



THE ARRIVAL OF REFUGEES IN EUROPE: HUMAN RIGHTS AND SECURITY

The world is faced with the highest refugee number since the Second World War; over 60 million people have fled their homes due to violence, human rights violations, extreme poverty and the negative effects of climate change. While most refugees find shelter in the region of their home country, a fraction of them travels onwards to Europe to seek asylum. Facing the challenge to cope with the arrival of refugees, Justice and Peace is calling upon the European Union to show leadership within its asylum policy, based on the commitment to the fundamental values of human rights and solidarity. This factsheet provides policy recommendations, for the European Union and its Member States, focusing on safe passages, asylum policy reform and local solidarity, in order to ensure the rights and human dignity of asylum seekers and refugees in Europe.

Justice and Peace is convinced that a **common European approach to refugees, rooted in fundamental human rights and solidarity, is the only way to safeguard the wellbeing of both refugees and Europeans.** We want to stress the universality and indivisibility of fundamental human rights, especially for asylum seekers and refugees. Refugees and asylum seekers depend on the solidarity and hospitality of other communities to grant them their human rights as unique persons. As part of shared decision making, solidarity is fundamental for the legal order of the European Union^A.

A Adviescommissie voor Vreemdelingenzaken (2015) *Sharing Responsibility. A proposal for a European Asylum System Based on Solidarity.* ACVZ, The Hague.

Justice and Peace sees safe passages, asylum policy reform and local solidarity as key policies where the European Union has to show leadership and can make a positive fundamental difference in the lives of refugees and asylum seekers.

SAFE PASSAGES

Building higher walls does not address the humanitarian needs of refugees and asylum seekers being pushed to travel to Europe. The lack of safe passages across the Mediterranean result in multiple human rights violations, such as the right to life and the protection against inhuman treatment. EU sea border surveillance and recent agreements with third countries to limit irregular arrival of refugees have led to serious human rights concerns^B. To address these issues, and to combat smuggler networks, **the European Union needs to facilitate legal and safe ways for refugees to reach the EU.** Some of these possibilities are currently on the agenda, but there is much room for improvement in implementing existing ideas and exploring new opportunities.

Resettlement

The resettlement program applies to persons, already recognized as a refugee by and residing in a third country, in need of protection. It offers people a safe and legal way to Europe, while Member States have control over who is entering the country in a more orderly way. They also alleviate humanitarian pressure from countries coping with relative high numbers of refugees.

B European Parliament (2015) *Migrants in the Mediterranean: Protecting human rights.* European Union, Brussels

Resettlement programs on voluntary basis have been proposed by the European Commission, where central roles for the UNHCR and EASO are projected. Progress on resettlement has remained very slow.

Justice and Peace expresses **the need for all Member States to contribute to resettlement programs**. It is a mean of solidarity towards refugees and third countries hosting high numbers of refugees, as well as a way to establish safe and secure arrivals of refugees in Europe. The establishment of the proposed EU Resettlement Framework^A is a step in the rights direction, but additional efforts for resettlement and practical implementation remain very welcome. A coalition of the willing, Member States who are politically and practically stepping up efforts in resettlement, can encourage other countries to follow by example. Previous practices have shown that NGO's can contribute a great deal in these types of programs.

Humanitarian visa, work and study visa

Justice and Peace calls up the **Member States to accept the amendment proposed by the European Parliament, in the recast Schengen visa code, to issue humanitarian visa to people seeking protection**. It allows these persons to access the territory of the Member States in a safe manner. This includes so called visas with limited territorial validity.

Besides humanitarian visa, Member States should step up efforts to grant work and study visa for people coming from conflict countries. Besides enabling legal ways for these persons to enter Europe, work and study are part of individual and community development, both for the hosting and for the home community of the refugee.

Family reunification

The possibility of family reunification is already available in different Member States. However, in 2015 and 2016, several Member States have put new restrictions or have limited the right to family reunification for refugees. Justice and Peace holds that the right to family is a human right and improves integration in hosting countries. **Possibilities for family reunification should be further broadened and improved, instead of limited**. The UNHCR has advised Member States to solve legal and practical obstacles to family reunification in order to bring normality as soon as possible back in the lives of refugees^B.

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A European Commission (2016) Press Release: *Establishing an EU Resettlement Framework: Frequently asked questions*. See: http://europa.eu/rapid/press-release_MEMO-16-2437_en.htm

B UNHCR Brussels (2015) *Family Reunification in*

Private sponsorship

Justice and Peace advocates for European institutions and Member States **to open up possibilities for private sponsorship of refugees by organisations, churches and local solidarity networks in Europe**. In such cases, private stakeholders can 'sponsor' acknowledged refugees to travel to Europe, making use of available (human) resources of these actors. Next to ensuring safe passages for refugees, it has the additional advantage of building upon existing local solidarity networks, contributing to public involvement and integration efforts. Private sponsorship programs should work alongside and be complementary to national resettlement programs. The UNHCR and NGO's should be actively involved in such programs to ensure ethical standards are met and the wellbeing of the refugees. The Canadian Private Sponsorship of Refugees Program^C and the humanitarian corridors initiative of Sant'Egidio in Italy^D are leading examples in this respect. Furthermore private sponsorship schemes for Human Rights Defenders and Scholars are already common place in the EU, such as the Shelter City programme in The Netherlands^E.

EU ASYLUM POLICY REFORM

The increase of refugees arriving in Europe mid-2015 exposed and deepened already existing gaps and problems of the Common European Asylum System (CEAS). The failure of the Dublin Regulation, the system of responsibility allocation in Europe, is often mentioned, but a general absence of solidarity and harmonisation within the EU are the underlying causes of the current situation. To come to a system that has the human rights of refugees at heart, and is manageable for Member States, **Justice and Peace calls for changes in the CEAS that are based on human rights and effective solidarity**.

Europe. See: <http://www.unhcr.org/56fa38fb6.pdf>

C Ministry of Immigration and Citizenship Canada (2016) *Private Sponsorship for Refugees Program*. See: <http://www.cic.gc.ca/english/pdf/pub/ref-sponsor.pdf>

D Sant'Egidio (2016) *Humanitarian corridors are open. From Italy a signal of hope for Europe*. http://www.santegidio.org/documenti/doc_1064/Humanitarian%20Corridors%20ENG.pdf

E See: <https://www.sheltercity.nl/en/>

Hotspots

In June 2015, the European Council decided to create so-called 'hotspots' on European territory, in Italy and Greece, for the purpose of quicker identification and asylum application processes. Though the effort to manage the arrival of refugees better and humanely can be applauded, practically, hotspots seem to have turned into detention camps, as well as a mean to facilitate the return of rejected asylum seekers^A. Hotspots, or at least first instance reception centres, have to adhere to the following criteria: Firstly, hotspots and accompanying processes should comply with international human rights standards. Secondly, sufficient resources (especially human) should be made available to ensure a quick decision-making process in regards to granting an asylum claim and giving asylum seekers more certainty about their status. Thirdly, all EU Member States need to show solidarity and be actively involved in the relocation of asylum seekers from hotspots. Finally, hotspots should not be detention centres for asylum seekers.

Only open centres that respect the rights of refugees will encourage asylum seekers to make use of a hotspot.

Dublin review: Relocation systems and certainty for asylum seeker

For the Dublin Regulations to genuinely work in practice, it must translate solidarity in concrete action, preventing Member States hiding behind complicated bureaucratic processes. Secondly, a system that is more forthcoming towards asylum seekers and refugees can limit their motives to dodge the system. **An automated relocation system, triggered when a Member State faces a relatively high amount of asylum applications, is a first step.** However, to make this work, and to make the Dublin Regulations work in general, bureaucratic loopholes to circumvent responsibility of Member States have to be eliminated. Once responsibility has been determined, it cannot shift to another Member State. In addition, real solidarity means burden-sharing, thus there cannot be any preferences or selection criteria for the allocation of responsibility.

Justice and Peace is convinced that a more forthcoming Dublin Regulation, respecting the rights of refugees, is key to a working Dublin system.

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A Maiani, F. (2016). *Hotspots and Relocation Schemes: the right therapy for the Common European Asylum System?* See: <http://eumigrationlawblog.eu/hotspots-and-relocation-schemes-the-right-therapy-for-the-common-european-asylum-system/print/> and Strik, T (2016) *The situation of refugees and migrants under the EU-Turkey Agreement of 18 March 2016* <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=22612&lang=en>

The first step is to actually implement the Dublin criteria for responsibility allocation according to the hierarchy that was originally set: family considerations, previous visa or residence permits in the EU, and, finally, the country of irregular entry. A broad definition of 'family' accommodates for a large part of the wishes of asylum seekers and refugees. Secondly, asylum seekers and refugees need to return to normality as soon as possible: binding and short limits for responsibility allocation and asylum processes are crucial in terms of clarity and integration.

Harmonisation

Refugees are travelling within Europe to the country they perceive to be the best option for fulfilling their human rights and setting up a new life. Vast differences between member states in the reception conditions, facilities during the asylum application process, length of the process, the eventual outcome of the asylum procedure and social provisions after the final decision encourage these secondary movements. Better harmonisation within the EU would not only discourage secondary movements, but also equalize the opportunities for refugees within the EU. However, we cannot accept the idea of limiting rights of refugees to achieve political agreement for harmonisation, or to limit the 'pull factor' of Europe. It infringes with the universality and indivisibility of human rights. **We therefor call for benchmarking high human rights standards in harmonisation processes.**

Readmissions and cooperation with third countries

An effective asylum and migration policy does not stand alone: developmental, economic, and human rights policies have a significant impact on the arrival of refugees in Europe. Cooperation with third countries is therefore key, also in light of humanely handling readmissions of refugees whose application process has been denied.

At the outset, resettlement and safe passages provisions should not be made conditional to readmission. The right to access asylum, in a safe way, is a right that cannot be conditioned. In the readmission agreements the EU pursues with third countries, it can encourage third-countries to ratify human rights, refugee rights and labour rights conventions. The implementation of the readmission agreements, with the ratification of conventions as a condition, can be linked to a trade incentives for third-countries; thereby not only promoting the protection of refugees, but also undercutting a push factor of migration, namely a lack of economic development.

LOCAL SOLIDARITY

When refugees are coming to Europe, it is the local community that acts as a host at the level of day to day life. The image prevails that these interactions are characterized by friction and unwillingness. And yet all over Europe local initiatives are being set up that can bridge the gap between refugees and local citizens. **The local solidarity that they express is a movement that needs to receive full institutional support:** the dignity and human rights of refugees are brought into practice at the local level.

European efforts are welcomed to support civil society and civil initiatives that complement state efforts for providing housing, access to financial services, transport and technology. By building capacity of local advocates to create a supportive social fabric, the rights and dignity of refugees are better protected, and social inclusion and economic participation in the host community can proceed more effectively.

Local solidarity and the impact of local initiatives are curbed not only by restrictive and ambiguous legislation and policies, but also through a climate increasingly attacking a human rights and dignity approach. Security concerns are legitimate and must be taken seriously, but cannot be an excuse to dehumanize refugees as a whole, or to misuse this group for the advantage of different political agendas. **Justice and Peace urges European politicians to refrain from opportunistically linking the arrival of refugees with issues such as terrorism, sexual violence or a decline in social cohesion.**

We urge EU Member States to adopt policies that effectively enable refugees to be educated and to enter the workspace. This includes removing restrictions on refugees' mobility and access to social services, which demands a decriminalization of refugees in general. Secondly, **respecting the rights of refugees and enabling their social and economic inclusion in host communities hinges on the commitment of governments to counter negative stereotypes and fundamental human rights overall.**

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