



The Refugee Crisis: Factual Background and Legal Considerations

*The Gap between the needs of the contemporary Asylum Crisis and legal
Response of the EU*

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Abbreviations

AFSJ	Area of freedom, security and justice
Asylum Act	Act LXXX of 2007 on Asylum (Hungary)
Asylum Procedures Directive	Directive on common procedures for granting and withdrawing international protection before Christ
BC	before Christ
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Cartagena Declaration	Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama
CEAS	Common European Asylum System
CETS	Council of Europe Treaty Series
ch	chapter
CJEU	Court of Justice of the European Union (before December 2009: ECJ)
CoE	Council of Europe
Convention	1951 Convention as amended by the 1967 Protocol
Council	Council of the European Union
Dublin Regulation	Regulation establishing the criteria and mechanism for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person
EASO	European Asylum Support Office
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECHR	Reports of Judgments and Decisions (used in Footnotes for Cases of the ECtHR)
ECJ	European Court of Justice (after December 2009: CJEU)
ECtHR	European Court of Human Rights
EC Treaty	Consolidated Version of the Treaty establishing the European Community
EU Charter	Charter of Fundamental Rights of the European Union
Eurodac Regulation	Regulation on the Establishment of 'Eurodac' for the Comparison of Fingerprints for the effective Application of Regulation (EU) No 604/2013 establishing the Criteria and Mechanisms for determining the Member State responsible for examining an Application for International Protection lodged in one of the Member States by

	a Third-Country National or a Stateless Person and on Requests for the Comparison with Eurodac Data by Member States' Law Enforcement Authorities and Europol for Law Enforcement Purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the Operational Management of large-scale IT Systems in the Area of Freedom, Security and Justice
EASO	European Asylum Support Office
EUROJUST	European Judicial Cooperation Unit
EUROPOL	European Law Enforcement Organisation
ed	editor
edn	edition
eds	editors
e.g.	exempli gratia
EU	European Union
EU Charter	Charter of Fundamental Rights of the European Union
Eurodac Regulation	Regulation on the Establishment of 'Eurodac' for the Comparison of Fingerprints for the effective Application of Regulation (EU) No 604/2013 establishing the Criteria and Mechanisms for determining the Member State responsible for examining an Application for International Protection lodged in one of the Member States by a Third-Country National or a Stateless Person and on Requests for the Comparison with Eurodac Data by Member States' Law Enforcement Authorities and Europol for Law Enforcement Purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the Operational Management of large-scale IT Systems in the Area of Free dom, Security and Justice and the following and Europol for Law Enforcement Purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the Operational Management of large-scale IT Systems in the Area of Free dom, Security and Justice
ff	and the following
FRA	European Union Agency For Fundamental Rights
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States

FRONTEX Regulation	Regulation establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
ibid	in the same place
IDP	Internally displaced person(s)
ICCPR	International Covenant on Civil and Political Rights
i.e.	id est
IS	Islamic State
ISIS	Islamic State in Iraq and Syria
IOM	International Organization for Migration
km	kilometre
m	metre
MSF	Médecins sans Frontières
NATO	North Atlantic Treaty Organization
NGO	non-governmental organization
no	number(s)
OAU	Convention governing the specific Aspects of Refugee Problems in Africa
OECD	Organisation for Economic Co-operation and Development
OIN	Office of Immigration and Nationality (Bevándorlási és Állampolgársági Hivatal, BÁH)
OJ	Official Journal
para	paragraph
pt	part
Qualification Directive	Directive on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status of refugees or for person eligible for subsidiary protection, and for the content of the protection granted Reception Conditions
Directive	Directive laying down standards for the reception of applicants for international protection
Refugee Convention 1933	Convention Relating to the International Status of Refugees
Return Directive	Directive on common standards and procedures in Member States for returning illegally staying third-country nationals
Schengen Borders Code	Regulation establishing a Community Code on the Rules governing the Movement of Persons across Borders

TEU	Consolidated Version of the Treaty on European Union
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNTS	United Nations Treaty Series
USA	United States of America
v	versus
vol	volume
1933 Convention	Convention Relating to the International Status of Refugees
1951 Convention	Convention Relating to the Status of Refugees
1967 Protocol	Protocol Relating to the Statute of Refugees

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Introduction

Since humans' existence, there have always been people fleeing. Throughout human history their numbers have not decreased, but instead, quite the contrary: the world community has at all times been and is now particularly challenged by the prospect of helping the people in need of protection across borders.

It is very important to be aware of the fact that refugee and asylum issues involve countless individuals' lives. In these pursuits, legislation and its implementation often affect human beings in a very immediate and profound way. The European sea rescue program "Mare Nostrum," for instance, rescued thousands of people. As soon as it was stopped, the death count in the Mediterranean Sea increased again. Furthermore, for each and every statistic, a lost life and a destroyed family stand behind it. For the individual who is in danger, it means everything to be able to get him/herself and his/her family to safety.

The world community has recognised this simple fact and has long since made provisions for relief to those in danger in international politics and legislation.

In 2015, refugee and asylum issues topped headlines all over the world and especially in Europe. All sectors of society and levels of government discussed the matter. Politicians have been trying to find a proper solution ever since, which has turned out to be a very difficult pursuit as they all have different solutions in mind. Conservative or open-minded in their respective state approach towards refugees, everybody has had to obey the law.

The intention of this book is to give an overview of the current asylum crisis. Although legislation and regulations will be explained, this book is designed for beginners in this field and laypeople as well. In order to keep the subject manageable, the subject will be addressed with the following scopes:

In terms of time, the main focus is on the year 2015, as there was a tremendous increase in people fleeing and reaching Europe in that year alone. That leads to the geographical restrictions and coverage. It is limited to the European continent and the main destination countries there.

The first part scrutinises the origins of the asylum crisis and the routes of displaced people who aim to reach Europe, and what obstacles they have to face therein. Developments up to the 31st December 2015 are considered.

The second part provides an introduction to international and European refugee and asylum legislation in an overview and how the handling of persons in need of international protection by authorities in factual reality deviates from the legal requirements. Here, special emphasis lies on Greece and Hungary as two countries which are the main entry points for asylum-seekers and therefore find themselves in a difficult position. Possible human rights violations and violations of EU law will be pointed out, but not scrutinised in detail.

The third part describes measures the European Union has taken to tackle the crisis. Plans through February 2016 are taken into consideration.

It is important to note that the word refugee doesn't have only one meaning. In contemporary usage, the word refugee exists in two senses. While the ordinary sense is very broad and comprehensive, the legal sense is stringent and restricted to certain criteria.¹

In the factual background part the word refugee is not related to the stringent criteria of the legal sense, instead used in a broader way. Refugees are here people who are in flight, may it be due to

¹ See II.A.5 Further reading: Goodwin-Gill G, *The Refugee in International Law* (2nd edn, Oxford University Press 1998) 3-31.

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prosecution, certain conditions, war, famine or natural catastrophes.
People who are seeking a better life are called as migrants.

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It is very important to be aware of the fact that refugee and asylum issues involve countless individuals' lives. In these pursuits, legislation and its implementation often affect human beings in a very immediate and profound way.

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