

## ***REGULATION 2024/1348***

### ***THE “COMMON PROCEDURE REGULATION”***

**“When all these changes are taken as a whole, the asylum procedure is losing its raison d’être : it is becoming a tool of exclusion rather than a means for identifying those who are in need of protection from persecution and armed conflict ”**

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**Regulation 2024/1348** *Harmonise EU asylum procedures, preventing system loopholes and ensuring uniform application across Member States.*

## **PUBLIC CONCERNED:**

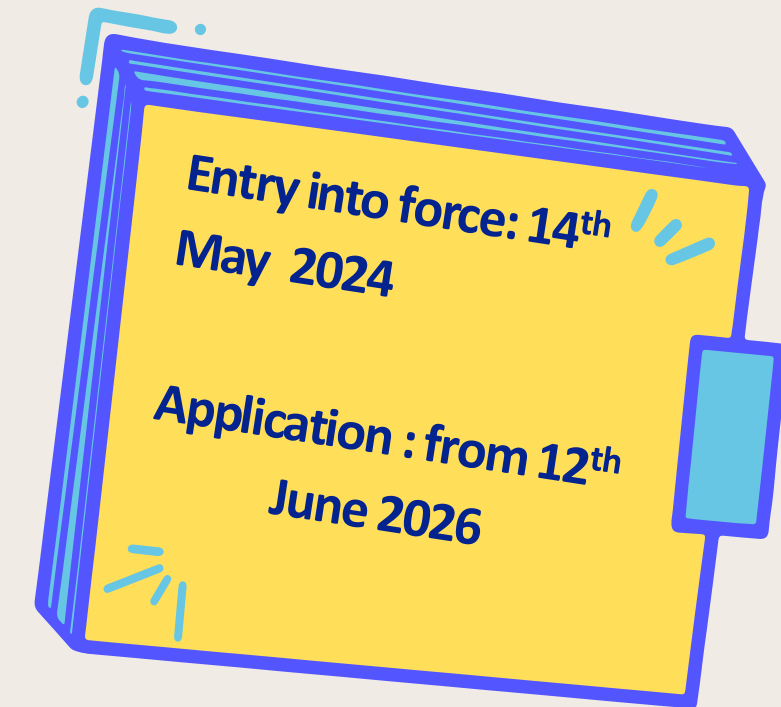
- **Member States**
- **Beneficiaries of international protection**
- **Asylum seekers**

### **MAIN ISSUES**

- ✓ **Standardisation:** Unified asylum assessments across the EU.
- ✓ **Efficiency:** Faster decisions & streamlined processes.
- ✓ **Reducing Secondary Movements:** Preventing asylum seekers from moving between Member States.
- ✓ **Fair Treatment:** Equal legal assistance for asylum seekers.

### **CHALLENGES & CRITICISM :**

- Unequal burden on border states (e.g., Italy & Greece).
- Scholars highlight a "solidarity deficit" (Tsourdi, 2021), with policies leaning towards migration control rather than protection.



# LEGAL ENVIRONMENT

## PRIMARY LAW:

- Treaty on the functioning of the EU (TFEU – articles 78 and 80)
- Treaty on the EU (TEU – article 5)
- Charter of Fundamental Rights of the European Union (articles 24–47)



## OTHER RELATED LEGAL INSTRUMENTS:

- Replaces Directive 2013/32
- Connected to regulations 2024/1351 and 2024/1356
- Applies Directive 2008/115



# TERMINOLOGICAL APPROACH

## APPLICATION FOR INTERNAL PROTECTION

Refers to an application for asylum as defined in art. 2(h) of European Union (EU) Directive 2011/95/EU, i.e. including requests for refugee status or for subsidiary protection status, irrespective of whether the application was lodged on arrival at the border, of from inside the country, and irrespective of whether the person entered the territory legally (e.g. as a tourist) or illegally. (European Commission – Migration and home affairs")

## DETERMINING AUTHORITY

in the context of international protection, any quasi-judicial or administrative body in an EU Member State responsible for examining applications for international protection that is competent to take decision at first instance in such cases. (European Commission – Migration and home affairs")

## LEGAL FICTION OF "NON-ENTRY"

claim that states use in border management to deny the legal arrival of third-country nationals on their territory, regardless of their physical presence, until granted entry by a border of immigration officer. Although physically present, they are not considered to have legally entered the country's official territory until they have undergone the necessary clearance. (Anita Orav & Nefeli Barlaoura, "Legal fiction of non-entry in EU asylum policy")

## SAFE COUNTRY OF ORIGIN

Under specific circumstances, certain countries can be designated as generally safe for their nationals or former residents. As a result, asylum applications from such countries are likely to be unfounded, and Member States may accelerate or prioritise their examination. The concept is described in the recast APD, Article 36. (European Union Agency for asylum, "safe country concepts")

## SAFE THIRD COUNTRY

is a safe country with which the applicant has a genuine connection and where he/she should have applied for international protection. Unlike the safe country of origin concept, this concept is not related to the substance of the application and the application may be declared inadmissible. (European Union Agency for asylum, "safe country concepts")



# THE PARADOXICAL PRESERVATION OF FUNDAMENTAL GUARANTEES

## RIGHTS & OBLIGATIONS OF INTERNATIONAL PROTECTION APPLICANTS

### **Right to Remain (Article 10)**

- Stay permitted until final decision but no automatic residence or freedom of movement.
- Security exceptions may breach non-refoulement principles.

### Imbalance in Cooperation

- Applicants face strict obligations; states provide inadequate legal aid and inefficient processing.

### **Right to Information (Article 8)**

- Obligation to inform applicants in an understandable way.

Issues: Poor translations, lack of intercultural understanding, limited comprehension support.



# THE PARADOXICAL PRESERVATION OF FUNDAMENTAL GUARANTEES

## THE DIFFERENT ACTORS IN THE DELEGATION OF RESPONSIBILITIES

### Centralized Decision-Making (Article 4)

Benefits: Expertise & harmonized practices.

Challenges:

- Fragmentation in early stages causes delays.
- Balancing efficiency with accessibility.

Role of International Bodies:

- **EUAA (Article 5):** Supports overwhelmed authorities with resources & experts.
- **UNHCR (Article 6):** Monitors rights & reception conditions.

Challenges:

- National sovereignty restricts international involvement.
- UNHCR's input is non-binding.

### Confidentiality (Article 7)

- Purpose: Protect personal data to prevent retaliation.

Challenges:

- Slows cross-border case management.
- Requires balance between data protection & administrative efficiency.





# **THE PARADOXICAL PRESERVATION OF FUNDAMENTAL GUARANTEES** **SPECIFIC PROCEDURAL SAFEGUARDS UNDERMINED BY ITS PRACTICAL IMPLEMENTATION**

## **Defining Vulnerability (Articles 20–25)**

Criteria: Minors, trauma victims, violence survivors, etc.

Challenges:

- Vague definitions → inconsistent interpretations.
- Subjective indicators increase bias.
- Stressors persist despite tailored interviews.
- Detention risks for unaccompanied minors over 14.
- Gaps for individuals outside predefined categories.

## **Theory vs. Practice (Article 21)**

Theoretical Safeguards: Professional training & needs assessment within 30 days.

Practical Issues:

- Weak training standards & oversight.
- Delays and resource shortages disrupt support.
- Vulnerable individuals face expedited procedures or poor conditions.

## **Medical Assessments & Rights (Articles 20, 21, 24–25)**

- Identify needs, adapt interviews, ensure dignified age assessments.

Challenges:

- Resource gaps → inadequate solutions (e.g., untrained translators).
- Superficial professional training.
- Cross-cultural misunderstandings.
- Applicants feel pressured to consent;

# **A SYSTEM OF PROCEDURAL EXPEDIENCY**

## **A LEGAL FICTION OF NON-ENTRY**



### **A concerning expediency at the expense of rights (Article 42)**

- The accelerated procedure aims to expedite the examination of certain asylum applications

### **Fundamental rights limited by the legal fiction of “non-entry” (Article 45, 51, 54)**

- Border procedure application
- Asylum procedure must be completed as soon as possible, (12-16 weeks)
- Applicants detention during the procedure

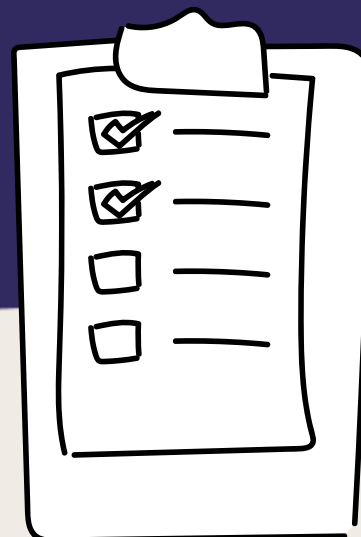


# A SYSTEM OF PROCEDURAL EXPEDIENCY

## THE CONCEPT OF SAFE COUNTRY

### **A subjective concept of safe third country (Article 57, 59, 60, 64)**

- Effective protection
- Safe third country of origin
- EU-wide list countries of origin
- National list



### **An inconsistent implementation of the concept of safe countries of origin (Article 42, 61, 62, 64)**

- Nationals from countries classified as safe may be excluded from refugee status
- Concept of safe country of origin
- EU-wide list countries of origin
- National list

# EFFICIENCY OVER FUNDAMENTAL RIGHTS

Regulation 2024/1348 prioritizes speed, **risking asylum seekers' fundamental rights.**



Accelerated Cases – Mandatory border procedures for misleading statements, security concerns, and **low recognition rates (<20%).**

**Tight Deadlines** – 5-day application submission, decisions within 12-16 weeks, limiting applicants' preparation time.

# EFFICIENCY OVER FUNDAMENTAL RIGHTS

Nationality-Based **Discrimination** –  
**Article 42** assumes certain  
nationalities are safe, undermining  
individual assessments.



**Non-Entry Fiction** – Asylum seekers  
present in EU but are legally denied  
entry, restricting rights and protections

Detention for Rejected Applicants –  
Regulation **2024/1349** mandates  
border detention for those denied  
asylum.

Return Decisions & Non-Refoulement  
– Expedited removals risk **violating**  
**non-refoulement** due to inadequate  
individual assessments.

# EFFICIENCY OVER FUNDAMENTAL RIGHTS

**Weakened Suspensive Effect** – Courts can decide asylum seekers' stay; Stricter regulations for subsequent applications make it highly challenging for asylum seekers to present new evidence or changed circumstances, **potentially violating the principle of non-refoulement.**

Unworkable Appeal Deadlines – 2 weeks to 1 month for appeals; shorter for fast-track cases, **challenging fair legal recourse.**

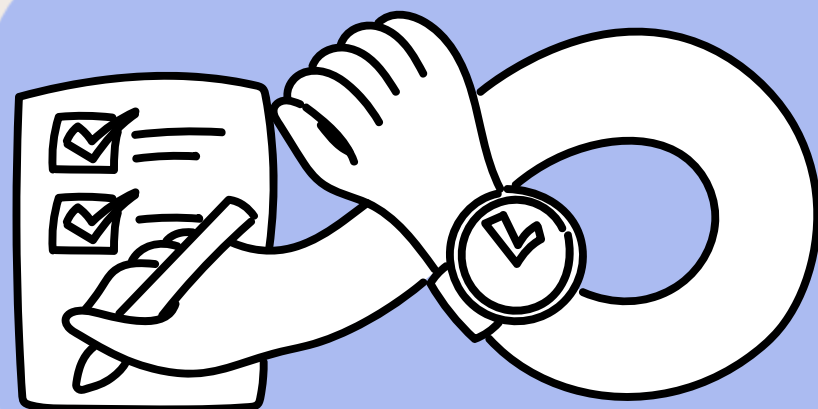


# NEXT STEPS

Its balance may be positive (compared to other instruments of the Pact)

The real scope of the regulation : a strong political message

Necessity to observe whether implementation will be effective



The regulation **entered into force on May 14, 2024.**  
**It will be entirely applicable in June 2026**

# TO GO FURTHER

## SOURCES IN ENGLISH

[Vincent Chetail & Mariana Ferolla Vallandro, \*\*The Asylum Procedure Regulation and the Erosion of Refugee's Rights\*\*, series of the Odysseus blog on the Pact on Migration & Asylum](#), EU Migration Law Blog, 2024

Steve Peers, [\*\*The new EU asylum laws, part 7: the new Regulation on asylum procedures\*\*](#), EU Law Analysis, 2024

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# TO GO FURTHER

SOURCES IN FRENCH 

[Pacte européen : analyse de l'Ardhis, 2024](#)

**Forum réfugiés, Nouveau règlement européen sur les procédures d'asile : quelles conséquences sur les droits des femmes en quête de protection ?, 16/01/2025**

**Gisti, Tout savoir sur le « Nouveau Pacte sur la migration et l'asile » de l'Union européenne, MAJ 6 mai 2025**

**T. Fleury Graff, L'accès au territoire des États membres dans le nouveau Pacte « asile et migration » RTD eur 2024, n°293, Novembre 2024**