of the Council of Europe (PACE), Recommendation 2026 (Provisional version), 3 October 2013
- Pro Asyl, Pushed Back, November 2013
- UK Border Agency, Operational Guidance Note: Syria, 15 January 2013
- United Nations High Commissioner for Refugees (UNHCR), Syria Regional Refugee Response Information Sharing Portal, 2013
- UNHCR, Projected Global Resettlement Needs 2014, 2013
- UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013
- UNHCR, Finding solutions for Syrian refugees: Resettlement, Humanitarian Admission, and Family Reunification, 18 October 2013
- UNHCR, Paper for the Informal JHA Council, Vilnius, 18 July 2013
- UNHCR, Responding to protection needs of displaced Syrians in Europe, June 2013
- UNHCR, Syrians in Greece: Protection Considerations and UNHCR Recommendations, 17 April 2013
- UNHCR, Syria Regional Response Plan: January to December 2013, January 2013
- United Nations, UN Syria Regional Response Plan January to June 2013, 12 December 2012