

THE DEVELOPMENT OF THE COMMON EUROPEAN ASYLUM SYSTEM FROM MINIMAL TO COMMON STANDARDS

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ABSTRACT

As mentioned in the recitals of the different legal acts forming the Common European Asylum System (CEAS), a common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Union. Such a policy should be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications between the Member States. At its special meeting in Tampere on the 15th and the 16th of October 1999, the European Council agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the 1951 Geneva Convention relating to the Status of Refugees.

The legal protection of refugees at EU level is mainly regulated in secondary law acts¹, such as the EURO-DAC-Regulation², the Dublin III Regulation³, and the Directives 2013/32/EU (Asylum procedure Directive), 2013/33/EU (Reception Directive) and 2011/95/EU (Qualification Directive). The mentioned legal acts form the Common European Asylum System (CEAS)⁴. The CEAS has already reached its second development phase. The recast version of the CEAS legal acts aims to expand the previous minimal protection level to common, uniform standards for the material protection of refugees and asylum seekers⁵. This aim is very well emphasized in the recitals of the different acts. For example, the recital of the Reception Directive explicitly stipulates the expansion of the previous minimal standards and the development of higher protection level, according to the Stockholm-Programme⁶. The increase of the protection standard in the second

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¹ *Lehnert*, *Movements* 1/2015, 2.

² Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013.

³ REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013.

⁴ *Cherubini*, *Asylum Law in the EU*, 165.

⁵ *Velutti*, *Reforming the CEAS*, 3.

⁶ Recital (5) Dir. 2013/33/EU; *Peers et al.*, *EU Immigration*, 498.

phase of the CEAS is also highlighted through terminological changes in the text of the various Directives⁷.

The Reception Directive

Important for the material protection of refugees is first of all the Reception Directive. This Directive does not aim the protection of persons whom has already been granted the refugee status or the subsidiary protection status, but the protection of persons who only applied for a form of international protection in one of the member states and their dignity⁸. The primary objective of Directive 2013/33/EU is to ensure equivalent treatment in all member states for persons applying for international protection⁹. The directive's considerations emphasize that its application should always be consistent with the instruments for the protection of human rights, such as the UN Convention on the Rights of Children, the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights (ECHR)¹⁰. In addition, the member states must comply with their other obligations under international law when applying the Directive¹¹.

The scope of the Directive covers all types of procedures related to the application for international protection and all phases of these procedures¹². The Directive aims to set a uniform standard for applicants and contains standards for the substantive and procedural protection of these persons¹³. Especially, the provisions of the Directive are aimed at ensuring the safeguarding of the human dignity of the asylum seeker for the duration of the asylum procedure¹⁴. The most important contents of the Directive are the regulation of the accommodation of the asylum seekers during the procedure and the effective access to the necessary procedural guarantees¹⁵. While providing these benefits, the member states should take into account the concerns of individuals with special needs¹⁶.

The recast Directive has a broader scope of application than the previous Directive: While the Directive 2003/9/EC only protected applicants for the recognition

⁷ The first version referred to the acts as Directives for *minimum standards*, while the recast version refer to the acts as Directives for common standards.

⁸ Opinions of the Advocate General Eleanor Sharpston from 15.05.2012, ECJ C-179/11, Cimade and GISTI, ECLI:EU:C:2012:298, N. 5; *Fröhlich*, Asylrecht im Rahmen des Unionsrechts, 217.

⁹ Recital (8) Dir. 2013/33/EU; *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 1 Dir. 2013/33/EU, N. 7.

¹⁰ Recital (9) Dir. 2013/33/EU; ECJ, C-179/11, Cimade and GISTI, ECLI:EU:C:2012:594, N.42; *Peers et al.*, EU Immigration, 502.

¹¹ Recital (10) Dir. 2013/33/EU; FRA, Handbook (Fn. 40), 77.

¹² Recital (8) Dir. 2013/33/EU; *Peers et al.*, EU Immigration, 502.

¹³ FRA, Handbook (Fn. 40), 183.

¹⁴ Recital (50) Directive 2013/33/EU; *Fröhlich*, Asylrecht im Rahmen des Unionsrechts, 215.

¹⁵ Recital (15) Directive 2013/33/EU; *Peers et al.*, EU Immigration, 501.

¹⁶ ECJ, C-79/13, Saciri, ECLI:EU:C:2014:103, N. 46.

of their refugee status, the Directive 2013/33/EU also covers the protection of applicants for subsidiary protection¹⁷.

The Directive contains a detailed regulation of the detention conditions of applicants¹⁸. Even if these rights do not directly represent material guarantees, they are of particular importance for the protection of the applicant's human dignity on the one hand and for the realization of the *effet utile* of the Directive¹⁹. The recast version of the Reception Directive also brought a number of changes, aimed at bringing the detention regulation into line with the human rights obligations of the public international law. Detention for the purpose of migration control should only be seen as a last resort measure, as it may run counter to the idea of integration and respect for human dignity²⁰. In this regard it is worth mentioning, that the detention of an asylum seeker only on the ground of his applicant status is strictly forbidden²¹. This corresponds to Art. 31 of the Geneva Convention, according to which a person may not be detained solely for requesting international protection²². Furthermore, detention, as a serious restriction on the freedom of movement, may only be carried out by a written and reasoned decision of a judicial or administrative authority, in compliance with the principles of necessity and proportionality²³. The detention of the asylum seeker has to be limited to the shortest possible duration²⁴. Likewise, delays in the asylum procedure, for which the applicant does not have to defend, must not lead to an extension of his detention.²⁵ Regarding the conditions of detention, the Directive enshrines the principle, that detention should only take place in special institutions²⁶. Exceptions are allowed, however, if the receiving member state does not have such facilities²⁷. Detention in such cases must take place separately from criminal offenders and, where possible, also from third-country nationals who are not involved in an asylum procedure²⁸. For applicants with special protection needs, the Directive provides additional protective measures for the duration of

¹⁷ Lehnert, *Movements 1/2015*, 5; *Cherubini*, *Asylum Law in the EU*, 235.

¹⁸ Art. 8-11 Directive 2013/33/EU.

¹⁹ *Peers et al.*, *EU Immigration*, 503.

²⁰ *Velluti*, *Reforming the CEAS*, 65.

²¹ ECJ, C-534/11, *Arslan*, ECLI:EU:C:2013:343, N. 54; *Lehnert*, *Movements 1/2015*, 8; *Mangiaracina*, *European Journal for Migration and Law* 2016, 182.

²² Art. 8 (1) Directive 2013/33/EU; *Peek/Tsourdi*, in: *Hailbronner/Thym*, *EU Immigration and Asylum Law*, Kommentar, Art. 8 Directive 2013/33/EU, N. 8.

²³ Art. 9 (2) Directive 2013/33/EU; *Peers et al.*, *EU Immigration*, 520; *Peek/Tsourdi*, in: *Hailbronner/Thym*, *EU Immigration and Asylum Law*, Kommentar, Art. 9 Directive 2013/33/EU, N. 7.

²⁴ Art. 9 (1) Directive 2013/33/EU; *Peek/Tsourdi*, in: *Hailbronner/Thym*, *EU Immigration and Asylum Law*, Kommentar, Art. 9 Directive 2013/33/EU, N. 3; *Velluti*, *Reforming the CEAS*, 67.

²⁵ Art. 9 (1), Directive 2013/33/EU; *Peers et al.*, *EU Immigration*, 521.

²⁶ *Mangiaracina*, *EJML* 2016, 181.

²⁷ *Velluti*, *Reforming the CEAS*, 67.

²⁸ Art. 10 (1) Directive 2013/33/EU; *Peers et al.*, *EU Immigration*, 523.

the detention²⁹. In addition to a periodic review of detention, the necessary support should also be provided³⁰. The particular concerns of the detainees must be taken into account³¹. Many ECHR guarantees are reflected in the Directive and the general principle of respect for the human dignity is thus confirmed. Similar to how Article 6 ECHR establishes the right to a fair trial, the Directive requires the possibility of having the legality of the detention reviewed by the courts³². The Directive also provides the duty of the ordering authority to give the reasons of its decision³³. The applicant must therefore be informed of the reasons for his detention and of domestic remedies for contesting the detention order³⁴. Furthermore, the asylum seeker is to be guaranteed free legal advice and representation, if he is not capable to pay for these himself³⁵. Although the Directive has comprehensively regulated detention, it is also possible to observe some deficiencies from the point of view of the applicant's legal protection³⁶. The grounds for detention are relatively open and the member state is given considerable discretion. Thus, detention can be used extensively, including for purposes of identification or preserving evidence, which runs counter to UNHCR recommendations³⁷. Moreover, the concrete determination of the grounds for detention remains the responsibility of the member states. It is also allowed to order detention on grounds of public order or national security³⁸. Member states can express the reasons for detention in a language that can be presumed to be understood by the applicant³⁹. This standard is less favorable compared to the provisions of Article 5 (2) of the ECHR, which only permit the use of a language in detention which the person concerned actually understands⁴⁰.

In addition to the regime of detention, the Directive contains a number of substantive rights designed to enable the applicant to lead a decent life for the duration of the proceedings, as well as to ensure his health and livelihood⁴¹. These

²⁹ *Hailbronner*, EJML 2007, 170.

³⁰ *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 11 Dir. 2013/33/EU, N. 8.

³¹ *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 11 Dir. 2013/33/EU, N. 8.

³² Art. 9 (3) Dir. 2013/33/EU; *Velluti*, Reforming the CEAS, 66.

³³ Art. 9 (4) Dir. 2013/33/EU; *Peukert*, in: Frowein/Peukert, EMRK Kommentar, Art. 6 ECHR, N. 182.

³⁴ *Velluti*, Reforming the CEAS, 68.

³⁵ Art. 9 (4) Dir. 2013/33/EU.

³⁶ *Peers et al.*, EU Immigration, 521.

³⁷ Art. 8 Dir. 2013/33/EU; *Velluti*, Reforming the CEAS, 67; UNHCR, Haft-Richtlinien über anwendbare Kriterien und Standards betreffend die Haft von Asylsuchenden und Alternativen zur Haft, 2012, Dir. 4.1, 15 N. 24, <goo.gl/e64PAU>.

³⁸ Art. 8 (3) lit. f Dir. 2013/33/EU.

³⁹ Art. 9 (4) Dir. 2013/33/EU.

⁴⁰ ECtHR, C. 51564/99, (*Conka/Belgien*), N. 50.

⁴¹ ECJ, C-79/13, *Saciri*, ECLI:EU:C:2014:103, N. 40; *Fröhlich*, Asylrecht im Rahmen des Unionsrechts, 217.

advantages are available to the applicant from the moment of submission of his asylum application and not only after the granting of responsibility by the member state⁴². In this sense, the Reception Directive concretizes the fundamental principles of the Charter of Fundamental Rights, in particular the protection of human dignity (Article 1) and the right to asylum (Article 18)⁴³.

In order to be able to request the substantive entitlements granted by the Directive, the applicant must be informed about these rights⁴⁴. Thus, the Directive grants a right to information⁴⁵. This means that the applicant must be informed within a reasonable period of time of a maximum of fifteen days from the application about the rights and obligations from the Directive⁴⁶. In addition, applicants must be informed about organizations providing legal advice or other types of assistance⁴⁷. Such information shall in principle be provided written and in a language which the applicant understands or may reasonably be expected to understand⁴⁸.

The applicant has the right to obtain an official certificate of his legal status or residence permit within three days of the application being made⁴⁹. Any restrictions on his freedom of movement in the area of the member state are to be expressed in the document mentioned above⁵⁰. However, the applicant is not entitled to unrestricted freedom of movement within the state territory⁵¹. Member states may limit this freedom to an assigned area as long as the right to privacy is respected and as long as the applicant is able to claim all his rights⁵². In addition, member states is given the opportunity to make the granting of material benefits conditional upon compliance with the assigned residence area⁵³.

The Directive also regulates access to the education system and the labor market. Protected are, on the one hand, minor applicants and, on the other hand,

⁴² Opinion of the Advocate General Eleanor Sharpston 15.05.2012, ECJ, C-179/11, Cimade and GISTI, ECLI:EU:C:2012:298, N. 40-42; ECJ, C-179/11, Cimade and GISTI, ECLI:EU:C:2012:594, N. 39.

⁴³ *Peers et al.*, EU Immigration, 500.

⁴⁴ *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 5 Dir. 2013/33/EU, N. 1.

⁴⁵ Art. 5 Dir. 2013/33/EU; *Peers et al.*, EU Immigration, 512.

⁴⁶ *Pelzer/Pichl*, Asylmagazin 10/2015, 332.

⁴⁷ Art. 5 (1) Dir. 2013/33/EU; *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 5 Dir. 2013/33/EU, N. 2.

⁴⁸ Art. 5 (2) Dir. 2013/33/EU; *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 5 Dir. 2013/33/EU, N. 11.

⁴⁹ Opinion of the Advocate General Eleanor Sharpston, 15.05.2012, ECJ, C-179/11, Cimade and GISTI, ECLI:EU:C:2012:298, N. 46; Art. 6 (1) Dir. 2013/33/EU; *Peers et al.*, EU Immigration, 512.

⁵⁰ *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 6 Dir. 2013/33/EU, N. 5.

⁵¹ Art. 7 (1) Dir. 2013/33/EU; *Peers et al.*, EU Immigration, 514 .

⁵² Opinion of the Advocate General Melchior Wathelet, 31.01.2013, ECJ, C-534/11, Arslan, ECLI:EU:C:2013:52, N. 16; *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 7 Dir. 2013/33/EU, N. 11.

⁵³ Art. 7 (3) Dir. 2013/33/EU; *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 7 Dir. 2013/33/EU, N. 15.

minor children of applicants⁵⁴. Until they are affected by an expulsion measure, the access of minors to the national education system is guaranteed⁵⁵. Access should be similar to that of member state's own nationals and may be restricted by member states to public schools. The approval must be made at the latest three months after the application⁵⁶.

Some improvement in guaranteed protection is reflected in labor market regulations. According to Directive 2013/33/EU, access to the labor market should be granted no later than nine months after the application, compared to twelve months, as determined by the previous regime⁵⁷. Closer regulation of access remains in the competence of the member state⁵⁸. They may also give priority to EU citizens, EEA nationals and legally-established third-country nationals⁵⁹. However, the recast Directive abolished the possibility of member states to set a certain time limit from the filing of an application within which the applicant is denied access to the labor market⁶⁰.

A central aspect of substantive protection is also the material benefits that the applicant can claim during the procedure⁶¹. These benefits may take the form of cash or in kind⁶². Their height is determined by the respective member state. The Directive only specifies the principles of this calculation⁶³. It is necessary to ensure a decent standard of living that enables a decent lifestyle⁶⁴. Member states must take into account the physical and mental health of applicants and at least ensure emergency care and the essential treatment of disease⁶⁵.

The Qualification Directive

Of central importance in the area of substantive refugee law of the European Union is the Directive 2011/95/EU (Qualification Directive)⁶⁶. This is a recast of the Directive 2004/83/EC. It has two main objectives: On the one hand, the Directive

⁵⁴ Art. 14 (1) Dir. 2013/33/EU; *Peers et al.*, EU Immigration, 530.

⁵⁵ *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 14 Dir. 2013/33/EU, N. 3; *Peers et al.*, EU Immigration, 530.

⁵⁶ Art. 14 (2) Dir. 2013/33/EU.

⁵⁷ *Fröhlich*, Asylrecht im Rahmen des Unionsrechts, 221.

⁵⁸ Art. 15 (2) Dir. 2013/33/EU.

⁵⁹ *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 15 Dir. 2013/33/EU, N. 15.

⁶⁰ Art. 11 (1) Dir. 2003/9/EC; *Weber*, EJML 2016, 53.

⁶¹ *Fröhlich*, Asylrecht im Rahmen des Unionsrechts, 217.

⁶² Opinion of the Advocate General Eleanor Sharpston, 15.05.2012, ECJ, C-179/11, *Cimade and GISTI*, ECLI:EU:C:2012:298, N. 7; *Peers et al.*, EU Immigration, 506.

⁶³ *Fröhlich*, Asylrecht im Rahmen des Unionsrechts, 218.

⁶⁴ *Tsourdi*, Immigration, Asylum and Nationality Law 2015, 20.

⁶⁵ *Peek/Tsourdi*, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 17 Dir. 2013/33/EU, N. 11.

⁶⁶ *Lafrai*, EU-Qualifikationsrichtlinie, 1.

should set criteria by means of which the member states determine which persons should be guaranteed international protection⁶⁷. On the other hand, the Directive aims to standardize the legal protection after the granting of the international protection status⁶⁸. Thus, the Directive aims to harmonize national legislation on the granting and content of refugee status and subsidiary protection status⁶⁹.

This should also contribute to the containment of secondary migration⁷⁰. The guaranteed international protection includes refugee status and subsidiary protection status⁷¹. Regarding the refugee status, the Directive builds on the refugee concept of the Geneva Convention⁷². Since both the Directive and Article 78 TFEU refer to the Geneva Convention several times, the ECJ was determined to interpret the Directive in its light⁷³. For this purpose, consultations with the UNHCR should facilitate the concretisation of the refugee status⁷⁴. It is noteworthy, however, that the Directive makes no explicit reference to the ECHR, although its significance has been confirmed by the Commission's report when adopting the Directive⁷⁵. However, the personal scope of the Directive is not limited to refugees⁷⁶. Thus, the Directive anchors the institute of Subsidiary Protection to supplement the refugee status⁷⁷. It was developed by the European Court of Human Rights (ECtHR) on the basis of Article 3 of the ECHR⁷⁸ and covers persons who do not fulfill the conditions for the recognition of refugee status but whose return to the country of origin entails the real danger of serious harm⁷⁹.

In addition, these persons must not be able to claim the protection of the country of origin⁸⁰. The requirement of justified fear of political persecution is replaced in this case by the actual danger of serious harm⁸¹. This includes the imposition or execution of the death penalty, torture, inhumane or degrading treatment, or a serious individual threat to life or integrity as a result of arbitrary force in the context of an armed conflict⁸². Member states have the option to provide more favorable conditions

⁶⁷ Dörig, in: Hailbronner/Thym, EU Immigration and Asylum Law, Kommentar, Art. 1 Dir. 2011/95/EU, N. 1.

⁶⁸ Lehnert, *Movements 1/2015*, 3; Rogowicz, *Asyl- und Flüchtlingsrecht*, 249.

⁶⁹ Peers, *EJML* 2012, 204 f.

⁷⁰ Hummer, *Austrian Law Journal* 2016, Band 1, 16.

⁷¹ FRA, *Handbook* (Fn. 40), 49.

⁷² ECJ, C-31/09, *Bolbol*, ECLI:EU:C:2010:351, N. 37; *Roos/Zaun*, *EJML* 2014, 53.

⁷³ ECJ, C-175/08, C-176/08, C-178/08 and C-179/08, *Abdulla*, ECLI:EU:C:2010:105, N. 53; *Cherubini*, *Asylum Law in the EU*, 184.

⁷⁴ *Recital (22) Dir. 2011/95/EU*.

⁷⁵ *Cherubini*, *Asylum Law in the EU*, 184 f.

⁷⁶ *Marx*, *Handbuch zum Flüchtlingschutz*, 494 N. 1.

⁷⁷ *Rogowicz*, *Asyl- und Flüchtlingsrecht*, 253; *Lehnert*, *Movements 1/2015*, 3.

⁷⁸ *Marx*, *Handbuch zum Flüchtlingschutz*, 495 N. 3; *Cherubini*, *Asylum Law in the EU*, 185.

⁷⁹ *Hummer*, *Austrian Law Journal* 2016, Band 1, 9.

⁸⁰ Art. 2 lit. f *Dir. 2011/95/EU*; *Marx*, *Handbuch zum Flüchtlingschutz*, 498 N. 5.

⁸¹ Art. 2 lit. f *Dir. 2011/95/EU*; *Marx*, *Handbuch zum Flüchtlingschutz*, 498 N. 5.

⁸² Art. 15 *Dir. 2011/95/EU*; *Fröhlich*, *Asylrecht im Rahmen des Unionsrechts*, 229.

for the recognition of international protection status⁸³. The new version of the Qualification Directive has led to a better position for beneficiaries of subsidiary protection. Thus, persons who have been granted subsidiary protection status should enjoy the same benefits and rights under the same conditions as recognized refugees⁸⁴. However, this principle is not absolute. The access of beneficiaries to the labor market was also expanded. Every work should be allowed without restrictions⁸⁵.

Also, health services should no longer be limited to core services. Furthermore, the recast of the Qualification Directive removes the possibility of member states to deny benefits to individuals who have self-inflicted their protection status to meet the requirements of refugee status⁸⁶.

As already mentioned, the Reception Directive regulates the legal protection of asylum seekers for the duration of the asylum procedure.⁸⁷ By contrast, the Qualification Directive regulates material protection **after recognition of international protection status**⁸⁸. In addition to the already outlined refoulement prohibition, the guaranteed protection also includes information rights, provisions regarding residence and a range of social and economic rights⁸⁹. These should be ensured taking into account the special needs of the claimant and the typical integration difficulties⁹⁰. In particular, the member states should comply with the interests of the child as well as take into account specific concerns of vulnerable persons⁹¹. Directive 2011/95/EU extends the concept of vulnerable persons. In addition to (unaccompanied) minors, the disabled, the elderly, pregnant women and single parents, the new version of the Directive puts two additional categories under special protection: victims of human trafficking and persons with mental disorders⁹². It should also be mentioned that the Directive excludes EU citizens from international protection⁹³. This is based on the premise that member states of the Union represent safe states in which the presupposed persecution cannot take place⁹⁴. However, citizens of other member state may rely on the protection of the Geneva Convention or of the ECHR, even if they are not covered by the personal scope of protection of the Directive⁹⁵.

⁸³ Peers, EJML 2012, 208.

⁸⁴ Recital (39) Dir. 2011/95/EU; Lehnert, *Movements* 1/2015, 5.

⁸⁵ Battjes, in: Hailbronner/Thym, *EU Immigration and Asylum Law*, Kommentar, Art. 26 Dir. 2011/95/EU, N. 1.

⁸⁶ Peers, EJML 2012, 209; Art. 20 (5) Dir. 2004/83/EC.

⁸⁷ Opinion of the Advocate General Eleanor Sharpston, 15.05.2012, ECJ, C-179/11, *Cimade and GISTI*, ECLI:EU:C:2012:298, N. 37.

⁸⁸ Fröhlich, *Asylrecht im Rahmen des Unionsrechts*, 229.

⁸⁹ FRA, *Handbook* (Fn. 40), 219 f.

⁹⁰ Recital (41) Dir. 2011/95/EU.

⁹¹ Velluti, *Reforming the CEAS*, 53; Marx, *Handbuch zum Flüchtlingschutz*, 663 N. 1, 664 N. 5.

⁹² Art. 20 (3) Dir. 2011/95/EU; Peers, EJML 2012, 215.

⁹³ Art. 2 lit. d and f Dir. 2011/95/EU; Epiney et al., *Anerkennung als Flüchtling*, 28; Peers et al., *EU Immigration*, 80.

⁹⁴ Lehnert, *Movements* 1/2015, 5.

⁹⁵ Cherubini, *Asylum Law in the EU*, 185.

Conclusion

Although the legal status of asylum seekers and refugees is mostly immediately determined by the implementation measures of the member states, one cannot deny the existence of a substantive protection under EU law. As outlined above, the Union succeeded in further developing the existing minimum standards into common, uniform standards, thus making an important contribution to safeguarding the human dignity of the persons concerned. Particularly noteworthy in this context are the easier access to the education system and the labor market and the extension of protection for persons with special needs. Progress can also be observed in procedural terms.

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