

**2nd Meeting
of the Eastern Partnership Panel on Migration and Asylum**

- National Refugee Status Determination Procedures –

**3-4 May 2012
Tbilisi, Georgia**

EXECUTIVE SUMMARY

The second meeting of the Eastern Partnership Panel on Migration and Asylum was held in Tbilisi on 3-4 May 2011. Participants from all EaP countries and 12 EU Member States as well as UNHCR, IOM and ICMPD attended the meeting, which was chaired by Rob Rozenburg (European Commission). Georgia and Germany were co-organizers of this EaP Panel dealing mainly with national Refugee Status Determination (RSD) procedures.

The first day started with welcome addresses and opening remarks (EC, Georgia, UNHCR and Germany). **General Panel business** was the first set of topics that included a presentation of EEAS on the state of play concerning EU – Eastern Partnership countries. Then Hungary gave a short update on the **Prague Process Targeted Initiative (PPTI)** and the four pilot projects that will be implemented. The work programme of the Panel for 2013 was discussed and details on further Panel activities in 2012 were given.

The part of the meeting devoted to RSD procedures started with presentations on the **EU Asylum Acquis** (Germany) and the **development of asylum legislation in Eastern European countries** (UNHCR). Georgia presented the recent developments concerning **eGovernment initiatives** and other far-reaching reforms.

In the afternoon a **Tour de Table** on recent developments and major challenges provided information from all participating states. The final presentation on day 1 was given by Romania on **quality initiative projects for RSD**.

The second day started with a short UNHCR presentation of the *“Asylum Systems Quality Initiative in Eastern European and South Caucasus”*. The project proposal was explained and feedback on participation will be requested by UNHCR. The meeting continued with presentations and discussions on key issues in **asylum case management**, such as **access to the RSD Procedure** (Poland) and **reception conditions and social benefits during the RSD procedure** (Belgium). Both presentations compared different organizational solutions in EU Member States and the situation in their respective country (access to the RSD procedure in Poland; reception management in Belgium). The following presentation gave an overview on **judicial review of protection status decisions** at European level, the situation in Germany and finally some personal views of referee judge involved in RSD cases (Germany).

Supporting the asylum case-workers was a next subject on the agenda. The first part of the presentation was on **Country of Origin Information (COI)** and the legal requirement of providing objective, comprehensive, unbiased and current information (Germany). In the second part Sweden reported on the **European Asylum Curriculum (EAC)**. This toolbox offers high-quality training through experienced and authorized trainers. In the framework of the Prague Process a pilot project will be offered for train-the-trainer in partner countries.

At the end of the meeting, Georgia summarized the second day of the EaP Panel meeting and EC and relevant States gave an update on the activities in 2012. Finally, the topic of the expert workshop to be organized by Romania and Armenia was decided: Country of Origin Information in the context of the RSD procedure.

DAY 1

Welcome and Opening

Facilitator: European Commission

In his welcome address, **Mr Rob Rozenburg** from the European Commission (EC) pointed out the overall objectives of the 2nd Eastern Partnership Panel on Migration and Asylum: strengthening of asylum and migration systems through dialogue and cooperation, exchange of information and experiences, in view of a gradual approximation of standards, policies and practices. COM also referred specifically to cooperation between the EU and the host-country Georgia, including a recent mission of the EU to Georgia.

Mr Koba Subeliani, Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, gave a short overview on the development and further progress of EU-Georgia Mobility Partnership, the implementation of the EU-Georgia Readmission and visa facilitation agreements, and prospects for starting a visa liberalization process. He also mentioned in his welcome address the improvements made in Georgia in the topics covered by the Panel, including the new law on refugees, the new reception center for asylum seekers and newly introduced refugee documents.

Ms Simone Wolken (UNHCR, Georgia) emphasized the situation of about 250,000 IDPs in Georgia and the ongoing efforts for durable solutions for this large group of people of concern. Georgia has already reached major progress in this field. Ms. Wolken reminded the participants of the founding of the Söderköping process 11 years ago in May 2001. Today the Eastern European countries would face new challenges, inter alia quality of the RSD process, fair adjudication etc. A constant struggle for RSD quality would be necessary.

Mr Michael Griesbeck (Germany) gave a greater focus on the long-lasting and ongoing support and cooperation of the German Federal Office for Migration and Refugees (BAMF) with Eastern Partnership countries. Germany participates in the EU project Targeted Initiative Georgia (TIG) and will participate in the Swedish led pilot project on quality and training in the asylum procedures, which will be implemented within the Prague Process as of September 2012.

General Panel business

(Recent developments in the areas covered by the Panel, discussions on the Panel's work program, website, planning of next meetings and possible studies)

Mr Maciej Stadejek (EEAS) reported on the state of play of general cooperation with EaP countries. Negotiations with Ukraine of an Association Agreement, including a Deep and Comprehensive Free Trade Area (DCFTA), have been finalized. Negotiations of Association Agreements have been launched with the Republic of Moldova, Georgia, Armenia and Azerbaijan, and are advancing well. The draft road map for the implementation of the Eastern Partnership (including objectives, reforms, and results to be reached by 2013) will be adopted in May. The Ministerial meeting will be in June.

Mr Rob Rozenburg presented the recent development in the context of the EU Global Approach on Migration and Mobility (GAMM) and the place of the EaP Panel in this context. He noted the importance of the fact that the new, fourth pillar of the GAMM, international protection and asylum, is already reflected in the topic of this 2nd EaP Panel.

Concerning the Prague Process **Ms Tímea Lehoczky** (Hungary) gave a short update on the Prague Process Targeted Initiative (PPTI). This EU-funded initiative "Support for the Implementation of the Prague Process and its Action Plan" under Polish leadership and support from ICMPD will implement four pilot projects according to the PP action plan.

- Pilot project 1: Preventing and fighting illegal migration (Poland, Romania)
- Pilot project 2: Legal migration (incl. labour migration) (Hungary)
- Pilot project 3: Migration and development (incl. circular migration) (Czech Republic)
- Pilot project 4: Asylum and international protection (Sweden, Germany)

In a short discussion following this overview Azerbaijan suggested a Panel meeting on IDPs in 2013 in Baku. Hungary informed about a MoU with UNHCR concerning a new initiative on quality in the RSD

procedures. Sweden reminded that the idea for planned PP pilot project was born in the Söderköping process. Eastern European countries would be the target countries for this project.

Concerning activities to be implemented in 2012

The second meeting in 2012 - Expert seminar/workshop - will focus on Country of Origin Information (COI). Hosting countries are Armenia and Romania. Place: Romania, Bucharest

Time: 1st half of September 2012

The next Panel meeting will be dedicated to circular migration.

Hosting countries: Moldova and Poland; Place: Moldova tbc; Time: in the week 15.-19. Oct. 2012

The fourth activity for 2012, an expert seminar/workshop on readmission, return and reintegration, will be postponed (beginning of 2013). Hosting countries: Georgia and Hungary

See document "[Eastern Partnership. Concept and Work Programme 2012](#)"

COM summarized the suggestions for further activities:

- IDPs, suggested by Azerbaijan, one EU MS should join as a co-organiser
- Integration, suggested by Czech Republic, Moldova declared interest to be co-organizer (CZ is also open for further topics suggested)
- Trafficking in Human Beings, suggested by Poland, one Eastern Partner should join as co-organiser
- COM informed participants that as of 2013 there will be a facility to allow for funding studies that could be prepared in support of the meetings.

Website

Ms Agata Sobiech (EC) informed that the bilingual Söderköping website will be continued, it will be turned into a website of the Panel. The new website should be available in June 2012 and there will also be an intranet part, accessible only for Contact Points. IOM Kiev will be the website operator and support will also be provided by SMB.

Support function for the Panel

EC informed about the future support function for the Panel. The EC has managed to find funding for such a support function and SMB has agreed to take up this role. The overall coordination will be done by the EC with support of the SMB, but an important role will be performed by the SMB. Also IOM Kiev will be involved, in particular when it comes to running the website and providing translation of documents for the meetings.

A detailed description of the organizational modalities of future activities will be provided by EC, taking into account the roles of the different actors mentioned above.

Exchange of information through the National Contact Points (NCPs)

EC presented an idea of a regular information exchange in the framework of the Panel, taking inspiration from the European Migration Network (EMN). To begin with, short tailored questionnaires (see matrix compilation) will be a regular feature in the future. They will facilitate discussions at the meetings but will hopefully also be a useful source of information between the meetings. They will be also translated into Russian in future.

Current State of RSD standards in EU and Eastern Europe; Recent Developments in Georgia

Ms Annette Zepp-Glinoga (Germany) gave a presentation on "*EU-Standards on Refugee Status Determination Procedures (RSD), mass exodus situations and other protection measures*". The presentation started with an historical overview of the developments in the field of the EU Asylum Acquis after the Schengen Agreement and the necessity for an European approach concerning migration and asylum legislation. Most important elements of the Qualification Directive (refugee status, subsidiary protection, exclusion clauses etc.) as well as of the Procedure Directive (appropriate examination of a case, decisions in writing, personal interviews, how to challenge a negative decision, safe country of origin and safe third country concept etc.) were presented. The mechanism of the temporary protection directive, which requires the Council of Ministers to recognize a mass influx situation, in which case no individual examination of cases is necessary, has never been used. The recast of the Qualification Directive is finalized with enhancements concerning inter alia the rights and benefits of beneficiaries of subsidiary protection. The rest of the amendments of the directives are still under discussion. The historical perspective shows that common European standards are not written in stone, they move with the challenges.

Mr Andreas Wissner (UNHCR, Geneva) reported on “*Development of national asylum legislation governing RSD procedures in the Eastern Europe*”. The presentation started with an overview of regional consultation and cooperation with an impact on national asylum legislation. UNHCR reviews national asylum legislation and focused on the asylum legislation and practice which are not separable. UNHCR has a strong interest in giving advice concerning procedural safeguards at all steps of the RSD procedures. Progress was made in the years 2005 – 2012 (e.g. non-refoulement generally observed, second generation refugee laws, single procedure in all countries except AZE, appeals generally have suspensive effect, reasonable scope of rights granted to recognized refugees). But there are also still a lot of room for improvement. Some remaining challenges for refugee legislation in Eastern Europe are for instance the need for compatibility between asylum laws and other national laws or access to asylum from airport transit zones. Looking forward, UNHCR mentioned several fields in which attention should be paid in the future: continuous development of legislation, quality assurance mechanism, regional consultation etc.

See presentation by UNHCR on “*Development of national asylum legislation on RSD in EaP countries*”

Ms Ketil Gomelauri (Georgia) gave a presentation on recent developments in Georgia, presenting Georgia as “#1 Reformer for the last 5 years (World bank 2010)”.

The main focus of good governance activities is on the fight against corruption, the fight against organized crime and the reorganisation of the police. The Government has reached international high standards in all this fields through consequent reform-oriented politics. Concerning customer satisfaction and eGovernment impressive examples were given. These included the new “Public Service Hall” concept that goes beyond the one-stop-shopping approach by bundling numerous services from different government agencies; eChange supports online civic participation. Other examples in the field of eGovernment were presented, also aspects of effective integrated border management.

See presentation by Georgia on “*Current Developments in Georgia*”

After the meeting participants had the opportunity to visit the Rustavi “Public Service Hall” with an impressing presentation on eGovernment services implemented.

Mr Christoph Bierwirth (UNHCR, Georgia) mentioned some of the major progress reached in Georgia:

- 50 % of the Russian refugees became Georgian citizens in the last 2 years
- irregular migration from the refugee regions slows down
- staff training was provided for reception facility staff
- the new refugee law 2011 introduced complementary protection
- excellent cooperation with the Georgian government

Refugee Status Determination Procedures

Facilitator: Ms Nino Meskhi, Georgia

During the Tour de Table Participating States focused on the most significant developments in asylum and refugee protection activities. Several states mentioned initiatives aimed at streamlining and accelerating procedures and increasing efficiency. Concerning legislation EU Member States transposed EU directives into national legislation, EaP countries introduced second generation refugee legislation and drafted migration and asylum strategy plans respectively action plans. Many Participating States reported an increasing inflow of asylum seekers and an increase in undocumented asylum seekers.

For a complete and detailed overview of Participating States’ written contributions to the Tour de Table, See [Tour de Table compilation matrix](#).

In addition to the compilation:

- NL gave a short overview on the new 8 day procedure (day 1: lodging and identity etc.). In this 8 day procedure 22 % of the cases reached a positive decision, 42 % a negative decision. NL will try to reduce the number of subsequent decisions by changing the law. Concerning quality initiatives there is a discussion about a complete review of cases.
- Romania has already more than 1,000 new applications until May which is a strong increase compared with about 2,000 applications total in the year 2011.
- Poland also reported an increase (2,400 applications from January on).

See presentation by Armenia "*National Refugee Status Determination Procedures ARMENIA*"

See presentation by Cyprus "*The Asylum System – Cyprus EU*"

See presentation by Hungary "*The Hungarian Asylum Procedure*"

Mr Silviu Turza (Romania) gave an overview on past quality related projects with participation of the Romanian Immigration Office (ASQAEM 9/2008-2/2010, FDQ 4/2010 – 10/2011). He described the achievements in Romania:

- Auditors at regional and national level
- Templates for interviews, decisions etc.
- Interview evaluation form, Decision evaluation form
- Internal instructions
- Training sessions, use of the European Asylum Curriculum (EAC)
- Internal guidelines on credibility assessment
- Internal guidelines on subsidiary protection

Latest development is the new JQAB (Joint Quality Assessment Board) of Romanian Immigration Office (RIO) and UNCHR.

See presentation by Romania on "*Quality initiatives on RSD*".

SECOND DAY

After a summary of the first day by **Mr Frithjof Zerger** (Germany) **Mr Andreas Wissner** (UNHCR, Geneva) presented the "*Asylum Systems Quality Initiative in Eastern European and South Caucasus*". UNHCR has submitted a project concept note under the "Thematic Programme on Migration and Asylum" that has been selected for submitting a project application. UNHCR explained that in the case of not being successful the project should be implemented as "Quality Initiative light" with available budget. The project proposal is based on three pillars: quality assurance, asylum capacity building and access to COI in Russian language. The proposed project with a total budget of Euro 2 million is intended to start in January 2013. All Eastern European countries and potential partners will receive an official request for participation during the next weeks.

National asylum procedures:

Presentations and discussions on essential issues in asylum case management

Facilitator: Mr Michael Griesbeck, Germany

Ms Karolina Marcjanik (Poland) made the introductory presentation on "*Access to the Refugee Status Determination Procedure*". The relevant EU directive is the Asylum Procedure Directive (2005, APD). International principles and state practice have to be respected besides EU rules.

Art 6 APD describes the access to the procedure. The recast proposal which is still under negotiation proposes several modifications (June 2011): The general principle of easy and timely access, the difference between "making" an application (expressing a request for protection which can be done informally and to any authority) and "registration" (the MS possesses a written record of the applicants intention) up to "lodging" an application (form submitted by the applicant or a report of the authorities has reached the competent authorities). Art 8 APC describes that information should be available in detention facilities and at border crossing points including transit zones, availability of translation services and counselling for all passing the border incl. transit zones.

From a practical perspective there are more or less three different alternatives for lodging an asylum application in MS: at law enforcement authorities, at a designated place or communicate an intention to apply to any authority. The second part of the presentation described the situation in Poland today. Responsible institution for registration of an asylum application is the Border Guard. The lodging can be done at border crossing points, at the BG unit in Warsaw or in guarded facilities. Asylum seekers always have an initial interview with the BG. After lodging the application the Office for Foreigners is the responsible authority for RSD. The main determinants of procedures in Poland were mentioned (refugees are nearly homogenous group of migrants from Caucasus region, families, influx mainly through one border crossing point and mostly documented migrants). Advantages of submitting asylum applications to the Border Police were given (the initial interview with the BG may help the decision maker to determine the credibility of the asylum seeker) and this organizational model has only minor disadvantages (additional time is needed to hand over the cases to the Office for Foreigners).

See presentation by Poland on "*Access to the Refugee Status Determination Procedure*"

Mr Michael Kegels (Belgium) reported on “Reception conditions and social benefits during the RSD procedure: The case of Belgium in an EU compared context”. The speaker reminded participants that reception and accommodation is the cost-intensive part of RSD procedures. Fedasil is the Belgium state agency responsible for reception and voluntary return, unaccompanied minors, etc. Many competencies belong to the regions (integration, education, housing, reception of specific target groups). Fedasil guarantees material assistance throughout the entire asylum procedure. Fedasil provides reception and counselling with 1,300 staff members, based on the Reception Act. 25,000 places/beds are available, 5,000 of these are managed by Fedasil while the rest is provided by Red Cross, municipalities etc. All first reception centers are under the responsibility of Fedasil or the Belgium Red Cross. After 4 – 6 month refugees are accommodated in capacities of the partners. After the so-called “reception crisis” Belgium has increased the reception capacities. A new 3-step model – starting from emergency capacities (with lower quality standards) – introduced a more flexible system of collective and individual reception structures. With legal changes (e.g. fast procedure for save countries) Belgium tries to reduce processing time in the RSD procedures. The most important thing is to find a balance between Quality – Efficiency – Flexibility.

Fedasil has created a “**European Platform of Reception Agencies**” (EPRA) network project. Participants from many MS with different reception organizational models (e.g. state owned in NL, contract management for reception centres in NO and IE, NGOs as reception partner in FR and ES) discuss all relevant aspects of reception and refugee accommodation. Mr. Kegels invited states around the table to join the network.

Topics briefly discussed after this presentation: The “Open Return Centers” where housing is offered for those that have received a second order to leave the country; return counselling in reception facilities; monitoring of the quality standards for reception facilities through indicators, field visits (audits) etc.

See presentation by Belgium on “*Reception conditions and social benefits during the RSD procedure*”

Mr Wolfgang Bartsch (Germany) reported on “*Judicial review of protection status decisions: independent review of first instance decisions*”. The judge gave an overview on judicial review of protection status decisions at European level, the situation in a MS like Germany and finally some personal views. At European level the European Court of Justice (ECJ, Luxembourg) takes decisions on EU community law including the asylum and migration acquis but also concerning rights of third-country nationals etc. MS courts refer in the case of interpretation of EU law to the ECJ for clarification (e.g. in Dec. 2011, reception conditions in Greece, case from the Court of Appeal, UK). The European Court of Human Rights (ECtHR, Strasbourg) ensures the rights enshrined in the European Convention of Human Rights (ECHR). Every citizen from one of the signatory states can lodge an application at the ECtHR.

At the MS level there you can find a variety of systems related to appeals in the asylum cases (national courts or appeal bodies, specialized or ordinary courts etc.). Because of the different judicial traditions the EU has only set minimum standards concerning the effective remedy against negative decisions. This remedy can be against the rejections of an application, the considering an application as inadmissible, the non-conducting of an examination according to the safe third country concept, the refusal to reopen the examination, the refusal of entry onto the territory etc. The judicial review is based on law and facts and suspensive effect may be given by law or court order.

Personal remarks referred to good decision-making from the beginning, independence and impartiality as well as working conditions. The judge said that states should include judicial review bodies in quality initiatives, staff trainings etc.

Participants discussed the following topics: Training of judges, feedback from the courts to the first instance authority, participation of judges in training etc.

UNHCR advocated for taking up this topic – cooperation between first instance in RSD procedure and judiciary – at the Panel. Observation of court decisions and respecting court decisions would be still a challenge in Eastern European countries.

See presentation by Germany on “*Judicial review of protection status decisions*”

Mr Michael Kleinhans (Germany) reported on support of decision makers through Country of Origin Information (COI). According to Article 8 par. 2 of the APD Member States shall ensure that precise and up-to-date information is obtained from various sources, and that such information is made available to the personnel responsible for examining and taking decisions; the personnel examining applications and taking decisions have the knowledge with respect to relevant standards applicable in the field of asylum and refugee law.

The German Federal Office has established an information centre for asylum and migration with about eighty staff members which provides objective, comprehensive, unbiased and current information on countries of origin, transit countries and worldwide refugee and migration movements. One instrument to assure quality of COI reports based on agreed standards are the “Common EU Guidelines for Processing Country of Origin Information (COI)”. All these information is available in an electronic information platform to all members of staff, all judges of the administrative courts, staff of authorities responsible for foreigners and European partner authorities. Some issues concerning COI have been under controversial discussion for many years. There are discussions of using non-public available sources like reports from Foreign Affairs in the RSD or online access to COI resources versus copyright issues etc. Language is an important problem, as nobody can afford to translate all relevant reports into their respective national languages. The Common European COI Portal will facilitate access to COI documents but will not be able to solve the language issue.

Mr André Nilen (Sweden) gave a presentation on the *European Asylum Curriculum (EAC)* as a contribution to training and support of decision makers. Common training is one component for the Common European Asylum System (CEAS). The European Asylum Curriculum (EAC) is a toolbox that allows picking and choosing relevant modules for staff training. EAC is based on eLearning plus face-to-face sessions (so-called “blended learning”), providing interactive online training with relevant cases and modules that support learning of knowledge and skills. By using train-the-trainer seminars the EAC offers high-quality training through experienced and authorized trainers. In the framework of the Prague Process a pilot project will be offered for train-the-trainer in Eastern European countries (implementing the “inclusion” module in Russian, quality checks are done by UNHCR). Kick-off for this pilot project is foreseen for September 2012 and the first training is schedules for November 2012. Sweden finally made some remarks concerning the Swedish Migration Board as a learning organization (case learning, self-assessment, central quality monitoring, quality leadership). [See presentation by Sweden on the “European Asylum Curriculum”](#)

Closure of the Panel meeting

Facilitator: European Commission

Ms Natalia Chubinidze (Georgia) gave a summary of the second day and outlook to the first EaP Panel expert meeting in 2012. All important issues concerning the RSD procedures had been discussed during the two days of this Panel.

Concerning the target group of the different meetings COM tried to clarify the difference between panel and expert meetings. Panel meetings should be at policy level, participants can be a mixture of generalists, experts etc. On the other hand, EaP expert meetings – to be called “workshops” – should focus on capacity building, practical cooperation between practitioners and offer more interactive exchange. COM suggested testing the EaP workshop format in the next meeting on COI in Romania.

The COM thanked the host Georgia for the fantastic dinner and the two co-organizers of the meeting, Georgia and Germany, for the intensive preparation work and successful implementation of this second EaP Panel.

From Georgian side the meeting was supported by the State Commission on Migration in general and particularly Civil Registry Agency, Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia and State Minister’s Office on EU and EU-Atlantic Integration of Georgia.

Many participants joined the optional tour after the Panel meeting to visit the new refugee centre.