

## Tools for integration: Harmonising reception conditions

'Reception conditions' refer to accommodation, social assistance, access to legal counselling and information, access to health care, access to the labour market, access to education, special services and provisions for minors, and social contact with the local population.

In Europe the costs and standards of accommodation and social assistance offered to asylum seekers vary widely. Some countries provide the same level of social care to asylum seekers as they offer to their own citizens in need. In others the level of provision is reduced, and yet others place time limits on the provision of services and goods to asylum seekers. Some European countries exclude assistance if another country might be held responsible for an asylum application (see **Briefing Paper 2** on how the responsible country is defined).

Governments have been concerned about these national differences because of fears that asylum seekers were 'shopping' for the best package, rather than seeking refuge in the first safe country. Since 1996 the national governments have been trying to cooperate on reception conditions, but major disagreements have plagued the debates. In many countries, the rise of the far Right and popular tension about the services delivered to asylum seekers have led directly or indirectly to a sick competition between the Member States to reduce reception conditions.

As the European Council for Refugees and Exiles notes '*the reception phase is an integral part of the integration process of refugees and asylum seekers into their host countries. Therefore the quality of reception conditions during the examination of asylum claims is key to the facilitation of their integration*' (Broken Promises, Forgotten Principles: June 2004).

The net result is that in Europe asylum seekers are often completely cut off from any kind of public assistance and are denied help with the most basic needs: shelter, food and health care. Many asylum seekers are unable to support themselves, at least initially, because they have been forced to spend their only resources on fleeing from persecution or torture. Therefore, they may become destitute, homeless, prone to illness and dependent on the good will and support of voluntary or religious organisations.

### EUROPEAN HARMONISATION OF RECEPTION CONDITIONS

Ideally and morally, the creation of European minimum reception conditions should be in line with the existing best practice identifiable in Europe. Rights and services enjoyed should be clearly and objectively defined, rather than open to the discretion of officials. Moreover, these standards should apply to those covered by temporary protection or subsidiary protection.

In April 2001, the European Commission proposed a Directive defining the minimum standards on the reception of asylum applicants in the EU<sup>1</sup>. It required that Member States ensure a dignified standard of living to all asylum seekers, paying specific attention to those with special needs or who are detained. This Directive was adopted in January 2003 (Directive 2003/9/EC), and was due to be implemented nationally by 6 February 2005.

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<sup>1</sup> Directive on minimum standards on the reception of applicants for asylum in the Member States (with particular attention to the situation of children), COM(2001)181 final.

The Directive includes provisions on:

- Information: the obligation to give timely information on the services available to asylum seekers (up to a max. 15 days after the application lodged),
- Right to freedom of movement: the Directive allows Member States to restrict the free movement of an asylum seeker to a specific area or place (detention centres), even making the provision of services linked to a specific location. This reflects the adoption of systems of forced or voluntary dispersal in many Member States. In a number of countries, including Germany, asylum seekers who leave their designated location (which may be limited to 15 square kilometres) effectively lose all rights and are illegalised.
- Families: Member States must try to keep families together, especially in housing.
- Education for children: Member States are obliged to provide schooling to minors on the same basis as their own citizens, although schooling can be provided within accommodation centres, which does not allow the children and young people to fully integrate.
- Employment: Member States are given the right to define how long asylum seekers should be excluded from the labour market. They should provide for the situation that an asylum seeker still waiting to hear the result of their initial claim after one year could enter the labour market. To pursue labour market policies, Member States are at all times allowed to discriminate in favour of their own nationals, EU/EEA (European Economic Area) nationals and legally resident third- country nationals to pursue labour market policies. This will potentially lead to more social exclusion of refugees in the long run.
- Material aid: Member States are required to ensure that asylum seekers have adequate resources for subsistence and a standard of living which do not jeopardise their health. Implementation of this will improve the current situation in a number of countries, including France and Greece.  
Member States can calculate asylum seekers' needs on the basis of means-tested benefits and can require reimbursement of reception costs if they so desire. Any material aid can be delivered in kind (e.g. food vouchers) at the Member States' discretion.
- Health care: asylum seekers have the right to necessary health care and, at least, emergency care and treatment.
- Children and unaccompanied minors: the best interests of children are upheld. The Directive sets out the specific measures necessary to housing, family tracing and representation of unaccompanied minors.

Refugee lawyers have welcomed these minimum standards. Their main criticism being that the Directive provides a framework but does not promote the integration of asylum seekers and thus, refugees, into their host countries.

All these conditions can be withdrawn on a number of grounds. For instance, if an asylum seeker leaves the designated place they have been allocated without permission, whether permanently or temporarily, then the conditions can be reduced or withdrawn. Another example already exists in some countries, e.g. in the UK, reception conditions can be withdrawn or refused if an asylum application is not made at the earliest opportunity (as defined by immigration officials). In the UK, this provision has dramatically increased the numbers of asylum seekers destitute or homeless. However, importantly, the Directive provides a right to appeal decisions to withdraw reception conditions.

Moreover, the situation is bleaker for those granted subsidiary protection (see **Briefing Paper 1**). With subsidiary protection, rights can be reduced down to a tight core, limiting social assistance, health care and education, denying labour market access and integration programmes. This group

could potentially become at risk from exclusion and poverty and be at the mercy of illegal gang-masters and the black economy.

Importantly, Member States are encouraged to maintain better or more favourable conditions. However, traditionally in EU law a so-called 'non-regression' clause is included in Directives. This means that if a country's existing system provides more or a higher level of protection/service than the common EU standards, that country is prohibited from reducing its national standards to the EU base line. This clause is missing from all the EU asylum harmonisation legislation.

There are core principles to be defended in this area. In terms of detention, asylum seekers should enjoy the right to free movement. Asylum seekers are not criminals so detention should only be used in limited circumstances. Open reception centres are preferable as they allow social contact with the local community. Moreover, education should be provided in schools not reception/detention centres.

## WHAT CAN YOU DO?

It is crucial that in the process of implementation of these Directives, national parliaments and governments be monitored and reminded of their human rights obligations towards asylum seekers.

Who to contact?

- Your national members of parliament
- National refugee organisations and NGOs - get involved!

For more information:

- ECRE - [www.ecre.org](http://www.ecre.org)
- UNHCR - [www.unhcr.org](http://www.unhcr.org)
- Christian church organisations' common positions' on EU harmonisation legislation - [http://www.comece.org/upload/pdf/work\\_mig\\_compil\\_030530\\_en.pdf](http://www.comece.org/upload/pdf/work_mig_compil_030530_en.pdf)