



Home Office

**UK Border
Agency**

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Dear Donna,

Returns of asylum seekers to Greece under the Dublin Regulation

I am writing to you in your capacity as co-Chair of the National Asylum Stakeholders' Forum to inform you of a temporary change in our approach to the return of asylum claimants to Greece under the Dublin Regulation.

You will be aware of the Court of Appeal's decision of 12 July 2010 to refer the case of *NS v SSHD and others*, a challenge to our decision to remove the applicant to Greece under Dublin, to the Court of Justice of the European Union (CJEU). Although we have applied for the Court to consider the case under its urgent procedure, we understand that the case could take up to two years to be dealt with by the CJEU and then our Court of Appeal.

We are concerned that this will lead to an increase in the backlog of stayed cases for which Greece is responsible under the Regulation, but which may not be removable there until *NS* is resolved. We currently have approximately 1,300 such cases. Allowing these individuals to remain in the UK without having their asylum claims until *NS* is determined will incur considerable costs to the UK Border Agency.

I am therefore informing you that, from 17 September 2010, the UK Border Agency will invoke the "sovereignty clause" in the Dublin Regulation (Article 3(2)) and consider the asylum claims of those applicants who would otherwise be the responsibility of Greece under the Dublin Regulation substantively in our own asylum system.

The policy will apply to all cases that are currently awaiting return to Greece, other than that of the applicant in *NS*, as considering his case substantively could frustrate the referral to the CJEU. Our current intention is that the temporary change will also apply to new Greek asylum cases received in the future until the CJEU has given its ruling and the Court of Appeal has delivered final judgment. However, this remains subject to review and the Secretary of State reserves the right to reinstate removals

in respect of new cases at any time (including at any time before the Court of Appeal judgment). The policy will, in any event, be reviewed once we have the Court of Appeal judgment.

I must emphasise that this decision is a purely pragmatic one which we have taken in order to avoid the costs that we would otherwise incur. It does not reflect any change in our strong support for the Dublin Regulation. Nor does our decision change the view, which we have maintained in the litigation up until now and will continue to maintain, that Greece is a safe country for asylum seekers. Once the case of NS is resolved, we fully expect to restart removals to Greece.

If you have any queries, please do not hesitate to contact me. I am copying this letter to other NASF members.

Yours sincerely,



Hugh Ind
Regional Director, London and South East
and National Lead for Asylum