

ECRE INTERVIEW

with

**Susanne Bolz, Head of the Protection Unit at the
Swiss Refugee Council (SFH/OSAR)**

“The case of the asylum applications ignored at the Swiss embassies exemplifies just how important it is to look for European solutions”



2 Sept. 2011 – It became public this week that [Switzerland has ignored around 10,000 applications filed by Iraqi asylum seekers in the Swiss embassies in Cairo and Damascus](#) between 2006 and 2008. The ECRE Weekly Bulletin has talked to Susanne Bolz, Head of the Protection Unit of the Swiss Refugee Council, about the Swiss asylum procedure from abroad, the only one of its kind among European countries.

How can someone who is not able to travel to Switzerland by themselves get access to international protection there?

Swiss asylum law provides for a formalized Protected Entry Procedure (PEP). Since 1979, asylum seekers are able to file a request for protection at a Swiss embassy or consulate in their country of origin or in a third country. The claim is transferred from the embassy to the Swiss asylum authority in Berne (Federal Office for Migration) that will grant an entry permit and visa for the asylum procedure to be continued in Switzerland.

Such an entry visa will be issued if the asylum seeker «cannot reasonably be expected to remain in his/her country of residence or host country or to travel to another country». The decision takes into consideration whether the person has a close connection to Switzerland, manifested through previous legal residence, strong family-ties or close relatives present in Switzerland. In practice, the scope permitting such an application procedure is very narrow. The applicant also needs to show that he or she has no possibility to obtain protection by another country. In addition, generally the procedure is only applicable if a person fears persecution qualifying for refugee status. Situations leading to subsidiary or humanitarian protection will only be considered in very exceptional cases.

“As long as hundreds of asylum seekers continue to lose their lives while trying to reach European shores to seek protection every year, Member States should seriously consider alternative ways for refugees to get here in safety”

What are the benefits and problems of seeking asylum in Switzerland from abroad?

Applying for asylum from abroad offers a legal possibility for the more vulnerable cases to access protection. Statistics show that the rate of women among the persons allowed entry is higher than among spontaneous arrivals. It is also a mechanism to respond quickly to a crisis. For example, before the closure of the Swiss embassy in Tripoli in February 2011, the Federal Office for Migration issued entry permission for many Eritrean refugees stranded in Libya. The Swiss authorities also secured entry in Switzerland to many people who managed to reach Tunisia. All in all, around 200 persons were allowed to travel from North Africa to Switzerland in Spring 2011.

The embassy procedure contributes also to undermine the activities of unscrupulous human smugglers that are abusing the desperate situation of refugees. It is also a means of informing asylum seekers about their chances of being granted protection without having to risk their lives and pay a fortune to smugglers first.

From a formal point of view, it is good to have a formalized procedure as this allows a certain legal practice to develop. The fact that negative decisions can be appealed at the second instance enables the court to develop a jurisdiction on this procedure and the entry conditions and also have a certain control over the process. This judicial control is important to make the procedure foreseeable and reliable, an advantage that humanitarian *ad hoc* actions do not offer.

Despite these obvious benefits, we also face difficulties with the procedure in practice. The main problem is that Swiss representations are not prepared to deal with a large number of claims, as it is illustrated by the news this week about some 10.000 claims of Iraqi refugees filed in the Swiss embassies in Cairo and Damascus not being processed. The Minister of Justice will start an official investigation. It is obvious that such practice is a result of the enormous fear of the authorities of the so called "pull-effect". This fear also leads to a quite restrictive practice and a very strict application of the entry criteria. In practice, less than ten percent of all applications are successful.

Also, although the out-of-country procedure is meant to help in acute crises, the procedure tends to be lengthy and complicated. Quite a few asylum seekers wait for their request to be decided often in precarious and by no means safe environments. There are no security measures for those seeking protection. It has been reported that locally hired security staff of the Swiss representation intimidates asylum seekers, especially if they are still in the country of origin.

The fact that embassies tend to ask the applicants to complete a questionnaire instead of inviting them to a hearing is also complicating matters. Especially if there is a larger amount of applications, asylum seekers are asked to answer questions in writing in English or one of the Swiss national languages French, German or Italian. Applicants are not assisted in this process *sur place* and in practice, many ask relatives already living in Switzerland to obtain assistance from a legal aid office for asylum seekers. These offices are funded by churches and aid agencies and have very limited capacities.

Obviously the procedure only works if the Swiss representation is open and accessible. In emergency situations, it may be the case that the embassy is closed. This happened in Tripoli, Libya, when the embassy closed down end of February 2011. During the crisis in Ivory Coast in April 2011, Swiss consular staff were asked to work from home and nobody was present to accept claims when the situation was most dangerous. In Iraq, there is no Swiss representation at all, forcing applicants to travel to Damascus, Syria, in order to file an application or to do it in writing.

"If Iraqi refugees had had the opportunity to address other countries as well, there could have been a more concerted proceeding, to the benefit of the refugees"

What conclusions do you draw from the recent news that the Swiss authorities did not process 10.000 claims of Iraqi refugees in Syria and Egypt during the period of 2006- 2008?

This incident is very illustrative. We do not know a lot about the circumstances yet, but we can guess that Swiss authorities were afraid of a pull-effect, of being overwhelmed by a massive number of applications. Instead of treating the applications accordingly, an order was given to put those cases aside, i.e. a clear non-application of the law. The official investigation will shed more light on the specific circumstances.

We believe that the situation might have been different if Switzerland had not been one of the very few countries with such a procedure in place at that time. If refugees had had the opportunity to address other countries as well, there could have been a more concerted proceeding, to the benefit of the refugees. This exemplifies just how important it is to look for European solutions. It all boils down to the issue of shared responsibility. We are therefore delighted to participate in the current project of the Italian Refugee Council and ECRE, that tackles precisely these questions and seeks to generate a constructive discussion on the European level.

The Swiss government wants to abolish this system. Why?

According to the Swiss Government, the abolition of the formal asylum procedure from abroad aims to diminish the amount of the applications filed, which has been perceived as unbearable by the Swiss administration. In 2000, 665 applications were filed from abroad, but they increased to 3.813 in 2009. Less than ten percent of the applications are successful. The amount of unsuccessful applications led the government to consider such mechanism as ineffective and financially onerous. The decision is not definite and debates in the Parliament will start next month.

“The asylum procedures from abroad cannot replace or restrict spontaneous arrivals of asylum seekers to Europe”

Why is it important that people are able to seek asylum from abroad? Why is this issue back on the EU debate?

It is important to have a legal possibility to access protection from outside the country to be able to react to very special situations of acute danger or to help persons out of protracted situations of insecure and unsafe conditions. It is a step in the right direction if the European Union is discussing the question of alternative forms of access again. Together with resettlement such a mechanism can provide protection especially to the most vulnerable.

Certainly, such a procedure cannot replace or restrict spontaneous arrivals of asylum seekers. This has never been discussed in the Swiss context. It was always clear that the Swiss PEP offers an additional option. As long as hundreds of asylum seekers continue to lose their lives while trying to reach European shores to seek protection every year, Member States should seriously consider such alternative options. It is also a gesture of responsibility sharing to third countries in the region. We should not forget that most refugees are staying in the area of conflict rather than travelling to Europe.

Representatives from the European Parliament, the European Commission, UNHCR and civil society, including the Swiss Refugee Council, will explore and discuss new forms of access to Europe in the context

of refugee protection at a [conference](#) in Brussels on 19 September organised by the Italian Council for Refugees (CIR) and ECRE.