

*EU accession to the European Convention on Human Rights,
the prohibition on inhuman and degrading treatment, and
asylum: New legal implications for Dublin II?*

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Abstract

This thesis will examine the expected positive obligations of the European Union following EU accession to the European Convention on Human Rights. It will argue that in currently *dysfunctional* areas of EU regulation, concrete policy improvements will be required in order to meet the standard imposed by existing ECtHR case law. In support of this view, the paper will focus on current asylum conditions in Greece as inhuman and degrading treatment, and the return of asylum seekers to such conditions by other member states (under current EU Law) as violations of Article 3 of the ECHR.

The thesis will begin with an overview of the European asylum regime, and the prohibition against inhuman and degrading treatment, before reflecting upon current obligations of the Union itself. It will outline the status of positive obligations within the EU human rights framework, before proceeding to the instant case of Article 3 violations in Greece. The paper will also consider the EU-Member State relationship, and its interpretation by the two European courts, in speculating as to how future ECHR obligations are likely to be determined and applied.

Ultimately, the paper will seek to demonstrate that the practice of Dublin returns to Greece in the recent past is legally attributable under the Convention not only to the relevant Member State, but also to the Union in so far as it fails to meet its positive obligations. In order to avoid condemnation by the Strasbourg Court, the Union must therefore enact the proposed suspension of returns mechanism as soon as possible. As this paper will argue, the relevant changes to the existing Dublin system are no longer merely a moral imperative but indeed a concrete and legal one.

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