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Commentary on the European Court of Human Rights' Judgment of 4 November 2014 in the case of *Tarakhel v. Switzerland*

Abstract

Bei dem vorliegenden englischsprachigen Beitrag handelt es sich um eine Besprechung des am 4.11.2014 ergangenen Urteils des *Europäischen Gerichtshofs für Menschenrechte* (*EGMR*) im Fall *Tarakhel v. Schweiz*. Das Urteil ist hoch interessant und von großer Bedeutung für das gemeinsame europäische Asylsystem. Denn die große Kammer des Gerichts hat zu Gunsten der afghanischen Klägerfamilie überraschenderweise erstmals entschieden, dass eine Rücküberführung von Asylbewerbern nach Italien, insbesondere dann, wenn auch Minderjährige betroffen sind, gegen Artikel 3 EMRK verstößt, wenn der Entsendestaat zuvor keine individuellen Zusicherungen der italienischen Behörden darüber eingeholt hat, dass die Familie zusammen und in einer den nötigen Standards entsprechenden Einrichtung untergebracht und dem Alter der Kinder entsprechend versorgt werden wird. Damit senkt der *EGMR*, verglichen mit vorherigen Urteilen, die Schwelle des Artikel 3 EMRK und erhöht die Anforderungen, die an die Rechtmäßigkeit eines Transfers von Asylsuchenden im Rahmen des Dublin-Verfahrens zu stellen sind.

The following article analyzes and comments on the *European Court of Human Rights' (ECtHR)* judgment of 4 November 2014 in the case of *Tarakhel v. Switzerland*. This judgment is highly interesting and of special importance for the Common European Asylum System. The Court's Grand Chamber surprisingly decided in favor of the Afghan applicant-family, holding for the first time that a transfer of asylum seekers to Italy, particularly if minors are concerned, violates

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Article 3 of the European Convention on Human Rights (ECHR) if the returning state has not obtained individual guarantees by the Italian authorities assuring that the family will be kept together in an institution which meets the required standards and provided with care appropriate to the age of any children involved. Thereby the Court lowers the threshold of Article 3 ECHR compared to earlier judgments and increases the requirements that have to be made on the legality of a transfer of asylum seekers under the Dublin procedure.

I. Introduction

On 4 November 2014, the Grand Chamber of the *European Court of Human Rights* handed down its judgment in the case of *Tarakhel v. Switzerland*[1]. This case has the potential to become another leading case in the *Strasbourg Court's* jurisprudence on the Common European Asylum System (CEAS)[2] comparable to *M.S.S. v. Belgium and Greece*[3]. Along with another recent judgment in the case of *Sharifi and Others v. Italy and Greece*,[4] it reinforces the Court's standpoint that the Dublin System[5] must be applied in a manner compatible with the ECHR. Contrary to the findings in the *M.S.S.* judgment however, returns of asylum seekers to Italy remain possible after the *Tarakhel* judgment. Nevertheless, the *ECtHR* for the first time held that such returns, particularly if children are concerned, violate Article 3 ECHR if the returning state has not obtained individual assurances from the Italian authorities that the returnees will be taken charge of in a manner appropriate to the age of the asylum seekers. As a consequence, in future, Member States of the European Union and those bound by the Dublin Regulation will have to examine the individual cases of asylum seekers more thoroughly to determine which particular state is responsible for considering an asylum application lodged in one of the Member States by a third-country national. Further, if they want to return a person to Italy as state of first entry, according to Article 13(1) of the Dublin III

[1] *ECtHR*, Tarakhel v. Switzerland, Appl.No.29217/12, Judgment of 4 November 2014.

[2] The CEAS is a fundamental part of the EU's Area of Freedom Security and Justice (AFSJ) and has gone through two phases of legislation since the special EU Council summit 1999 in Tampere. For further information, including the particular legal instruments forming part of the CEAS, see: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm [last accessed: 31.8.2015].

[3] *ECtHR*, M.S.S. v. Belgium and Greece, Appl.No.30696/09, Judgment of 21 January 2011.

[4] *ECtHR*, Sharifi and Others v. Italy and Greece, Appl.No.16643/09, Judgment of 21 October 2014.

[5] The so-called Dublin System is made up of the Dublin III Regulation (see note 6), the Eurodac Regulation (see note 7) and Regulation No.118/2014 amending Regulation No.1560/2003 laying down detailed rules for the application of the Dublin III Regulation. As its predecessors, the Dublin III Regulation aims to determine rapidly which Member State is responsible for processing an asylum application by establishing a hierarchy of criteria for identifying the responsible state. Usually, it will be the state through which the asylum seeker first entered the EU. The Dublin System is criticized mostly because of this main idea: instead of ensuring a rapid and efficient asylum procedure it leads to questionable transfers of asylum seekers across Europe and overburdened states at the EU's external frontiers. See also: http://www.ecre.org/topics/areas-of-work/protection-in-europe/10-dublin-regulation.html [last accessed: 31.8.2015].

Regulation[6], they will have to ask for specific guarantees.

II. Summary of Facts

The complaint was filed by an Afghan couple and their six minor children, born between 1999 and 2012. The first applicant, Mr *Golajan Tarakhel*, born in 1971, left Afghanistan for Pakistan on an unknown date. In Pakistan, he met and married the second applicant, Mrs *Maryam Habibi*, born in 1981. Later, they lived in Iran for 15 years. Subsequently, the family left Iran for Turkey and landed by boat on the Italian coast of Calabria on 16 July 2011, where they were directly subjected to the EURODAC identification procedure[7] and brought to a reception facility. At first, the applicants supplied a false identity. Once their true identity was established, they were transferred to the Reception Centre for Asylum Seekers (in Italian Centro di Acoglienza per Richiedenti Asilo – short CARA) in Bari on 26 June 2011. After two days, the family left the Centre without permission and on 30 July 2011, they were again registered in the EURODAC system in Austria. The applicants sought to justify their impermissible leave of the CARA by referring to poor living conditions, lack of privacy and violence in the Centre. Their asylum application in Austria was rejected and within 17 days, on 17 August 2011, the Italian authorities formally accepted the Austrian request to take charge of the family. Before they could be transferred back to Italy, however, the applicants moved on to Switzerland, where they applied for asylum again on 3 November 2011. After they were interviewed by the Federal Migration Office (FMO) on 15 November 2011, the FMO decided not to examine the asylum application as Italy was the responsible state according to the then still applicable Dublin II Regulation, by which Switzerland was bound under its association agreement with the European Union. This time, the Italian authorities tacitly accepted the Swiss request to receive the applicants. In its judgment of 9 February 2012, the *Federal Administrative Court* dismissed the applicants' appeal, upholding the FMO's decision in entirety. A second request to reopen the proceedings was classified by the same court as a "request for revision" and rejected on 21 March 2012 due to the lack of new arguments. On 10 May 2012, the family lodged an application with the *ECtHR* also asking for an interim measure suspending the family's deportation to Italy. After the Court had granted this request, thus

[6] *European Parliament and Council*, Regulation (EU) No.604/2013 of 26 June 2013.

[7] EURODAC stands for European Dactyloscopy and is a database for the comparison of fingerprints of asylum-seekers, established through European Council Regulation (EC) No.2725/2000 in order to allow the effective application of the Dublin Convention or today of the Dublin III Regulation.

allowing the family to stay in Lausanne for the duration of the proceedings, the case was assigned to the Grand Chamber on 24 September 2013.

III. The Judgment

The applicants' complaint was based on three articles of the ECHR. Firstly, the family alleged that if they were forcibly returned to Italy "in the absence of individual guarantees concerning their care", they would be subjected to inhuman and degrading treatment in breach of Article 3 ECHR, as the Italian reception arrangements for asylum seekers were beset by systemic deficiencies.[8] By pleading systemic deficiencies, the applicants referred to one of the requirements set up by the *European Court of Justice* (*ECJ*) in its judgments in the cases of *N.S.*[9] and *Abdullahi*[10]. Secondly, the applicants submitted that a forced return to Italy would infringe their right to respect for family life as enshrined in Article 8 ECHR due to their lack of knowledge of the Italian language and the absence of any tie to that country. Lastly, they argued that under Article 13 ECHR, in conjunction with Article 3 ECHR, they had been deprived of an effective remedy because, in their opinion, the Swiss authorities had not taken into account the eight applicants' personal circumstances and the family situation thoroughly enough.

This last argument was rejected by the Court as manifestly ill-founded, noting that the possibility to file a suit before the *Federal Administrative Court* had constituted an effective remedy: The *Federal Administrative Court* was found to have offered a reasoned judgment and, in comparative situations, had indeed previously decided to stop a return to the state of first entry pursuant to the Dublin Regulation.

While the Court examined the complaint concerning a violation of Article 3 ECHR in depth, it held it was unnecessary to also elaborate on Article 8 ECHR. In relation to Article 3 ECHR, the Court first of all stated that Switzerland was bound by the Dublin II Regulation under the terms of its association agreement with the European Union of 26 October 2004 and that also the Dublin III Regulation had already been transformed into a national law by the Swiss Federal Council on 7 March 2014.[11] Further, according to the Court, Switzerland could have refrained from transferring the applicants to Italy

[8] *ECtHR*, Tarakhel v. Switzerland, Appl.No.29217/12, Judgment of 4 November 2014, 53.
[9] *ECJ*, N.S., C-411/10, Judgment of 21 December 2011, 94.
[10] *ECJ*, Shamso Abdullahi, C-394/12, Judgment of 10 December 2013, 60.
[11] *ECtHR*, Tarakhel v. Switzerland, Appl.No.29217/12, Judgment of 4 November 2014, 34, 36.

according to these rules, e.g. pursuant to the so-called sovereignty clause[12] according to which a Member State may examine an asylum application although, in fact, another Member State is responsible pursuant to the Dublin Regulation. Hence, the claim against Switzerland was admissible. Thereupon, the Court reiterated the principles established by its jurisprudence concerning the expulsion of asylum seekers and, in particular, the approach undertaken in its *M.S.S.* judgment[13].

According to the *ECtHR's* precedents, beginning with *Soering v. the United Kingdom*, Article 3 ECHR obliges states to refrain from expelling a person where substantial grounds have been shown for believing that the person faces a real risk of being subjected to torture or inhuman or degrading treatment in the receiving country. This is because a violation might no longer be avoided once the person is expelled.[14] In the *M.S.S.* judgment, the Court determined that the general assumption that all of the Dublin system's Member States are so-called "safe countries" was rebuttable and that the Dublin Regulations therefore do not relieve states from undertaking a risk assessment before transferring an asylum seeker to the state of first entry. Further, the Court recalled that asylum seekers, particularly those who are children, constitute a vulnerable group requiring special protection measures. In order to investigate the existence of a real risk, all relevant factors of the case must be taken into account both separately and cumulatively. The Court therefore had to assess the overall situation regarding reception arrangements for asylum seekers in Italy as well as the applicants' individual situation.

1. Overall situation for asylum seekers in Italy

According to the applicants, three factors led to the necessary conclusion that the Italian reception arrangements for asylum seekers showed systemic deficiencies. Concerning the alleged slowness of the identification procedure, the Court correctly noted that in this case the applicants had already been identified and that this very procedure only took ten days despite the fact that the applicants had first supplied a false identity.[15] Regarding the capacity of the reception facilities, the Court took the applicants' standpoint, confirming that,

[12] Article 3(2) of the Dublin II Regulation (Council Regulation (EC) No.343/2003) and Article 17(1) of the new Dublin III Regulation (Regulation (EU) No.604/2013).
[13] *ECtHR*, M.S.S. v. Belgium and Greece, Appl.No.30696/09, Judgment of 21 January 2011.
[14] *ECtHR*, Soering v. the United Kingdom, Appl.No.14038/88, Judgment of 7 July 1989, 90.
[15] *ECtHR*, Tarakhel v. Switzerland, Appl.No.29217/12, Judgment of 4 November 2014, 107.

regardless of the exact number of asylum seekers without accommodation in Italy, there was an obvious discrepancy between the numbers of asylum applications made (over 14,000 in 2013) and the places available in the facilities (9,630 places in the facilities belonging to the SPRAR [Sistema di protezione per richiedenti asilo e rifugiatti] network).[16]

Further, the Afghan family claimed they had suffered from a lack of privacy, insalubrious conditions and violence in the centre where they had stayed. The reports and recommendations of the United Nations High Commissioner for Refugees (UNHCR) and the Human Rights Commissioner, which the Court took into account, did not support the occurrence of violence, but still outlined deficiencies regarding legal and medical aid and the preservation of family unity. In sum, the Court however concluded in line with its previous judgments in *Mohammed Hussein and Others v. the Netherlands and Italy*[17] and *Abubeker v. Austria and Italy*[18] that the overall situation in Italy, though far from being perfect, could not be compared with the situation in Greece at the time of the *M.S.S.* judgment and hence could not in itself act as a bar to all removals of asylum seekers to Italy.

2. Individual situation of the applicants

Concerning the individual situation of the applicants, the Court attached particular importance to the special need for the protection of the children. While asylum seekers in general constitute a vulnerable group, children are even more vulnerable. Consequently, reception conditions for children seeking asylum must, in the view of the Court, "be adapted to their age, to ensure that those conditions do not create for them a situation of stress and anxiety, with particularly traumatic consequences"[19]. This had already been found in the case of *Popov v. France*, where the children, in contrast to the case at hand, however, had been detained for several weeks.[20]

The Court recalled that ill-treatment in terms of Article 3 ECHR must attain a certain minimum level of severity. In the instant case, it found that the

[16] *ECtHR*, Tarakhel v. Switzerland, Appl.No.29217/12, Judgment of 4 November 2014, 108.
[17] *ECtHR*, Mohammed Hussein and Others v. the Netherlands and Italy, Appl.No.27725/10, Decision of 2 April 2013, 78.
[18] *ECtHR*, Mohammed Abubeker v. Austria and Italy, Appl.No.73874/11, Decision of 18 June 2013, 72.
[19] *ECtHR*, Tarakhel v. Switzerland, Appl.No.29217/12, Judgment of 4 November 2014, 119.
[20] *ECtHR*, Popov v. France, Appl.Nos.39472/07, 39474/07, Judgment of 19 January 2012, 91-103.

applicants had been processed quickly, that they had always been provided with a reception facility by the Italian authorities and, moreover, that Italy generally sends children to one of the facilities belonging to the SPRAR network, where apart from accommodation also food, health care, legal advice, Italian language classes and other services are guaranteed. Nevertheless, the *ECtHR* concluded that the information on the family's planned accommodation in Bologna in one of the facilities funded by the European Refugee Fund (ERF)[21] was insufficient for the Swiss government to preclude that the applicants would not be received and treated in a manner inappropriate for the age of the children. "*In the absence of detailed and reliable information concerning the specific facility, the physical reception conditions and the preservation of the family unit*", the Court found that there would be a violation of Article 3 ECHR if the applicants were transferred without the Swiss authorities having first obtained individual guarantees from Italy.[22]

IV. Commentary

Taking into account the Court's prior jurisprudence and the previous findings in the present case, its final conclusion concerning the violation of Article 3 ECHR is definitely surprising. In contrast to comparable cases, the Court never established why the family had left Iran and why it is seeking asylum in Europe. More importantly, the conclusion of the majority of the judges was reached without any substantiation of a real risk. According to the UNHRC, in expulsion cases, the "real risk" must take the form of a "foreseeable and necessary consequence" in order to raise an issue under Article 7 of the International Covenant on Civil and Political Rights, whereas the requirements of the *ECtHR* are generally not as strict.[23] Still, according to the *ECtHR's* precedents, the probable ill-treatment has to reach a minimum level of severity in order to fall under the scope of Article 3 ECHR. Further, the danger must be foreseeable and sufficiently concrete.[24] As correctly noted by the three dissenting judges, the applicants had neither suffered ill-treatment reaching the normally established level of severity in the context of Article 3 ECHR, nor did they or any of the interveners substantiate why there existed a real risk of severe ill-treatment upon return to Italy. While they might not be treated in a very

[21] The ERF was first established by European Council Decision 2000/596/EC. Objective of the ERF was to support Member States e.g. to co-finance actions related to the asylum procedure and also to provide financial reserve to implement temporary protection measures in the event of a mass influx. In 2014, the ERF was replaced by the Asylum, Migration and Integration Fund (Regulation (EU) No.516/2014).

[22] *ECtHR*, Tarakhel v. Switzerland, Appl.No.29217/12, Judgment of 4 November 2014, 121 et seq.

[23] *Battjes*, European Asylum Law and International Law, 2006, p. 225.

[24] *Casadevall, Berro-Lefèvre, Jäderblom*, Tarakhel v. Switzerland, Diss. Opinion, p. 53.

comfortable manner, this has so far not been classified as constituting a risk of inhuman or degrading treatment.

On the contrary, many factors indicated that the family would be taken charge of in an appropriate manner. First, the applicants were already identified. Second, the Swiss government had been informed that they would be accommodated in one of the better facilities in Bologna funded by the ERF. Third, owing to the presence of a Swiss liaison officer in the Dublin department of the Italian Ministry of the Interior, the cooperation between the two states had worked very well so far.[25] Moreover, as also remarked by the dissenters, the family had been able to support itself in Switzerland. Therefore, it may be concluded that their economic situation would have allowed them to arrange for private accommodation in Italy, too. Thus, they were not dependent on the Italian authorities for provision of a place to live.

Comparing this case to the recent judgments of *Mohammed Hussein and Others v. the Netherlands and Italy*[26], *Hussein Diirshi and Others v. the Netherlands and Italy*[27] and *Daytbegova and Magomedova v. Austria*[28] concerning minors and the situation of asylum seekers in Italy as well, the Court's reasoning does not seem to be stringent. In the case of *Daytbegova and Magomedova v. Austria* of June 2013 for example, the Court did not hold it necessary for Austria to obtain special assurances concerning adequate treatment from the Italian authorities although the then 16-year-old *Mariat Magomedova* suffered from acute post-traumatic stress disorder with serious suicidal tendencies.[29] Consequently, in the case at hand, the Court's majority at least failed to justify the apparent reversal of its previous approach.

Not surprisingly, the judgment was celebrated by most non-governmental organizations dedicated to the aid of refugees and children as a decision that will strengthen the rights of asylum seekers and, in particular, those who are minors.

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[25] *ECtHR*, Tarakhel v. Switzerland, Appl.No.29217/12, Judgment of 4 November 2014, 74.
[26] *ECtHR*, Mohammed Hussein and Others v. the Netherlands and Italy, Appl.No.27725/10, Decision of 2 April 2013.
[27] *ECtHR*, Hussein Diirshi and Others v. the Netherlands and Italy, Appl.No.2314/10, Decision of 10 September 2013.
[28] *ECtHR,* Khalisat Daytbegova and Mariat Magomedova v. Austria, Appl.No.6198/12, Decision of 4 June 2013.
[29] *ECtHR,* Khalisat Daytbegova and Mariat Magomedova v. Austria, Appl.No.6198/12, Decision of 4 June 2013, 18, 67 et seq.

In my opinion, the general objective to assure that families are kept together and to avoid that unaccompanied minors are returned to an overburdened Italian asylum system is generally to be welcomed. Although the situation in Italy is not as dramatic as it was in Greece at the time of the *M.S.S.* judgment, it is far from being a surrounding that would foster a minor's well-being and social development – factors that Member States shall take into account pursuant to Article 6 of the Dublin II Regulation – and even more under Article 6 of the Dublin III Regulation. Further, the Court as well as the *United Kingdom's Supreme Court* are right to hold that human rights violations may also occur in the absence of a total systemic breakdown as was determined in the case of Greece.

However, given that the Court in the case at hand neither established a real risk nor justified the deviation from its prior jurisprudence, the classification of the present proposed return as a violation of Article 3 ECHR may turn out to be problematic. If the low standard used in this case is consistently upheld, in future, many more actions will have to be seen as infringements of this article. Such a development would not only broadly extend the scope of Article 3 ECHR but also risk weakening the deterrent effect and reputational damage that may result if a state is found responsible for acts of torture or inhuman or degrading treatment.

Furthermore, it is uncertain if the objective to better protect families with young children or unaccompanied minors can be achieved by demanding guarantees. It is doubtful if this instrument is capable of preventing subsequent ill-treatment. Cases in which diplomatic assurances were obtained from states with a poor human rights record have proven to be ineffective. Driven by those experiences, international judicial bodies and experts have generally been very skeptical if guarantees can eliminate a real risk in cases concerning the principle of non-refoulement.[30] Therefore, it is surprising that the *Strasbourg Court* now itself resorts to this kind of requirement that will definitely make transfers

[30] *Committee against Torture*, Mutombi v. Switzerland, Comm.No.13/1993, 9.5, U.N.Doc.A/49/44(1994); *UN Human Rights Committee*, Ng v. Canada, Comm.No. 469/1991, 6.2, U.N.Doc.CCPR/C/49/D/469/1991(1994); *UN Human Rights Committee*, Alzery v. Sweden, Comm.No.1416/2005, 11.3, 11.5, U.N.Doc.CCPR/C/88/D/1416/2005(2006); *ECHtHR*, Chahal v. the United Kingdom, Appl.No.22414/93, Judgment of 15 November 1996, 105; *ECtHR*, M.S.S. v. Belgium and Greece, Appl.No.30696/09, Judgment of 21 January 2012, 353; *ECtHR*, Saadi v. Italy, Appl.No.37201/06, Judgment of 28 February 2008, 148; *Nowak,* "Extraordinary Renditions", Diplomatic Assurances and the Principle of Non-Refoulement, in: International Law, Conflict and Development, 2010, p. 105 (130-134).

under the Dublin System more expensive and the administrative processing of asylum applications even more complex while its effects remain uncertain.

Lastly, questions arise when exactly such specific assurances relating to the facility's name, the physical reception conditions and the preservation of the family unit are required. Are they required for all asylum seekers liable to be transferred to Italy or only in cases concerning returns of particularly vulnerable groups or of families with children? Further, are they required only for returns to Italy or before any return to a state whose asylum system might show some deficiencies? Moreover, the consequences of Italy or any other Member State simply refusing to provide guarantees in order to avoid receiving more asylum seekers are unclear. However, at this point, one has to admit that a judgment deciding a specific case never answers all related legal questions and that it is now the task of EU secondary legislation to address these unsolved issues.

Until such time, Member States' reactions to the judgment will probably greatly differ. If they consistently follow the Court's judgment and require specific and individual guarantees not only from Italy but also from other Member States whose asylum systems might reveal some deficiencies, the principle of mutual confidence and the presumption of compliance on which the CEAS was once based according to the *ECJ*[31] will be ultimately rendered hollow. However, maybe the deviation of this principle and the compliance presumption is unavoidable. Since, in light of the current reality where, on the one hand asylum seekers are transferred across Europe against their will, and on the other hand more and more asylum systems in the respective states are overburdened due to the asylum seekers' disproportional distribution, it seems that they are not compatible with effective human rights protection.

In sum, this judgment can be read as the attempt to repair one part of a net that was, from the beginning, badly constructed and has meanwhile become more and more strained and already started to tear apart.

Unfortunately, the measures that the *ECtHR* can take to improve the functioning of the Dublin System or at least to make it compatible with the

[31] "Consideration of the texts which constitute the Common European Asylum System shows that it was conceived in a context making it possible to assume that all the participating States, whether Member States or third States, observe fundamental rights, including the rights based on the Geneva Convention and the 1967 Protocol, and on the ECHR, and that the Member States can have confidence in each other in that regard. It is precisely because of that principle of mutual confidence that the European Union legislature adopted Regulation No 343/2003."*ECJ*, N.S, C-411/10, Judgment of 21 December 2011, 78-79.

human rights obligations enshrined in the ECHR are limited. The Court can neither apply the Geneva Refugee Convention, nor the United Nations Convention on the Rights of the Child, nor can it change the Dublin System. It can only show the Member States the existing deficits of the Dublin System and try to oblige them to cooperate more in order to avoid further violations of the ECHR. This alone, however, will probably neither change the states' attitude, nor make them adhere to their obligations in good faith and show more solidarity towards the other Member States. In the end, the judgment must be understood as another sign that the Dublin System does not function well and as evidence of the need for a political solution, which results in its replacement by a more reasonable and just alternative.

In order to be functional and compatible with the ECHR, any such alternative should refrain from attempting once more to force human beings into an inflexible distribution system based on theoretic criteria and ignoring the actual needs of both asylum seekers and receiving states. Although it is true that the processing and receiving of asylum seekers and later the integration of accepted refugees should be the responsibility of all EU Member States together, the idea to implement a mandatory allocation key does not seem to be promising. One cannot expect refugees to voluntarily stay longer in EU countries whose own population is emigrating to richer EU Member States or in which strong populist parties or extreme right-wing movements prevail. Instead, the EU should find the courage to end the policy of closure and sealing off borders and to primarily consider the asylum seekers' individual needs. For the right to seek asylum includes the right to decide where to seek asylum, and integration succeeds only where people are willing to become part of the society. Of course, this step requires that European funds are distributed according to the responsibility taken up by Member States under the new European Asylum System in the event that asylum seekers are not assigned proportionately among the states.[32]

[32] Further ideas and proposals of the European Parliament concerning a reform of the CEAS and alternatives to the Dublin System can be found here: http://www.europarl.europa.eu/RegData/etudes/STUD/2015/519234/IPOL_STU%282015%29519234_EN.pdf [last accessed on: 6.9.2015].