



**FEEDBACK TO THE 'ANNUAL REPORT ON THE
SITUATION OF ASYLUM IN THE EUROPEAN UNION
2012' OF THE EUROPEAN ASYLUM SUPPORT
OFFICE (EASO)**

AUGUST, 2013

1. Introduction

Following the invitation by the European Asylum Support Office (EASO) to submit feedback to the **Annual Report on the Situation of Asylum in the European Union 2012 (Annual Report)** and in pursuance of Article 51(4)(b) of the EASO Regulation, **aditus foundation** hereby presents its feedback and suggestions to EASO in the hope that these are found to be useful and constructive.

In this regard, aditus would like to take the opportunity to congratulate EASO for its work, as outlined in the extensive report. We welcome EASO's choice for the new methodology, separating this Annual Report from the Annual Activity Report. It is our opinion that the Annual Report has a very logical and comprehensible structure.

Our present comments are related to the sections in the Annual Report addressing consultation and cooperation with civil society, the new Asylum Package, the Operating Plans and the overview of important countries of origin and transit (in particular the Western Balkan countries) and to the extensive use of the word "*abuse*" throughout the Annual Report.

2. Consultation and cooperation with civil society: consultation prior to the Annual Report publication and practical cooperation in general

aditus has often emphasised in the past that it is of the opinion that a permanent and effective collaboration should be maintained between EASO and civil society. While we recognise the improvements in this regard, we still think some other measures should be adopted to strengthen this cooperation.

2.1 Consultation prior to the Annual Report publication

Even though the EASO Regulation only mentions the obligation of "*call[ing] upon the Consultative Forum*" after the publication of the Annual Report, we would very much appreciate if **civil society could have a word on the Annual Report's content during the preparation period**, thereby enriching it by enabling it to be truly inclusive.

Civil society, and in particular members of the Consultative Forum, was indeed contacted on other occasions (as referred in page 11 of the Annual Report) and these consultations were very important in their own moments and for the specific goals pursued at the time. Notwithstanding, we are of the opinion that a specific consultation process should be held for the sole purpose of exchanging information/data civil society recommends for inclusion in the Annual Report.

2.2 Practical cooperation

While it is widely positive that EASO has been consulting several organisations throughout 2012, we reiterate that EASO's relations with civil society could be designed within a clear and accessible protocol or terms of reference outlining not only the possibilities of civil society input but also, and importantly, the possible/actual follow up measures envisaged or committed by the EASO in response to such input.

We feel that such clarity in the cooperation would improve the quality and even the rapidity of that same cooperation. We also believe that this approach could be applicable to the Annual Report, whereby **the Annual Report could describe the adopted selection criteria for each specific consultation process**: which organisations had been chosen and why, as well as which organisations had not been chosen and why.

3. New EU Asylum Package

One of the aims targeted by the Annual Report is – as instructed by Article 12(1) of the Regulation – to “*improve the quality, consistency and effectiveness of the CEAS*”.

It is our opinion that the Annual Report’s Section 3.1.1. on legislative developments would have better reflected the mission of contributing to the quality of the CEAS had it equally included references to the less positive features of the new pieces of legislation (e.g. diverging national lists of safe countries will still be accepted, unaccompanied children and other vulnerable groups will not be exempted from accelerated procedures)¹, instead of merely reporting the existence of a new asylum package and the improvements it represented.

As is widely acknowledged the new Asylum Package did not only bring promising changes, and we think it is firmly EASO’s role to point out the areas where improvement is still needed.

4. Important countries of origin – the Western Balkans

From the outset, the Annual Report highlights the main flows of applicants for international protection to the EU, one of them being that from the Western Balkan countries (as a concept used in the Report to include Albania and States resulting from the dissolution of the former Yugoslavia).

aditus foundation is of the opinion that it is important to identify the main countries of origin of applicants for international protection, mainly as a very valuable tool for the identification of priorities in the context of the European Union’s (EU) external and aid policy.

Nevertheless, we cannot agree with the systematic association and collectivisation throughout the report of all the countries resulting from the dissolution of the former Yugoslavia and Albania. Whilst we understand that these countries’ applicants for international protection share similarities to consider, we cannot agree with the recurrent assimilation of these countries in one group. **We would rather recommend an approach whereby these countries would be regarded separately and individually, with necessary notes in the report explaining similarities and differences and why it can be also important to consider them together** as a group. In fact, we think that the fact that these countries tend to be grouped together might actually be a constraint in the consideration of each country situation, possibly encouraging or supporting group assessments as opposed to individual assessments of asylum applications.

As a stylistic recommendation, we suggest that whenever these countries are mentioned in the report, reference be made to the other sections in which they are mentioned, since some passages taken alone can result in precipitated interpretations for any reader and in fact do not provide for complete information and clarification of some of the considerations and conclusions.

However, we would like to underline that we were very happy to read (page 34) the observation that it cannot just be assumed that visa liberalisation can be taken alone as a justification for the decision to travel by nationals of these countries. Indeed, we do think there is still some effort to be made in the attempt to fully understand the nature, extent and interplay of various push- and pull-factors within this region.

¹ In this regard, we would like to underline that aditus foundation EASO Monitor blog has dedicated one post to this topic, where two excellent articles were referred to: ‘Common European Asylum System: the real job still needs to be done’ (by the European Council on Refugees and Exiles, in its [26 April Weekly Bulletin](#)) and ‘The second phase of the Common European Asylum System: a brave new world – or lipstick on a pig?’ (by Professor Steve Peers, published by [Statewatch](#)).

In this regard, we think it could be interesting to compare the rejection rate of applicants from the Western Balkans with the MS' lists of safe countries of origin. This would shed light on the factors leading to rejection rates, as to whether these are substantive or procedural factors. Coupled with a deeper understanding of push-factors, this analysis could potentially lead to a conclusion on the need to revise the contents of such lists of safe countries of origin.

5. Specific content of the Operating Plans

As we have stressed on several occasions (e.g. in our feedback to the 2012 EASO Annual Activity Report and on several EASO Monitor blog posts²), aditus is of the opinion that Operating Plans concluded with specific EU MS should be publicly available for reasons of transparency and openness as well as to allow 'external' stakeholders to provide substantive input on the Plans' content, review and effectiveness. We regret that this has not been done and we would have appreciated had the Annual Report referred to this key issue as it is one of general concern.

From our perspective, in order to accurately evaluate the situation of asylum in these countries, it would be crucial to have access to the Plans' content and on the specific manner in which these Plans have specifically contributed to improvements in the national asylum systems.

We would therefore, reiterate our recommendation to EASO for it to be more specific in the Annual Reports as to its activities within the context of the Operating Plans. Although the Annual Report is not intended to be exhaustive, failure to clarify the Agency's activities implemented under its core mandate impedes an analysis of the national and also EU-wide improvements resulting from the application of the Plans.

6. The term "abuse"

aditus would like to express concern at the way the word "abuse" is extensively used in the Annual Report when referring to situations MS would like to avoid for the stated intention of safeguarding the integrity of their asylum systems (e.g. Section 3.2.5).

We understand that these situations might have occurred and continue to occur, but we deeply discourage their automatic categorisation as "abuses", unless and to the sole extent in which the reference to these "abuses" is adequately supported by evidence provided through studies, statistics or other reports (in which case these documentation should be referenced).

Situations that are less welcome by MS are not always and necessarily equivalent to incidents involving asylum-seekers trying to "abuse" the system. Several alternative situations may be given as examples of such situations: varying interpretations and understandings of national legal systems and their rules and procedures as well as divergence as to the gravity of specific country of origin or personal situations within the context of definitions of 'persecution' and/or 'subsidiary protection'.

In this regard, we strongly stress that the right to seek asylum is a universal human rights enshrined in the Universal Declaration as well as in the EU Fundamental Rights Charter. As such, it is contrary to the spirit of the right itself to automatically and categorically label failed asylum-seekers as individuals intent on abusing or exploiting national asylum systems.

² See, e.g., our EASO Monitor blog posts '[Document request denied by the Commission](#)' (2 May 2011), '[Commission rejects request for EASO's Greece Operating Plan](#)' (29 August 2011), '[The Luxembourg Operating Plan is published!](#)' (15 March 2012) and '[Finally, some information on EASO in Greece!](#)' (4 May 2012).

For these reasons, we would encourage EASO to systematically replace this word by more appropriate terms that reflect the variety of situations that could lead to a rejected asylum application.

7. Conclusion

By way of conclusion, we would summarise our feedback by saying that although we believe that the Annual Report has the potential of constituting an excellent tool of information and is overall well organised and structured, we also think that EASO could have more carefully considered some **sensitive issues** (such as the systematic consideration of the Western Balkan countries as a whole and the term “*abuse*”), as well as a more **critical eye to identify needed improvements**.

In our opinion, this identification of needed improvements could have only been done through completeness of relevant information in what concerns the new Asylum Package and the Operating Plans concluded with some EU MS.

29 August 2013
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