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EU asylum procedures and the right to an effective remedy

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Adequate and fair asylum procedures are a precondition for the effective exercise of rights granted to asylum applicants, in particular the right not be expelled to a country where they face the risk of being subjected to human rights violations. In 1999 the EU Member States decided to work towards a Common European Asylum System. In this context the Procedures Directive was adopted in 2005. This directive provides for important procedural guarantees for asylum applicants, but also leaves much discretion to the EU Member States to design their asylum procedures.

An important result of the adoption of the Procedures Directive is that asylum procedures now fall within the reach of the Charter and general principles of EU law. This book examines the meaning of the EU right to an effective remedy for the legality and the interpretation of the Procedures Directive. For this purpose the EU Courts' case-law on the EU right to an effective remedy is examined. The interpretation of the EU right to an effective remedy is inspired by international law. Therefore this book also extensively discusses the ECtHR's case-law as well as the views of the UNHCR and UN Committees concerning procedural rights for asylum applicants. The result of this exercise is a set of procedural standards with regard to several key issues of asylum procedures: the right to remain on the territory of the Member State, the right to be heard, the standard and burden of proof and evidentiary assessment, judicial review of the establishment and qualification of the facts and the use of secret evidence.

This is a volume in the series of the Meijers Research Institute and Graduate School of the Leiden Law School of Leiden University. This study is part of the Law School's research programme 'Securing the Rule of Law in a World of Multilevel Jurisdiction'.



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