

DOI: <https://doi.org/10.36719/2663-4619/100/159-164>

Khanim Mirsultanova
Baku State University
master student
sultanovakhanim77@gmail.com

INTERNATIONAL PRESERVATION PROCEDURES FOR REFUGEES AND ASYLUM SEEKERS WITHIN THE EUROPEAN UNION

Abstract

The article scrutinizes international protection procedures for refugees and asylum seekers within the European Union. That is why the main goal of the article is the study of procedures for protecting refugees and those in need of asylum within international norms, which is one of the current issues.

Keywords: *refugee, European Union, legal norms, protection procedures*

Xanım Mirsultanova
Bakı Dövlət Universiteti
magistrant
sultanovakhanim77@gmail.com

Avropa İttifaqı daxilində qaçqınlar və sığınacaq axtaranlar üçün beynəlxalq qorunma prosedurları

Xülasə

Məqalədə Avropa İttifaqı daxilində qaçqınlar və sığınacaq axtaranlar üçün beynəlxalq qorunma prosedurlarını diqqətlə araşdırılır. Məhz buna görə də məqalənin əsas məqsədi günümüzün aktual məsələlərindən biri olan qaçqınlar və sığınacağa ehtiyacı olanların beynəlxalq normalar çərçivəsində qorunması prosedurlarının tədqiqidir.

Açar sözlər: *qaçqın, Avropa İttifaqı, hüquqi normalar, qorunma prosedurları*

Introduction

Global preservation procedures for refugees within the European Union are governed by a common European asylum order, which establishes harmonized standards and procedures for the recognition and prevention of refugees and others in need of global preservation. The order aims to ensure that individuals receive equal and fair cure across EU Participant states, keep their rights, and granting them access to global protection. The Asylum Procedures Directive sets out standardized procedures for reviewing appeals for global protection, ensuring that asylum seekers can avail themselves of a just and effective asylum process, including the right to information, legal assistance, and an effective remedy (McBrien, 2017: 125).

The Qualification Directive establishes the standards for recognizing refugees and beneficiaries of subsidiary protection, outlining the eligibility criteria for international protection. It ensures that individuals are accorded protection in alignment with international and European human rights standards (2).

Qualification for global protection pertains to the criteria and procedures designed to ascertain an individual's eligibility for refugee status or auxiliary protection, considering the necessity for international protection due to a credible fear of persecution, serious harm, or other specified grounds. The qualification process is geared towards identifying and safeguarding individuals facing dangerous in their countries of origin, necessitating international assistance and preservation.

The Geneva Convention Relating to the Status of Refugees (1951) outlines the definition of a refugee, delineates the rights and responsibilities of refugees, and establishes the legal framework for international protection, notably the principle of non-refoulement. In the European Union, the Qualification Directive establishes the standards for identifying refugees and those eligible for subsidiary protection, fostering a unified approach to qualification for international protection among Participant States (Bilgic, Pace, 2017: 91-92).

Criteria for qualification of refugee status are stabilized below (4):

- Well-founded Fear. The individual must possess a credible apprehension of persecution rooted in factors such as race, religion, nationality, political beliefs, or affiliation with a specific social group. Persecution should be associated with severe violations of human rights or impending threats.

- Persecution should be connected to significant violations of fundamental human rights, or threats, including torment, arbitrary detention, or other forms of severe harm.

- Individual Assessment. Each asylum appeal is assessed individually, considering the specific circumstances, personal experiences, and the credibility of the applicant's claims.

- Serious Harm. Individuals who do not qualify as refugees but face a real risk of serious harm, such as the death penalty, torment, or indiscriminate violence in their country of origin, may be eligible for subsidiary preservation.

- Civilian Status. Subsidiary preservation is awarded to civilians facing jeopardy because of armed conflict, violence, or occurrences that severely destroy public regulation in the home country.

Competent authorities examine asylum claims, conduct interviews, and gather evidence to assess the credibility, consistency, and substance of the applicant's statements and claims for international preservation. Country of origin information is also important. Information on the situation in the applicant's country of origin, including human rights reports, country guidance, and expert assessments, is considered in the assessment of risks and eligibility for international preservation. Medical and psychological evaluation is done during the process. In cases involving trauma, torment, or severe harm, medical and psychological evaluations may be conducted to assess the applicant's physical and mental health and support their claims for preservation (Klepp, 2010: 6-9).

Applicants possess the right to juridical representation and assistance throughout the qualification process, ensuring access to information, advice, and support to present their case effectively and access remedies against negative decisions. Individuals granted refugee status or subsidiary preservation are entitled to a range of rights and benefits, including preservation against refoulement, access to residence permits, family reunification, employment, education, healthcare, and social assistance.

Beneficiaries of international preservation are expected to respect the laws and regulations of the host country, contribute to social cohesion, and adhere to the principles of integration, respect for human rights, and non-discrimination. Ensuring effective preservation, addressing preservation gaps, and identifying and addressing the specific vulnerabilities and needs of applicants require comprehensive and individualized approaches, access to specialized support, and coordination with relevant stakeholders and organizations.

The qualification process involves complex legal, factual, and subjective assessments, requiring thorough examination of individual circumstances, credibility assessments, and consideration of country-specific conditions and developments.

Qualification for global preservation is a crucial process that determines the eligibility of individuals for refugee status or subsidiary preservation based on the need for international preservation. The process involves assessing asylum claims, considering the specific circumstances and risks faced by applicants, and providing preservation to those in need, reflecting the principles of refugee preservation, human rights, and international solidarity. Efforts to enhance the effectiveness, fairness, and consistency of the qualification process, address challenges and gaps,

and ensure respect for the rights and dignity of applicants are essential to uphold the principles of international preservation and provide refuge to those in need (6).

The Reception Conditions Directive is a crucial piece of European Union legislation that sets uniform standards for the reception of asylum seekers across EU Participant states. The Directive aims to guarantee that asylum seekers are treated with dignity and respect, have entry to basic services and rights, and are provided with appropriate assistance during the processing of their asylum appeals.

Reception Conditions Directive (2013/33/EU) adopted in 2013 (7). The Directive establishes the baseline standards for the reception of international protection applicants, encompassing asylum seekers and beneficiaries, within EU member states. Critical provisions of the Directive address material reception conditions such as housing, food, clothing, healthcare, education, information, psychological support, legal assistance, and more (8).

Housing - Participant states must provide asylum seekers can live in housing that guarantees a satisfactory quality of life, considering the specific needs of vulnerable individuals, families, and children.

Food and clothing - Asylum seekers are entitled to receive provision of food and clothing, or financial allowances to meet these fundamental necessities.

Healthcare - Asylum seekers should be provided access to healthcare services, as well as emergency maintenance, essential cure, and specialized services for specific needs, such as trauma and torment survivors.

Psychological support - Psychological and psychosocial support should be acceptable to asylum seekers, especially for individuals who have experienced trauma, torment, or other forms of severe harm.

Education - Participant states must ensure access to education for asylum-seeking children, including enrollment in schools and access to language courses and integration programs.

Information - Asylum seekers be provided with clear and easily accessible information regarding each right, the asylum process, and the receiving terms in the host country

Legal Assistance - Access to juridical aid, information, and representation is essential for asylum seekers to realize all rights, navigate the asylum process, and present their case effectively.

Identification and assessment- Participant states must identify and assess the specific needs and vulnerabilities of asylum seekers, including unaccompanied minors, victims of trafficking, survivors of torment, persons with disabilities, and other vulnerable individuals.

Specialized support - Specialized support, services, and accommodations should be provided to address the unique needs and challenges faced by vulnerable individuals and ensure their preservation and well-being.

Detention and restrictions - The Directive sets out specific conditions and safeguards concerning the detention of asylum seekers, emphasizing the principle of last resort, the prohibition of arbitrary detention, and the need for individualized assessments and judicial review of detention decisions.

Freedom of Movement - Asylum seekers should be allowed to move freely within the host country, unless restrictions are necessary and proportionate to achieve specific purposes, such as public regulation or preservation concerns.

The effective implementation of the Reception Conditions Directive faces various challenges, including disparities in the explication and appeal of standards across Participant states, inadequate resources and capacities, administrative delays, and gaps in access to services and support for asylum seekers. Ensuring comprehensive and effective preservation, addressing specific vulnerabilities, and providing adequate support and assistance to asylum seekers, particularly vulnerable individuals and families, remain central challenges in the implementation of the Directive.

Enhancing solidarity, cooperation, and mutual support among EU Participant states, sharing responsibilities, and promoting a more equitable and harmonized approach to reception conditions

are essential to address challenges, improve standards, and uphold the rights and dignity of asylum seekers across Europe.

The Reception Conditions Directive establishes essential standards and safeguards for the reception of asylum seekers in EU Participant states, aiming to ensure dignified care, access to essential services, and respect for the rights and well-being of asylum seekers, including refugees. Efforts to enhance the implementation, effectiveness, and consistency of reception conditions, address challenges and gaps, and promote solidarity and cooperation among Participant states are essential to uphold the principles of refugee preservation, human rights, and international solidarity within the European Union (9).

There are some of the key problems associated with the Reception Conditions Directive concerning asylum seekers. These key problems are shown in Figure 1.

Figure 1. Main issues with the Reception Conditions Directive regarding asylum seekers.



Source: Directive laying down minimum standards for the reception of asylum seekers (10)

Inconsistencies and Disparities.

Varied Implementation - there are significant disparities in the explication and appeal of the Directive's provisions across Participant states, leading to inconsistent reception conditions, varying levels of support, and unequal care of asylum seekers.

Differences in standards - varied standards and practices regarding housing, healthcare, access to services, and support for asylum seekers create inequalities and challenges in ensuring uniform and adequate reception conditions across the EU.

Inadequate Reception Conditions.

Overcrowding and insufficient resources - some Participant states face challenges in providing adequate reception facilities, leading to overcrowded accommodations, insufficient resources, and inadequate living conditions for asylum seekers (The Preservation of Article 2 the Values in the EU, 2023: 6-7).

Limited access to services - delays, administrative barriers, and restrictions in accessing essential services, such as healthcare, education, and psychological support, hinder the well-being, integration, and preservation of asylum seekers.

Preservation gaps and vulnerabilities

Identifying and addressing vulnerabilities - there are challenges in effectively identifying and addressing the specific preservation needs and vulnerabilities of asylum seekers, including unaccompanied minors, victims of trafficking, survivors of torment, and persons with disabilities.

Lack of specialized support - inadequate provision of specialized support, services, and accommodations for vulnerable individuals contributes to preservation gaps, risks of exploitation, and violations of human rights.

Detention and Restrictions

Arbitrary detention - concerns have been raised regarding the use of arbitrary detention, inadequate safeguards, and violations of the principle of last resort in the detention of asylum seekers, particularly vulnerable individuals and children.

Restrictions on freedom of movement - excessive restrictions on the freedom of movement, limitations on access to work and education, and barriers to integration create challenges and obstacles for asylum seekers in realizing their rights, pursuing opportunities, and rebuilding their lives.

Lack of Legal and Procedural Safeguards

Limited Access to Legal Assistance - barriers, limitations, and gaps in access to legal assistance, information, and representation hinder asylum seekers' ability to navigate the asylum process, understand their rights, and access effective remedies against negative decisions.

Procedural challenges - delays, inefficiencies, and deficiencies in the asylum procedures, including the examination of claims, decision-making processes, and appeals mechanisms, create uncertainty, prolonged waiting periods, and challenges in ensuring a fair and effective asylum process.

Externalization and External Pressures

Externalization of migration controls - cooperation with third countries, external border management, and external pressures to prevent irregular migration and asylum appeals raise concerns regarding human rights, preservation safeguards, and access to asylum for refugees and asylum seekers.

Shifts in responsibilities - Outsourcing migration controls to external entities and the transfer of responsibilities to third countries and external partners create challenges in ensuring compliance in accordance with international and European human rights norms, adhering to the process of non-refoulement, and maintaining access to asylum and preservation mechanisms (The prevention of refugees and their right to seek asylum in the European Union, 2011: 70).

Conclusion

The international preservation procedures for refugees within the European Union reflect the shared commitment of EU Participant states to uphold human rights, provide preservation to those in need, and establish a common framework for asylum that respects the dignity, rights, and well-being of asylum seekers and refugees in Europe. Efforts to strengthen the Common European Asylum Order, enhance cooperation and solidarity, and address challenges and gaps in the asylum and migration policies remain central to the EU's broader objectives and commitments in the field of asylum and preservation.

The international preservation procedures for refugees within the European Union face various challenges, reflecting the complexity of migration dynamics, the diverse interests and capacities of EU Participant states, and the evolving nature of displacement and preservation needs.

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Received: 05.12.2023

Accepted: 20.01.2024