

Introduction

Have the Baltic and Central European States turned into the asylum backyard of the European Union? If this is the case, is Brussels to blame, or individual Member States, or even candidate countries applying for membership in the EU? What does this mean for the integrity of the protection system as it has evolved over the past fifty years? And what does this imply in the future for individuals seeking protection in an enlarged EU?

This book is about the *transformation of asylum* in Europe in the context of the enlargement of the EU, and the ways it is affected by the tension between protection interests and the interests of migration control. This transformation involves norms, as well as procedures and resources for their implementation.

Apart from asking *what* the elements of this transformation process are, we shall also analyse *how* this transformation is taking place. In so doing, we shall engage in an analysis of three distinct and interdependent levels of law and policy: the domestic level, the sub-regional level, and the regional level. The domestic level is about how asylum and migration law is formulated by the electorate and legislator of a specific state. The sub-regional level is about how neighbouring countries (e.g., Austria and Hungary) impact each other in the shaping of law and policy. The regional level deals with the accession of present candidate countries to the Union, and their duty to implement the *acquis communautaire*. We shall also ask *when* transformation is taking place, and attempt to identify and delimit critical phases in the overall process.

Finally, what does the transformation process tell us about the current EU asylum *acquis*, and what does it tell us about the prospects for protection in the new frontier states and beyond?

This background of current European developments will be analysed more generally in Chapter 1. In the ensuing chapters, central problems regarding protection within the presently functioning system in Europe will be studied under a structure of sub-regional description and analysis: The central link (Germany, Poland, and the Czech Republic) will be dealt with in Chapter 2; the southern link (Austria and Hungary) in Chapter 3; and the northern link (the four Nordic and the three Baltic states) in Chapter 4. Concluding observations will be presented at the end of these Chapters as a basis for further discussion and analysis. It appears that problems of asylum law and practice

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differ considerably, due to the differences in geographical location, political situations, and legal traditions between the three sub-regions.

Given that burden-sharing, understood as the actual distribution of protection obligations, has been and will be the key to comprehending systems of refugee protection, we shall proceed by presenting various issues of solidarity and distribution of burdens. Thus, Chapter 5 analyses the EU *acquis* on burden-sharing, including the provisions in the Amsterdam Treaty, and reviews the concentration of burdens caused by the Dublin Convention and other safe third country-mechanisms.

More generally, the Treaty of Amsterdam provides the framework for regulatory and institutional reform of the EU, with a significant impact on those policy issues pertaining to asylum and immigration. This Treaty, and more particularly the provisions therein adopted as Title IV of the Treaty on European Communities, is further examined in Chapter 6.

Chapters 7 and 8 analyse a variety of more concrete aspects of the EU accession process. While Chapter 7 provides an overview of current protection problems in Central and Eastern European countries, and discusses strategies for enhanced refugee protection in this region from a UNHCR perspective, Chapter 8 analyses the future prospects of the enlargement process. An important finding in this context is that major elements of the EU asylum *acquis*, as well as its underlying policy assumptions, is being tested through the process of adaptation already taking place in the candidate countries. The experiences gained in these states should therefore inform the entire process of preparing new regulatory measures under the reformed system of EU competences. Finally, Chapter 9 shall summarize the findings of our inquiry into the transformation of asylum in an enlarged EU.

This book has come to be the result of a three year study drawing on the expertise of academics and practitioners in candidate countries and current Member States, as well as individuals from international and non-governmental organizations, to explore the complex evolution of refugee policy and practice in a changing Europe. We would like to express our sincere gratitude for the financial support from the Danish Social Science Research Council, from UNHCR and from the University of Aarhus Law School, as well as for the facilities provided by the Danish Centre for Human Rights, all of which contributed to the research network's realization of Jens Vedsted-Hansen's initial project proposal. Furthermore, the substantial input from Martin Isenbecker, Nina Lassen and Vladimiras Siniovas is gratefully

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It is our hope that this project will contribute to the understanding of the dynamics of regional and sub-regional law and policy shaping the future of refugee protection in Europe.

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