

Harald Doerig

## **Legal Grounds for the Limitation of Entry for Asylum Applicants**

### **Article 33 Geneva Konvention**

Prohibition of expulsion or return (“refoulement”)

1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

### **Articles 20, 21 QD**

The protection from refoulement applies both to refugees and persons eligible for subsidiary protection.

### **Article 18 EU Charter - Right to asylum**

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union (hereinafter referred to as ‘the Treaties’).

### **Article 19 (2) EU Charter - Protection in the event of removal, expulsion or extradition**

No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

### **Article 33 (2) Asylum Procedures Directive 2013**

#### **Inadmissible applications**

Member States may consider an application for international protection as inadmissible only if:

- (a) another Member State has granted international protection;
- (b) a country which is not a Member State is considered as a first country of asylum for the applicant, pursuant to Article 35;
- (c) a country which is not a Member State is considered as a safe third country for the applicant, pursuant to Article 38; ...

### **Section 18 (2) German Refugee Act**

The entry to Germany has to be refused to foreigners who enter from a safe third country in the meaning of Section 26 (a) German Refugee Act ...

**Section 26 (a) German Refugee Act**

(2) Safe third countries are the Member States of the European Union and Norway + Switzerland.

**Section 29 (1) German Refugee Act**

An application for asylum has to be considered as inadmissible if ...

3. a state, which is prepared to take back the foreigner, can be regarded as a safe third country for the applicant pursuant to Section 26 a Refugee Act, ...

**Article 3 (1) Dublin III Regulation**

Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones. The application shall be examined by a single Member State, which shall be the one which the criteria set out in Chapter III indicate is responsible.

**Article 72 TFEU**

This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

**Article 25 Schengen-Regulation of 9 March 2016 (2016/399)****General framework for the temporary reintroduction of border control at internal borders**

(1) Where, in the area without internal border control, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border control at all or specific parts of its internal borders for a limited period of up to 30 days or for the foreseeable duration of the serious threat if its duration exceeds 30 days. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the serious threat.

(4) The total period during which border control is reintroduced at internal borders, including any prolongation provided for under paragraph 3 of this Article, shall not exceed six months. Where there are exceptional circumstances as referred to in Article 29, that total period may be extended to a maximum length of two years, in accordance with paragraph 1 of that Article.

**UN Resolution 2312 - Declaration on Territorial Asylum - 14.12.1967 - Article 3**

1. No person referred to in article 1, paragraph 1, shall be subjected to measures such as rejection at the frontier or, if he has already entered the territory in which he seeks asylum, expulsion or compulsory return to any State where he may be subjected to persecution.

2. Exception may be made to the foregoing principle only for overriding reasons of national security or in order to safeguard the population, as in the case of a mass influx of persons.