

Dublin Regulation – Irregularity or Crisis?

Although most, if not all, refugee seekers coming to the European Union have already heard, and have been hearing it since 1997, still it is worth repeating it here - **The Dublin regulation** establishes definitive criteria as to which EU country is responsible for handling an asylum application. According to these criteria, in order of priority, the responsibility rests with:

- The country where the applicant's closest family already resides.
- The country which has issued a residence permit or visa to the applicant (if applicable).
- The first EU country that the applicant has entered, whether lawfully or unlawfully.
- The country where the applicant has previously applied for asylum (if applicable).

The purpose of the Dublin Regulation is to harmonize asylum policies in the EU, to prevent “asylum shopping,” where an asylum seeker claims asylum in a number of EU States. This term relates also to the perception that asylum seekers may choose one EU Member State over another on the basis of a higher

standard of reception conditions or social security assistance. It also seeks to ensure that there is no potential for “asylum seeker in orbit” situations, whereby an asylum seeker is transferred between states with no state willing to take responsibility for examining his/her claim.

In praxis this implies that asylum seekers may be returned to another EU Member State if it can be shown that they have either passed through the border of another State (by air, sea or land) or made an application for asylum in another Member State.

Strangely, an unforeseen development was that Greece due to its geographic location has experienced an unprecedented refugee influx, and as a result of the Dublin regulation it had to house 150.000 thousand asylum seekers coming annually, and process their cases. This, quite understandably, turned out to be a mission impossible for the country which is on the verge of bankruptcy and it is being artificially held alive by huge loans from Germany (ECB).

The collapse of the Greek asylum system, as opinioned by United Nations High Commissioner for Refugees, affected at least half a million asylum-seekers thought to be living in Greece without any legal

status and without possibility of having their application processed. In legal terms this meant the **violation of the Articles 3 and 13 of the European Convention on Human Rights**, which deal with the prohibition of inhuman or degrading treatment or punishment and the right to an effective remedy. This was affirmed by the European Court of Human Rights which on the 21st of January 2011 has ruled that Belgium was wrong to deport an asylum-seeker back to Greece – judging Greek asylum system to be deficient.

In addition to this, the European Court of Human Rights has ordered the temporary suspension of transfer orders in 531 cases, which affect Belgium, Finland, France, the Netherlands and the UK. Even before the ruling, Belgium, Sweden and the UK had suspended transfers to Greece, with Germany doing the same two days before the ruling. Iceland and Norway, which are not members of the EU, but apply the Dublin II regulation, have also suspended returns to Greece. Denmark soon followed. This is good news for around 7,000 asylum-seekers thought to have been facing a return to Greece in 2010 under the Dublin II mechanism.

Denmark and Dublin

As a reaction to this ruling the Danish integration minister **Birthe Rønn Hornbech** has on the 23th of January 2011 made public her decision to request from the Danish Immigration service (Udlændingesservice) to start processing asylum applications of those refugees who have been waiting for the deportation to Greece. In addition she stressed that these cases will be processed like all others, which however is not a guarantee that the asylum will be granted in Denmark.

This decision isn't the one the Danish minister was very happy to make, nor is it the popular one. Understandably enough in the light of the fact that most European countries, which over past few decades have undergone a

development in their immigration policies have transformed themselves into gated communities. The unhappiness of European partners is understandably even greater because the situation in Greece does not have very bright prospects despite common efforts already made. Still, many voices in the EU are arguing for the plan that will bring the Greek asylum system back to work, rather than abandoning the Dublin Regulation entirely. However, right now it is hard to expect that we will see dramatic improvements in this part of Europe any time soon.

The European Commission has already at the end of 2008 proposed some revisions of the regulation as part of its work toward a Common European Asylum System. Under the changes put forward at that time,

the Commission would be able to propose the suspension of returns to a particular member state. But several EU member states – including France, Germany, the Netherlands, Sweden and the UK – object to the proposal, fearing that countries such as Greece would no longer have an incentive to reform their asylum systems. Despite the unwillingness of some, the recent ruling might have positive effect on Dublin Regulation because as Andrew Geddes, a professor at the University of Sheffield who specialises in research on the EU's migration policy, said, *the ruling was "highly significant" because it "begins to pave the way for a common system with increased standards"*.

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