

Access to Protection in Europe for Refugees

The current situation

According to reports published by UNHCR, in 2007 the number of refugees world-wide rose for the first time in many years while the number of recorded asylum applications in the UK fell to its lowest since 1999 and across the EU to a 20-year low.

This fall coincides with increasingly tough border control measures operating in the UK, across the EU and in third countries, which governments say are necessary to deter irregular migration and fight against international crime and security threats. Crucially, none of these controls distinguish between those fleeing persecution and seeking protection and other migrants seeking to come to the EU. They are blunt instruments with no mechanisms to identify potential refugees and allow access to the EU asylum processes.

In recent years a range of measures have been introduced to strengthen border controls. There are 128 countries whose nationals need a visa before they are allowed into the EU, including war-torn and refugee producing countries such as Iraq, Afghanistan, Somalia and Sudan.

Extra-territorial border controls have also been introduced. Since 2001, UK immigration officers have been stationed in France and Belgium. According to the Home Office they have contributed to a 70% fall in 'unfounded' asylum claims since 2002.

The UK has also developed an increasing number of 'airline liaison officers' (ALO) based in airports from Bahrain and Dubai to Nairobi and Dhaka to detect and deter inadequately documented passengers. A network of 55 staff now operates in 32 countries. The UK Government has reported that the ALO network has prevented 180,000 people with inadequate documentation from reaching the UK in the last 5 years.

Recent legislation has also increased the fines which airlines and lorry drivers face if they are found to be transporting people without proper documentation.

At an EU level we have seen the establishment of FRONTEX, the EU Border management agency whose role is to co-ordinate cooperation at EU level to strengthen security at Europe's external borders. Since its inception in 2005 FRONTEX has been involved in a series of operations such as patrolling the Mediterranean and the Atlantic waters between West Africa and the Canary Islands in an attempt to intercept and return boats carrying "irregular migrants". To pay for this the EU has established the External Borders Fund allocating 1.82 billion Euros for 2008-2013.

Access to Europe

Why does this matter?

The UK and all other members of the EU have signed the 1951 UN Convention on Refugees. The Convention imposes a major obligation on countries that have signed it - that of "non-refoulement." Non-refoulement means that no country may deport or expel a person to a country where that person faces persecution, or risk of serious human rights violations.

This means that a UK immigration officer is not allowed to stop access to the UK to a person who faces persecution if refused entry. This should apply whether they are working at Heathrow or Harare.

People fleeing persecution, with no legal means of travel as a result of these controls are increasingly putting themselves in the hands of people smugglers or traffickers and taking life-threatening risks to reach safety in Europe. Thousands of people are known to have died. Estimates vary between 3,000 and 25,000 people thought to have perished crossing the Mediterranean Sea during 2006. Many have also died attempting to reach the Canary Islands from West Africa or attempting to cross the Sahara desert to reach the North African coast.

Although not everyone attempting to reach the EU is fleeing persecution there is clear evidence that many are. Since 2002, 48% of asylum applicants in Malta, where the majority arrive by sea, were eventually recognised as in need of international protection.

Recommendations

Scottish Refugee Council believes the UK Government should:

- urgently review its border control strategy and current practices to ensure they are sensitive to the needs of refugees and ensure the UK is not contravening the principle of non-refoulement; and
- should establish a Protected Entry Procedure (PEP) to allow people in need of protection to present an asylum claim at British embassies, as a prelude to the development of an EU PEP.

As members of the European Council on Refugees and Exiles (ECRE) we are calling for:

- The EU agency FRONTEX to establish structured cooperation with asylum experts such as the United Nations High Commissioner for Refugees (UNHCR) to ensure their operations take account of refugee protection issues;
- The establishment of an independent monitoring of both Member States and FRONTEX border operations to safeguard the right to seek asylum;
- The EU External Borders Fund to be used to help include protection-sensitive measures into border management; and
- The EU to consider suspending visa restrictions for people whose country is experiencing a humanitarian crisis.

For further information:

http://www.ecre.org/topics/border_controls

<http://www.unhcr.org/statistics.html>

<http://www.bia.homeoffice.gov.uk/managingborders/borders/>

http://www.cabinetoffice.gov.uk/upload/assets/www.cabinetoffice.gov.uk/publications/reports/border_review.pdf

<http://www.jesref.org/reports/index.php?lang=en&sid=2704>