

Press Release

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The 'Dublin Regulation' undermines refugee rights

Strasbourg, 22.09.2010 - The asylum procedures of European countries are still flawed – they need to be improved and better harmonised. One of the necessary reforms is to overhaul the dysfunctional so-called Dublin Regulation within the European Union, said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing today his latest human rights [comment](#).

Under the Dublin system, the responsibility for examining asylum applications is shouldered by the EU border states, through which most asylum seekers enter.

This has not been successful in practice. Countries such as Greece and Malta have, during recent years, been unable to provide adequate protection because the numbers of asylum seekers have exceeded their capacity. This is simply not fair and has, in extreme cases, even put lives at risk. It is now high time to revise the Dublin Regulation.

The regulation is not designed to guarantee that the responsibility for asylum seekers is shared among the EU member states. Nor does it ensure that asylum seekers have access to adequate asylum procedures. It is based on the false assumption that the national asylum systems in place in Europe all provide similar, high standards of protection to people who seek to escape from violence and persecution.

The system does not function – refugees are the victims

The gravely dysfunctional asylum procedures in Greece have brought the Dublin system to a genuine collapse, and lessons must be drawn from this breakdown. EU states need to halt all transfers of asylum seekers back to countries where they face enormous difficulties in gaining access to the asylum procedure and where they do not enjoy basic safeguards such as interpretation and legal aid.

Applicants aware of the problems in the first country of entry have, in several cases, appealed against the transfers. In fact, the Dublin Regulation shortcomings have led to a heavy burden on national courts, including supreme courts and above all the European Court of Human Rights. During 2009-2010 the Strasbourg Court received no less than 700 cases concerning asylum seekers asking for their transfers to be suspended.

Another serious side effect of the Dublin system is an increase in the use of detention for asylum seekers who are subject to transfer decisions, as the authorities in the host country fear that they may abscond before the transfer is carried out.

States in northern Europe, far from the borders in the south and the east, have so far not been co-operative in discussions about resolving this mess. In fact, they have not even been willing to use the possibility under the 'sovereignty clause' of the present regulation to avoid transfers to Greece, whose asylum system is clearly experiencing a total collapse.

In any case, using an exception clause is not enough. The system as such must be revised and replaced with policies which are fair and efficient, in line with the principle of solidarity – based on common principles and values.

The European Commission has suggested that it should be possible to suspend

The Commissioner for Human Rights is an independent, non-judicial institution within the Council of Europe, mandated to promote awareness of, and respect for, human rights in the 47 member states of the Organisation.

Elected by the Parliamentary Assembly of the Council of Europe, the present Commissioner, Mr Thomas Hammarberg, took up his function on 1 April 2006

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transfers and give states under particular strain short-term relief from their responsibilities under the Dublin Regulation. Such a mechanism should also offer the possibility of seeking financial or technical assistance in order to cope. This is the right approach.

Europe should do better

Europe as a whole is not overburdened by asylum applications, at least not in comparison with other parts of the world. It is sobering to learn that last year, South Africa alone received almost as many asylum requests as all 27 EU members put together. Some countries in Asia and the Middle East have received even more.

Europe should do better in terms of refugee protection. A fair and efficient system that would fully guarantee the human rights of asylum seekers in Europe is still wanting. The Dublin Regulation should be revised as soon as possible in order to put an end to this situation.

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