

Factsheet

REFUGEE LAW IN EUROPE

Last update: August 2018

A brief overview of the key components of refugee and asylum law in Europe, including the Common European Asylum System (CEAS).

How are asylum and refugee issues managed under European law?

All [Member States of the European Union](#) (EU) are bound by the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. In addition, the EU has one of the world's most developed regional frameworks for cooperation on asylum, refugee and migration issues: the [Common European Asylum System \(CEAS\)](#). The goal of the CEAS is to create a harmonised EU-wide approach under which asylum procedures are as fair, consistent and effective as possible, and asylum seekers receive equal treatment no matter the country in which they apply for asylum.

What are the main features of the Common European Asylum System?

The CEAS is based on the 'Dublin system', under which only one EU Member State is responsible for examining an asylum seeker's claim, and a hierarchy of criteria is used to identify which one that should be. Responsibility is generally allocated on the basis of an asylum seeker's family ties to people already in Europe, or the country in which the asylum seeker first entered Europe. These criteria are established in the [Dublin III Regulation](#).

Other instruments setting out rules and common standards for the treatment and processing of asylum seekers and refugees in Europe include:

- the [Asylum Procedures Directive](#), which seeks to ensure fairer, quicker and better-quality asylum decision-making by setting common procedures for granting (or withdrawing) international protection in EU Member States;
- the [Reception Conditions Directive](#), which sets out common minimum standards for humane reception conditions for asylum seekers across the EU. It establishes rules relating to housing, food, health care and employment, and detailed common rules governing the limited circumstances in which asylum seekers can be detained;
- the [Qualification Directive](#), which seeks to harmonise eligibility criteria for protection across the EU by establishing common standards for who qualifies as a beneficiary of international protection and the content of that protection; and

- the [EURODAC Regulation](#), which establishes a centralised EU database of asylum seekers' fingerprints and is used to assist in determining which EU Member State is responsible for examining an asylum seeker's claim under the Dublin system.

According to European law, these instruments are legally binding on each EU Member State and stand above their domestic laws (meaning that each country's laws must be consistent with them). They are also currently undergoing a process of review, as European countries decide whether and how to [reform the CEAS](#) to respond better to migratory pressures and ensure a fairer distribution of responsibilities between EU Member States. The review was prompted by unprecedented numbers of people fleeing the conflict in Syria, and subsequent political backlash to the arrivals in some European countries.

In addition to the CEAS, Europe has one of the world's most advanced regional human rights systems. At the core of European human rights law is the [European Convention on Human Rights](#) (ECHR) (formally the Convention for the Protection of Human Rights and Fundamental Freedoms). State parties to the ECHR agree to secure the rights and freedoms it contains to everyone within their jurisdictions.

What are the main institutions involved in the creation of EU refugee law?

The [main institutions](#) involved in [making EU law](#) are:

- the European Council, which sets the EU's overall political direction but has no power to pass laws;
- the European Parliament, which represents and is directly elected by EU citizens;
- the Council of the European Union, which represents the governments of individual member countries; and
- the European Commission, which represents the interests of the Union as a whole.

In addition, the [Court of Justice](#), one of two major courts comprising the Court of Justice of the European Union (CJEU), is the highest court in the EU with jurisdiction to hear requests for preliminary rulings from national courts, appeals and other matters. Together with the General Court, the Court of Justice is tasked with examining the legality of EU measures, interpreting EU law, and ensuring its uniform application across the EU. The Court of Justice has played an important role in overseeing the common application of the CEAS.

Finally, the [European Court of Human Rights](#) (ECtHR) has jurisdiction to rule on all matters concerning the interpretation and application of the ECHR. Judgments of the ECtHR are final and binding on states in any case to which they are a party. The ECtHR has delivered a number of significant judgments relevant to European asylum law, including judgments concerning [the detention of refugees and migrants](#), the [collective expulsion of aliens](#), and [the application of the Dublin system](#).

For a comprehensive record of the case law of the Court of Justice and the ECtHR as it relates to refugees, asylum seekers and stateless people, see the UNHCR's report on [The Case Law of the European Regional Courts: the Court of Justice of the European Union and the European Court of Human Rights](#) (2015).