



DeutscherAnwaltVerein



## Press Release

7 March 2013

### **Allocation of refugees in the EU: Broad social coalition calls for fundamentally new orientation in sharing responsibility**

#### **7-8 March: Justice and Home Affairs Council deliberates on extending border controls**

On the occasion of today's session of the EU's Justice and Home Affairs Council, a broad social coalition made up of PRO ASYL, Diakonia Germany, the PARITÄTISCHE Welfare Association, AWO Workers' Welfare Association, Jesuit Refugee Service Germany, German Bar Association and the Neue Richtervereinigung called for a fundamentally new orientation in sharing responsibility for refugees in the EU. In view of the standstill in the EU in terms of developing a more humane refugee policy, the organisations today presented a Memorandum entitled "Allocation of refugees in the European Union: for an equitable, solidarity-based system of sharing responsibility". It aims to spark a debate on how Europe intends to deal with refugees in future. The Memorandum demonstrates that many asylum seekers remain without protection despite having arrived on the "safe ground" of the EU and are forced to stay in the EU member state responsible for them, or to return to it.

The Justice and Home Affairs Council today pushed ahead on extending controls at the EU's external borders through "smart borders" while any coordination moves to reform the Common European Asylum System have been put on ice. The signatory organisations appeal to the Council and European Parliament to use the time between now and the coordination expected for the summer on reforming the EU law on responsibility for asylum (the „Dublin Regulation“). Instead of the planned change of Dublin II into Dublin III, which does not affect the basic structures of responsibility sharing, we need a fundamentally new orientation in EU refugee policy in order to overcome the profound crisis of the Common European Asylum System.

The Memorandum highlights the profound crisis of European asylum policy. The reason is the Dublin system that allocates responsibility for asylum procedures to the states on the external borders. They are disproportionately burdened and in many cases overtaxed. The consequence is that refugees in countries like Greece, Italy, Hungary and Malta are made homeless, become the object of attacks and are forced to suffer abject poverty. In many cases they are detained in contravention of international law. All this is leading to serious human rights violations. In respect to Greece, the Strasbourg Court of Human Rights and the European Court of Justice held in 2011 that refugees from other EU states must not be deported there on human rights grounds.

In the Memorandum the signatory organisations present their own proposal for a human rights-based restructuring of the Dublin system: the main criterion for determining the state responsible

for an asylum seeker today – the “place of irregular border crossing” – must be dropped. It must be replaced by the “principle of free choice of member state”. Asylum seekers are thus to be able to decide themselves on the EU country in which they wish to file their application for protection and go through their asylum procedure. There are several arguments in favour of such a change of system: the principle of free choice will lead to asylum seekers going to where they can receive support from their families or communities. This is not just beneficial for the refugees but will also mean they can integrate better and find their feet. Furthermore, refugees can be spared human rights violations if they are no longer forced to stay in countries that have neither a decent asylum system nor provide a minimum of humane treatment for them. There are also pragmatic arguments for such an approach: if asylum seekers are not deported to EU states to which they do not wish to go, that will prevent them from continuing to move around from one EU member state to the next. “Secondary” migration within the EU will then be avoided. There will be a reduction in costs for the bureaucratic procedures necessary to return them from one country to the other. Any imbalances in capacity arising for member states may be corrected by a European Compensation Fund.

If the desired change of system does not come about the crisis of asylum policy in the EU will get worse. Condemnations on grounds of human rights violations against refugees will continue. If politicians prove incapable of action and continue to rely on courts – the national courts and the European Court of Human Rights in Strasbourg or the European Court of Justice in Luxembourg – this will mean years of suffering for those affected. They will have to expect a long, laborious procedure until they are interviewed and get an opportunity to assert their rights. Yet protecting human rights is not only the responsibility of courts. The problems produced by those with political responsibility must be resolved by political solutions. The Memorandum understands itself as representing civil society as it proposes ideas on dealing with refugees in the EU in a manner respectful of their human dignity.

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