



Input by civil society to the EASO Annual Report 2017

EASO has started the production of the 2017 Annual Report on the Situation of Asylum in the European Union, in line with Article 12 (1) of the EASO Regulation. The report aims to provide a comprehensive overview of important asylum-related developments at EU+ and national level, and the functioning of all key aspects of the Common European Asylum System (CEAS). While the final product comes out of an analytical and synthetic process that takes place in-house, a critical part of information is elicited through valuable contributions by a multiplicity of stakeholders from EU+ countries, civil society organizations, UNHCR, and other actors possessing in-depth knowledge on main developments in asylum policies and practices in EU+ countries. Previous reports are [available for review at EASO's website](#).

We would like to kindly invite you to take part in this process, by sharing your observations **on developments in asylum law, policy or practice in 2017 (and early 2018) in the areas listed on page 2**. The topics listed there reflect the structure of Chapter 4 of the EASO report, which focuses on the 'Functioning of the CEAS'. To this end, your observations may concern national practices of specific EU+ countries or the EU as a whole. Overall, the EASO Annual Report is not meant to describe the national asylum systems in detail, but present key developments in 2017, including **improvements and new/remaining concerns**. In terms of format, your contributions would be preferably offered in the form of bullet points, which would facilitate further processing of your input.

Please, bear in mind that the EASO Annual Report is a public document. Accordingly, it would be desirable that your contributions, whenever possible, be supported by references to relevant sources. Providing links to materials such as analytical studies, articles, reports, websites, press releases, position papers/statements, and press releases, would allow for maintaining transparency. For your reference, you may review the [contributions offered by civil society actors for the 2016 Annual Report](#). If you do not consent on EASO making your submission available, please inform us accordingly.

In our effort to provide an inclusive overview of all relevant developments, we strive to incorporate as many contributions as possible. At the same time, the final content of the EASO Annual Report is subject to its set terms of reference and volume limitations. To this end, your submissions, which are gratefully received and acknowledged, may be edited for length and clarity so that the final product concisely serves the objectives of the Annual Report: to improve the quality, consistency, and effectiveness of CEAS. From our side, we can assure you that the valuable insights you offer feed into EASO's work in multiple ways and inform reports and analyses beyond the production of the Annual Report.

Please, kindly provide your input by filling in this document (with attachments, if needed) and returning it to ids@easo.europa.eu **AND** consultative-forum@easo.europa.eu **by 16 February 2018**.

Within each area, please highlight the following **type of information**:

- NEW positive developments; improvements and NEW or remaining matters of concern;
- Changes in policies or practices; transposition of legislation; institutional changes; relevant national jurisprudence.

You are kindly requested to make sure that your input falls within each section's scope. Please, refrain from including information that goes beyond the thematic focus of each section or is not related to recent developments. Feel free to use Section 16 to share information on developments you consider important that may have not been covered in previous sections.

Name of the contributing stakeholder: ECPAT UK (Every Child Protected Against Trafficking)
[Contact details]

1) Access to territory and access to asylum procedure

2) Access to information and legal assistance

3) Providing interpretation services

4) Dublin procedure

5) Specific procedures (border, accelerated, admissibility)

6) Reception of applicants for international protection

7) Detention of applicants for international protection

8) Procedures at First instance

9) Procedures at Second Instance

10) Availability and use of Country of Origin Information

A report by the Independent Chief Inspector of Borders and Immigration recently found failings in the use of country of origin information in asylum decision-making.¹ It found that the quality of research was variable and that use of “policy” information was being used to direct the user towards a pre-determined outcome. This has concerning implications for child trafficking victims applying for asylum in the UK.

11) Vulnerable applicants

Trafficked children can be granted asylum if it can be shown that he or she is a member of a particular social group for the purposes of the Refugee Convention. But, as the test for asylum is a prospective one, a child will have to establish that he or she will be re-trafficked or exploited if removed to his or her country of origin. This may be difficult for a child to prove as it may successfully be argued that he or she can live in another part of that state or country – this approach fails to take into account the particular individual vulnerabilities of a child who has experienced abuse. It may also be argued that steps are being taken by the authorities to combat child trafficking and so there is a sufficiency of protection for the child, yet the wider efficacy of the child protection system or attitudes to returnees is not always easily established. In addition, child victims of modern slavery often find it difficult to disclose the full extent of their past experience and exploitation, often presenting as inconsistent or not ‘credible’, which may mean that there is insufficient evidence upon which

¹ Independent Chief Inspector of Borders and Immigration, (2018), *An inspection of the Home Office’s production and use of Country of Origin Information, April to August 2017*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/677556/An_inspection_of_the_production_and_use_of_Country_of_Origin_Information.pdf

to base a claim for asylum or be a reason used to refuse asylum based on credibility issues. This is often the case with Vietnamese children who are still subject to debt bondage.² Children in such situations should not be penalised for the lack of criminal investigations into their trafficking or for their response to trauma or fear of disclosure as these are common responses to child abuse. The system should be nuanced and responsive enough to ensure a robust protective response to those who have been trafficked.

There are serious concerns about a conflict of interests between asylum decision-making within a context of immigration objectives, and the identification of child trafficking victims. Both processes are under the remit of the Home Office, but the Home Office approach is mostly one focusing on trafficking as a criminal offence or immigration issue, as opposed to focusing on the issue from a children's perspective as child abuse. Concerns about a focus on immigration around trafficking are well documented and have resulted in children being seen as immigrants first, and children or victims of trafficking second.³ In October 2017, a series of reforms to the NRM were announced, which includes separating trafficking decision-making to a new body.⁴ This new body will be separate from immigration, however, the unit will still be in the Home Office, so concerns about conflict of interest have not been fully addressed. It is also not clear if there will be a role in this decision-making for specialised child protection actors or whether decisions will be multi-agency.

For children who are victims of trafficking and are also undergoing asylum applications, navigating the complex legal and support frameworks can be extremely demanding on the child, both practically and emotionally. The Government made a commitment in 2015 to setting up a national Independent Child Trafficking Advocate (ICTA) scheme, which has already shown to be widely effective in supporting child victims of trafficking in Greater Manchester, Hampshire and Wales. Evidence has shown what a positive impact having an advocate can have on a child's care and well-being – yet there seems to be no urgency to stick to this commitment made in 2015, which is leading to a postcode lottery in terms of what advocacy children receive.⁵ There remains a lack of clarity on when the scheme is set to be rolled out nationally in England and Wales. A successful guardianship scheme has been piloted in Scotland⁶ and is soon to be rolled out in Northern Ireland.

12) Content of protection – situation of beneficiaries of protection

13) Return of former applicants for international protection

Child trafficking victims are granted limited leave to remain in the UK, but when they turn 17 ½, they lose this and many apply for asylum. However, many are refused asylum and then often face return to countries where they have few connections and face serious risks of re-trafficking. The current system where granting a trafficked child limited leave to remain until the age of 17.5 or 18 undermines the ability of the child, or those supporting the child, to find an individual durable solution, as required under the EU Trafficking Directive, for that child and prevents local authorities making long-term plans for the child.⁷ There is currently a lack of scrutiny and human rights assessment of returns for victims once they turn 18.

² ECPAT UK, (2017), *Lighting the way: Steps that lawyers, legal guardians and child trafficking advocates in the UK can take to better identify and protect children who may have been trafficked* <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=1dcfdd01-44fd-4b0f-90c3-ccb36649a80>

³ Anti-Trafficking Monitoring Group, (2013), *Hidden in plain sight: Three years on: updated analysis of UK measures to protect trafficked persons* http://www.antislavery.org/wp-content/uploads/2017/01/hidden_in_plain_sight.pdf

⁴ Home Office, 'Modern Slavery Taskforce agrees new measures to support victims', 17th October 2017. Available at: <https://www.gov.uk/government/news/modern-slavery-taskforce-agrees-new-measures-to-support-victims>; Home Office, 'Modern slavery victims to receive longer period of support,' 26th October 2017. Available at: <https://www.gov.uk/government/news/modern-slavery-victims-to-receive-longer-period-of-support>

⁵ Home Office, (2015), Evaluation of Independent Child Trafficking Advocates trial: Final Report. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486138/icta-horr86.pdf

⁶ Scottish Government, Scottish Guardianship Service: <https://beta.gov.scot/policies/refugees-and-asylum-seekers/unaccompanied-children/>.

⁷ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

14) Resettlement and humanitarian admission programmes

15) Relocation

16) Other relevant developments