

AMNESTY INTERNATIONAL

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The following is the statement delivered by Amnesty International on 24 September 2010 at the Fifteenth Session of the Human Rights Council under Agenda Item 8 - Follow-up and implementation of the Vienna Declaration and Programme of Action.

The Vienna Declaration reaffirmed that everyone is entitled to the right to seek and enjoy in other countries asylum from persecution.

Recently, citing large numbers of arrivals, the Greek authorities acknowledged that Greece would continue to violate the human rights of asylum-seekers, even if its asylum system were completely overhauled.

The chance of being granted international protection in Greece is very small because of the lack of a functioning asylum system. Asylum-seekers, including women and children, are forced to live on the streets without any assistance. Several asylum-seekers have been expelled without their claims being fully and fairly assessed, in violation of the principle of *non-refoulement*.ⁱ Recent reports have documented routine detention of asylum-seekers, including unaccompanied children.ⁱⁱ Detention of asylum-seekers is often prolonged and in poor conditions.

Two days ago, UNHCR described the situation facing those seeking international protection in Greece as a “humanitarian crisis”.

Because of its geographical position, Greece, like other countries at the southern border of Europe, is faced with large and mixed flows of irregular migrants and asylum-seekers. EU member states and other countries participating in the Dublin II system are exacerbating the situation by insisting on returning asylum-seekers to Greece.

Greece itself has urged EU member states to temporarily suspend returns under the Dublin II Regulation.ⁱⁱⁱ

The protection of refugees and others eligible for international protection is founded on the principles of humanitarianism and responsibility-sharing. By resorting to expediency in their interpretation of the Dublin II Regulation, and insisting on returning asylum-seekers to Greece, European states are acting duplicitously. They are knowingly attempting to circumvent their international obligations, including under EU law. They are causing untold suffering as a result; and are violating the rights of asylum-seekers and refugees, including by exposing them to *refoulement*.

Amnesty International therefore urges this Council to call on those European states purporting to act pursuant to the Dublin II Regulation to:

- halt all Dublin II transfers to Greece and any other Dublin II country where there is credible evidence that the rights of asylum-seekers and refugees are not respected;
- accept responsibility for and process the international protection claims of anyone who could otherwise be transferred to Greece;
- comply with their international obligations to uphold the rights of asylum-seekers and refugees in good faith, including by respecting the principles at the core of

- international protection system, namely, humanitarianism and responsibility-sharing; and
- ensure that any revision of the Dublin II system is consistent with those principles and fully upholds the rights of asylum-seekers and refugees.

ⁱ The principle of *non-refoulement* prohibits the expulsion, return, extradition, deportation or removal otherwise of any person in any manner whatsoever to a country or territory where he or she would face a real risk of persecution or serious harm. This principle is outlined in the 1951 Convention relating to the Status of Refugees and in numerous other international instruments. In addition, the principle of *non-refoulement* is widely regarded as a norm of customary international law.

ⁱⁱ For example, Amnesty International has recently documented grave violations of the rights of asylum-seekers and refugees in Greece in two reports “Irregular Migrants and Asylum-Seekers Routinely Detained in Substandard Conditions” and “The Dublin II Trap – Transfers of Asylum-seekers to Greece”, published in July and March 2010 respectively, and available at <http://www.amnesty.org/en/library/asset/EUR25/002/2010/en/07291fb2-dcb8-4393-9f13-2d2487368310/eur250022010en.pdf> and <http://www.amnesty.org/en/library/asset/EUR25/001/2010/en/e64fa2b5-684f-4f38-a1bf-8fe1b54d83b5/eur250012010en.pdf>. In addition, Amnesty International and the AIRE Centre (Advice on Individual Rights in Europe) have jointly intervened in two cases before the courts in the UK and in Ireland. Both cases challenge the refusal by the governments to accept responsibility for processing the asylum claims of those who passed through Greece, other than on an entirely discretionary and therefore arbitrary basis. Recently, the Court of Appeal of England and Wales and the High Court in Dublin decided to request a preliminary ruling on questions of EU law to the Court of Justice of the European Union. Following a recent order by the High Court of England and Wales barring the removal of another asylum-seeker to Greece, the UK government announced that, from 17 September 2010, it would temporarily take responsibility for processing all the asylum applications of those whom it would have otherwise transferred to Greece.

ⁱⁱⁱ The Dublin II Regulation, previously the Dublin Convention, Council Regulation No. 343/2003 of 18 February 2003 is EU secondary legislation, which three non-EU countries, Iceland, Norway and Switzerland, are also applying. It determines which state is responsible for examining an asylum application in cases where the asylum-seeker has entered more than one Dublin II participating state.