

Committee: Legal Committee

Issue: Establishing a legal framework for diplomatic and political asylum for dissidents

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Position: President

Important note from the chairs' team

In order for the chairs to fully understand the dynamics of the committee, discovering any misunderstanding prior to the debate and for the better preparation of the delegates you are asked to proceed as indicated below; 1) Conduct your chairs via email and informing them about your mun experience so that they can know what exactly to expect of you.

2) Prepare and send your chairs by 11:59 of the 6th of November one position papers for each of the topics you are going to discuss during the conference. You can contact the expert chair of each topic for further information concerning your country's policy if needed, and for general guidance when it comes to your position papers (word limit structure etc). You are going to receive general comments during the lobbying for your position papers as well as personal feedback and grades for your papers. The points you will receive will add up to your general score which is one of the factors that determine the best delegate award. If you for any reason fail to send your papers before the final deadline you will not be eligible for any award.

Find your expert chair for this topic at vasilikipetroulia@gmail.com

INTRODUCTION

The issue of political and diplomatic asylum is one very frequently discussed nowadays. The delegates of the Legal committee should make sure to know the mandate of their committee well and offer realistic solutions. Perceiving this topic from a legal point of view can be a challenge, especially for the inexperienced delegates, so one has to keep in mind the elements which make up the legal framework in the international community.



Hazara women protesting for political asylum - The Hazaras are an ethnic minority of Afghanistan, who are extremely often discriminated against and persecuted.

These are namely the international treaties and conventions a State is a party to, the regulation of other supranational organizations, such as the European Union, and apart from those the Constitution and laws of a State itself. When researching the legal framework in the country which is assigned to you, remember that you should look for all those legal documents to fully comprehend what your State's position is. The Legal

committee can be challenging for everyone, but dear distinguished delegates, you will be the ones crafting a legal framework for the rest of the world, so welcome aboard and be bold!

DEFINITION OF KEY TERMS

Political asylum: the protection granted by a state to someone who has left their home country as a political refugee. Political asylum is the right to live in a foreign country and is given by the government of that country to people who have to leave their own country for political reasons, such as but not limited to disagreeing with the current regime.

Dissident: A word originating from the Latin dissident-, dissidens, present participle of dissidēre to sit apart, disagree, from dis- + sedēre (= to sit). Used to refer to a person who opposes official policy, especially that of an authoritarian state. Will most likely be used for people who have other political views or react to an authoritarian regime.



Ai Weiwei - Internationally acclaimed Chinese artist, persecuted as a dissident by the Chinese government.

Extradition: sending someone back to the country or state where they've been accused of a crime. An **extradition treaty** between two states means that they are both obliged to extradite people accused of various crimes to their respective country. However, there are cases in which the legal framework of asylum can get in the way of an extradition process.

BACKGROUND INFORMATION

The right of asylum falls into three basic categories: territorial, extraterritorial, and neutral. Territorial asylum is granted within the territorial bounds of the state offering asylum and is an exception to the practice of extradition. It is designed and employed primarily for the protection of persons accused of political offenses such as treason, desertion, sedition, and espionage. It has become a widespread practice, however, to exclude from this category persons accused of the murder of a head of state, certain terrorist acts, collaboration with the enemy in time of war, crimes against peace and against humanity, and war crimes. Extraterritorial asylum refers to asylum granted in embassies, legations, consulates, warships, and merchant vessels in foreign territory and is thus granted within the territory of the state from which protection is sought. Cases of extraterritorial asylum granted in embassies, legations, or consulates are often occasions for dispute. For example, after an unsuccessful uprising against the communist government of Hungary in 1956, the United States controversially granted diplomatic asylum to dissident Hungarian Roman Catholic Jozsef Cardinal Mindszenty, who was given refuge in the U.S. embassy and remained there for 15 years. Neutral asylum is employed by states exercising neutrality

during a war to offer asylum within its territory to troops of belligerent states, provided that the troops submit to internment for the duration of the war.

The concept of political asylum is an ancient institution. There is evidence to suggest that it has existed for centuries, ever since the time of the ancient sanctuaries. However, this was normally something that happened in special circumstances and not in the sense of the refugee laws, like those we have today because of globalization and mass immigration. In ancient times, these places would be where many people who were persecuted sought refuge. Even criminals, murderers and various other people had the right to request asylum at the sanctuaries. Entering the holy ground and arresting or abusing them was considered an extremely immoral and impious act on behalf of the persecutors. This tradition went down in the Roman and Byzantine years and also influenced the European West.

The need for political asylum in the recent years was made crystal clear after World War II, when various ethnic and religious groups, such as the Jewry or the Romani minorities were persecuted in the most dehumanizing ways. Various embassies, such as the Swedish embassy in Hungary, which actively evacuated thousands of Hungarian Jews to protect them from the Nazis, set the scene for the first steps towards political asylum. These diplomats The issue of political asylum for dissidents remains very current today, as in various places around the world the regime is persecuting and threatening people who oppose the official policies of a state. These people could belong to ethnic or religious minorities, have different sexual identities or express a contradicting ideology to the regime. What the UN tried to establish very early on after WWII was a solid legal framework for refugees and asylum seekers.

1951 Refugee Convention

This happened in 1951, with the *Convention Relating to the Status of Refugees*, which was signed in Geneva and gives a definition of who is considered a refugee and what the States should guarantee for the people who request or are granted asylum in their territory. The 1951 Refugee Convention was completed with the 1967 protocol. The Convention was first ratified by Denmark in 1952 and has 145 parties as of now. It is good for delegates to avoid confusion by remembering that, although it was signed in Geneva, the Convention is referred to as the *1951 Refugee Convention* because by the term *Geneva Convention* we tend to refer to a set of other agreements on the protection of civilians and other issues having to do with armed conflict.

Countries which haven't signed the Convention are amongst others: Mongolia, India, Libya, Saudi Arabia, Myanmar, Laos, Thailand, North Korea, Indonesia, Malaysia, Pakistan, Oman, United Arab Emirates.

Countries which have only signed and ratified the Convention: Madagascar

Countries which have only signed and ratified the 1967 Protocol are: United States of America (USA), Venezuela.

According to the 1951 Convention, the definition of refugees is the following:

"As a result of events occurring before 1 January 1951 and 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 it¹.”

Other legal documents about political asylum are the Universal Declaration of Human Rights (1948), whose Article 14 mentions that all people have the right to request and be granted asylum in other States than his own. Within Europe, the Council of Europe Convention for Human Rights is often interpreted to acknowledge this right too.

Subsidiary international protection

The concept of international protection is central to the United Nations High Commissioner for Refugees (UNHCR) responsibilities, as outlined in its Statute of 1950. Specifically, the Statute provides that the High Commissioner *“acting under the authority of the General Assembly, shall assume the function of providing international protection ... and of seeking permanent solutions for the problem of refugees²”*. In addition, Paragraphs 3 and 9 of the Statute provide for the further evolution of the functions and activities of UNHCR. Persons who do not qualify as refugees still have the right to request subsidiary international protection. The delegates representing EU states can find subsidiary international protection mentioned in the 2011/95 EU Directive. According to this document, a person who does not qualify for refugee status but still has substantial reasons

¹ Convention relating to the Status of Refugees, Article 1.

² Statute of the Office of the United Nations High Commissioner for Refugees (“Statute”), 14 December 1950, annexed to A/RES/428(V).

why they cannot return to their country of origin or previous habitual residence (in the case of a stateless person), because there is a risk of serious harm due to which the person may not wish to put themselves under the protection of that country. Similar legal frameworks exist in other Member States.

Of particular concern is the issue of unaccompanied minors, which has become increasingly prevalent in recent years, mainly due to the refugee crisis. An unaccompanied minor is considered to be a natural person under the age of 18 who comes to Greece without being accompanied by an adult who is supposed to be caring for them law - and for as long as the situation in which no one plays this role lasts.

Obligations of States and refugees

Refugees are only required to comply with the laws of the States which have acceded to the Convention. States also assume a range of responsibilities towards these persons. More specifically, and in accordance with the 1951 Convention, refugees are treated at least as citizens of States Parties to the Convention in respect of:

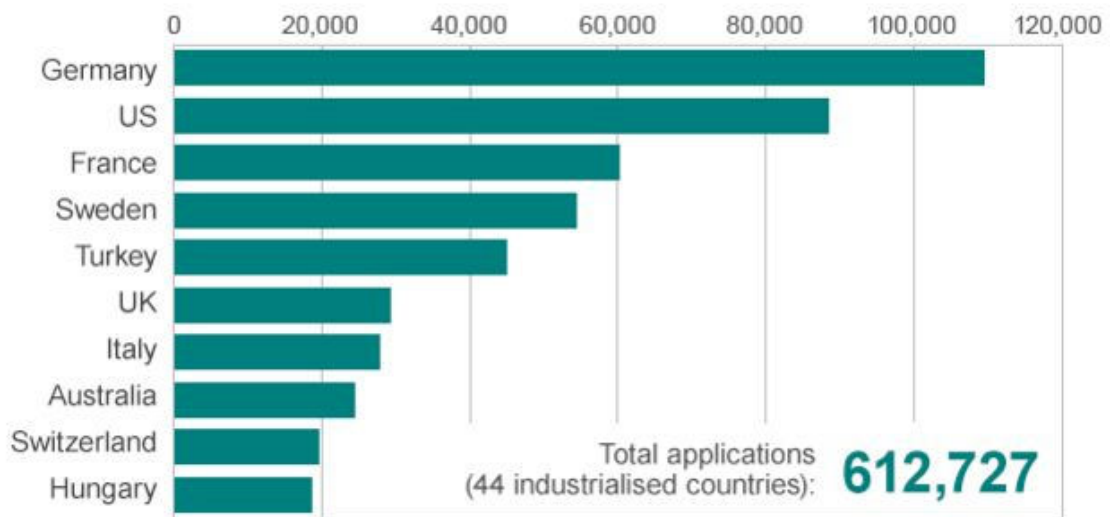
- ❖ the freedom to practice their religion (Article 4)
- ❖ respect for and protection of artistic rights and industrial property (Article 14)
- ❖ distribution of essential goods (Article 20)
- ❖ elementary education (Article 22)
- ❖ public assistance and assistance (Article 23)
- ❖ the provisions of labor law and social security (Article 24)

Refugees are treated at least on an equal grounds with other foreigners in the countries participating in the Convention in respect of:

- ❖ movable and immovable property (Article 13)
- ❖ the right to associate with trade unions or other associations (Article 15)
- ❖ wage employment (Article 17)
- ❖ self-employment (Article 18)
- ❖ the exercise of the professions (Article 19)
- ❖ housing (Article 21)
- ❖ higher than elementary education (Article 22)
- ❖ the right to free movement and freedom of residence in the country (Article 26)

One can see in the following graph the amount of asylum seekers in the major receiving countries. Germany and the US seem to be getting most of the asylum seekers, while countries like Italy and Greece will often end up on the receiving end for dissidents who seek asylum, due to their geographic position.

Where do the world's asylum applicants go?

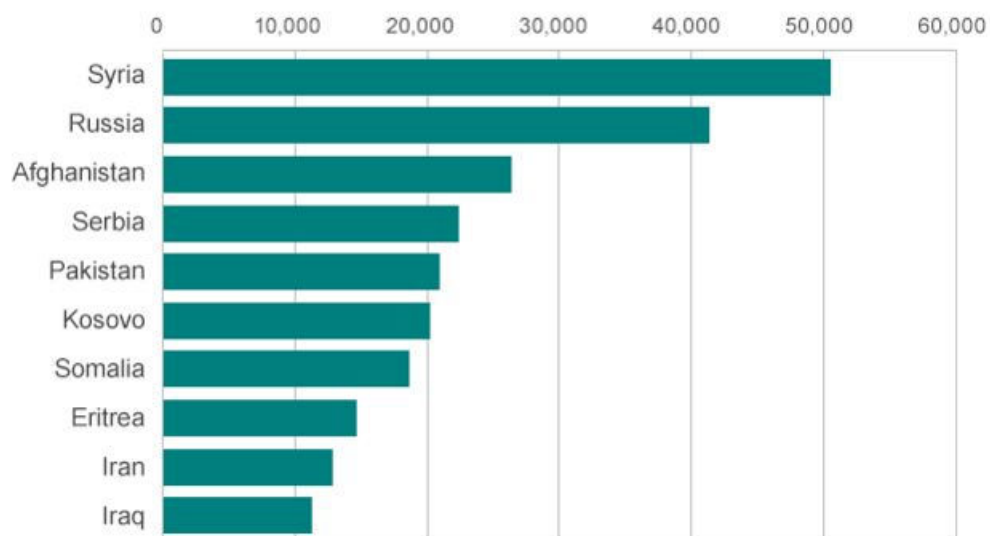


Source: UNHCR

One would definitely ask, where do these dissidents come from? This graph by Eurostat provides an insight into the most usual countries of origin for asylum seekers in the EU. One can see that Syria, Russia and Afghanistan are common origins, which is understandable due to the political situations there.

Where do EU asylum applicants come from?

Top 10 countries of origin, 2013



Source: Eurostat

The significance of the topic is paramount. The 1951 Convention was a major step in fulfilling a common legal framework for political asylum, but the political crises and the refugee flow often make these issues unresolvable with the current condition of international law in this field. It is very important for the delegates' preparation to look for the pending cases and instances concerning the topic on an international level. Moreover, in topics so closely related to human rights, the delegates should always keep in mind that what they are trying to enhance and implement is their country's position and not their personal positions. It is fairly easy to get carried away and end up defending positions out of one's policy, so one should make sure to be expressing the ideas of the official government of the state that has been assigned to them.

PREVIOUS INVOLVEMENT - TREATIES

1. International Penal Law treaty (Montevideo 1889)

During the first South American Congress regarding International Law, that was held in Montevideo from the mid 1888 to 23 of January 1889, the Treaty on International Penal Law was signed which included General Provisions, namely: i. On Asylum, ii. Extradition iii. Proceedings for extradition and iv. Clauses on the precautionary arrest.

2. The Bolivarian Agreement on Extradition (Caracas 1911)

In the 18th of July 1911 a Congress held at Caracas, in which participated, Ecuador, Peru and Venezuela, concluded the Bolivarian Agreement regarding extradition.

3. The International Asylum Convention (Havana 1928)

Adopted on 20 February 1928, by the sixth International Conference of American States in Havana, this Convention was signed by all members states of the Pan-American Union.

4. The International Convention on Political Asylum (Montevideo, 1933)

Including 9 articles, four of which are substantive provisions, this Convention aims to “conclude a Convention on Political Asylum to define the terms of the one signed in Havana in 1928”

5. The Convention on Diplomatic Asylum (Caracas 1954)

Shortly after the ICG had delivered its judgment regarding the asylum case, the Council of the American States, adopted a new resolution on Asylum shaped in accordance to the Court’s ruling.

TIMELINE OF EVENTS

Timeline of Events	
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International Penal Law Treaty	1889
The Bolivarian Agreement on Extradition	1911
The International Asylum Convention	1928
The International Convention on Political Asylum	1933
The Establishment of the UN Refugee Agency	1944
A/RES/302	1948
The Convention on Diplomatic Asylum	1954
European NEW laws on asylum, borders and immigration	2013

STAKEHOLDER POSITIONS

China

China generally prosecutes dissidents. A very common occurrence for the Chinese government is to issue exit bans to political dissidents especially if they are from foreign countries (i.e. the USA). There have even been instances of harassing dissidents that live in another country. Other common punishments for people who conduct criticism include jail and extensive censorship.

Russia

Russia is a country with very limited press freedom which derives from a lot of subjects being classified as “sensitive” and therefore getting censored. There have been multiple

instances of violence against journalists who oppose the government's beliefs as well as fines being imposed to the accused and even jail time punishments.

Cuba

Cuban protesters and activists often get very bad treatment. Prosecution can include jail and corporal punishments which directly violates one's human rights. Additionally, there have been instances of people being removed from their household and even the country entirely. In extreme cases, opposition to the government has even led to attacks and harassment to the protester's family members.

Czech Republic

Czech Republic is a state that fully promotes freedom of speech and press. Journalists are almost always legally protected when conducting criticism, and even satire is very usual as a way of denouncing faults in society, with the court usually siding with the media when lawsuits are applied. The citizens are even encouraged to criticize the government in seeking of improvement.

Ukraine

Ukraine is a country with a proper vision for the protection of dissidents but more often than not, lacks in its materialization. There have been numerous crimes against journalists that might have opposed the position of governmental bodies including harassment and even violence. It should also be noted that censorship is also relatively common when it comes to Ukrainian media.

Norway

Norway is very progressive in its effort to fully promote freedom of speech and of the media, one of the most progressive countries in the world in fact. Journalists are well protected legally and there is no political pressure applied to them, allowing for dissidents to conduct criticism freely without being prosecuted. However, there have been instances of cyber-harassment towards journalists although limited.

POSSIBLE SOLUTIONS

The issue is obviously very complicated and with so many different positions surrounding it, it would be hard to come up with effective and widely accepted solutions. Delegates can understand the implications by reading some news articles which explain the problems dissidents face when the state which originally granted them asylum is changing its policies because of political pressure.

While it is definitely hard to provide with durable solutions for this issue, delegates should keep in mind that they should think outside the box. Having a very solid understanding of how the legal framework stands now will be crucial in making the debate fruitful. What has to change, why does it have to change and how will your committee contribute to it changing? It is common knowledge that UN Resolutions are not legally binding for the parties - however, there are bodies of the UN who can legally obligate States. With that in mind, we expect to see original, effective and durable solutions.

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