**Permanent education project on the EU asylum policy**

**Aim of the project:** To develop scientific, objective and pedagogical educational tools related to the EU asylum policy based on the creation of multi-media educational kits combining scientific expertise and permanent educational engineering (age group:17 to 23 years old).

**Table of content:**

* Teaser: Asylum policy and the European Union
* Video n° 1: The history of the EU asylum policy
* Video n° 2: Entering the EU to seek for asylum and the logic of the Dublin system
* Video n° 3: The EU asylum procedure in practice
* Video n° 4: Challenges of the EU asylum policy

**Word count:**

| Teaser: Asylum policy and the European Union | 334 |
| --- | --- |
| Video n° 1: The history of the EU asylum policy | 542 |
| Video n° 2: Entering the EU to seek for asylum and the logic of the Dublin system | 811 |
| Video n° 3: The EU asylum procedure in practice | 644 |
| Video n° 4: Challenges of the EU asylum policy | 477 |

**Teaser: Asylum policy and the European Union**

Word count: 334

According to international law, an individual - whether they are an adult or a minor - can seek protection from another country if they are not protected by their country of origin. Asylum is synonymous with international protection. Asylum is also a human right, a right that every person has simply because they exist as human beings.

A country might **persecute** its own citizens because of who they are, for instance, a political opponent of the government, or because of what they believe, for example, if they believe in a different religion than the one prevalent in the State. A country may also **no longer be able to protect its own citizens** from the danger caused by war or widespread violence. For instance, Venezuela is a country where the complex political situation and the ongoing, economic and humanitarian crises resulted in widespread poverty and insecurity. In both cases, this means that a person’s life and **human rights are at risk**. For example, human rights, such as the right to life, the right to personal integrity, the right to freedom of expression are threatened when a State is killing, torturing or putting political opponents or LGBTQ+ people in jail. .

Because of the fear of persecution, that person may seek **protection** and a new home in a foreign country by applying for asylum. The country will examine the asylum application in detail.

Over the years, the European Union has developed an EU asylum policy to establish a **Common European Asylum System.** The Common European Asylum System is composed of rules that apply in all the EU States to the people who come to the European Union in search of protection.

**Video n° 1: The history of the EU asylum policy**

Word count: 542

The common EU asylum policy brings together 27 EU States and was created to guarantee **common rules** applicable to non-EU citizens seeking international protection within the Union.

The history of the EU asylum policy began in the late ‘80s when some of the current EU member states decided to create a common space where internal border controls on individuals were no longer performed: the **Schengen area**. Within this new area, people could move freely and an asylum seeker could **choose** their country of asylum. At that time, each State had its own asylum rules. In practice, a person could potentially seek asylum in France, Italy and Germany with different chances and hopes of obtaining protection.

To prevent the same person from submitting the same application for international protection in different countries, the EU States decided to establish a basic rule that **one State and one State only** should be in charge of examining a person’s asylum application. According to this rule, the State responsible for examining the application would be responsible for the person’s first entry into the Schengen Area. Hence, if the person has entered and applied for asylum in Italy, then moved to France and lodged a second asylum application there, Italy would be responsible for examining the application .

This means that asylum seekers must stay in one EU country. As a consequence, asylum seekers' individual preferences are neglected. Those preferences could be related to language affinity, the presence of relatives or work opportunities in specific EU countries .

It soon became evident that this rule alone was not sufficient, as each State was applying its own asylum rules and developing its own practices. The States needed to harmonize several aspects of the asylum procedure. In 1999, the EU States agreed to work together to establish a **Common European Asylum System**. The system was built progressively in several stages.

* A first phase (between 2000 and 2005) was set to establish and develop basic rules representing the minimum standards each State should follow.
* A second phase (between 2011 and 2013) was set to create more sophisticated rules to be established and applied in all EU States.
* A third phase (initiated in 2016) is not yet completed because of political disagreements between the EU States. This phase is currently under discussion and a new reform of the Common European Asylum System is expected by May 2024.

But what is the added value of the rules created by the EU ? In theory, common rules should create identical conditions amongst EU States. This means that the same rules should apply when processing asylum applications regardless of the State where they are lodged.

However, in practice, common rules alone cannot make up for substantial national differences and the way they are applied varies and involves some flexibility from the States . For instance, asylum recognition rates (i.e. the chances of obtaining protection in an EU country for people coming from the same country of origin) might vary from one EU country to another. Afghan people are more likely to receive protection in Spain than in The Netherlands.

**Video n° 2: Entering the EU to seek asylum and the logic of the Dublin system**

Word count: 811

As explained in the previous video, EU States have decided that **one State and one State only** should be in charge of examining an asylum application. This system of rules, known as “Dublin”, prevents asylum seekers from starting **multiple asylum procedures** in different EU States. If they try doing so, they can be transferred to the only country in charge of their asylum application. According to the Dublin rules, this country is the one through which the asylum seeker has entered the EU. In practice, when non-European asylum seekers enter the territory of the European Union without a permit, their **fingerprints** are collected and stored in a large-scale IT system called EURODAC.

Let's Imagine that a Syrian woman wants to go to Germany, but she cannot travel legally because she does not own a passport or because her visa request has been rejected . She arrives in the European Union through Greece by sea, on a boat, with the help of a smugglerfrom Turkey. Her fingerprints are collected by the Greek police. Facing many difficulties and dangers, she continues her journey through North Macedonia, Serbia, Hungary and Austria. Finally, she reaches Germany, where she applies for asylum.

According to the Dublin system, the German authorities will first check which State is responsible for examining the asylum application. They will consult the EURODAC system and see that her fingerprints were taken in Greece. Consequently, Greece will be considered the State in charge of the asylum procedure, and Germany will organize her transfer  **back to Greece**. It would have been different if this woman had received a German visa, namely a permit to travel legally, and had taken a direct flight to Germany . In this case, the State in charge of her application would have been Germany.

In practice and as an underlying rule, the Dublin system assigns responsibility for examining the asylum application on the State through which the asylum seeker has entered the EU.

However, there are some exceptions to this rule. Let’s imagine that an asylum seeker has a **family member** who has already applied for asylum in one European State. In that case, the same State should be in charge of both applications, so that spouses and children below 18 are kept together. Exceptionally, Dublin rules do not apply to unaccompanied **children under 18** who enter the EU without any family members.

The Dublin system has been in place for more than 30 years. Yet, its functioning presents several weaknesses . The distribution of asylum applications in the European Union is not based on the population size or the economy of each State, but mostly on its geographical position on the map of Europe. Countries located on the Southern and Eastern borders of the EU are much more exposed to the spontaneous arrival of asylum seekers because those countries are easier to reach outside the EU territory. Suppose an EU State faces a number of asylum requests so high that it cannot manage them. In that case, the Dublin system requires all the other States **not to transfer asylum seekers back** to this country. For example, this happened several times, in 2011 as well as in 2015 and in 2020, when the Greek authorities could no longer provide food and shelter to all asylum seekers who arrived on the Greek islands by sea.

You may have noticed that under the Dublin system, asylum seekers **cannot choose the country** in which they want to apply for protection. Their background, language skills or intentions are not taken into account. For example, a man coming from the Democratic Republic of Congo could wish to apply for asylum in France because he speaks French or might have a network willing to support him.

Yet, even if the Dublin system is based on the assumption that all asylum systems are the same in every EU States and that asylum applications are treated under the same rules, in practice, there are **considerable disparities** in national asylum policies.

The quality of the material support that the State shall provide asylum seekers can also vary significantly from one EU State to another, such as the accommodation conditions . For instance, in Germany, asylum seekers are obliged to reside in a specific area of the country, whereas in other EU States they would be able to settle anywhere within the national territory. Similarly, France and Ireland do not allow asylum seekers to work while awaiting their asylum decisions whereas Belgium and other EU States do .

Therefore, **the country where the asylum application is examined is relevant and makes a difference**.

After presenting rules related to the entry of asylum seekers into the EU territory and their limitations, the next video will explain how the asylum procedure works for people seeking protection.

**Video n° 3: The EU asylum procedure in practice**

Word count: 644

Once the Dublin rules have established which EU country is in charge of the asylum application, the asylum procedure starts. It will lead to decide on the grounds of a sound assessment whether the applicant can be granted the protection of the State in charge of the asylum application.

The asylum procedure can take up to several months. A qualified and independent staff of each EU State – **the national asylum authorities** – will analyse the protection needs of asylum seekers based on the reasons which have led them to leave their country of origin. But which reasons justify the granting of international protection from a State?

* Technically, asylum seekers will obtain **refugee** **protection,** also known as “Geneva protection”, if they can convince the State authorities that they are personally in danger in their country of origin due to their race, religion, nationality, political opinion or their belonging to a particular social group, such as LGBTQ+ people.
* Asylum seekers will obtain **subsidiary** **protection** if they cannot convince the State authorities that they are personally in danger, but a general situation of violence exists in their country of origin, such as those caused by an internal war. Syria is an example of a country with large-scale or widespread conflict-related violence.

Those two forms of protection result from the progressive harmonization of EU asylum law over time. For instance, EU asylum law considers sexual orientation, age or gender as relevant factors when assessing the reasons for persecution.

But in practice, how can asylum seekers convince the State authorities that they need protection?

Often, asylum seekers leave their country of origin without carrying **all the documents** necessary to prove their identity. Similarly, it might be hard to certify the reasons why they left. Because of this, asylum seekers will have to recall all the facts and circumstances that forced them to escape through **an interview led by State authorities**.

Asylum seekers will be granted protection if their personal story, as self-narrated during the interview, is considered **credible by the State authorities**. The story’s credibility will be cross checked with information on the **country of origin** gatheredby the State authorities. For instance, the Belgian asylum authorities are aware that the Chinese government does not respect the freedom of religion of the Uighurs , a Muslim minority.

Convincing the authorities can be difficult for various reasons. The interview can be a stressful moment for the asylum seeker. The length, setting and language of the procedure can be challenging. Personal past events can be hard to share with officials, especially when they lead to trauma. For example, interviews can be hard for victims of torture who must recall their stories and bring back difficult memories. For this reason, interviews can be adapted to the particular needs of asylum seekers. For this reason , children’s interviews are different from adults' interviews.

Although the EU States are supposed to apply the same rules for granting international protection, some differences in asylum procedures persist in practice. Moreover, once an asylum seeker gets protection, this **protection is only valid in the State where the asylum procedure was conducted**. This means that refugees are supposed to remain in that country and cannot settle in another EU country while keeping their protection.

Up until now, international protection has been awarded on two grounds: refugee protection and subsidiary protection. However, the war in Ukraine showed that other solutions exist. People in need of protection fleeing Ukraine were welcomed in the EU under a very different mechanism, known as **Temporary Protection**, first used in March 2022. Asylum seekers coming from Ukraine could benefit from a different type of protection mechanism especially regarding Dublin rules which are not applicable in this specific situation. This shows that the logic behind the Dublin system can be questioned and defeated.

**Video n° 4: Current challenges of the EU asylum policy**

Word count: 477

The Common European Asylum System is one of the most protective and sophisticated systems in the world. Yet it is still a work in progress, and some contradictions remain.

To begin with, access to protection is only limited to the asylum seekers who manage to reach the territory of the EU. The Common European Asylum System has been established alongside rules aiming at reinforcing the control over the EU’s external borders. As a consequence, it has become more and more difficult and more dangerous to reach European territory.

Moreover, even when asylum seekers do reach the European Union, they are prevented from moving freely within the EU, either because of the Dublin rules or because of the policies of the EU States. As explained, the Dublin rules distribute asylum applications across the European Union in a way that is not efficient for the EU States nor fair for the asylum seekers. In addition, some EU States **hold asylum seekers in detention** even if they have not committed any crime. While asylum seekers should not be detained unless exceptional circumstances exist, some EU States, such as Hungary and Poland, are increasingly using unjustified mass and detention to discourage asylum seekers from coming. This can cause additional harm to people who are often already vulnerable, as it is proven that detention can harm people’s physical and mental health.

Once asylum seekers are granted protection from one EU country, they cannot settle in another EU country while remaining under the first country’s protection.

Until now, the EU States have not succeeded in creating a truly common protection area. This creates an **objective competition among the national asylum systems** in the asylum seekers’ eyes, with some perceived as ‘good’ and some perceived as ‘less good or bad ’ due to existing differences in terms of, for example, housing, such as accommodation in overcrowded centers .

In practice, both asylum seekers and people who have obtained protection continue to move within the European Union, from one EU State to another. But the reasons behind their movement are generally not taken into account when it comes to changing European rules. .

In any case, reforming the EU asylum policy is not easy and the construction of a common system has not been reached yet. For many years, the EU States have been divided on the issue of asylum. This has **created political tensions** to the point that they disagree over the need for an EU asylum policy in itself. The perception of some EU States is that the EU asylum policy is **too protective** towards asylum seekers.

A series of proposals have been presented since 2016 to modify the current Common European Asylum System. However, divisions among States are so significant that they prevent reaching an agreement on the changes proposed. Instead of focusing on changing the law, the European Union should find new ways to support the EU States in implementing their asylum policies and duties.