

## ASYLUM IN EUROPE

The European Union is currently confronted with a huge influx of people seeking asylum. But not all countries are affected in the same way. Data is only available for January to September 2015,<sup>1</sup> as not all EU countries have reported more recent data. Germany (288,740), Hungary (175,960) and Sweden (72,985) have the highest numbers of asylum seekers. Italy, Austria and France also had over 50,000 asylum seekers in 2015, whereas Slovakia only had 135. However, there are not only significant differences in the absolute numbers; the number of asylum seekers relative to the population of a country also varies. Hungary leads the pack with 17.9 asylum seekers per 1,000 inhabitants, followed by Sweden at 7.5. On the other hand, over half of the EU member states have less than one asylum seeker per 1,000 in-

<sup>1</sup> Updated information is available at: DICE < Migration < Asylum; <http://www.cesifo-group.de/w/Qq36c8K>.

habitants (see Table 1). Most studies imply that factors like the existence of diaspora networks (Robinson and Segrott 2002; Neumayer 2004), and a permanent residence possibility (Nordlund and Pelling 2012) are of central importance to asylum seekers when choosing a country to apply for asylum.

In response to the current situation, some countries have made legislative changes in their asylum laws to make their country less attractive to asylum seekers. The logic behind the changes in asylum law is as follows: Clearly most asylum seekers primarily search for protection from prosecution. However, as it can be assumed that most of those persons granted asylum will remain in their host country for a long time, it seems efficient for them to choose a host country where it is possible to make a living. From a long-term perspective, the institutional setting in a host country seems essential. Previous research shows that host country decisions by asylum seekers change if national regulations in a main destination country improve or worsen relative to regulations in

other main destination countries (Scholz 2013).

**Table 1**

**Asylum applications, 2015 (January - September)**

	Total	per 1,000 inhabitants <sup>a)</sup>
Austria	56,675	6.602
Belgium	27,700	2.460
Bulgaria	12,720	1.766
Croatia	145	0.034
Cyprus	1,560	1.842
Czech Republic	1,110	0.105
Denmark	9,605	1.697
Estonia	190	0.145
Finland	17,795	3.252
France	50,840	0.766
Germany	288,740	3.557
Greece	9,680	0.895
Hungary	175,960	17.866
Ireland	2,505	0.542
Italy	59,165	0.973
Latvia	250	0.126
Lithuania	230	0.079
Luxembourg	1,255	2.229
Malta	1,260	2.935
Netherlands	25,020	1.480
Poland	8,340	0.219
Portugal	645	0.062
Romania	1,015	0.051
Slovak Republic	135	0.025
Slovenia	170	0.082
Spain	10,295	0.222
Sweden	72,985	7.488
United Kingdom	26,995	0.417

Source: Eurostat (2015);<sup>a)</sup> Relative to population as of 1<sup>st</sup> of January 2015.

To reduce the impact of national asylum laws, the European Union started to coordinate asylum legislation within Europe in the 1990s. To understand the unequal distribution of asylum seekers, it is therefore necessary to discuss the two different institutional levels: On the one hand, there are European regulations like the Dublin regulation and directives regarding asylum; and on the other hand, there are national asylum laws, which are described in greater detail below. This article focuses on two institutional aspects that can influence the long-term perspective of refugees: the duration of their residence permits and their access to the labour market.

### European regulations

The so-called *Dublin Regulation* (Regulation (EU) No 604/2013) states that the EU country an asy-

lum seeker<sup>2</sup> first enters is responsible for processing his/her asylum application. As most asylum seekers enter the European Union overland or via the Mediterranean Sea, the countries in the south and southeast of Europe (Greece, Italy, Malta and Spain) are responsible for most of the asylum applications in Europe. Countries in the Community with no external frontier should therefore have relatively low numbers of asylum applicants, as they can return asylum seekers to the country where they first entered the EU. Serious concerns regarding the Dublin procedure emerged especially at the point when the European Court of Justice ruled that a refugee should not be expelled to Greece due to inhuman living conditions for refugees there (ECtHR 2011). As of that point most European countries stopped expelling refugees to Greece. The relatively low number of asylum applications in Greece in 2015 (see Table 1) may also indicate that most migrants transit through Greece without applying for asylum and without being held by the Greek authorities. As a result, the EU's de facto external frontier in the southeast of Europe is now in Hungary, where the number of asylum applicants per inhabitant is by far the highest in Europe.

In addition to the Dublin regulation, there are European regulations like the *Qualification Directive* (Directive 2011/95/EU) and the *Asylum Procedures Directive* (Directive 2013/32/EU) regarding asylum procedures and the rights of refugees. The directives were designed to enforce a minimum standard that can be claimed by all refugees, no matter which European country they find themselves in.<sup>3</sup> These regulations are mainly based on the *Convention relating to the Status of Refugees* and the *Universal Declaration of Human Rights* and are implemented in all member countries into national law. Some countries have asylum regulations that go beyond these EU directives and are more in favour of asylum applicants. Denmark, Ireland and the United Kingdom

<sup>2</sup> Definitions: An asylum seeker is a person who applies for asylum and whose asylum procedure has not yet been decided. A refugee is a person whose asylum procedure is finished and who receives asylum.

<sup>3</sup> For example, the directives state that the asylum procedure shall not last longer than six months and specify the reasons for which a person can claim to need international protection.

Table 2

## Types of international protection according to the Qualification Directive

Refugee status	Subsidiary protection status
Refugee refers to a third-country national who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside his/her country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of its protection or a stateless person, who, being outside his/her country of former habitual residence for the reasons cited above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 (exclusions due to having committed crimes against peace, war crimes or other serious crimes) does not apply.	Person eligible for subsidiary protection refers to a third-country national or a stateless person who does not qualify as a refugee, but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15 (death penalty, torture, individual threat due to armed conflicts), and to whom Article 17(1) and (2) (reasons for exclusion, similar to those for refugee status) does not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country.

Source: Directive 2011/95/EU.

have opted out of the directives and are not bound by its minimum standards.

The *Qualification Directive* distinguishes between two types of international protection: refugee status and subsidiary protection status. Asylum seekers who do not qualify for refugee status, but would risk serious harm if they returned to their country of origin, can obtain subsidiary protection (see Table 2).

The legal consequences of both statuses are almost the same. Some important differences with respect to residence permits will be discussed in the context of national asylum law.

### National asylum law

National asylum law regulates all aspects that are not determined by European directives; or where the implementation of directives allows for flexibility. It is also possible to deviate from the above EU directives as long as standards are established that are more favourable for asylum seekers than the conditions stipulated by the directives.

The *Qualification Directive* states that refugees granted asylum are to receive a residence permit that is valid for at least three years and is renewable. Persons granted subsidiary protection must receive a residence permit

Table 3

## Labour market access for asylum seekers

	Does legislation allow asylum seekers access to the labour market?	If applicable	Are there restrictions to access employment in practice?
Austria	Yes	3 months	Yes
Belgium	Yes	6 months	Yes
Bulgaria	Yes	1 year as of registration as asylum seeker	No
Croatia	Yes	1 year	Yes
Cyprus	Yes	6 months	Yes
France	Yes	1 year	Yes
Germany	Yes	3 months	Yes
Greece	Yes	Immediate	Yes
Hungary	Yes	9 months after having submitted an asylum application	Yes
Ireland	No	Not available	No
Italy	Yes	6 months as of asylum request	Yes
Malta	Yes	12 months	Yes
Netherlands	Yes	6 months after submission of an asylum application	Yes
Poland	Yes	6 months	Yes
Sweden	Yes	The day after applying for asylum	Yes
United Kingdom	Yes	1 year	Yes
Switzerland	Yes	3-6 months	Yes
Turkey	Yes	6 months	Yes

Source: DICE Database (2015).

that is valid for at least one year and is renewable for two years (Art. 24 Directive 2011/95/EU). Most countries, like Germany for instance, satisfy this minimum requirement, but go no further. Only a few countries grant resident permits that are valid for a longer period of time. France grants refugees a 10-year residential permit, while Sweden tends to issue an unlimited residence permit, regardless of whether a person is granted the status of refugee or subsidiary protection. Recently, however, the Swedish government declared, among other things, that it intends to reduce the validity of res-

idence permits for refugees to the minimum determined in the *Qualification Directive*.<sup>4</sup>

The *Qualification Directive* stipulates that a refugee has the right to participate in the labour market as soon as s/he is granted asylum (Art. 26 Directive 2011/95/EU). As asylum procedures take some time, however, a crucial point is the right to work already during the time of being an asylum seeker. As the European directives do not cover this topic, it is only dealt with by national regulations. As shown in Table 3, Greece and Sweden are the most favourable countries for asylum seekers, as they grant the latter access to the labour market from the moment that they apply for asylum. Only Ireland prohibits asylum seekers from working at all. In all other countries there are waiting times of up to one year for asylum seekers seeking work.

However, labour market access for asylum seekers is not only restricted in terms of waiting-times. All EU countries, with the exception of Bulgaria, have additional formal restrictions to varying degrees. In Sweden an asylum seeker only has to have valid documents establishing his/her identity in order to obtain the right to work. In Germany or France, for example, an asylum seeker has to prove that s/he has a concrete job

offer in order to obtain a work permit. In Germany asylum seekers must complete a second step, the so-called additional “priority review”. Before the asylum seeker can get the job, the competent authority (job center/ Arbeitsagentur) has to check if there is another person with a better residence status who fits the job description, and can only grant the asylum seeker a permit if this is not the case (Country reports AIDA 2015).

<sup>4</sup> See for example: <http://www.theguardian.com/world/2015/nov/24/sweden-asylum-seekers-refugees-policy-reversal>.

## Conclusion

Asylum regulations in European countries still differ significantly. There is a minimum standard set by the European Union that all countries have to reach. This ensures that an asylum seeker has the same chance of gaining protection regardless of the country in which s/he applies for asylum. However, regulations that determine the long-term perspective for refugees differ and therefore influence host country decisions. The more national regulations are harmonized, the less influential they will be in the host country decisions made by asylum seekers.

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