

The Dublin system from the ECtHR's perspective.

I. Introduction

Relevant ECHR provisions: Articles 2 (life), 3 (inhuman or degrading treatment or punishment), 8 (private and family life), 13 (effective remedy), P4 Article 4 (collective expulsion), P7 Article 1 (procedural guarantees) and Rule 39 (interim measures).

II. Grand Chamber judgments (Dublin)

- *M.S.S. v. Belgium and Greece*, 21 January 2011: Belgian authorities returned Afghan asylum seeker to Greece. Both states violated Article 3 and Article 13 together with Article 3 (lack of verification of Greek asylum practice and of remedy against expulsion; detention and living conditions as well as deficiency in asylum examination).

- *Tarakhel v. Switzerland*, 4 November 2014: There would be a violation of Article 3 if Swiss authorities returned Afghan couple and their six children to Italy without first obtaining individual guarantees (reception system; information about the specific facility). Article 13 together with Article 3 manifestly ill-founded (MIF).

See also *S.M.H. v. the Netherlands* (Committee decision), 17 May 2016 (MIF); *N.A. and Others v. Denmark* (decision), 28 June 2016 (MIF).

III. Chamber judgments (Dublin)

- *Mohammed v. Austria*, 6 June 2013: Return of Sudanese national from Austria to Hungary. Violation of Article 13 in conjunction with Article 3 (lack of protection against forced transfer). No violation of Article 3 in view of recent legislation in Hungary.

- *Sharifi v. Austria*, 5 December 2013: Return of Afghan national from Austria to Greece in October 2008 did not breach Article 3. The Austrian authorities ought not to have known at the time that deficiencies in Greek asylum procedure and living and detention conditions reached the Article 3 threshold.

See also *Safai v. Austria*, judgment, 7 May 2014 (no violation of Article 3: April 2009).

- *Mohammadi v. Austria*, 3 July 2014: Expulsion of Afghan asylum-seeker from Austria to Hungary would not violate Article 3. Available information did not indicate systematic deficiencies in the Hungarian asylum and asylum detention system, no individual risk.

- *Sharifi and Others v. Italy and Greece*, 21 October 2014: Return of Afghan, Sudanese and Eritrean nationals to Italy and then immediately to Greece. Violation by Greece of Article 13 combined with Article 3 (lack of access to asylum procedure and risk of deportation to Afghanistan); violation by Italy of P4 Article 4 (collective expulsion); violation by Italy of Article 3 by exposing applicants to shortcomings in Greek asylum procedure; violation by Italy of Article 13 combined with Article 3 of the Convention and with P4 Article 4 (lack of access to asylum procedure or other remedy).

- *A.S. v. Switzerland*, 30 June 2015: If Syrian national of Kurdish origin were removed to Italy, there would be no violation of Article 3 (psychological treatment) or of Article 8 (no established family life in Switzerland). The reception arrangements in Italy could not in themselves justify barring all removals of asylum seekers to Italy.

IV. Chamber decisions (Dublin)

- *T.I. v. UK*, 7 March 2008: No real risk that Sri-Lankan national, who had left Germany and applied for asylum in the United Kingdom, would be returned to Sri Lanka in breach of Article 3 (MIF).

- *K.R.S. v. UK*, 2 December 2008: Iranian national, who had passed through Greece and requested asylum in the UK, feared return to Greece under Article 3. No risk of removal to Iran by Greece (MIF).

- *Mohammed Hussein v. the Netherlands and Italy*, 2 April 2013: Somali asylum seeker and her two young children feared ill-treatment if returned from the Netherlands to Italy. Rule 39 applied but complaint inadmissible (MIF). Not sufficiently real and imminent risk of hardship; no systemic failing in the general situation of asylum seekers in Italy.

See also *Halimi v. Austria and Italy* (decision), 18 June 2013 (MIF); *Abubeker v. Austria and Italy* (decision), 18 June 2013 (MIF).

- *A.M.E. v. the Netherlands*, 13 January 2015: Removal of young Somali asylum seeker to Italy to alleged poor living conditions and risk of expulsion to Somalia without adequate examination. Not sufficiently real and imminent risk of hardship (MIF). Distinguished from *Tarakhel* and *M.S.S.*

Ojei v. the Netherlands, 14 March 2017: Return of Nigerian national to Malta would not violate Article 3 (detention conditions and open centres – MIF).

V. Other relevant Grand Chamber judgments

- *Hirsi Jamaa and Others v. Italy*, 23 February 2012: Immigrants at open sea returned to Libya by Italian ships. Violation of Article 3 (risk of ill-treatment in Libya; risk of repatriation to Somalia and Eritrea). Violation of P4 Article 4.

- *F.G. v. Sweden*, 23 March 2016: Expulsion to Iran would violate Articles 2 and 3 if there was no *ex nunc* assessment of religious conversion. Political activities: no violation.

- *J.K. and Others v. Sweden*, 23 August 2016: Expulsion to Iraq would violate Article 3.

- *Paposhvili v. Belgium*, 13 December 2016: Return of seriously ill immigrant to Georgia without assessment would violate Articles 3 and 8.

- *Khlaifia v. Italy*, 15 December 2016: Return of immigrants from Lampedusa to Tunisia did not violate P4 Article 4. Detention breached Article 5 but not Article 3.