



NORWEGIAN MINISTRY
OF JUSTICE AND THE POLICE

Summary in English: Report No. 9 (2009–2010) to the Storting

Norway's refugee and migration policy in a European perspective



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1 Summary

Norway's refugee and migration policy is decided by the Norwegian political authorities on the basis of national considerations and in accordance with international law. However, for Norway, as for other countries, events and developments in countries around us impose important constraints on our freedom of manoeuvre in relation to developing national policy. Immigration to Norway is to a great extent dependent on external circumstances: wars and conflicts, the global economy and the demand for international labour, and, not least, the policy pursued by our neighbouring countries.

The UN Refugee Convention and the European Convention on Human Rights (ECHR) are the basis for the right to seek asylum and protection against refoulement where there is a risk of persecution, and they encapsulate the best of the European humanitarian tradition. These conventions are and will continue to be central to our assessments of protection needs. If many people without a need for protection seek asylum because this is the easiest way to be granted residence in a European country, over time this will undermine trust in the system and in the authorities' ability to formulate a consistent, long-term refugee and migration policy.

Almost four million asylum seekers have come to Europe during the past ten years. Some of them have fled from persecution, some from unrest and uncertainty, while others have an understandable wish for a future in a country that provides better opportunities than the country they come from. A large proportion of those who come are not refugees in the Refugee Convention's sense. There is also widespread illegal immigration by persons who neither seek asylum nor apply for a permit.

The images of overcrowded boats packed with people risking their lives to cross the Mediterranean illustrate the challenges facing both the EU countries and Norway. Here, there are migrants of all categories and ages: children, women and men. Some of them are persecuted, while many wish better material conditions for themselves and their families. How Europe is to deal with these people is a major challenge. Norway's cooperation with the European Union (EU) in this field is largely enshrined in the Dublin II Regulation and the Schengen Agreement, and our accession agreements to these acts of community law. The cooperation is based on the principle of solidarity and collaboration, which is being challenged by the current situation. The countries in Southern Europe believe that they face a disproportionate challenge and that Northern European countries must take more responsibility. It is only through greater cooperation, harmonisation and coordination that Europe can meet the challenges it is facing.

Those who need protection shall receive it. Those who do not have grounds for residence in Norway will not be granted residence permits. Ensuring efficient and speedy case processing is the most humane policy, both for those who are granted residence and for those who must leave the country. The Government will reduce the number of asylum seekers who are not entitled to protection. There is little sense in people who submit groundless asylum applications investing a great deal of resources in seeking asylum in Norway and in Norwegian society spending resources on applications that will in any case be rejected.

It is important that foreign nationals who are not granted asylum or other residence permits respect this decision and return to their home countries or to another country in which they have right of residence.

The Government places great emphasis on decisions, once made, being enforced. The Government's goal is that as many people as possible without legal residence should return home voluntarily, and it also wishes to increase the number of forced returns where voluntary return is not possible.

The question of identity is important in most European countries. In recent years, less than five per cent of asylum seekers in Norway have documented their identity through valid travel documents on submission of their applications. We do not know their name, age or nationality, or where they have been before seeking asylum in Norway. This presents the authorities with a number of challenges. The Norwegian authorities see it as very important to clarify the identity of foreign nationals wishing to reside in Norway as soon as possible. Clarification of identity is important in relation to ensuring that it is the right person who is granted rights and in relation to returning those who are denied a residence permit in Norway. The clarification of identity is also important to national security and preventing and combating crime.

Some asylum seekers lack documents because they come from countries where travel documents or other ID documents have not been issued for many years. People who have been persecuted by the authorities in their home countries may have been refused documents by the same authorities. Many of them may have a good explanation for why they cannot document their identity and manage to substantiate their identity in other ways so that there is little reason to doubt their stories. It is also clear, however, that many of those who seek asylum in Norway must have had documents to be able to make the long journey here, documents they have gotten rid of. Some also do what they can to conceal their identity, including filing the skin off their fingertips. By making it difficult for the authorities to identify them, they know that they are also making it difficult for the authorities to return them to the country from which they came.

Confidence in an individual and rights-oriented system is undermined when legal norms are exploited by people without a genuine need for protection who camouflage themselves as refugees in order to have a better life in Europe. When people do what they can to conceal their identity, it is also a security problem. All states have a fundamen-

tal interest in knowing who they permit to enter and reside on their territory. Today, human smuggling and human trafficking are among the most lucrative types of organised crime. Criminal groups promote and boost illegal immigration and create their own markets by encouraging people who would not have otherwise left their home countries to migrate. The result is that many people are put at risk, end up with impossible debts and are exploited as cheap or free labour. Human smuggling, human trafficking and international crime must be combated, both in Norway and internationally. Norway will continue to make active endeavours to strengthen international cooperation in this area.

The challenges relating to refugees and migration are the same in many European countries. But it is not just the challenges that are common, the solutions must be based on cooperation and joint action. If each individual country is to deal with these problems on its own, the solution will often consist of shoving responsibility onto neighbouring countries. A predictable, sustainable and robust refugee and migration policy requires cooperation, international solidarity, harmonisation of regulations and practices, and common solutions, not just in countries to which many immigrants come but also in transit countries and countries of origin. A global, coordinated migration policy can contribute to development in poor countries. The opposite approach, that each country only takes its own situation into account, could result in poor countries becoming even poorer. As a small country, Norway is best served by a coordinated and harmonised global migration policy. If this ambition is to be realised, the EU will have to play a key role as a bridge-builder between East and West, North and South. The Government therefore strongly emphasises strengthening Norway's cooperation with the EU in the refugee and migration field. The cooperation under the Schengen Agreement and the Dublin Convention are a natural starting point in this context.

2 Priorities in refugee and migration policy

Refugee and migration policy issues generate broad debate. The international driving forces for broad and binding regulation and coordination of these policy areas have been few and weak, however. Developments in the EU stand out positively in this context. However, Europe is facing increasing challenges as a result of extensive illegal immigration and many asylum seekers. The established systems and instruments for handling the situation no longer seem to be sufficient, and the legitimacy of the asylum institution is increasingly being called into question. In the Government's view, clearer and more binding European coordination is necessary in order to address these challenges. It is necessary to further develop the common European asylum system in the EU in order to achieve a better balance and greater predictability in relation to migration in Europe. The EU will become increasingly important as a partner for Norway in the refugee and migration field.

Increased cooperation with the EU on asylum practice, competence-raising and collaboration on country information will reduce the differences between member states. While Norway does not participate in the EU's asylum policy, the norms it defines have nonetheless been emphasised in the work on Norway's new Immigration Act. Norway does not have a direct voice in negotiations on deepening asylum policy cooperation in the EU. As a Schengen and Dublin member, Norway is partly and indirectly affiliated to the European asylum cooperation. We are closely integrated in the development of common control of external borders and in the collaboration on the returning and transfer between countries of asylum seekers and persons without legal residence. In relation to the harmonisation process in the EU, Norway's

challenge lies in its ability to gain access to the same information as our neighbours in the EU, thus ensuring that our asylum practice can be developed on the basis of the same knowledge. Proactive cooperation with the EU in which the Norwegian authorities take initiatives and contribute input will be the best way of promoting Norwegian interests in the refugee and migration field.

The Government follows the principle that entry and immigration to Norway shall be regulated and controlled in accordance with international commitments and agreements. It is in Norway's interest that migration flows are steered through legal channels that protect migrants' fundamental rights and meet countries' need to control and manage migration. The Government envisages the EU playing a key role in the efforts to establish a migration regime that binds together countries of origin, transit countries and recipient countries and in which agencies such as UNCHR have a clear role.

On the basis of the white paper, the Government wishes to prioritise the following fields in the time ahead:

1. *Implementation plan for the immigration field*

The Government intends to present an implementation plan for the immigration field. It will be a wide-ranging review of various policy instruments in the field. The plan will assess measures that have already been initiated and new measures aimed at achieving the goals that the Government has defined in the political platform for collaboration. The plan will include a schedule for the implementation of key priorities and measures.

2. *Measures to ascertain identity*

The Government will intensify the work of clarifying the identity of foreign nationals who arrive in or are staying in Norway. Applicants' identity should be clarified as early as possible in the application process. It is not possible for Norway and other countries that return persons who have not been granted residence and who are unwilling to return voluntarily to send such persons out of the country without satisfactory travel documents or an established identity. In 2010, the Government will establish a national identity and documentation centre that will ensure better coordination, greater

expertise and swifter consideration and processing of identity clarification cases. The centre will make the process of clarifying identity more efficient, which will lead to more people being escorted out of Norway more swiftly.

3. *Harmonisation of regulations and practice in the asylum field*

The Government will reduce the number of persons without a need for protection who seek asylum in Norway, and it will continuously consider new measures aimed at achieving this. Important measures include, and will continue to include, following up and further developing already established procedures for collecting information about the practice in other countries, systemising such information and considering whether changes are required in Norwegian regulations and practice. In addition, priority will be given to ensuring that we are updated as regards general developments in regulations and practice. Greater harmonisation of the EU's asylum policy could necessitate adjustments to the Norwegian regulations if such harmonisation has consequences for the influx of asylum seekers to Norway.

4. *Dublin and EURODAC*

The substantial differences that appear to exist between EU member states in their asylum practice and in the treatment of asylum seekers today contribute to undermining the Dublin system. It is a great advantage for Norway if the Dublin system is continued, and the Government has contacted the European Commission to ensure that our voice is heard in the ongoing process of revising the Dublin Regulation. If it is necessary in order to retain the Dublin system, Norway will contribute to a better division of responsibility between the countries involved. The Norwegian authorities will also endeavour to ensure that the individual member states' compliance with the Dublin regulations is closely monitored.

5. *Affiliation to the European Asylum Support Office (EASO)*

The Government will give priority to the work of affiliating Norway to the European Asylum Support Office (EASO), which is to be established in 2010. Participation in EASO is closely related to our participation in cooperation under the Dublin Convention. When applying the Dublin regulations to the processing of asylum cases,

it is important to Norway that reception conditions, asylum practice and asylum procedures in the countries with which we cooperate are in compliance with international standards. Closer practical cooperation in Europe is important in order to safeguard Norwegian interests, but we also wish to contribute expertise in asylum procedures, organisation of the work of considering asylum applications, our experience of special groups of asylum seekers and country of origin information.

6. *The EEA funding schemes*

As part of the agreement with the EU on new EEA funding schemes for the period 2009 to 2014, the development of human resources in general has been identified as a priority sector. Within this sector, the Government is making efforts to have the asylum and refugee field included as a focus area under the schemes. In June 2009, a political dialogue was initiated between the Norwegian and Greek authorities concerning the possibility of a programme of this kind in Greece. In the upcoming country negotiations on the EEA grants, Norway will continue to discuss efforts aimed at strengthening the capacity of the asylum administration with the Greek authorities, with particular focus on the situation of unaccompanied minor asylum seekers.

7. *European Migration Network, EMN*

Efforts will be made to ensure Norwegian participation in the European Migration Network (EMN) in 2010. Participating in EMN will give us access to a broad range of information about developments in European refugee and migration policy. It will also improve the Norwegian authorities' ability to ensure that Norway's policy and practice are harmonised with other European countries and to learn from other countries' experience.

8. *Resettlement*

The Government wishes to support the efforts being made to get more European countries to offer resettlement of refugees. With its many years of experience as a resettlement country, Norway can, among other things, contribute expertise in this field. The Government takes a positive view of the initiatives aimed at developing a common EU policy for resettlement, including the establishment of

a coordination mechanism for joint efforts. The Government will propose that Norway be affiliated to such a collaboration. A joint effort can boost work on resettlement and make it more effective and enable difficult refugee situations to be resolved. Affiliation will therefore be in line with Norway's prioritisation of work on resettlement.

9. *Measures in countries of origin*

The Government wishes to affiliate Norway to the cooperation that the EU is establishing with important countries of origin and transit countries for migration flows to Europe. Initially, Norway will take part in the cooperation platform for migration and development that the EU has established with Ethiopia. The cooperation will be balanced and will accommodate both Ethiopian and European interests. From Europe's perspective, it is interesting that this can result in better control of migration flows from East Africa and that it can contribute to development in the region. Vulnerable groups must be given particular consideration. This applies not least to minors who have come to Norway on their own but who do not meet the requirements for being granted a residence permit. The Government has taken an initiative for the establishment of good care and educational services for Afghan and Iraqi minors in their home countries, and it will continue this work.

10. *Regional protection programmes*

The EU has developed regional protection programmes for asylum seekers and refugees in Tanzania, Ukraine, Belarus and Moldova. Similar programmes have been proposed in Kenya and Sudan. The Government will seek Norwegian participation in these programmes, which primarily involve the EU helping to increase capacity to help refugees in the cooperating countries. The transfer of refugees to Europe can be considered in cases where it is not possible to offer protection in the region.

11. *Readmission agreements*

The Government will continue to prioritise work on readmission agreements with important countries of origin and transit countries, and it has allocated funding for measures that can make it easier for poor countries to sign such agreements. In the EU, the Euro-

pean Commission has been authorised to enter into such agreements on behalf of EU member states. Norway is not included in this arrangement, but the Commission requests countries with which it signs agreements to enter into corresponding agreements with Norway. A close strategic dialogue with the European Commission will be useful in this context.

12. *Voluntary return*

Persons without legal residence in Norway must return to where they came from. The Government facilitates voluntary return. The programmes aimed at motivating voluntary return that have already been initiated will be continued.

13. *Forced return*

Norway pursues an active return policy. Persons who do not have legal residence in Norway and who do not return home voluntarily will be forcibly returned. The Government wishes to intensify its return efforts in Norway, and, in that connection, it will consider various forms of fast-track processing to ensure that those who have received a rejection or who are staying illegally in Norway are returned more swiftly. The Government will increase the number of returns and, if necessary, use force to carry them out. Territorial control will be strengthened in border areas.

14. *Implementation of the Return Directive*

In 2010, the Government will submit a bill on implementation of the EU's Return Directive in Norwegian law. The directive will enter into force in the Schengen area in 2011. The deadline for its implementation in national law is 24 December 2010. The prevailing situation in the Schengen area is that the extent to which the states return people without legal residence varies. When the common regulations enter into force, the European Commission will be empowered to monitor national compliance. This gives grounds for believing that the situation as regards illegal residence in the Schengen area will improve in the long term.

15. *Frontex*

Frontex, the EU's agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU, plays an important role in the work of limiting illegal border

crossings in the EU/Schengen area. The agency also coordinates the return of third country nationals. The Government wishes to further develop cooperation in Frontex and it wants Norway to take part in more joint returns in future.

16. *The External Border Fund*

Good control of external borders is a necessary element of cooperation under the Schengen Agreement. The Government emphasises that, through participation in the External Border Fund, Norway assists the countries that are responsible for controlling external borders on behalf of all the countries in the Schengen area. The projects financed by the fund will contribute to improving the quality of external border control, which will benefit all the Schengen countries.

17. *EUROSUR*

Norway will be directly affected by the rules for European Border Surveillance, EUROSUR, because the Norwegian-Russian border is included in the first phase of the border surveillance system. Initially, this means that Norway will have to establish a national coordination centre. The centre will maintain an overview of the situation at Norway's borders and serve as focal point in relation to Frontex and other national coordination centres.

18. *Cooperation on visa matters*

Through its affiliation to Schengen, Norway participates actively in the European visa cooperation, and the Government prioritises work on the visa information system, VIS – both as regards further technical development of the system and the preparation of acts of community law and their implementation in Norwegian law. VIS will be an important element of future visa policy in both the EU and Norway because it is expected to make access to the Schengen area easier for bona fide travellers making short visits, while at the same time making it more difficult to enter the area illegally. The Visa Code will apply from 5 April 2010.

19. *Entry and exit system and automated border control system*

The Government supports the establishment of an entry and exit system. Norway will contribute to work on the introduction of this system and an automated border control system, which will make

border controls more effective and combat illegal residence, while at the same time safeguarding people's fundamental rights, including protection of privacy.

20. *Establishment of an IT agency*

The Government supports the establishment of a dedicated agency for the future administration of the joint IT systems that form the core of the Schengen Agreement and Dublin Convention, i.e. SIS II, VIS and EURODAC. The IT agency is necessary in order to ensure a united and strategic approach to IT development in this field. The establishment of a dedicated agency will clarify who has operator responsibility, and it will provide a clear legal mandate for Norwegian participation in the administration of these systems.

21. *Human smuggling and human trafficking*

The Government will give priority to work on human smuggling and human trafficking. Among other things, funds have been allocated for increased control in border areas. In 2010, the Government will present an action plan against human trafficking. The investigation of human trafficking cases will be evaluated with a view to boosting police efforts in this area.

22. *Knowledge development*

The Government's aim is a coherent, efficient and user-oriented immigration administration. The policy in this area shall as far as possible be knowledge-based. The administration carries out analyses and produces forecasts of developments, and a statistics group was established for the immigration administration in 2008. All involved ministries and agencies in this field are represented in the group. The group stipulates the current forecasts and the joint assumptions that will be used as the basis for the budgets of all the agencies in the immigration administration. International trends and developments must be monitored in order to ensure that this work is of high quality, and emphasis will be placed on further developing cooperation and information exchange with other European countries.

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