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**Preparation Paper**

**Human Rights Council (HRC)**

**“Human Rights for Asylum Seeking Persons”**

## **Introduction**

At this year's VIMUN the United Nations Human Rights Council (UNHRC) debates the issue of "Human Rights for Asylum Seeking persons". The aim of the simulation is to come up with a comprehensive document that addresses the various areas where HR of Asylum Seeking persons might be infringed and suggests adequate durable solutions for those challenges.

Building upon the experience gathered by the various countries the resolution should address the following areas:

- Legal status and prerequisites of an asylum seeker
- Application process to receive asylum
- Rights and obligations of the applicant
- Rights and obligation of the receiving state (example: commitments concerning yearly admission quotas)
- Legal process and remedies (what to do if an asylum application has been denied)
- Funding of a global approach

## **United Nations Human Rights Council**

The UNHRC was established by the UN General Assembly Resolution 60/251 on 15 March 2006 as the successor of the UN Commission on Human Rights with the main purpose of addressing situations of human rights violations. It is an inter-governmental body within the UN system made up of 47 States and responsible for strengthening the promotion and protection of human rights. The "Institution-building package", adopted by the Council in 2007, provides elements to guide it in its future work. These elements include a Universal Periodic Review mechanism which will assess the human rights situations in all 192 UN Member States.

## **General overview**

The magnitude and complexity of the issues arising from the flow of asylum seekers and refugees globally poses huge challenges for the world's destination countries. These countries universally struggle to maintain a balance between controlling national borders and offering protection to millions of displaced people.

When the Office of the United Nations High Commissioner for Refugees (UNHCR) was established in 1951, there were approximately 1.5 million refugees internationally. At the end of 2009 there were an estimated 43.3 million forcibly displaced people worldwide, including 15.2 million refugees, 983 000 asylum seekers and 27.1 million internally displaced persons (IDPs). It is estimated that there were an additional 25 million people displaced due to natural disasters. The subject remains a pertinent one in the light of the current unrest across large portions of North Africa and the Middle East.

The problem of Human rights of asylum seekers has been addressed on various levels. Often countries have a national policy on how to deal with asylum seekers. On an international level, organizations such as the European Union and the Council of Europe deal with this issue on a broader scale, including the implications for the various member countries. Due to the globalization of the challenge linked to asylum seekers, a global approach would greatly benefit the affected persons and the participating states alike. The experience on a national and regional level of the participating states is the clue to ensure a comprehensive approach of the challenge and to find durable solutions.

## **Difference between Asylum Seekers and Refugees**

There is a great deal of confusion about the difference between an asylum seeker and a refugee and often the terms are used interchangeably or incorrectly. An asylum seeker is someone who is seeking international protection but whose claim for refugee status has not yet been determined. In contrast, a refugee is someone who has been recognised under the 1951 Convention relating to the status of refugees to be a refugee. The Convention defines a 'refugee' as any person who:

... owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it ...

The definition of 'refugee' does not cover other individuals or groups of people who leave their country only because of war or other civil disturbance, famine, natural disasters or in order to seek a better life. As the UNHCR explains:

Refugees flee because of the threat of persecution and cannot return safely to their homes in the prevailing circumstances. An economic migrant normally leaves a country voluntarily to seek a better life. Should they elect to return home, they would continue to receive the protection of their government.

### **Case Study: The European Union and the Council of Europe**

In the EU-27 alone around 261,000 asylum applicants from 151 different countries were registered in 2009. Marking the 60th anniversary of the signing of a section of the Geneva Convention that relates to refugees, a conference on the status of Asylum Seekers in the EU was held under the auspices of Poland's presidency of the EU Council.

Documents such as the European Convention of Human Rights (Council of Europe) are the Charter of Fundamental Rights (European Union) and the key legal documents for this area. National policies and decisions on asylum of the member states have to comply with those documents. The institutions provide also for an appellate body such as the European Court of Human Rights (European Council).

Justice and Home Affairs Ministers of Member States of the European Union have discussed plans to process asylum seeker in North Africa before they reach European soil (4). This approach has been a very controversial one and recent ruling of Human Right courts criticizes strongly the humanitarian conditions in those camps (5).

As European Union leaders prepare to discuss their response to the refugee and migrant crisis in North Africa tomorrow, Amnesty International has urged EU governments to welcome more of those fleeing the conflict in Libya. Many attempt the dangerous crossing to Europe, and more than 1,800 are reported to have died at sea. Most languish in harsh desert transit camps, prey to the scorching sun, sandstorms and scorpions.

"This tragedy is unfolding on the EU's doorstep but its response has been shameful", said Nicolas Beger, Director of Amnesty International's European Institutions Office. "EU governments praised the 'Arab Spring', but don't want to help relatively few people who come to Europe. The UN High Commission for Refugees' appeal has so far led to EU countries offering to resettle a mere 900 people."

This Case Study clearly shows that, even though an asylum policy exists on a regional level, Human Rights of needing persons are not respected. Delegates are therefore strongly encouraged to research on the various areas of improvement while bearing in mind their respective country's position. Additional best-practice case studies on a national and regional level can offer new approaches to solve the problem of Human Rights of Asylum Seeking persons on a global scale.

### **Readings**

- (1) UNHCR Resettlement Program: <http://www.unhcr.org/pages/4a16b1676.html>
- (2) Asylum Statistics for the EU: [http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-SF-10-027/EN/KS-SF-10-027-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-10-027/EN/KS-SF-10-027-EN.PDF)
- (3) European Commission on Asylum: [http://ec.europa.eu/home-affairs/policies/asylum/asylum\\_intro\\_en.htm](http://ec.europa.eu/home-affairs/policies/asylum/asylum_intro_en.htm)
- (4) Asylum Camps of the EU: [http://www.noborder.org/files/040719eu\\_camps\\_map.pdf](http://www.noborder.org/files/040719eu_camps_map.pdf)
- (5) Asylum Camps of the EU heavily criticized: <http://www.dw-world.de/dw/article/0,,14778111,00.html>
- (6) Council of Europe: <http://www.coe.int>