

Public International Law

refugee law

John Palmer

Class 11: March 8, 2011

Refugees fleeing Spain



Refugees trying to enter Spain



Inadmissible in Iberia

What is the thesis of Fullerton's article?

What types of arguments does she make?

Inadmissible in Iberia

The inadmissibility proceedings in Spain and Portugal:

- ▶ distorted asylum procedures
- ▶ impaired the systems' ability to reach accurate decisions
- ▶ risked returning individuals to face persecution
- ▶ impeded implementation of obligations under the refugee convention and human rights agreements
- ▶ ran afoul of the proposed EU Procedures Directive

Inadmissible in Iberia

What are the benefits of inadmissibility criteria or other types of screening or acceleration procedures?

Inadmissible in Iberia

Why are there so few asylum seekers in Spain?

Inadmissible in Iberia

What can we conclude from the fact that 70% of asylum claims were rejected in the inadmissibility phase?

Inadmissible in Iberia

What is the difference between denying a claim on the “merits” and rejecting it “procedurally”?

Which of these things did Spain’s inadmissibility procedure do?

Inadmissible in Iberia

How did Spain's asylum system work?

Inadmissible in Iberia

Why does it matter which unit of the OAR made a particular decision?

Why does institutional structure matter generally?

Inadmissible in Iberia

What were grounds of inadmissibility?

Inadmissible in Iberia

Inadmissible if:

- ▶ Falls within Art. 1F of Refugee Convention
- ▶ Fails to invoke ground for refugee status
- ▶ Reiterates request already rejected and no new circumstances have arisen
- ▶ Openly false, implausible, or because no longer valid or significant, does not constitute basis for status
- ▶ Spain not responsible for examination of claim under treaty
- ▶ Applicant already recognized as refugee in another state or could have sought protection in another state

Inadmissible in Iberia

Which of these do you think OAR inadmissibility unit would be most likely to decide accurately?

Which do you think it would be most at risk of getting wrong?

Inadmissible in Iberia

What should we look for in a system of adjudication? What should be the overarching principles?

Inadmissible in Iberia

Accuracy

Efficiency

Acceptability

Consistency

Inadmissible in Iberia

How efficient were Spain's inadmissibility grounds?

Is it more efficient to place some of these grounds in an inadmissibility phase than others?

Inadmissible in Iberia

Which parts of Spain's procedure conflicted with the Refugee Convention and Protocol?

Which parts conflicted with the EU Procedures Directive?

Inadmissible in Iberia

Procedures Directive allows inadmissibility decision if:

- ▶ Dublin II makes another state responsible
- ▶ another state has already granted or offered protection
- ▶ applicant traveled through safe third country
- ▶ application is identical to one previously rejected in final decision

Inadmissible in Iberia

Why does EU have Procedures Directive?

Do you agree with it?

Inadmissible in Iberia

What position should UNHCR take with respect to Procedures Directive?

How should the Directive shape UNHCR's negotiating strategy with respect to domestic asylum system in Spain?

Inadmissible in Iberia

How does the Procedures Directive approach differ from that of Refugee Convention?

What other approaches might international law take in trying to shape state conduct?

What are the advantages and disadvantages of each approach?

Inadmissible in Iberia

What effect do you think the Procedures Directive has had on Spanish law?

Spain's asylum law of 2009

Inadmissibility criteria:

- ▶ Dublin II or other convention makes another state responsible
- ▶ another state has already granted protection
- ▶ application is identical to one previously rejected in final decision
- ▶ applicant traveled through safe third country
- ▶ applicant is EU national