

## **Closing note on the Strategic Initiative concerning how the EU Agency for Asylum complies with its fundamental rights obligations and ensures accountability for potential violations (SI/4/2022/MHZ)**

Correspondence - 23/02/2023

**Case** SI/4/2022/MHZ - **Opened on** 11/07/2022 - **Decision on** 23/02/2023 - **Institution concerned** European Union Agency for Asylum |

### **Background**

1. On 19 January 2022, Regulation 2021/2303 [1] creating the EU Agency for Asylum (EUAA) entered into force. In addition to changing the agency's name from the *European Asylum Support Office*, Regulation 2021/2303 also broadened its mandate with a view to creating a more harmonised approach to how Member States handle asylum claims.

2. The EUAA should respect fundamental rights and principles in all its activities. [2] Regulation 2021/2303 sets out similar fundamental rights safeguards to those in place for the European Border and Coast Guard Agency (Frontex) [3]. It obliges the EUAA to introduce a 'fundamental rights officer' [4], a complaints mechanism [5], a 'fundamental rights strategy' [6], and a code of conduct [7] for experts participating in the asylum support teams. In addition, it gives the EUAA's Executive Director the power to take decisions to suspend or terminate the deployment of asylum support teams due to violations of fundamental rights or international protection obligations by the host Member State that are of a serious nature or are likely to persist [8].

3. The European Ombudsman has previously conducted several inquiries looking at the implementation by Frontex of its fundamental rights obligations [9], making various suggestions for improvement.

4. Against this background, the Ombudsman opened a strategic initiative to verify that the EUAA has sufficiently anticipated challenges deriving from its expanded mandate, notably with regard to fundamental rights safeguards and accountability mechanisms.

### **The initiative**



5. In July 2022, the Ombudsman set out a series of questions to the EUAA, related to the changes in its mandate introduced by Regulation 2021/2303. The Ombudsman asked the EUAA about: (i) how it is implementing the fundamental rights safeguards it is supposed to put in place (ii) its role in monitoring respect for fundamental rights in asylum activities by Member States; (iii) its role in collecting and analysing information on the situation in non-EU countries; (iv) its engagement with non-EU countries [10] .

6. The EUAA replied in October 2022. [11] A detailed description of the EUAA's tasks is contained in Annex.

### **Fundamental rights safeguards**

7. The Ombudsman asked the EUAA about the steps it has taken to put in place the fundamental rights safeguards foreseen under Regulation 2021/2303, including the 'fundamental rights officer' [12] , a complaints mechanism [13] , a fundamental rights strategy [14] and a code of conduct [15] for experts participating in 'asylum support teams'. The Ombudsman also asked about how the EUAA is implementing the provision [16] concerning the suspension or termination of deployment due to violations of fundamental rights.

### **Fundamental rights officer**

#### *EUAA reply*

8. Before launching the selection procedure for the fundamental rights officer, the EUAA consulted the European Commission (among other stakeholders) about the vacancy notice, the recruitment process and the composition of the selection committee. This meant that starting the selection procedure took longer than initially expected.

9. The vacancy notice was published on 14 July 2022, with the deadline for applications set for 1 September 2022. Once the selection procedure is completed, the Executive Director will submit a list of candidates to the Management Board, which will decide which candidate to select. The current target date for the fundamental rights officer to take office is March/April 2023.

#### *The Ombudsman's assessment*

10. It is regrettable that, more than one year after Regulation 2021/2303 entered into force, the EUAA has still not appointed the fundamental rights officer. As the EUAA recognised in its reply, the fundamental rights officer is crucial for the implementation of the other fundamental rights safeguards. As the fundamental rights officer has to be consulted in drafting the Fundamental Rights Strategy and updating the code of conduct for persons participating in operational activities, these cannot be finalised. [17] In addition, despite the urgent need for the complaints mechanism to be in place, it cannot be established without the fundamental rights officer being operational. Furthermore, since Regulation 2021/2303 entered into force, the EUAA has signed new or renewed existing operational plans with a number of Member States, even though the



fundamental rights officer should have been consulted on these. This is clearly problematic. [18]

**11.** The fundamental rights officer should be appointed as a matter of urgency, and the Ombudsman will make a suggestion to this end. The Ombudsman will also make a suggestion with a view to taking into account the need to consult the fundamental rights officer on the operational plans with Member States.

### **Complaints mechanism**

#### *EUAA reply*

**12.** The complaints mechanism is limited in scope to acts of experts deployed within 'asylum support teams' [19] in the context of the EUAA's operational and technical assistance activities. [20] The asylum support teams consist of EUAA staff, experts from Member State authorities [21], experts seconded to the EUAA by the Member States [22] and 'other experts', who take part in the activities on the basis of contracts concluded by the EUAA with them directly or their employers. [23]

**13.** In the ongoing process of setting up its complaints mechanism, the EUAA will take into account the Ombudsman's suggestions on Frontex's complaints mechanism. The EUAA has already received feedback from Frontex on its experience with its complaints mechanism.

#### *The Ombudsman's assessment*

**14.** The fact that the complaints mechanism has not yet been established is clearly problematic. The EUAA's increased operational activity [24] and presence on the ground creates more opportunities for fundamental rights issues, which may give rise to potential complaints. The Ombudsman is aware that the complaints mechanism cannot be established without the fundamental rights officer being operational, which makes her suggestion to this end all the more important.

### **Fundamental Rights Strategy**

#### *EUAA reply*

**15.** The EUAA should adopt and implement its Fundamental Rights Strategy based on a proposal by the fundamental rights officer [25], and in consultation the Consultative Forum [26]. As such, the preparation of the strategy will begin only once the fundamental rights officer and the revised Consultative Forum [27] are operational. Based on the current planning, the strategy could still be adopted in 2023.

#### *The Ombudsman's assessment*

**16.** As with the complaints mechanism, the Fundamental Rights Strategy cannot be adopted until the fundamental rights officer is in place. This makes her suggestion to this end all the



more important.

## **Code of conduct**

### *EUAA reply*

**17.** While it was not required to do so, the former EASO adopted a *Code of Conduct for persons participating in its operational support activities*, as well as a standard operating procedure for following up on reports of violations of the Code. All experts deployed by the Member States must sign a form declaring that they have familiarised themselves with the Code and that they are aware that violations of the Code may constitute grounds to terminate their deployment. In addition, contracts with 'other experts' (who are neither EUAA nor Member State authority staff) state that violations of the Code will be deemed to amount to a breach of contract and may result in the suspension/termination of their deployment.

**18.** This Code and the standard operating procedure will remain in force until the adoption of the new code of conduct under the EUAA Regulation. [28] However, the new code of conduct cannot be adopted before the fundamental rights officer takes office because both the officer and the Consultative Forum must be consulted on the provisions of the code. [29]

**19.** The new code of conduct will apply to all experts participating in asylum support teams, including experts participating in the migration management support teams. A separate code of conduct for experts participating in the migration management support teams may be adopted at a later stage. [30] The new standard operating procedure could include provisions about the cooperation at the hotspots between experts deployed by the EUAA and by Frontex to the migration management support teams. [31]

### *The Ombudsman's assessment*

**20.** The Ombudsman is concerned about how the EUAA will ensure accountability for fundamental rights violations by members of the asylum support teams, in particular by 'other experts' who are neither EUAA nor Member State authority staff. Regulation 2021/2303 explicitly includes provisions only for complaints concerning violations of fundamental rights by EUAA or Member State authority experts in asylum support teams, but not for other experts.

**21.** In its reply, the EUAA acknowledged that its contracts concluded directly with an expert or their employer will need to include provisions obliging them to cooperate in any investigations, including sanctions in cases of verified violations of fundamental rights by such experts. However, the EUAA did not provide any details about such investigations. The Ombudsman will make a suggestion addressing this situation, including the need to allow for complaints concerning alleged fundamental rights violations by other experts and clear provisions on how investigations should be carried out.

**22.** The Ombudsman also takes the view that the EUAA should adopt a separate code of conduct for its experts participating in the migration management support teams. This code and



the standard operating procedure for following up on reports of violations of the code should make clear how the members of the EUAA's *asylum support teams* should react to violations of fundamental rights by the members of teams of other agencies or national authorities, of which they become aware.

### **Suspension/termination of deployment due to violations of fundamental rights**

#### *EUAA reply*

**23.** The EUAA has not yet drawn up rules on the suspension/termination of deployment due to violations of fundamental rights of a serious nature or which are likely to persist. [32] This will be done once the fundamental rights officer becomes operational and can be involved in the drafting process. The EUAA will consider making these rules public once they are in place.

**24.** The EUAA considers its obligations to this end to be similar to those of Frontex [33]. In this context, the EUAA is aware of the Ombudsman's recommendations [34] concerning Frontex and its decisions on suspending/terminating operations due to violations of fundamental rights. The EUAA is also aware of Frontex's internal rules on its procedure for withdrawing the financing of, suspending or terminating, or not launching operations in the context of fundamental rights violations. These precedents will help the EUAA to identify best practices, while taking into account differences between both agencies.

**25.** The EUAA intends to propose to its Management Board a decision that would foresee the involvement of the fundamental rights officer in this procedure.

#### *The Ombudsman's assessment*

**26.** The Ombudsman welcomes the EUAA's readiness to make public the rules on suspension/termination due to violations of fundamental rights. She urges the EUAA to adopt these rules as soon as possible given their importance.

### **Monitoring**

**27.** The Ombudsman asked the EUAA about its progress in putting in place a procedure for monitoring how the Member States apply their legal obligations. This included questions about the detail of such monitoring activities, such as the possibility of on-site visits by expert teams, the information taken into account by the EUAA in its assessments, and the possibility for individuals to submit complaints about alleged non-compliance with EU asylum law by Member State authorities.

#### *EUAA reply*

**28.** The EUAA stated that, in the course of 2023, it will hold consultations with Member State authorities, the European Commission and the UN High Commissioner for Refugees (UNHCR). Following this, it will finalise the draft methodology and monitoring programme ahead of the first



meeting of the EUAA Management Board in 2024.

**29.** The EUAA stated that its monitoring would take into account not only information provided by Member State authorities but also its own research and case sampling. In reply to the Ombudsman's question, it indicated that it would be open to taking into account information provided by national ombudsman institutions and other human rights monitoring bodies.

**30.** While the EUAA may not carry out unannounced visits, it may carry out 'short-term visits' for which only 72-hours advance notice is required. The EUAA said that it intends to deploy 'liaison officers' to the Member States [35] to collect information and provide reports to its Executive Director.

**31.** The EUAA stated that it will monitor compliance with all aspects of the Common European Asylum System [36]. This will include assessing detention practices and providing legal assistance in the context of asylum procedures as well as resettlement. [37]

**32.** The EUAA stated that it does not intend to create a specific mechanism that allows for individual complaints about infringements of EU asylum law in the Member States, as this would create a disproportionate administrative burden. However it does intend to set up a channel whereby expressions of concern may be received from individuals, with information that gives rise to serious concern to be given appropriate follow up by the EUAA.

**33.** If there are serious concerns about the asylum/reception system in a Member State, the EUAA may on its own initiative (in consultation with the European Commission) or at the request of the Commission carry out 'monitoring exercises' outside of the pre-established monitoring programme. However, the EUAA has not yet put in place rules governing such activities.

#### *The Ombudsman's assessment*

**34.** Regulation 2021/2303 sets out a complex system [38] for monitoring activities in Member States, with a view to identifying issues that might jeopardise the functioning of the Common European Asylum System. It involves different procedural steps to be carried out by the EUAA such as gathering information, assessing that information, and, after having heard the Member State being monitored, issuing recommendations to that Member State [39] in which the time limits for their execution is specified. It also requires close cooperation of the EUAA with the Commission [40] and the Member State being monitored. However, if the EUAA were to rely only on information provided by the authorities of the Member States being monitored, there is a risk its monitoring could lack crucial information and provide an incomplete picture of the realities on the ground. The Ombudsman is therefore encouraged that the EUAA indicated its willingness to take into account information provided by national ombudsman institutions and other stakeholders, and that it has been developing special channels to communicate with stakeholders about the situation in the Member States.

#### **Assessing the situation in non-EU countries [41]**



**35.** The Ombudsman asked the EUAA about how it will ensure impartial analysis of the situation in non-EU countries, including if it intends to include independent experts in its analysis and the role of its 'Consultative Forum' [42] .

*EUAA reply*

**36.** The EUAA stated that there is a distinction between the analysis of information and reports on individual countries of origin, which is the responsibility of the EUAA, and the *common* analysis of and guidance notes on the situation in countries of origin, which is led by the Member States, with the EUAA facilitating discussion.

**37.** The 'Country Guidance Network', which is composed of senior-level policy experts from Member State authorities, carries out the common analysis based on the country of origin information provided by the EUAA. The EUAA's Management Board is responsible for adopting the common analysis and guidelines. The country guidance notes are published on the EUAA website. [43]

**38.** The EUAA plays a direct role [44] in providing information and analysis on 'safe countries of origin' and 'safe third countries' [45] , following the same methodology used for the common analysis. [46]

**39.** The EUAA does not see a need for a new separate panel of independent experts to contribute to its analysis. In compiling its reports on country of origin information, it already considers contributions from independent experts and civil society organisations, which also take part in the peer review of reports. It regularly organises stakeholder surveys to get input on countries of origin. The EUAA also plans to include independent experts in the 'permanent thematic groups' of the Consultative Forum, dealing with country of origin information. [47]

*The Ombudsman's assessment*

**40.** The participation of independent experts in the EUAA's evaluations is a welcome initiative that will help ensure an impartial analysis. In addition, their participation in the work of the Consultative Forum is of paramount importance so that the latter's role is fulfilled.

**Engaging with non-EU countries**

**41.** The Ombudsman asked the EUAA how it sees its role in facilitating operational cooperation on the protection of fundamental rights between Member States and non-EU countries in the context of asylum and reception issues. [48] The Ombudsman also asked about the methodology the EUAA will use to assess the human rights situation in non-EU countries and the circumstances under which it would deem that it cannot deploy a 'liaison officer' [49] in a country.

*EUAA reply*



**42.** Operational support to the Member States includes, among other things, the identification and registration of migrants, vulnerability screening [50] , and interviews of asylum seekers to establish their right to international protection.

**43.** In terms of facilitating cooperation between Member States and non-EU countries, the EUAA said that the first example of this is its current support to a programme under which persons displaced from Ukraine to Moldova are transferred to Member States that offer to receive them. The EUAA helps provide information relating to the transfer programme on the ground in Moldova.

**44.** The fundamental rights officer will be involved in ensuring the EUAA's compliance with fundamental rights.

**45.** The EUAA also supports non-EU countries in meeting the same standards that apply in the Common European Asylum System, in cooperation with the Member States, the European Commission, the European External Action Service (including the EU delegations) and international organisations. [51]

**46.** The EUAA is currently developing internal guidance on the deployment of 'liaison officers' [52] to non-EU countries. The methodology for assessing the human rights situation in those countries is not yet finalised but is expected to include a list of human rights that should be respected in the context of migration and asylum activities. The methodology will include quantitative criteria (such as whether the country has signed international human rights treaties/conventions) and qualitative criteria (such as whether the practices correspond to the formal declarations). The assessment will take into account reports from reliable sources and contacts with the EUAA Consultative Forum, the European Commission, the European External Action Service (EEAS), EU delegations, the EU Special Representative for Human Rights, and the Council of Europe, as well as EU agencies and international organisations operating in the country under assessment. The EUAA's fundamental rights officer will also be involved in the assessment, which will be finalised before a decision to deploy the liaison officers, and which may be repeated. The Management Board must approve each proposal to deploy a liaison officer to a non-EU country, taking into account this human rights assessment.

#### *The Ombudsman's assessment*

**47.** The Ombudsman recognises that it is challenging to ensure effective cooperation with non-EU countries with poor human rights records, which are either countries of origin or transit for migrants. As such, it is welcome that the EU has begun careful preparations for its reinforced cooperation with non-EU countries, in particular by preparing internal guidance on and a methodology for the deployment of liaison officers to non-EU countries. The Ombudsman also welcomes the EUAA's engagement in Moldova to ensure the transfer of Ukrainian refugees to the EU Member States.

Suggestions to the EUAA





**48.** The information gathered through this initiative, combined with the above assessment, leads the Ombudsman to make the following suggestions:

- (i) The fundamental rights officer should be appointed without further delay.
- (ii) Once the fundamental rights officer becomes operational, all related safeguards for fundamental rights compliance (fundamental rights strategy, complaints mechanism, codes of conduct, the procedure to terminate or suspend deployment due to violations of fundamental rights) should be finalised.
- (iii) The fundamental rights officer should review all operational plans signed between the EUAA and the Member States after Regulation 2021/2303 entered into force. The EUAA should seek input from the fundamental rights officer before agreeing to proposals by Member States to amend the operational plans [53] .
- (iv) The EUAA should include, in each contract it concludes directly with ‘other experts’ or their employer, unequivocal provisions on accountability for violations of fundamental rights, after having consulted the fundamental rights officer. Complaints about such violations should be admissible under the EUAA’s complaints mechanism. The applicable rules should specify how investigations concerning such experts should be carried out.
- (v) The EUAA should adopt, without delay, a separate code of conduct for its asylum support teams that participate in the migration management support teams. This code and the standard operating procedure for following up on reports of violations of the code should make clear how the members of the EUAA’s *asylum support teams* should react to violations of fundamental rights by the members of teams of other agencies or national authorities, of which they become aware.

#### **Description of the EUAA’s tasks’ [54]**

**1.** The EUAA provides operational and technical assistance to Member States, in particular when their asylum and reception systems are subject to disproportionate pressure. Following a request of a Member State or on its own initiative, and provided that a binding operational plan has been signed by the EUAA’s Executive Director and the Member State, the EUAA can deploy *asylum support teams* within seven days from the date of the signature of the plan. According to Regulation 2021/2303, the EUAA will be able to draw from an ‘asylum reserve pool’ of 500 experts from Member State authorities from which it can directly deploy staff.

**2.** The *asylum support teams* may engage not only in the identification and registration of undocumented migrants but also in the registration and examination of the applications for international protection. As part of the ‘*migration management support teams*’, the *asylum support teams* will also be active in hotspots along with staff from the European Border and



Coast Guard Agency (Frontex) and the EU Agency for Law Enforcement Cooperation (Europol).

3. The EUAA will work with Member State authorities to analyse the situation in specific countries of origin and draft guidance notes, which the Member States should take into account when assessing individual applications for international protection. The EUAA will also provide to the Member States information and analysis on non-EU countries regarding the concept of 'safe country of origin' and 'safe third country'.

4. 'Safe country of origin' means a country where, on the basis of the legal situation and the general political circumstances it can be shown that there is generally and consistently no persecution, torture, or inhuman and degrading treatment or punishment and no threat by reasons of discriminate violence in situations of international or internal armed conflict. 'Safe third country' means a non-EU country that treats a person seeking international protection in accordance with the principle of non-refoulement and other principles and where the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Refugee Convention and Protocol. [55]

5. The EUAA will engage much more intensively with non-EU countries, including on their territory. It will deploy its staff as liaison officers in designated non-EU countries, where they will monitor whether fundamental and human rights are being respected and establish contact with the authorities and other actors in those countries.

6. The EUAA should facilitate 'operational cooperation' between Member States and non-EU countries, including by providing advice and facilitating the exchange of information and experience related to the external dimension of the Common European Asylum System [56] , in cooperation with the European External Action Service. The EUAA is to facilitate Member States' efforts in providing access to the EU for asylum seekers, with focus on resettlement and other legal pathways to international protection. [57]

7. The EUAA will also monitor the operational and technical application of the Common European Asylum System in the Member States, based on site visits, case sampling and information provided by intergovernmental and other organisations. The 'monitoring mechanism', which will partly enter into force at the end of 2023, and partly once the Dublin III Regulation [58] is replaced, will task the EUAA with monitoring the operational and technical application of EU legal obligations by the Member States. The mechanism will help Member States identify potential lapses in their asylum procedures and ultimately contribute to a more harmonised EU asylum system. The EUAA will observe and monitor the asylum situation in Member States by carrying out regular inspections. It will deploy its staff as liaison officers in the Member States. After consulting the European Commission, the EUAA will decide when each Member State is to be inspected, with inspections to take place at least once every five years. To complete the process, the EUAA can evaluate aspects of the asylum and reception systems of all the Member States. In consultation with the Commission, the EUAA will provide specific recommendations for action and will set deadlines for remedying any shortcomings, taking into account any comments of the Member State concerned.



[1] Regulation (EU) 2021/2303 of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R2303> [Link]

[2] Recital 41 of Regulation 2021/2303: “(..) *in particular the right to asylum, the principle of non-refoulement, the right to respect for private and family life (including family reunification) the rights of the child, the right to protection of personal data and the right to an effective remedy and a fair trial .*”

[3] Under Regulation 2019/1896 on the European Border and Coast Guard:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R1896> [Link]

[4] Article 49 of Regulation 2021/2303

[5] Article 51 of Regulation 2021/2303

[6] Article 57(3) of Regulation 2021/2303

[7] Article 58 of Regulation 2021/2303

[8] Article 18(6) of Regulation 2021/2303

[9] For instance: [OI/5/2020/MHZ](https://www.ombudsman.europa.eu/en/case/en/57955) [Link] ( <https://www.ombudsman.europa.eu/en/case/en/57955> [Link]) and [OI/4/2021/MHZ](https://www.ombudsman.europa.eu/en/decision/en/151369) [Link] ( <https://www.ombudsman.europa.eu/en/decision/en/151369> [Link])

[10] The letter can be found at:

<https://www.ombudsman.europa.eu/en/doc/correspondence/en/158252> [Link].

[11] Please see Annex I to the EUAA's reply:

<https://www.ombudsman.europa.eu/doc/correspondence/180207> [Link]

[12] Article 49 of Regulation 2021/2303

[13] Article 51 of Regulation 2021/2303

[14] Article 57(3) of Regulation 2021/2303

[15] Article 58 of Regulation 2021/2303

[16] Article 18(6) of Regulation 2021/2303

[17] Article 58 of Regulation 2021/2303



[18] Article 49(5) Regulation 2021/2303 states that the fundamental rights officer should be consulted on operational plans. Article 18(2)(e) provides that an operational plan shall include a detailed and clear description of the tasks and responsibilities of the asylum support teams, including with regard to fundamental rights.

[19] The *asylum support teams* are part of the *migration management support teams* in the 'hotspots'. They assist with the screening and processing of non-EU nationals, including giving them information on their rights.

[20] Article 51 Regulation 2021/2303

[21] Member States experts, including those made available through the asylum reserve pool managed by the EUAA.

[22] Seconded National Experts (SNEs) are experts employed by a national, regional or local public administration of an EU Member State or an associate country or by a public inter-governmental organisation and seconded to provide support to its operational activities.

[23] The operational plans concluded between the EUAA and the Member States provide for the use of such experts. Section 6.3 of the recent operational plans are available on the EUAA's website: <https://euaa.europa.eu/operations/member-states-operations> [Link]

[24] In assisting with the screening and registration of non-EU nationals in the hotspots, the asylum support teams have more far-reaching tasks than before. See annex for more details.

[25] Article 57(3)

[26] Article 50(6)

[27] Apart from the civil society organisations, the UNHCR, the EU Agency for Fundamental Rights and Frontex will be members of the Consultative Forum (Article 50(3)).

[28] Article 58 of the EUAA Regulation and Article 7 of Decision 96 of the EUAA Management Board of 19 January 2022 on the transition from the former EASO to the EUAA.

[29] Article 49.5 and Article 50.6 Regulation 2021/2303

[30] Article 16.1(c)

[31] Article 16.2(l): The Agency shall [take] one or more of the following operational and technical measures in a manner that fully respects fundamental rights: (l) form part of the migration management support teams at hotspot areas referred to in Regulation (EU) 2019 /1896 in close cooperation with other relevant Union bodies, offices and agencies.



[32] Which it is obliged to do under Article 18(6) of Regulation 2021/2303.

[33] Article 46 of Regulation 2019/1896 on the European Border and Coast Guard Agency : <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R1896> [Link]

[34] <https://www.ombudsmn.europa.eu/en/decision/en/151369> [Link]

[35] Article 7 of Regulation 2021/2303.

[36] The Common European Asylum System (CEAS) is currently governed by five legislative instruments and one agency (the EUAA, a former EASO): The Asylum Procedures Directive; the Reception Conditions Directive; the Qualification Directive; the Dublin Regulation and the EUODAC Regulation. In 2020, the European Commission proposed amendments to the CEAS instruments in a new Pact on Asylum and Migration ( <https://euaa.europa.eu/asylum-report-2020/21-common-european-asylum-system-and-current-issues> [Link])

[37] The Commission's 2020 Pact on Migration and Asylum includes the proposal for the Resettlement Framework Regulation.

[38] See point 6 of the Annex to the Closing Note.

[39] The Executive Director issues *draft* recommendations, submits them to the Management Board which should adopt the recommendations.

[40] The Commission may step in the monitoring process if the Member State does not comply with the EUAA's recommendations (Article 15 (5-8) of Regulation 2021/2303)

[41] The key priority countries are: Western Balkan countries, Turkey and Middle East and North African countries:  
<https://euaa.europa.eu/sites/default/files/easo-external-cooperation-strategy.pdf> [Link].

[42] The Consultative Forum is the EUAA's main platform for engaging with civil society. It also includes representatives of other EU agencies, national bodies and international organisations: <https://euaa.europa.eu/partners/civil-society-and-consultative-forum> [Link].

[43] <https://euaa.europa.eu/asylum-knowledge/country-guidance> [Link]

[44] Article 12 of Regulation 2021/2303

[45] The safe country concepts have their legal basis in Articles 9 and 38 of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection:  
<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0032> [Link]. 'Safe country of origin' means a country where, on the basis of the legal and political situation, it can be



shown that there is generally and consistently no persecution, torture, or inhuman and degrading treatment or punishment and no threat of armed conflict. ‘Safe third country’ means a non-EU country that treats a person seeking international protection in accordance with the principle of non-refoulement and other principles, and where the possibility exists to request refugee status and, if found to be a refugee, and to receive protection in accordance with the Geneva Refugee Convention and Protocol ([https://home-affairs.ec.europa.eu/pages/glossary/safe-third-country\\_en](https://home-affairs.ec.europa.eu/pages/glossary/safe-third-country_en) [Link]).

[46] [https://euaa.europa.eu/sites/default/files/public/coireportmethodologyfinallayout\\_en.pdf](https://euaa.europa.eu/sites/default/files/public/coireportmethodologyfinallayout_en.pdf) [Link]

[47] Article 50(3) of Regulation 2021/2303 states that, on the proposal of the Executive Director, the Management Board should decide on the composition of the Consultative Forum, including on thematic or geographically focused consultation groups. These groups bring together civil society groups, representatives of relevant EU agencies (the EUAA, Frontex, the FRA), national bodies and international organisations, to discuss issues relevant to the specific areas.

[48] This includes the exchange of information and experience related to the external dimension of the Common European Asylum System, and facilitating Member States’ efforts in providing access to the EU for asylum seekers with a focus on resettlement and other legal pathways to international protection:  
<https://euaa.europa.eu/sites/default/files/easo-external-cooperation-strategy.pdf> [Link].

[49] In accordance with Article 35 of Regulation 2021/2303, the EUAA will deploy its staff as liaison officers in designated non-EU countries, where they will monitor whether fundamental and human rights are being respected and establish contact with the authorities and other actors in those countries

[50] Assessing the situation of migrants and their potential vulnerability, which would mean they can benefit from special provisions under EU asylum legislation. Directive 2013/32 (Recital 29) gives examples of the vulnerability individual circumstances: age, gender, sexual orientation, gender identity, disability, serious illness, mental disorders, consequences of torture, rape or other serious forms of psychological, physical and sexual violence.

[51] Article 35(2) of Regulation 2021/2303

[52] Article 36(10) of Regulation 2021/2303: *The Agency may deploy experts from its own staff as liaison officers* . Recital 39 of Regulation 2021/2303: *The Agency shall be able to deploy experts from its own staff as liaison officers to the relevant third countries to facilitate cooperation with third countries on asylum - related matters* .

[53] Article 18(5) of Regulation 2021/2303.

[54] For further details on the terms used in this description please consult the glossary at:



[https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary\\_en](https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary_en)  
[Link]

[55] Article 12 of Regulation 2021/2303. The safe country concepts have their legal basis in Articles 9 and 38 of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection:

<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0032> [Link]. See also:  
[https://home-affairs.ec.europa.eu/pages/glossary/safe-third-country\\_en](https://home-affairs.ec.europa.eu/pages/glossary/safe-third-country_en) [Link]

[56] The Common European Asylum System (CEAS) is currently governed by five legislative instruments: The Asylum Procedures Directive; the Reception Conditions Directive; the Qualification Directive; the Dublin Regulation and the EUODAC Regulation. In 2020, the European Commission proposed amendments to the CEAS instruments in a new Pact on Asylum and Migration. (

<https://euaa.europa.eu/asylum-report-2020/21-common-european-asylum-system-and-current-issues>  
[Link])

[57] <https://euaa.europa.eu/sites/default/files/easo-external-cooperation-strategy.pdf> [Link]

[58] Regulation (EU) 604/2013.