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## IN SEARCH FOR A VISION OF THE COMMON EUROPEAN ASYLUM SYSTEM (CEAS)

by Paul Baumgartner and Martin Wagner

In October 2019, the first multiannual framework kicking off the development of the Common European Asylum System, the Tampere Programme, celebrates its 20th anniversary. Since then, three further multiannual programmes followed: the Hague Programme, the Stockholm Programme and the European Agenda on Migration. Each of the programmes emerged from very specific situations – either dominated by the accession of new Member States to the EU or by an increased inflow of applicants for international protection. During all these years, the vision of Tampere remained untouched; but is it still shared and backed by all of today’s EU Member States? This article is an extract of a chapter taken from the working paper “Harmonising asylum systems in Europe – a means or an end per se?” published in the framework of the EU Horizon 2020 funded research project, CEASEVAL and is accessible at its webpage.

### Background

Already before the EU formally became competent in matters of asylum, some harmonisation of national policy frameworks and practices had taken place in various intergovernmental contexts, including the UNHCR, jurisprudence of the European Court of Human Rights (ECtHR), and intergovernmental initiatives under the EC (EU) umbrella or associated to the EC (EU), such as the Dublin Convention. The Common European Asylum System (CEAS), however, has only been developing since 1999 along the four multiannual programmes.

### The Vision

At its special meeting in [Tampere on 15 and 16 October 1999](#), the then 15 EU Member States agreed in the European Council to work towards establishing a Common European Asylum System, to be implemented in two phases (Tampere Programme 1999-2004). The vision of establishing a Common European Asylum System was based on the full and inclusive application of the 1951 Geneva Refugee Convention, thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of non-refoulement (Tampere Conclusions, para 13). In the framework of this programme, the first generation of CEAS instruments was

negotiated and adopted, consisting of (in chronological order) the EURODAC Regulation, the Temporary Protection Directive, the Reception Conditions Directive, the Dublin Regulation, the Qualification Directive and the Asylum Procedures Directive. While the directives established minimum standards for Member States, the Dublin System developed – in the absence of a comparable system in Member States – as a directly applicable regulation.

## Consolidation

The following 5-year-programme, the Hague Programme (2005-2009), set the goals for the next phase of the CEAS, which was the establishment of a common asylum procedure and a uniform status for those who are granted refugee status or subsidiary protection. During the Hague Programme period, the implementation of the various CEAS instruments took place but no amendments were initiated. Towards the end of the programme's tenure, however, an important complementing directive established the European Asylum Support Office (EASO). The foundation for this agency was laid by the 2008 [Pact on Immigration and Asylum](#) which stated clearly that “[t]hat office will not have the power to examine applications or to take decisions but will use the shared knowledge of countries of origin to help to bring national practices, procedures, and consequently decisions, into line with one another.” The underlying idea was thus, that commonly used evidence (Country of Origin Information) would lead to same findings, same decisions and thus same recognition rates across the EU Member States. Earlier, the EC launched a consultation process on the future architecture of the CEAS by publishing the [Green Paper on the future of the CEAS](#). Among others, joint processing was understood as an additional possibility for further harmonisation. Besides assessing how the second phase of the CEAS could improve the legal harmonisation process, the Hague Programme already clearly set the route towards more effective practical cooperation and achieving harmonisation through cooperation.

## Recasting

The Stockholm Programme (2010-2014) reiterated the goal of creating a common area of protection and solidarity based on a common asylum procedure and a uniform status for those granted international protection. The implementation of amendments of the CEAS instruments shall provide a better and more coherent application of them and should prevent or reduce secondary movements within the Union, and increase mutual trust between Member States. In this period, the Recast Qualification Directive, followed by the Dublin III Regulation, the Recast Eurodac Regulation, the Recast Reception Conditions Directive and the Recast Asylum Procedures Directive were adopted. A proper evaluation of these recast instruments was never finalised because of the emerging “refugee-crisis” in 2015.

## Emergency

The (thus far) last multi-year programme on migration was presented on 13 May 2015, when the European Commission presented its [European Agenda on Migration](#). While the Agenda had been planned and prepared before, it got strongly influenced by incidents in the Mediterranean, in which 800 people drowned as their vessel sank on their way from Libya to Italy, elevating the death toll at sea to 1,700 persons in 2015. The agenda set, among other initiatives, interventions in the area of resettlement and relocation. The programme thus operated in somewhat of an emergency environment and also led to a new impetus with respect to the CEAS by the EC tabling a [communication outlining its approach for the reform of the CEAS](#) on 6 April 2016. According to the Commission, “there are significant structural weaknesses and shortcomings in the design and implementation of the European asylum and migration policy”. Consequently the EC envisaged another comprehensive reform of the asylum acquis only shortly after the conclusion of the second phase of legislative harmonisation and while many Member States had still not fully transposed the asylum instruments. The proposed set of new CEAS instruments were published on 4 May 2016 ([Dublin IV Regulation](#), [Eurodac Regulation](#) and the [EASO Regulation](#)) and on 13 July 2016 ([Asylum Procedures Regulation](#), [Qualification Regulation](#), [recast Reception Conditions Directive](#) and the [EU Resettlement Framework](#)), remarkably proposing the transformation of the Qualification and Procedures Directive into respective Regulations expecting higher convergence of the respective instruments. The proposals are to date not adopted. Broad agreement has been found between co-legislators on the Qualification Regulation, the Reception Conditions Directive, the Eurodac Regulation and the (new) Union Resettlement Framework. However, no agreement has yet been found on the European Union Agency on Asylum, the Procedures Regulation and the Dublin Regulation as set out by the EC in December 2018.

## Summing up the genesis of CEAS harmonisation

Summarised, looking at the different multiannual programmes shows that the vision of the CEAS developed broadly under the Tampere Programme with another attempt to expand on it by a broad consultation round for the Green Paper on the future of the CEAS in 2007 under the Hague Programme. Since then, however, no new attempts have been made to renew the vision in order to place it on broader footing with all EU Member States. As Collett put it, “nostalgia for the early JHA, particularly the Tampere Programme, has coloured analysis of successive programmes, lamenting the lost ambition of the early architects.” Instead, the subsequent multiannual programmes have broadly repeated the initial ideas of building up

the CEAS, i.e. to create a common area of protection, with one asylum procedure and the vision that all asylum claims are processed similarly – irrespective of in which Member States the application is submitted.

The initial vision was developed by 15 EU Member States, merely half of today’s composition of the EU. The remaining 13 countries, which acceded to the EU at a later stage, “had to swallow” the asylum acquis including the preambles and the visions initiated around 1999. The lack of a commonly adopted joint vision became apparent when a group of post-Tampere acceded countries, the Visegrad countries, opposed the idea of a quota system. As [Zaun](#) stated, “this highlights that the accession of 13 Member States since 2004 has clearly diversified the EU, both in terms of values and cleavages”. However, no attempt has been made to jointly develop a new common vision of the future of the CEAS, inclusive of those Member States that were not part of the initial vision created in Tampere.

## **References**

*The blog is an extract from the Working Paper on “[Harmonising asylum systems in Europe – a means or an end per se?](#)” by Martin Wagner, Paul Baumgartner (both ICMPD) and Minos Mouzourakis (ECRE) in May 2019 at the [CEASEVAL project webpage](#)*

## **Additional references**

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*Zaun, N (2017): Title: States as Gatekeepers in EU Asylum Politics: Explaining the Non-adoption of a Refugee Quota System; at: <https://onlinelibrary.wiley.com/doi/full/10.1111/jcms.12663>*

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