



GUIDE

For journalists forced
into exile

20th JUNE 2012

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FOREWORD

Thousands of men and women of many nationalities flee persecution every year, leaving everything behind from one day to the next, escaping countries ravaged by war or dictatorship. They may have suffered persecution because of their religion, nationality, membership of a social or ethnic group, or their political opinions.

They include many journalists who are forced to flee their country for trying to provide their fellow citizens with news and information

These journalists pay a high price for speaking out freely. They flee abroad to avoid further arrest, violent reprisals or an arbitrary jail sentence.

Reporters Without Borders produced a first version of this “Guide for journalists forced into exile” in June 2009 to accompany, familiarize and inform refugee journalists during this difficult process. Three years later, the exodus continues. More than 200 Iranian journalists have fled their country since President Mahmoud Ahmadinejad’s disputed reelection in 2009. Dozens of journalists have fled President Assad’s violent crackdown in Syria. The violence of Somalia’s Al-Shabaab militia causes journalists to flee for their lives every month.

The advice in this guide, published on 20 June 2012, World Refugee Day, will unfortunately not remedy the emotional pain and exhaustion of those journalists who have had to uproot themselves and flee. But it will provide them with valuable support and concrete assistance with all that they have to do to start a new life.

This guide is not exhaustive. It does not set out to provide complete and tailor-made legal information. Rules governing immigration are complex and vary from one country to another, and often depend on the specific case of the asylum seeker. This guide is designed to describe the main steps and procedures for those who flee abroad, while pointing out the difficulties and obstacles.

These few pages do not moreover provide a formula for obtaining refugee status. Protection of new arrivals remains a sovereign decision of states, some of whom flout or circumvent the rules of international law, without a thought for humanitarian concerns. Reporters Without Borders’ work in this area can only have as much impact as governments and bodies responsible for asylum will allow.

This guide is designed above all to provide practical assistance and to be modified and expanded in accordance with legislative changes and on the basis of feedback from journalists who have themselves fled into exile. Please do not hesitate to share your own experiences with us.



BURMESE JOURNALISTS IN THAILAND

JOURNALISTS FORCED INTO EXILE THE CURRENT STATE OF AFFAIRS

Around 80 journalists fled abroad in 2011, mostly from Iran and from Horn of Africa countries. During the same period, Reporters Without Borders wrote approximately 220 letters to government officials and international bodies in a position to provide protection to journalists who have had to flee their country. Reporters Without Borders also provided journalists who have fled abroad with 72 financial grants in 2011.



Scores of journalists are driven to flee every year, usually by government reprisals, but also by terror groups, criminal gangs, drug-traffickers, religious extremists and political militants. Some countries such as Eritrea, Somalia, Iran and Sri Lanka are being emptied of their journalists, who are regarded by their governments as unwanted witnesses.

The majority of journalists seeking asylum are the victims of harassment and reprisals by the authorities in their own countries. A third of them are targeted by armed militias, political or religious groups or organized crime.

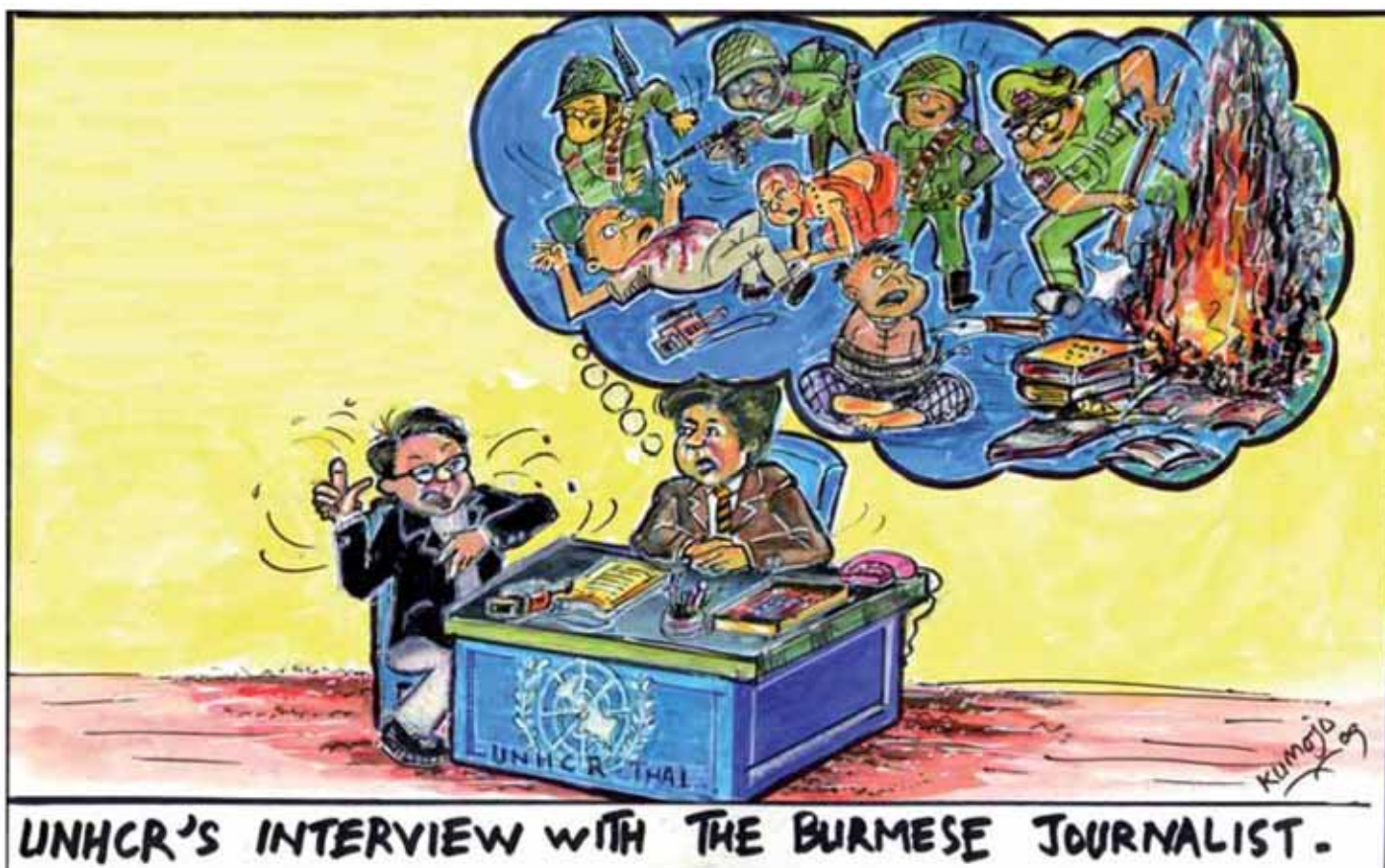
Most leave their country in haste, in a highly dangerous manner, travelling at night, sometimes crossing borders on foot at night or concealed in makeshift vehicles. They usually seek initial refuge in a neighbouring country in the hope of being safe from persecution there, but this hope is often illusory. Many of the regimes they flee have an ability to cause harm that extends far beyond their borders. The country in which they finally end up is rarely one they have chosen. The choice is determined by their material resources, the country's security situation and legislative provisions.

Around half of the refugee journalists assisted by Reporters Without Borders try to make new lives in a safe country in which they have been able to apply for asylum, chiefly France, Sweden, Norway, Switzerland, the United Kingdom, Canada or the United States.

Many end up spending years in countries of initial refuge such as Sudan, Kenya and Turkey, imagining that one day they will be able to resume a normal and stable existence. They rarely manage to integrate into these countries and most hope to be resettled or welcomed in a safe third country.

Some go back to the country from which they fled. Even if their safety is not guaranteed in their own country, the threat of further imprisonment or worse is seen, in moments of desperation, as a lesser evil than being permanently uprooted.

Reporters Without Borders is extremely concerned by the fact that many journalists risk their lives by using illegal immigration channels. This can end in tragedy as in the case of an Eritrean journalist who died trying to cross a desert and an Iranian blogger who ended up being imprisoned in a country in which he had hoped to find a safe haven. Most of the journalists who arrive in Europe or North America get there illegally.



PROCEDURE WITH THE UN REFUGEE AGENCY (UNHCR)

3. The outlook

Millions of refugees worldwide live with little hope of finding lasting solutions to their plight. UN High Commissioner for Refugees Antonio Guterres has often spoken out about the problem of prolonged exile. According to UNHCR figures, most refugees remain in their region of origin and do not reach a country offering better living standards and security.

This guide cannot offer any way to determine how long the UNHCR process will take. It depends on many factors including the particular situation of each applicant and the cooperation received from governments and from humanitarian and development organizations. Many refugee journalists stress the length of the process. Like thousands of refugees worldwide, they languish in countries such as Yemen, Sudan, Syria, Turkey and Thailand, waiting for their application to be processed, trapped in prolonged exile without hope of either returning to their country of origin or integrating in their country of refuge. Around half of the refugee journalists supported by Reporters Without Borders are in this situation.

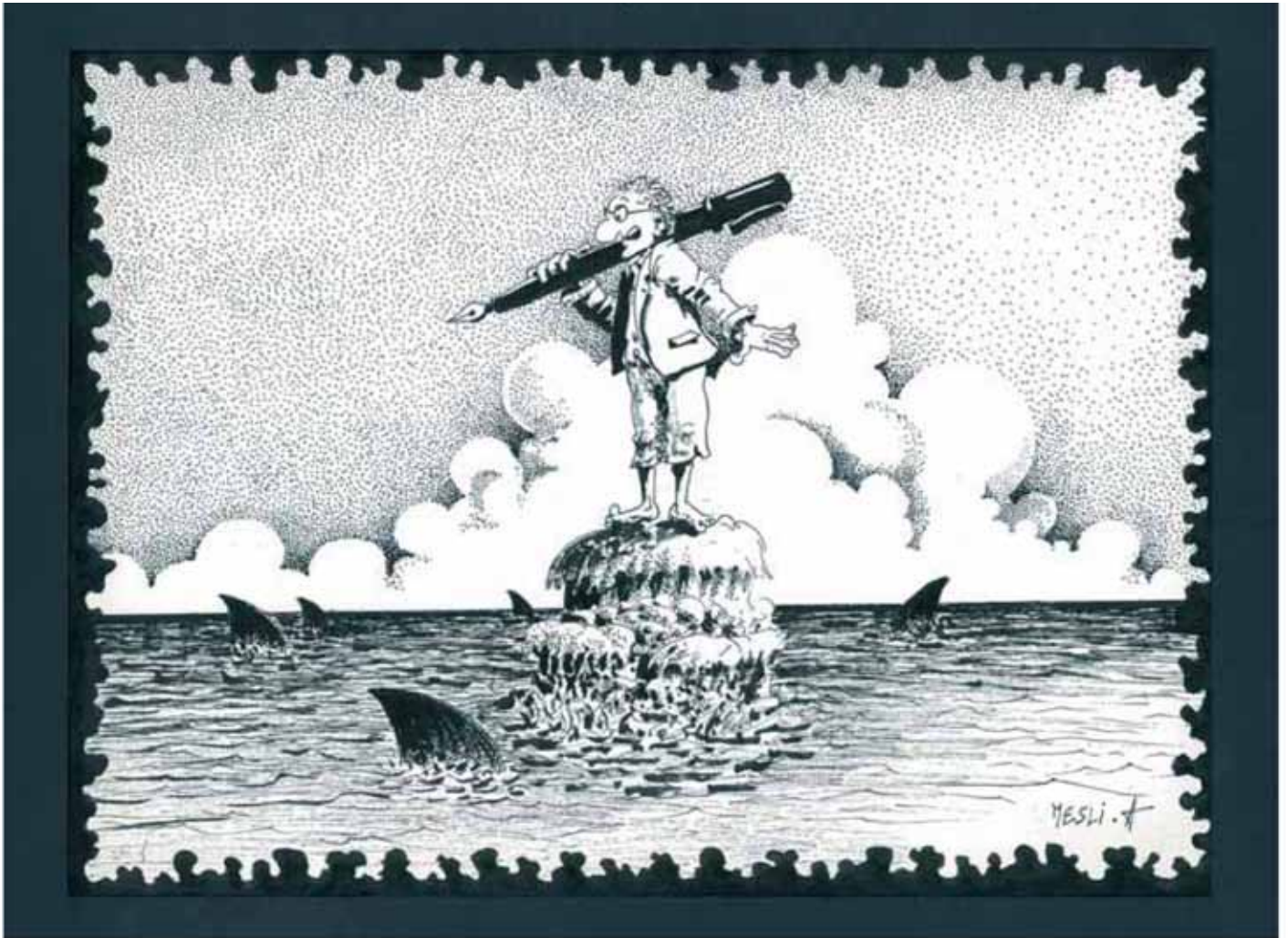
UNHCR offers three solutions to refugees: repatriation to their country of origin, integration in the country to which they fled, or resettlement in a third country.

UNHCR provides **voluntary repatriation** and reintegration only when refugees will be able to find the physical, social, legal and material security necessary for their survival in their country of origin, and when they will be able to provide for themselves and maintain their dignity there.

Resettlement allows refugees to leave the country in which they made an asylum application and go to a third country that is prepared to receive them. The third country usually grants them asylum or other form of long-term residence. Resettlement is offered to refugees who are able to prove that they are in danger both in their country of origin and in their initial host country. Resettlement is a long and complex process requiring the agreement of a third country. UNHCR estimates that 92,000 refugees whose situation requires resettlement will not get it in 2012. Worldwide, less than 1 per cent of UNHCR refugees are resettled.

Various criteria including threats to safety in the country of origin and host country and the asylum seeker's vulnerability are used to determine who should benefit from the resettlement programme. It is harder for refugees from a country embroiled in a war or civil war to obtain resettlement because the number of applicants and level of widespread distress is much higher.

UNHCR also promotes **integration** in the country where the refugee is already located. This sensitive and gradual process is done on a case by case basis. Its success depends on political, legal and socio-cultural conditions in the country.



SEEKING ASYLUM, GENERAL ADVICE

Refugee journalists who find themselves in a country with rules about protection of refugees, especially European and North American countries, should request asylum immediately on arrival.

Although rules and procedures vary from one country to another (this is covered in the next chapters), the following essential advice applies in every situation:

• ONLY TRUST YOURSELF AND COMPETENT INDIVIDUALS

Always seek assistance from specialized organizations and lawyers during the asylum process. Many outside people, who are more or less well intentioned, offer help or advice on situations about which they are not qualified. Advice of this kind should always be verified as it may cause pointless concern or, worse still, may have a negative impact on the asylum application and could result in rejection or, at the very least, time being wasted.

• GIVE YOUR ACCOUNT IN A DETAILED, PRECISE AND COHERENT MANNER

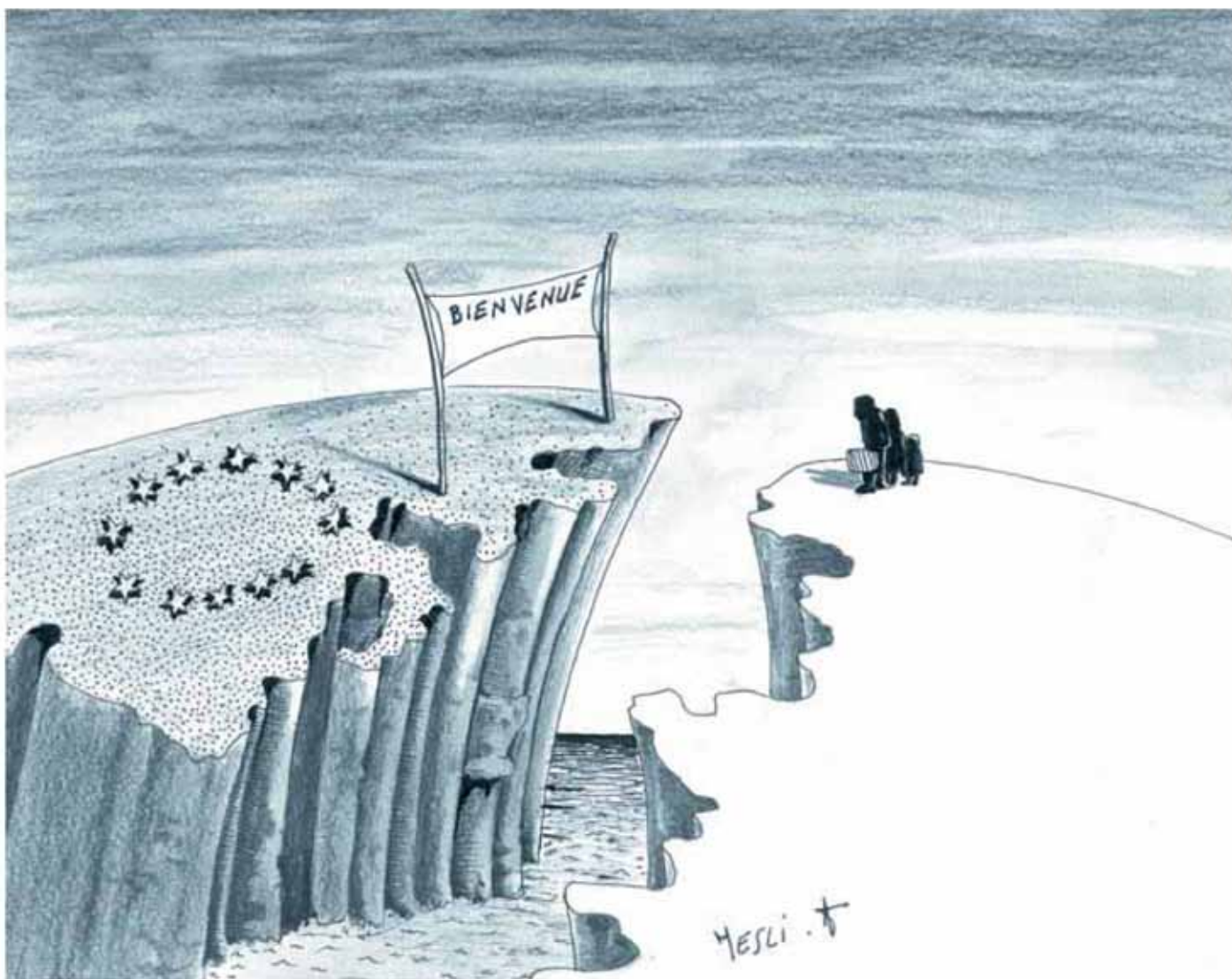
Consideration of an asylum application is always based on the applicant's oral or written account, which must be personal and individual. Do not hide anything. Since officials are required to observe confidentiality, asylum seekers can open up to them without putting themselves at risk. If any problem or misunderstanding arises during an interview, for example, due to the presence of an interpreter, the applicant should not hesitate to mention it. Your account must be clear, coherent and chronological. The least contradiction can discredit your story. Never, under any circumstances, embroider your account with claims about imprisonment or physical attacks that did not take place.

• SUBMIT AS MUCH EVIDENCE AS POSSIBLE

It is vital to include documentary evidence in your application, particularly evidence that is easy to obtain, without taking any serious risk. The evidence should include press cards, copies of articles and reports, letters from employers and so on.

• BE PATIENT

Processing applications may take a very long time. Applicants will often have to deal with government departments that are understaffed. They will probably encounter delays, postponed appointments and a general lack of responsiveness. They must be patient, but from time to time they must approach relevant officials and enquire about the progress of their application.



SEEKING ASYLUM IN EUROPE

ASYLUM SEEKERS IN EUROPE CANNOT CHOOSE WHICH COUNTRY GIVES THEM ASYLUM

Each European country has its own rules on asylum. The way asylum seekers are treated, the processing of applications and the decision-making vary considerably from one country to another. Europe does not have a common immigration policy although it has centralized the management of its external borders.

The “Dublin Regulation” determines the country in which an asylum application must be made. It forces refugees to apply in the country that gave them a visa or, in the case of illegal entry, in the first country entered. Asylum seekers are registered in a centralized data base called Eurodac along with the country that gave them a visa and their place of entry into Europe. Refugees can be identified from their fingerprints during any immigration or police check. Applicants who are rejected by one European Union country cannot seek asylum in another.

It is the same for journalist asylum seekers. They have to apply in the country that gave them a visa, in the case of legal entry, or failing that, in the first country they arrive in. Family or professional ties are not enough to overturn the strict regulations and exceptions to the Dublin Regulation are very rare.

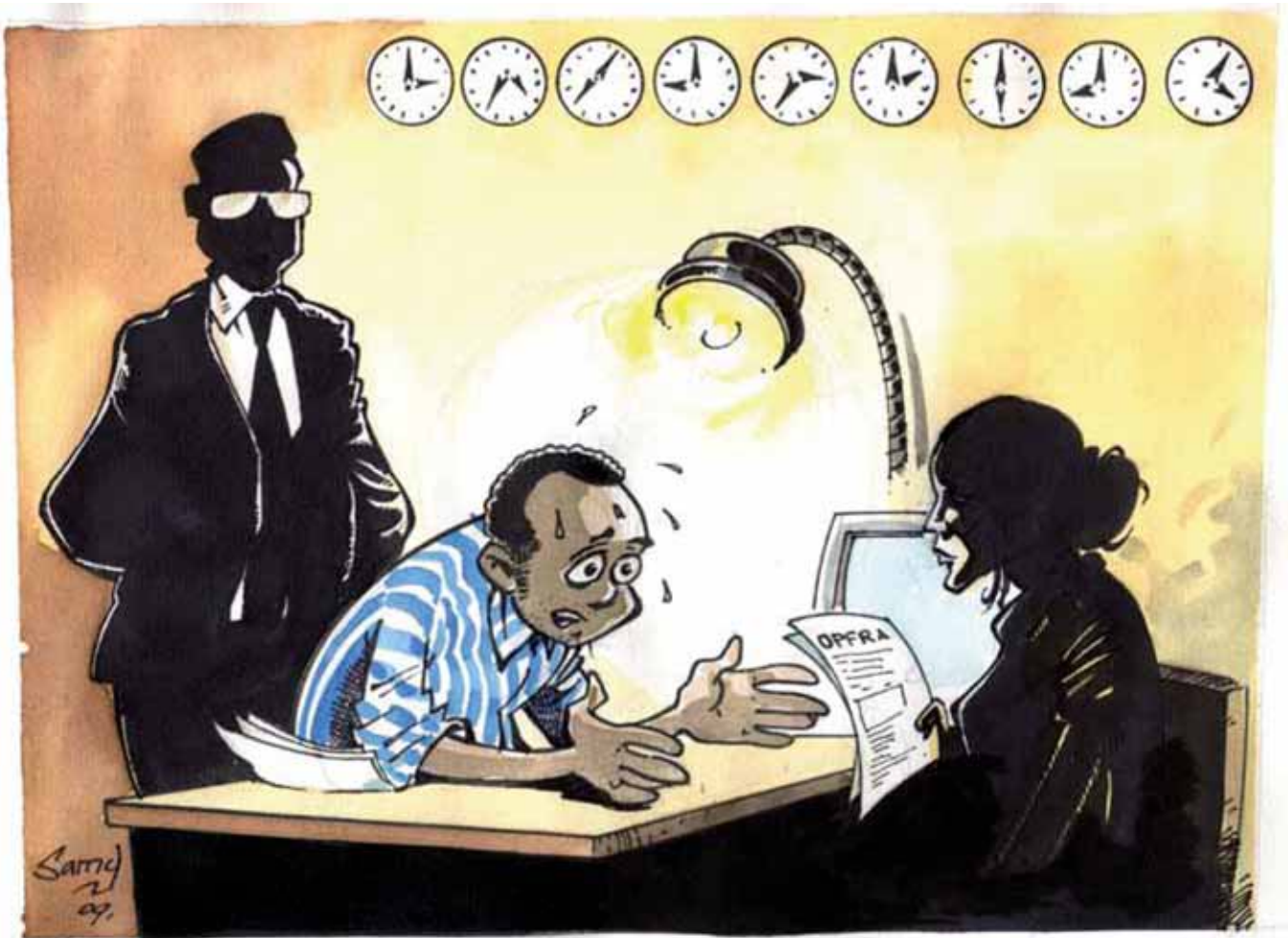
Many refugee rights organizations criticize the Dublin Regulation in the absence of any harmonization of European asylum legislation. It is not just the differences in the way asylum seekers are treated (with some European countries going so far as to provide them with either provisional residence permits or accommodation). The chances of citizens of certain countries obtaining refugee status also vary enormously according to the country where they apply. CIRÉ, a Belgian NGO, reports that: “In 2008, an Afghan applicant had a zero per cent chance of obtaining asylum in Greece, a 14 per cent chance in Belgium and a more than 40 per cent chance in Germany.”¹ NGOs are calling for the Dublin Regulation to be suspended for countries that do not meet minimum standards of treatment and protection.

Greece's deportation of asylum seekers has been a subject of debate for years. In September 2010 Council of Europe commissioner for Human Rights Thomas Hammarberg called for an end to any transfer of asylum seekers to Greece under the Dublin Regulation. The European Court of Human Rights ruled against Belgium and Greece on 21 January 2011 in connection with an Afghan asylum seeker's transfer². In its ruling, the court said Greece's treatment of asylum seekers, including their almost systematic detention, violated article 3 of the European Convention on Human Rights banning any inhuman or degrading treatment. Belgium also violated the article by sending an asylum seeker to a country where he had no guarantee of his application being properly examined, the court ruled.

Several countries including the United Kingdom, Sweden, Belgium, Iceland, Norway, Netherlands, France and Germany have already suspended transfers of asylum seekers.

¹ Coordination et initiatives pour réfugiés et étrangers (CIRÉ), Dublin Regulation– MSS v. Belgium and Greece, March 2011.

² European Court of Human Rights, MSS v. Belgium and Greece, 11 January 2011



1. Seeking asylum in France

• CRITERIA FOR RECOGNITION AND PROTECTION

The French Office for the Protection of Refugees and Stateless Persons (*l'Office français de protection des réfugiés et apatrides* – OFPRA) or, in the event of an appeal, the National Court for Asylum Rights (*Cour nationale du droit d'asile* – CNDA) may initially provide a number of different kinds of protection, depending on the applicant's situation:

- refugee status (*le statut de réfugié*), based on the Geneva Convention of 28 July 1951.
- constitutional asylum (*l'asile constitutionnel*), based on paragraph 4 of the preamble to the 1946 French Constitution.
- subsidiary protection (*la protection subsidiaire*), based on Articles L.712-1 to L.712-3 of the Code for Entry and Residence of Foreigners and the Right of Asylum (CESEDA).

Asylum seekers cannot choose between the different forms of protection. This is decided by the relevant authorities in accordance with each case.

• PROCEDURE FOR SEEKING ASYLUM

Application to the prefecture for right of residence

Before making an application for protection, it is essential to go to the local prefecture and apply for the right to reside in France as an asylum seeker. The prefecture will give the applicant a notice of asylum (*notice d'asile*) form.

Access to the prefecture may be difficult because of the number of applicants turning up every day, especially in the Paris area.

Asylum seekers stopped at the border can be placed in a waiting area if they do not have the necessary documents to enter France. They must show during an interview that their request for asylum is not demonstrably unfounded.

If, under the Dublin Regulation (see above p.12), France is not the right country to receive the asylum request, the procedure is suspended during the wait for a reply from the country responsible. Determining which country is responsible should not take more than five months and the transfer should take place within six months of acceptance by the country responsible. During this period, which can therefore take many months, the asylum seeker cannot claim any financial assistance or housing.

A receipt confirming that an asylum application has been made, a yellow document valid for three months, allows residency in France while the application is being considered. This does not allow the applicant to work.

OFPRA – the initial authority

The asylum application form, which must be obtained from the prefecture at the time of applying for the right to reside in France, includes an explanatory note (*note explicative*).

The application must be completed in French and any foreign-language documents must be accompanied by a translation into French by a “certified translator.” It must include a “*récit de vie*,” that is to say, an account of the harassment or persecution experienced by the applicant, and any relevant documentary evidence supporting the applicant's fears. It is important to include press cards, articles and any copies of newspapers that help to strengthen the credibility of the facts claimed. It is vital to support an application and to provide a detailed justification of one's fear of further persecution.

The completed application should be sent to OFPRA within three weeks. It is essential to meet this deadline, because otherwise the asylum application is inadmissible. It is advisable to keep copies of the completed application form and all accompanying documents.

Material can be added to the application at any time, including after the interview, until the decision is notified.

Before making a decision, OFPRA will summon the asylum seeker for an individual interview by a protection officer, who will ask questions, if necessary with the help of an interpreter. It is not compulsory for a lawyer to be present during this stage of the process, at which help can be requested from organizations that support asylum seekers. The wait for an interview appointment can be several months.

Next, OFPRA will give its decision:

- If it is positive, the applicant will be notified by registered letter.
- If OFPRA rejects the application, notification will also be sent through the post. Reasons must be given for a rejection.

Appeal before the National Court for Asylum Rights (CNDA)

If OFPRA rejects an asylum application, an appeal against its decision can be submitted to the National Court for Asylum Rights (CNDA). At this point, having a lawyer is strongly recommended.

The appeal application must reach the CNDA within 30 days of reception of the OFPRA refusal.

In their appeal, asylum seekers must outline

-Their reasons for disputing the OFPRA decision (that is to say, they must respond to the reasons that OPRA gave for rejecting the application);

-Their reasons for leaving their country of origin, and the persecution they suffered or had good reason to fear.

The CNDA hearings are usually public. Asylum seekers may speak in support of their case at the hearing, may be assisted by an adviser and an interpreter, and may be accompanied by people who are also able to speak in support of the application.

However, appeals that do not present any “serious” grounds or arguments for challenging OFPRA’s decision can be rejected by means of a written ruling, without any hearing being held. Asylum seekers should therefore send the CNDA a more detailed and personalized submission than the one provided to OFPRA, and should try to provide additional information and arguments.

An appeal to the CNDA “suspends” the legal consequences of OFPRA’s rejection of the asylum application. In other words, the asylum seeker can continue to reside legally in France until the CNDA has ruled on the appeal. The sending of a acknowledgement allows asylum seekers to get their yellow receipt renewed at the prefecture, unless they come from a country that is considered to be safe ([list of countries considered safe](#)).

After the CNDA decision

- If the OFPRA rejection is overturned, the asylum seeker will receive a residency document bearing the stamp “recognized as a refugee” (*reconnu réfugié*).

- If the appeal is rejected, the applicant is no longer regarded as an asylum seeker. The prefecture’s receipt is withdrawn and the former asylum seeker will be given a denial of residency notification, along with an invitation to leave the country voluntarily within one month, or notification of an obligation to do so.

CNDA decisions are rarely challenged, although a case can be taken to appeal before the State Council (*Conseil d’État*). However, the State Council cannot reexamine the reasons for the asylum application. It limits itself to checking the legality of the CNDA decision. OFPRA, and possibly the CNDA, can be asked to reexamine an application, but only if new facts have emerged since the date of the final refusal.

• THE RIGHTS OF ASYLUM SEEKERS AND REFUGEES**During the asylum procedure**

- Asylum seekers receive a one-month provisional residency permit (*Autorisation Provisoire de Séjour - APS*), followed by three-monthly receipts (*récépissés de trois mois*) until the end of the process.

- Asylum seekers are not allowed to work. Even if they find an employer it is very rare to be given permission to work.

- During the wait for a decision on the application, asylum seekers can receive state assistance in the form of lodging, or in the form of a monthly allowance ([allocation temporaire d’attente – ATA](#))

- [La Maison des Journalistes](#) in Paris provides free accommodation for up to six months to asylum seekers who are journalists.

- There are organizations that provide various kinds of help to asylum seekers, including French lessons.

Once refugee status is obtained

Those with refugee status have the same rights as French nationals.

French language courses are available to them at the French Office for Immigration and Integration (*Office français de l’immigration et de l’intégration – OFII*). Learning French is vital for integration in France and for finding work.

Reporters Without Borders has found that, although some refugee journalists try to remain in the profession, the vast majority retrain or find a job in a different sector.

LES CONTACTS

STATE ENTITIES

Office français de protection des réfugiés et apatrides (OFPRA): <http://www.ofpra.gouv.fr/>
 Cour nationale du droit d'asile (CNDA): <http://www.cnda.fr/>

NGOS PROVIDING ASSISTANCE TO ASYLUM SEEKERS

Legal assistance

Amnesty International:

<http://www.amnesty.fr/index.php/amnesty>

L'Anafé (National Association for Border Assistance to Foreigners – waiting area):

<http://www.anafe.org/index.php>

La Cimade (NGO working with refugees):

<http://www.cimade.org/>

Le Gisti (information and support group specializing in law):

<http://www.gisti.org/index.php>

Human Rights League:

<http://www.ldh-france.org/>

Medical assistance

Comède (Medical Committee for Exiles):

<http://www.comede.org/>

Accommodation and integration

Forum Réfugiés (Refugees Forum):

<http://www.forumrefugies.org/>

- Welcome pack for asylum seekers in seven languages (*Livret d'accueil du demandeur d'asile en sept langues*)

- Asylum seekers guide in French, English and Russian: *Guide du demandeur d'asile (versions française, anglaise et russe)*

- Practical information on social issues: *Fiches techniques apportant des informations sociales*

France Terre d'Asile (NGO working with asylum seekers and refugees): <http://www.france-terre-asile.org/>

La Maison des Journalistes (The Journalists Residence offers accommodation to journalists for up to six months):

<http://www.maisondesjournalistes.org/>

2. Seeking asylum in Germany

• ACCESS TO THE ASYLUM PROCESS

Germany is surrounded by “safe third countries” that are European Union members bound by the Dublin Regulation. As a result, if asylum seekers are found to have passed through another Schengen Area country before requesting asylum in Germany, the authorities may decide to transfer them to that country (see above, Page 12). The asylum seeker may also be detained pending transfer.

• REQUESTING ASYLUM

Asylum seekers may express their wish to apply for asylum to any German official, including a police officer. Officials are required to redirect them to one of the entities responsible for receiving asylum requests (*Erstaufnahmeeinrichtung*), which exist in all the German states (*Länder*).

These reception centres register asylum requests and send them to a central office (*Zentrale Aufnahmestelle für Asylbewerber*) where an EASY computerized databank determines the German state (*Land*) in which the application should be made. The asylum seeker must then go to the local branch of the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge* – BAMF) in that state without delay. Asylum seekers cannot choose the state where they file an application, unless they have medical grounds or a spouse or child under the age of 18 who has already filed an application that is in the process of being examined.

Note

It is vital that asylum seekers turn up for interviews at the times designated by the BAMF. If they are unable to attend, they must have a good reason and must notify the BAMF in advance. They must also produce evidence of their reason for not attending, otherwise their asylum request could be rejected before being given any consideration.

There are many NGOs that provide help to foreigners and asylum seekers, who should not hesitate to contact them right from the start of the asylum process. A permanently-staffed advice centre offering independent advice (name in German) is available to applicants at all the entities responsible for receiving asylum requests.

The asylum seeker’s interviews with the BAMF are a key phase of the process. There are two interviews. During the first one, asylum seekers are questioned about their background and how they came to Germany. In the second one, they are asked to give their reasons for seeking asylum.

Asylum seekers should prepare for the two interviews well.

1. They should consult an advice centre and organizations that help asylum seekers, which will be able to answer all their questions and advise them how to proceed. The advice centre may also help them to obtain the services of a lawyer.

2. With the help of an interpreter, the interviews are conducted in the language chosen by the asylum seeker.

3. To prepare for the interviews, asylum seekers are advised to put their reasons for fleeing abroad into writing. They should draw up a chronology of everything that happened to them, with all information that could prove relevant. This will help to ensure that the account they give during the interviews is structured and that no important information is omitted.

All the information provided by the applicant during the interviews is registered in the form of a written statement in German which is then translated into the language used during the interviews. The written statement is the basis on which the decision on the asylum application is taken. By signing it, the applicant accepts that it is accurate and complete.

Important: If the statement is incomplete or contains errors, the applicant should insist that it is corrected. The statement is then sent by mail to the applicant who, if necessary, should send additional comments or information to the BAMF.

• ASYLUM DECISION

Recognition of refugee status or grant of secondary protection

Under German law, asylum seekers can be granted different kinds of status.

“Holder of right of asylum” and “Geneva Convention refugee”

German law distinguishes between

- the status of “holder of right of asylum” under article 16a of Germany’s Basic Law, and
- the status of “refugee” under article 60, paragraph 1 of the Law on Residence of Foreigners in connection with the Geneva Convention relating to the Status of Refugees.

In practice, these two forms of protection are almost the same. Both confer the same rights – a three-year residence permit, the right to work and access to social assistance and benefits.

In both cases, the BAMF will verify whether there are grounds for withdrawing asylum/refugee status after three years. The grounds may be a change in the political situation in the country of origin. Permanent residence may be requested if and when the BAMF decides not to withdraw asylum/refugee status after three years, and not before.

Note

When right of asylum is granted, the holder also has the right to family reunification. If the request is made within three months of asylum being granted, the right to family reunification is granted without regard to the holder's income or the spouse's knowledge of German.

Secondary protection

In line with the European Convention on Human Rights, an asylum seeker can obtain a secondary form for protection called "protection against removal."

Beneficiaries are given a residence permit (which is usually for a year but may be extended) but do not have the right to work until after three years of residence in Germany. The right to family reunification is limited.

• REJECTION OF ASYLUM REQUESTS**Inadmissibility**

If an application is judged to be inadmissible, it does not get a detailed examination by the BAMF. An inadmissibility decision is usually based on the Dublin Regulation's requirements.

A clearly unfounded request

After examining the substance of an asylum request, the BAMF may decide to reject it as "clearly unfounded." It may do this because it thinks the motive for the request is economic or because it thinks the applicant has not cited personal threats (and, for example, is fleeing a country at war or a crisis affecting most of the population).

If asylum seekers get a letter saying their request has been rejected as clearly unfounded, they have a week to file an appeal with the clerk's office of the competent court for administrative matters. It is very important to keep the envelope in which the letter was sent, as the week runs from the date stamped on the envelope. They must also file a legal protection request with the administrative court to avoid the possibility of being deported from Germany.

Note

On receiving a rejection letter, asylum seekers should contact an advice centre or specialized NGO in order to prepare an appeal or examine the possibility of obtaining another kind of residence permit.

An unfounded request

The BAMF may reject asylum requests as unfounded if it thinks asylum seekers have not sufficiently established the legitimacy of their fears or if it thinks the description of the situation in the country of origin does not match the reality. If this happens, asylum seekers have two weeks to file an appeal with the competent administrative court and four weeks to submit grounds supporting the appeal. Asylum seekers have the right to remain in Germany until a decision on the appeal is reached after an oral hearing.

Note

In the event of an asylum request being rejected as unfounded, asylum seekers are strongly advised to seek the services of a lawyer. Asylum seekers can submit additional evidence during the wait for the appeal hearing. Lawyers can also request evidence.

• RIGHTS AND DUTIES OF ASYLUM SEEKERS

Those who file an asylum request are given a residence permit (*Aufenthaltsgestattung*) so that they can present evidence of their identity and the grounds of their need to stay in Germany to the authorities and police. The permit is valid for the duration of the process including any appeal.

Under German law, asylum seekers are required to surrender their passports to the BAMF. They are usually housed in collective lodging, which for the most part is located far from the major cities. Their freedom of movement is very restricted and they are subject to residence requirements that vary according to the *Land*.

They receive only limited social and medical benefits that are usually issued in the form of vouchers.

Asylum seekers are banned from working during the first year. Thereafter, their access to the labour market requires approval from the Office for Foreigners (*Ausländerbehörde*).

Note

The advice centres can inform asylum seekers about the rights to which they are entitled and about residence requirements.

• RESETTLEMENT – AN ALTERNATIVE TO REQUESTING ASYLUM?

The German authorities occasionally agree to take a limited number of refugees from third countries on humanitarian grounds. In 2010 and 2011, Germany accepted about 50 Iranian refugees from third countries under an agreement with UNHCR. In 2009 and 2010, a total of 2,501 Iraqi refugees in Syria and Jordan were given visas for Germany, where they were given three-year residence permits.

The decision to receive them was taken jointly by the federal foreign ministry, the federal interior ministry, and the interior ministries of the individual *Länder*.

The federal interior ministry and the interior ministries of the *Länder* voted at a meeting in December 2011 in favour of a proposal to take 300 refugees in great need of protection from countries of initial refuge during the next three years. In consultation with UNHCR, it was decided that one of the places from which they would be chosen would be the Choucha refugee camp in Tunisia.

CONTACTS

State entities

Federal Office for Migration and Refugees (BAMF):
<http://www.bamf.de/DE/Startseite/startseite-node.html>

Refugee assistance and advice NGOs

- Flüchtlingsrat Berlin e.V.: <http://www.fluechtlingsrat-berlin.de>.
- For links to lawyers, advice centres and other NGOs throughout Germany, see also:
<http://www.fluechtlingsrat-berlin.de/links.php>
- Pro Asyl: <http://www.proasyl.de/en/home/>
- German Association of Psychosocial Centres for Refugees and Victims of Torture (BAfF): <http://www.baff-zentren.org/>

Political initiatives and information sites

- Information on residence obligations:
[Residenzpflicht.info: http://www.residenzpflicht.info/](http://www.residenzpflicht.info/)
- Detailed FAQ in German on the asylum process:
<http://www.nds-fluerat.org/leitfaden/1-der-beginn-des-asylverfahrens/>
- Information network on asylum and migration: <http://www.asyl.net/>
- Independent information on refugees and migrants in Europe:
<http://www.w2eu.info/> and: <http://w2eu.info/germany/en/articles/asylum.html>



3. Seeking asylum in other Europe countries (contacts)

Members of the European Council on Refugees and Exiles (ECRE), a network of organizations that aim to promote protection and assistance to refugees in Europe, can provide assistance to asylum seekers. The contact details of all the affiliated organizations are available on the ECRE website (www.ecre.org) under the heading "Alliance." The ECRE network has around 70 member organizations in 30 mainland European countries.

CONTACTS

BELGIUM

State entities:

- Office for Foreigners in Belgium:
<http://www.dofi.fgov.be/fr/1024/frame.html>

NGOs assisting asylum seekers:

- Coordination and Initiatives for Refugees and Foreigners (CIRE): <http://cire.be/>
CIRE guide:
<http://www.cire.be/publications/guides>

SPAIN

State entities:

- Office of Asylum and Refugees (OAR):
<http://www.interior.gob.es/extranjeria-28/asilo-y-refugio-86>

NGOs assisting asylum seekers:

- Spanish Committee for the Aid of Refugees (CEAR):
<http://www.cear.es/index.php>
- Accem (Spanish Catholic Commission on Migration):
<http://www.accem.es/>

UNITED KINGDOM

State entities:

- UK Border Agency (UKBA):
<http://www.ukba.homeoffice.gov.uk/asylum/>

NGOs assisting asylum seekers:

- Refugee Council: <http://www.refugeecouncil.org.uk/>
Guide in several languages:
<http://languages.refugeecouncil.org.uk/>
- Refugee Action: <http://www.refugee-action.org.uk/>
Guide to applying for asylum:
<http://www.refugee-action.org.uk/RAP/infosheets.aspx>

ITALY

State entities:

- Territorial Commission for the Recognition of Refugee Status:
<http://www.interno.it/mininterno/export/sites/default/it/temi/asilo/>
- Central Service for Protection of Refugees:
<http://www.serviziocentrale.it>

NGOs assisting asylum seekers:

- Italian Council for Refugees: www.cir-onlus.org
- Caritas: <http://www.caritas.it/templates/0/Benvenuti.asp>

SWEDEN

State entities:

- Migrationsverket: www.migrationsverket.se/

NGOs assisting asylum seekers:

- Caritas: <http://www.caritas.se/>
- Network of Asylum and Refugee Support Groups (FARR):
<http://www.farr.se/>

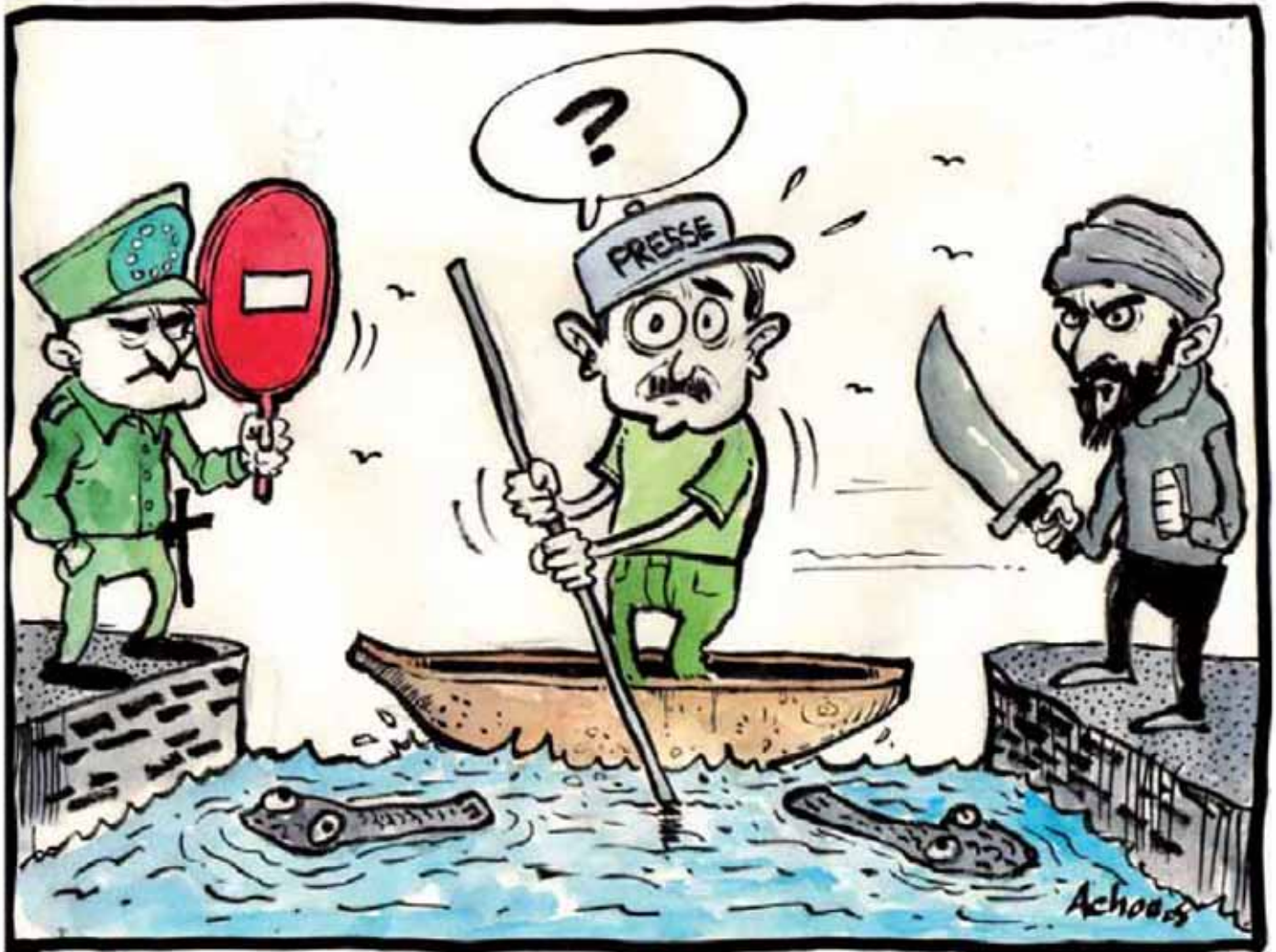
SWITZERLAND

State entities:

- Federal Office for Migration:
<http://www.bfm.admin.ch/bfm/fr/home.html>

NGOs assisting asylum seekers:

- Swiss NGO for assisting refugees:
http://www.fluechtlingshilfe.ch/?set_language=fr
Guide for asylum seekers:
<http://www.fluechtlingshilfe.ch/aide/refugies>



SEEKING ASYLUM IN NORTH AMERICA

Canada and the United States have signed a “Safe Third Country” agreement under which persons seeking asylum in North America must apply in the country in which they arrive first.

1. Seeking asylum in Canada*

Under Canada’s Immigration and Refugee Protection Act (IRPA), a person seeking asylum in Canada can claim protection as a refugee under the Geneva Convention and/or as a “person in need of protection.” The criteria of one of the two categories have to be met.

A Geneva Convention Refugee

To be recognized as refugees under the Geneva Convention, asylum seekers must be outside their country or countries of nationality and have a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion. They must also be unable or unwilling to return to their country or countries of nationality because of their fear. If they do not have a country of nationality, they must be outside of their country of habitual residence.

The term “particular social group” may refer to a group to which the asylum seekers chose to belong (such as a trade union or a human rights organization) or a group to which they belong by virtue of their personal situation or origin (including their gender or family).

A person in need of protection

Asylum seekers can be recognized as “persons in need of protection” if they would be exposed to torture, to a risk to their life or to a risk of cruel and unusual treatment or punishment if they were sent back to their country of nationality.

They must demonstrate that:

- They are unable to obtain the protection of the government of their country of nationality.
- The threat or risk to which they would be exposed is not one generally faced by other people in that country, and is one to which they would be exposed in every part of that country.
- The risk is not one of lawful sanctions (such as imprisonment or a fine), unless those sanctions are imposed in violation of international standards.
- The risk is not the result of the country’s non-provision of adequate health or medical care unless this is a form of persecution or discrimination.

A person who is found to be a Geneva Convention refugee or “person in need of protection” can later apply in Canada for permanent residence, and eventually for Canadian citizenship.

• HOW CLAIMS ARE SUBMITTED AND PROCESSED

It is the job of the Immigration and Refugee Board (IRB) to determine whether claims to be recognized as a Geneva Convention Refugee or “person in need of protection” are well founded.

To claim protection, asylum seekers must speak in person to an immigration officer at any port of entry to Canada (a border crossing, airport or seaport), at a Canada Border Services Agency (CBSA) office or at a Citizenship and Immigration Canada (CIC) office (in Canada). Any person who is not a Canadian citizen and who has a fear of returning to their country can request asylum. When a claim has been made, the applicant is interviewed by an immigration officer and must demonstrate that the claim is eligible for consideration.

Claims are usually found to be eligible for consideration. They can however be deemed ineligible under the “Safe Third Country” agreement (see above) or if claimants have been already given asylum in another country to which they can return, if their claim has already been rejected by the IRB, if they have committed serious crimes, or if they are regarded as a danger to Canada’s security (because of terrorist activities, organized crime activities, espionage or human rights violations).

If the claim is found to be eligible for consideration, it is sent to the IRB’s Refugee Protection Division. If the immigration officer does not make a decision within three working days of receiving the claim, it is sent to the IRB automatically.

At this point, asylum seekers are given information about the hearing process and a Personal Information Form (PIF), which they must fill out in full within 28 days. The PIF is a crucial document. In the first part, the claimants must enter their personal details. In the second part, particularly question 31, they must give their reasons for seeking asylum. It is here that they must give a detailed account of all the relevant events and circumstances. It is the heart of the application and must be completed with the utmost care.

After the PIF has been submitted, claimants are notified when their case will be heard by the IRB. They can use the intervening

* Changes to Canadian legislation governing the asylum process were being considered when this guide was updated (June 2012). As we were unable to evaluate what the consequences might be, journalists seeking asylum in Canada should verify the validity of the information in this section after the amendments have been adopted: <http://www.cic.gc.ca/>

period to gather and submit evidence to support their claim. The evidence must be submitted to the IRB no later than 20 days before date scheduled for the hearing. Documentary evidence must be in English or French, or must be translated into one of these two languages. Claimants may be represented by a lawyer at the hearing.

The IRB member who is the deciding officer may approve or reject the claim at the end of the hearing. Alternatively, deciding officers may prefer to send the claimant their decision in writing within one to three months of the hearing.

• USEFUL INFORMATION AND TIPS

Various factors can undermine the credibility of asylum claims. They include:

- Discrepancies in the information that claimants provide to the Canadian government at different stages of the refugee process.
- Delay in claiming refugee status after arriving in Canada.
- Returning to the country of nationality, even briefly, despite the alleged danger.
- Failure to claim refugee status in safe countries which claimants visited or passed through before their arrival in Canada.
- A failure to produce evidence which claimants should reasonably have been able to obtain without endangering their lives or the lives of others.
- A failure to seek “official protection,” including police protection or protection by official human rights bodies, in the country of nationality, without having a very good reason not to.
- A failure to seek “informal protection” from NGOs, either at the local or international level.

Omitting important facts or circumstances can cause credibility problems. Claimants should also be as accurate as possible when filling out forms or answering an immigration officer’s questions:

- When asked for the dates of a visit to a country, claimants should ensure that they give the exact dates as stamped in their passport.
- They should say “approximately” if they not sure of the exact dates.

Without taking too many risks, journalists should gather as much as evidence as possible to support their future asylum claim before leaving their home country. Ideally, they should be able to support everything stated in the application with evidence. Original documents are best.

• OTHER TIPS

Journalists seeking asylum should:

- Gather evidence of their work as a journalist, including articles published (ideally originals), photographs, letters from employers and information about the media they worked for.
- Obtain medical reports, police reports showing any attempts to get protection in the home country and relevant identity documents. Any letters from friends, family members and colleagues in support of the claim should ideally be notarized and accompanied by a copy of the person’s identity document (such as the passport identity page).
- Tell trusted organizations such as Reporters Without Borders and international human rights organizations about their situation, as long as this does not expose them to more danger.
- Keep a record of all the threats made against them and against the media they worked for, including verbal threats, phone calls and written threats.
- Seek professional legal help prior to their arrival or as soon as they arrive in Canada in order to maximize the strengths of their case and minimize its weaknesses.
- Not rely on advice from unqualified people. Many friends or members of cultural communities may be sincere in their desire to help but relying on their recommendations without checking with a lawyer is risky.
- Listen to their intuition. If they feel that the advice they are getting from someone, even a lawyer, is questionable or unethical, they should seek a second opinion. If they think their lawyer is not devoting enough time to their case, they should consider getting another one.
- Make sure that they understand everything they are being told.
- Make sure that they are being understood.
- Ask questions when they have any doubts.
- Not withhold information from their lawyer or immigration consultant. It may be difficult to talk about certain matters, they may be embarrassed or ashamed, but it is important that their lawyers should have as much information as possible in order to best defend their interests.
- Take advantage of community support systems. There are many groups and services in Canada that will be ready to help them.

• DURING THE PROCESS

After asylum seekers begin the process by telling an immigration officer they want to make a claim, there is a short period of two to four weeks during which they do not have official status.

As soon as they have a valid document showing they are registered as an asylum seeker, they are allowed to request social assistance for themselves and their family, if needed. Claimants are not allowed to work until they have obtained a work permit, which can take up to three months after the Personal Information Form (PIF) has been submitted. Social assistance is provided during this period if claimants do not have resources of their own.

The amount of social assistance is barely enough to cover rent and food. It is based on the number of family members, with a single person receiving 600 to 700 hundred dollars. There are several organizations in Canada that provided additional resources for refugees. In Vancouver, for example, the NGO Inland provides furniture, clothing and food. There are others that provide medical care and settlement services.

There are also free English classes for refugee claimants. If claimants want to study, they must apply for a study permit.

Legal aid is available for claimants so that they can pay for a lawyer to represent them in their applications. Some money is also available for translation and interpretation.

• AFTER THE PROCESS IS COMPLETED

Approved refugees can attend free basic English classes and can continue to receive social assistance if needed. Organizations will provide settlement services and help with finding a job.

Refugees must apply for permanent residency, a process that takes 6 to 12 months. Until it has been obtained, they still need work or study permits.

If they hold a work permit, approved refugees have the same rights as any worker in Canada. This includes workers compensation if they are injured or unemployment insurance if they are laid off after certain time of working. If they are working, they may apply for provincial medical coverage.

CONTACTS

CANADIAN COUNCIL FOR REFUGEES

<http://ccrweb.ca/en/home>

NGOS THAT HELP REFUGEES

Vancouver area

Immigrant Services Society of BC (ISS)

530 Drake Street
Vancouver, BC V6B 2H3
Phone: (604) 684-7498
Email: settlemt@issbc.org

Inland Refugee Society of BC (Inland)

101 – 225 East 17th Avenue
Vancouver, BC V5V 1A6
Phone: (604) 873-6660
Email: irsbc@telus.net

Mennonite Central Committee (MCC)

660 East 51st Avenue
Vancouver, BC V5X 1C9
Phone: (604) 325-5524
Email: admin@mccbc.com

MOSAIC (Multilingual Orientation Services Association for Immigration Communities)

1720 Grant Street, 2nd floor
Vancouver, BC V5L 2Y7
Phone: (604) 254-9626

OPTIONS (Ligne d'assistance multilingue)

100 – 6846 King George Highway
Surrey, BC V3W 4Z9
Phone: (604) 572-4060

Storefront Orientation Services (SOS)

360 Jackson Avenue
Vancouver, BC V6A 3B4
Phone: (604) 255-4611 (Spanish) or (604) 253-8859 (Chinese)
Email: director@sosrefugee.org

SUCCESS ((United Chinese Community Enrichment Services)

Phone: (604) 684-1628 (Downtown Vancouver office)
(604) 468-6100 (Tri-city office)
(604) 270-0077 (Airport Reception Centre)

Surrey-Delta Immigrant Services Society

1107 – 7330 137th Street
Surrey, BC V3W 1A3
Phone: (604) 597-0205

Vancouver Association for Survivors of Torture (VAST)

2618 East Hastings Street
Vancouver, BC V5K 1Z6
Phone: (604) 299-3539
Email: care@vast-vancouver.ca

2. Seeking asylum in the United States

The asylum process in the United States is very complex. The [Department of Homeland Security](#) (DHS) and the [Department of Justice](#) (DOJ) oversee different aspects of the process. Using the services of a lawyer is strongly advised.

• ESSENTIAL PRINCIPLES AND CRITERIA

– Any person in the United States or at a port of entry who fears “persecution in their home country on account of race, religion, nationality, membership of a particular social group, or political opinion” can file an asylum request with the US Citizen and Immigration Services (USCIS), even if they are in the US illegally. The request must be filed within a year of their arrival in the United States. Thereafter, asylum seekers must be able to prove that “exceptional circumstances” prevented them from doing so previously, and this is not easy.

– Someone who requests asylum as a defense against deportation is subject to what is known as the “defensive asylum” process. Other asylum seekers are subject to the “affirmative asylum” process.

– Asylum is granted if the authorities accept that applicants have a “well-founded fear” of persecution in their home country for any of the above-mentioned reasons.

– Asylum is not available to those who have persecuted other people for any of the above-mentioned reasons; or to those who have committed serious, non-political crimes or who pose a danger to the US. The DHS conducts background and security checks on all asylum applicants to ensure that they have not been involved in serious crimes or terrorism.

– A distinction is made between asylum-seekers and refugees. Asylum-seekers are those who are already – legally or illegally – in the US or at a port of entry. Refugees are those who apply from outside the United States, via UNHCR or at a US embassy or consulate. This section is just about the procedure for those who are in the US when they apply for asylum. See the UNHCR chapter for information about obtaining protection and resettlement through the UN refugee agency.

• THE AFFIRMATIVE ASYLUM PROCESS

– Asylum seekers can have a lawyer to guide them through the entire process, from application through decision. Because the process is complex and most people can only apply once, having a lawyer specialized in asylum is strongly encouraged. (Places to begin searching for a lawyer are listed at the end of this section.)

– The applicant must fill out the 12-page I-589 form and submit to the USCIS, which will then schedule an interview with an asylum officer. This is supposed to take place within 43 days, although in practice it is often longer.

– The interview with the asylum officer generally lasts one to two hours. It focuses primarily on the information provided in the [I-589 form](#) and the supporting material. The asylum officer will look for inconsistencies in the course of trying to establish whether there is a credible basis for granting asylum.

– A lawyer may be present at the interview and, if asylum seekers are not proficient in English, they must provide a qualified interpreter.

– Asylum officers try to reach a decision within 14 days of the interview.

– If the officer does not grant asylum, the subsequent steps differ slightly for asylum seekers who have legal status in the United States and those who do not:

1. Applicants legally in the US will receive a Notice of Intent to Deny and will then have an opportunity to rebut the findings that led to the decision to deny asylum. If they are unsuccessful, they cannot apply again unless they can show changed circumstances in their native country.
2. For applicants who are not legally in the US, the case will be automatically referred to Immigration Court for a “second look.”
3. Both processes can take about six months.

– Immigration Court hearings are adversarial: there is a lawyer for the government arguing against granting asylum. Asylum seekers are strongly advised to secure a qualified lawyer to represent them in Immigration Court.

– Whoever loses in Immigration Court – the asylum-seeker or the government – has a right to appeal within 30 days to the [Board of Immigration Appeals](#) (BIA), which will review the Immigration Court’s decision. If the BIA rules against the asylum-seeker, they can appeal to federal court within 30 days.

• THE DEFENSIVE ASYLUM PROCESS

– When a person requests asylum as a defense against deportation after arriving at a port of entry without the required documentation for entry, or after being detained while in the United States illegally, they are subject to the so-called “defensive asylum” process.

– Those who find themselves in this situation must tell the US authorities that they want to apply for asylum because they fear persecution in their country of origin. They will then be referred to an asylum officer for what is called a “credible fear” screening.

– If the asylum officer determines that there is a credible fear, the case is referred to Immigration Court for an adversarial, court-like hearing. This is the same Immigration Court that an asylum-seeker in the “affirmative process” may be referred to.

– If the officer determines that there is no credible fear, asylum seekers can request a review of that decision by the Immigration Judge. If they do not request a review by the Immigration Judge, or if the Immigration Judge upholds the asylum officer’s determination, removal (deportation) may then occur.

– This process is swifter and more adversarial than the “affirmative asylum” process, so having a specialized lawyer is even more essential.

– As in the affirmative process, an asylum seeker in the defensive process can appeal the Immigration Judge’s decision to the BIA.

– During this entire process, the asylum seeker is technically in deportation proceedings and may be kept in detention.

• IMPORTANT ADVICE AND INFORMATION

Before deciding whether to flee abroad, potential asylum seekers should consider whether there is somewhere else within their country that they can live safely. Their application may be denied if the officer or judge believes that they could escape persecution in another region of their own country.

There are no rules that say what documentary evidence is needed. But asylum seekers are strongly advised to include as much evidence as possible with their application, especially evidence that is easy to obtain, such as letters from employers. This will help to reinforce the application’s credibility.

Before fleeing abroad, journalists who plan to seek asylum should try to gather as much supporting documentation as possible without exposing themselves to too many risks. Ideally, they should have evidence to support everything in the application. Original documents are best.

Journalists should try to bring with them:

1. Birth certificate and official ID card, as well as their passport
2. Press identification
3. Copies of news articles or other evidence of their work as a journalist
4. Proof of employment with a news organization, such as a recent pay stub or other official employment records
5. Any physical proof of persecution, such as:
 - Police reports
 - Medical reports
 - Photos of physical injury suffered
 - A detailed written log of threats or other occurrences
 - Affidavits (preferably notarized) from family, friends, employers or co-workers, together with copies of their ID documents, if possible. The envelope or packaging of any important documents received by mail or courier service should be kept.
6. Country reports from the US State Department as well as reports from NGOs such as Reporters Without Borders and Human Rights First describing the dangers to which journalists are exposed in their country or origin.

Asylum officers will be sceptical if easily obtained evidence (such as employment records) cannot be produced.

The asylum-seeker is responsible for having non-English language documents translated into English by a certified translator before the first interview.

If asylum-seekers are accompanied by their spouse and children, they should bring the marriage license, birth certificates and recent family photos members, if available, and list them on the I-589 form and other applications. If asylum-seekers are successful, any immediate family members who are with them in the US will be granted “derivative asylum.” If spouse and children are outside the US, they will be eligible for visas through USCIS.

The application form should be completed with care. Most people have just one opportunity to apply for asylum, so it is important that the information entered on the form is as accurate and comprehensive as possible.

When entering the dates on which other countries were visited, it is important that they should match the dates as they appear in the passport used. Write “approximately” if not sure of any date.

Asylum seekers should take care to mention all significant facts in the initial application. Adding major details later can lead asylum officers and judges to doubt their credibility.

Those seeking asylum on arriving at a port of entry, or after being detained, should make it clear from the outset that they fear persecution if deported. Many people are understandably reluctant to discuss their fears with strangers and officials but applicants must be candid and specific because these officials have to reach a decision quickly.

Applicants for “affirmative” asylum must provide a local address when they complete the I-589 form. Officers or judges may require proof of that local address to ensure that the applicant is being seen in the correct jurisdiction.

Asylum applicants are not initially permitted to seek employment while their case is pending. Applicants must wait 150 days after submitting a complete asylum application to apply for work authorization. The \$340 filing fee is waived for asylum seekers. (If the asylum application is approved within 150 days, the asylee can apply for work authorization immediately.)

Leaving the United States while an asylum application is pending is not advisable as it may prevent re-entry.

Being represented by a lawyer does not guarantee success but it definitely increases the chances of obtaining asylum. Specialized organizations can help asylum seekers to find reliable and qualified lawyers.

CONTACTS

FINDING A LAWYER

American Immigration Lawyers’ Association (AILA)

<http://www.aialawyer.com/>

<http://www.aila.org/content/default.aspx?docid=22153>

U.S Dept. of Justice Exec. Office of Immigration Review Pro Bono Program

<http://www.justice.gov/eoir/probono/probono.htm>

<http://www.justice.gov/eoir/probono/states.htm>

Human Rights First

<http://www.humanrightsfirst.org/our-work/refugee-protection/probono-program/>

SUPPORT, ADVICE & INFORMATION

U.S. Dept. of Health and Human Services (HHS)

<http://www.acf.hhs.gov/programs/orr/hotlines/asylee.htm>

<http://www.acf.hhs.gov/programs/orr/>

Heartland Alliance (Based in Chicago)

<http://www.heartlandalliance.org/whatwedo/our-programs/directory/>

<http://www.heartlandalliance.org/contactus.html>

CAIR Coalition (Serving those in Washington, D.C. and surrounding areas)

<http://www.caircoalition.org>

ACLU Immigrants’ Rights Project

<http://www.aclu.org/immigrants-rights/about-aclus-immigrants-rights-project>

THE GUIDE WAS PRODUCED BY REPORTERS WITHOUT BORDERS.

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Brückenstraße 4
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Illustrations by exiled cartoonists and journalists :

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Adjim Danngar (blog : <http://adjimdangar.over-blog.net/>)
Agil Khalil
Ahmed Mesli (blog : <http://mesli-a.kazeo.com/>)
Samy Daina (blog : <http://samydaina.over-blog.com/>)

REPORTERS WITHOUT BORDERS

FOR FREEDOM OF INFORMATION

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REPORTERS WITHOUT BORDERS is an international press freedom organisation. It monitors and reports violations of media freedom throughout the world. Reporters Without Borders analyses the information it obtains and uses press releases, letters, investigative reports and recommendations to alert public opinion to abuses against journalists and violations of free expression, and to put pressure on politicians and government officials.

General director: **Christophe Deloire**