



CANADA'S PERIODICAL ON REFUGEES REFUGE

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FOCUS ON SAFE THIRD COUNTRY

The Safe Third Country Concept: Deflection in Europe and Its Implications for Canada

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This article focuses on the recent emergence of new procedural requirements developed for determination of refugee status which have resulted in apparent violations of applicable international standards. One of those procedural requirements is the "safe third country concept" (STC) developed in Western Europe. The STC concept provides that asylum-seekers coming from a member state of the European Union (EU), or from a third country that is party to the Convention Relating to the Status of Refugees, and the Convention for the Protection of Human Rights and Fundamental Freedoms, may not claim asylum on account of political persecution. The article begins by mapping out the concept of STC and placing it in the context of the broader institutional framework of determining the state responsible for an asylum claim. It examines critically the various repercussions of this concept, and attempts to provide a rationale for its popular acceptance in the Western world. It asks whether the reluctance to grant

asylum-seekers permission to enter or to remain in the Western world is compatible with international instruments, such as the 1951 United Nations Convention on the Status of Refugees,¹ or the 1967 New York Protocol, which supplemented the 1951 Convention.² Finally, in the light of enhanced cooperation in the European Union against asylum-seekers, this article examines and evaluates the new refugee policies of Canada.

1. Determining the State Responsible for an Asylum Claim

The STC has developed in Western Europe, within the EU, as a means to

devise more expeditious and accelerated asylum procedures and stricter refugee status criteria, to reduce the overall number of new arrivals, and to prevent the access of asylum-seekers to their territory. The basic principle underlying the STC concept is that the asylum-seeker has already been granted protection in another country, or had an opportunity in another country or at its borders to present an application for asylum. Therefore, it precludes asylum-seekers from presenting several claims in different states. It reflects the idea that asylum should be denied on the grounds that the asylum-seeker already enjoyed,

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