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Statement by PRO ASYL on the planned EU asylum package

Dublin IV Regulation COM (2016) 270)
Reception Conditions Directive COM (2016) 465
Qualification Regulation COM (2016) 466
Asylum Procedures Regulation COM (2016) 467
Resettlement Regulation COM (2016) 468

I. The EU asylum package: a harmonised restriction of asylum law

On 6 April the European Commission issued a communication stating that the Common European Asylum System (CEAS) was to be thoroughly reformed. On 4 May and 13 July 2016 it followed up with proposals for a new Dublin IV Regulation and a comprehensive EU asylum package that will lead to many amendments to directives and regulations. Yet the last round of harmonisation of European asylum instruments was only three years ago and many Member States have neglected to transpose the directives negotiated then into national law, including the Federal Republic of Germany, against which the European Commission initiated infringement proceedings in September 2015.

The Commission's grounds for the renewed reform of the CEAS were to avoid "secondary movements and abuse of the procedures".[1] The primary aim is to stop asylum seekers and refugees from onward migration within the EU. In order to achieve this goal, the Commission intends to rewrite the bulk of existing asylum legislation as regulations and to introduce what are in some cases considerable restrictions and sanctions. By contrast with directives, regulations apply directly in the Member States and do not need to be transposed into national law. The aim of sanctions is to induce asylum seekers and refugees to remain in the Member States to which they are distributed.

So far the EU asylum package is only a proposal by the European Commission. The Commission has the right of initiative for European legislation. Yet legislative acts in the EU are adopted jointly by the Council and the European Parliament. While the Council represents the national interests of the Member States, the Parliament is an actor that may be open to proposals and criticism from civil society. It is to be expected that Parliament will present its first report on the EU asylum package this year and the actual debates will start in the course of next year. So there is still time for civil society protest against the renewed restrictions on asylum law.

The EU asylum package will lead to situations where the dignity of asylum seekers and refugees is not respected; the cause of secondary movements within Europe is not primarily the lack of implementation of the CEAS. Despite the implementation of asylum instruments, refugees in some EU Member States are affected by serious human rights violations due to the lack of decent living conditions, arbitrary detention and exclusion from fair asylum procedures. A purely technocratic reform of the CEAS will not remedy these situations.

PRO ASYL herewith takes a position on the central points of the reform. The European Commission intends to change the following legislative acts:

- **Dublin IV Regulation:** The Dublin Regulation governs the responsibility of the EU Member States for implementing asylum procedures. This is clearly restricted by the planned outsourcing of refugee protection to third states due to obligatory inadmissibility procedures and limitation of the humanitarian discretion of Member States through the dropping of binding time-limits and the undermining of the sovereignty clause.
- **Reception Conditions Directive:** This governs the social reception conditions for asylum seekers. It is to continue as a Directive, but will be greatly restricted. The freedom of movement of asylum seekers within the Member States is violated by an even more restrictive residence requirement. Those provisions that will exclude certain groups of asylum seekers completely from receiving material benefits are incompatible with human dignity.
- **Qualification Directive:** This defines common standards for granting international protection. The existing Directive is to become a Regulation. Here Member States will be prohibited from providing more favourable standards for asylum seekers when granting international protection.
- **Asylum Procedures Regulation:** The Asylum Procedures Directive contains general rules on the asylum procedure. It too is to become a Regulation. One central change provides for a future

[1] Press release of the European Commission from 13 July 2016 [source: http://europa.eu/rapid/press-release_IP-16-2433_en.htm, last viewed on 24.11.16]

common European list of “safe states of origin”. The introduction of very short deadlines is also likely to undermine the legal protection of asylum seekers.

- **Resettlement Regulation**: For the very first time at the EU level, a common, binding solution is to be decided at that governs the taking charge of asylum seekers via the resettlement system. The problematic thing about it, however, is that the new Regulation intends to structurally exclude spontaneous fleeing and to integrate third states into the EU’s border management.

II. Dublin IV Regulation COM (2016) 270

PRO ASYL presented a full critique of the Commission‘s proposal for the new Dublin IV in a Statement of 30 August 2016.[2] The most important changes will be briefly discussed in the following. The amendments to the Dublin IV Regulation are basic to understanding the other asylum instruments.

Dublin IV holds to the idea that the Member States in which the asylum seekers first enter the EU, and/or are first registered, remain responsible for their asylum procedure. Only in the event that the number of asylum seekers **exceeds** 150% of the figure allocated to a Member State is there to be further distribution to other Member States (Art. 34ff.).

Through the introduction of **inadmissibility procedures** refugees coming from a “safe country of origin”, entering the EU via a “safe third country” or posing a danger to “national security or public order” shall not be granted the opportunity to present their grounds for fleeing in an asylum procedure (Art. 3(3)). Refugees are at risk of being retransferred to allegedly “safe third countries” outside Europe, in which the conditions for a humane refugee reception system and a fair asylum procedure do not exist or even of further deportation to their persecuting state. Comparable to the EU-Turkey deal, the European Union is already negotiating similar cooperation agreements with North African states, e.g. with Egypt and Libya. The inadmissibility procedure does not consider whether the person concerned already has family ties in the EU and consequently should be distributed to their relatives.

The abolition of **humanitarian mechanisms (expiry of binding time-limits, restriction of sovereignty clause)** restricts the discretion of the EU Member States to allow refugees to undergo their asylum procedure in the state of their actual residence (Art. 15, 19, 26, 30). This thwarts any attempt to find an appropriate solution to an individual case in humanitarian emergencies. Asylum seekers are at risk – without any possibility of remedy – of being transferred to EU states in which, as in Hungary, they are not granted protection. Pursuant to Art. 17(1) Dublin III, the Member State has hitherto been able to exercise discretion in declaring itself competent.

If the deadline provision is dropped (Art. 26, 30) and if a Dublin transfer fails for practical reasons or because it has been referred to a court, the asylum seeker will remain without access to an asylum procedure in the Member State of their actual residence, with the undignified status of a permanent “stay of deportation” (*Duldung*) or even illegality. The refugees are refused access to a procedure in the country in which they are currently residing, so that they de facto remain refugees in orbit. No state will now volunteer to comprehensively examine their reasons for fleeing.

Using the Dublin IV Regulation to **implement the enforced distribution of asylum seekers,** the European Commission threatens refugees with non-entitlement to the physical subsistence level (Art. 4 and 5). This change would produce a social hardship that is completely incompatible with the principle of the modern welfare state and the judgments of the European courts.

Child welfare of unaccompanied refugee minors is de facto undermined if they are to be deported to the state of their first entry under Dublin IV (Art. 8(4 and 10)). This proposal is an attack on child rights and in clear contradiction to the case laws of the Court of Justice of the European Union (CJEU).

[2] https://www.proasyl.de/en/material/statement-on-the-planned-reform-of-the-dublin-regulation/

III. Reception Conditions Directive COM (2016) 465

The existing Reception Conditions Directive with its detention regime was already a tightening up of asylum law, and PRO ASYL criticised it sharply at the time.[3] In the framework of the third round of harmonisation there are now some additional sanctions. We find it puzzling – at least in the logic of the Commission - why the Reception Conditions Directive is not to be made into a Regulation. After all, the goal of the Commission is reportedly to establish equivalent asylum systems in the EU Member States. Precisely the material benefits set out in the Reception Conditions Directive provide a basic prerequisite for this.

Art. 7 introduces new grounds enabling the Member States to considerably restrict **the freedom of movement of asylum seekers**. It is now to be possible to use a residence requirement to rapidly implement the Dublin procedure. Furthermore, this may concern asylum seekers who have moved on to another Member State within the EU, and those that are to be retransferred to their competent Member State. Under the new Dublin regime, in principle every refugee who moves onward within the EU may be affected by the residence requirement in future. This undermines the German legal situation, according to which the residence obligation is restricted to three months, or the time spent in a "first reception centre". This will lead to a considerable restriction of refugees' freedom of movement. This systematic residence obligation is not compatible with the European Convention on Human Rights (ECHR). According to Art. 2 of the Fourth Additional Protocol to the ECHR, everyone has the right to freedom of movement when they are lawfully in the sovereign territory of a state. Even the new Asylum Procedures Regulation allows asylum seekers under Art. 9 to stay lawfully in the Member State for the duration of their procedure.

Along with the extension of the residence requirement, the Directive introduces a new **ground for detention** (Art. 8(3c) Reception Conditions Directive), to be used if asylum seekers do not comply with the restrictions on their freedom of movement. Detention is a completely inappropriate measure for punishing asylum seekers for offences against the residence requirement. Not even German law prescribes detention as the first step. Fines can be imposed at first and criminal proceedings can be initiated in the event of repeated infringements. This very provision calls for justification in view of the right to freedom of movement. Detention must be strictly rejected, however.

Among the few improvements in the new Directive are the new arrangements for **access to the labour market**. Now asylum seekers are to be able to work after six months, instead of nine, as hitherto. In fact, asylum seekers in Germany have access to employment after three months. However, the provision would have an impact on asylum seekers from safe countries of origin, since on principle they are not allowed to work. If the asylum procedure takes longer than six months, they should be granted access to the labour market least after six months, according to the Reception Conditions Directive. However, this access is now undermined in combination with the new Dublin IV Regulation, according to which asylum seekers undergoing an accelerated procedure are to be excluded from the labour market. That undercuts the liberalisation of the labour market. Under the new Dublin IV Regulation (Art. 3(3b)) in future not only persons from "safe countries of origin" will be affected by an accelerated asylum procedure but also those who have crossed "safe third countries". Art. 17a Reception Conditions Directive likewise excludes from employment all those asylum seekers who do not reside in the state of their allocation under Dublin. The two groups of applicants probably add up to most of the refugees, so that the more liberal access to the labour market will hardly have any impact at all.

The intended provisions of Art. 17a and 19 Reception Conditions Directive must be understood as an **attack on human dignity and the welfare state**, according to which certain **asylum seekers are to be excluded from the granting of material benefits.** After all, the granting of material benefits, according to the Reception Conditions Directive, is in future to solely depend on whether asylum seekers are actually residing in the country responsible for their application. If they have left the country to which they were allocated, the one in which they are actually residing shall exclude them from the rights set out in Art. 14-

[3] Vgl. Stellungnahme von PRO ASYL, Flucht ist kein Verbrechen!, vom 15.2.2012 [Quelle: https://www.proasyl.de/wp-content/uploads/2012/09/PRO_ASYL_Stellungnahme_zur_EU_Aufnahmedirective_Haft_15__5_2012_endgueltig.pdf].

17, i.e. the schooling of minors (Art. 14), access to the labour market (Art. 15) and material benefits (Art. 17), including a living to protect physical and mental health and accommodation (Art. 18). Minors are only to receive access to "suitable educational activities" under Art. 17a(3) that are not of the same quality as normal schooling.

Art. 19 extends the existing possibilities of **restrictions on granting "material reception conditions".** For a certain group of people, material benefits (accommodation, food, clothing and other essential non-food items) shall be granted only in kind or may, in individual cases, be completely withdrawn. The group of persons affected comprises, besides the groups mentioned so far, additional asylum seekers who break the rules of the accommodation centre, behave violently, fail to attend integration courses, do not stay in the state allocated under the Dublin Regulation and have been sent back to the competent Member State from a non-competent Member State.

The exclusion of asylum seekers from drawing social benefits is an especially serious restriction of the existing Reception Conditions Directive. This exclusion from the physical subsistence level and the rights of the Reception Conditions Directive is not compatible with case law. In its *CIMADE* decision the CJEU stated that

> "a Member State in receipt of an application for asylum is obliged to grant the minimum conditions for reception of asylum seekers […] even to a asylum seeker in respect of whom it decides […] to call upon another Member State, as the Member State responsible for examining his application for asylum, to take charge of or take back that applicant."[4]

Further, the CJEU replied to the written questions of the French court that

> "the obligation on a Member State in receipt of an application for asylum to grant the minimum reception conditions […] ceases when the same applicant is actually transferred by the requesting Member State, and the financial burden of granting those minimum reception conditions is to be assumed by the requesting Member State, which is subject to that obligation."[5]

The CJEU therefore made clear that the EU can install a procedure in the framework of which the responsibility for an asylum application is assigned to only one Member State. However, while the responsible Member State is being decided and until the end of the actual transfer, the Member State in which the person concerned is staying is the one responsible for receiving and taking charge of the asylum seeker. According to the CJEU, this obligation follows from "the need to share responsibilities fairly between Member States as concerns the financial burden arising from the implementation of common asylum and migration policies."[6] This is still in harmony with the case law of the ECtHR, which states, in the case of M.S.S. v. Belgium and Greece that asylum seekers are part of a "particularly underprivileged and vulnerable population group in need of special protection".[7] According to the ECtHR the minimum requirements for a life with dignity are the right to food, hygiene and a place to live.[8]

At the national level, a complete exclusion from the physical subsistence minimum is, at least in Germany, fundamentally inadmissible according to the case law of the Federal Constitutional Court and the Asylum Seekers Benefits Act.

> "Moreover, even a short stay or prospect of staying in Germany does not justify a restriction of the right to a guaranteed decent subsistence level to a bare minimum for life. Article 1(1) Basic Law (GG) in connection with Article 20(1) GG requires that the subsistence level must be guaranteed in every case and at all times (cf. BVerfGE 125, 175 <253>). Article 1(1) GG guarantees a decent subsistence level that must be safeguarded by benefits to be provided in the welfare

[4] CJEU, CIMADE, C-179/11 of 27.09.12, para. 50.
[5] Ibid, para. 61.
[6] Ibid, para. 60.
[7] ECtHR, M.S.S. v. Belgium and Greece, Application No. 30696/09 of 21.01.11, para. 251.
[8] Ibid., para. 254.

> state described in Article 20(1) GG, as a uniform basic law comprising a physical and sociocultural minimum."[9]

And further:

> "The human dignity guaranteed in Article 1(1) GG must not be rendered relative by migration policies."[10]

According to case law, the bureaucratic wish for a rapid end to the stay does not at the same time justify a drop in the subsistence level. The Federal Constitutional Court states this for the socio-cultural subsistence level, which certainly covers the physical subsistence level.

In short, we note that the European Commission, with its intention to exclude a large group of asylum seekers from material benefits, in many ways causes a breach of international law, European law and constitutional law.

IV. Qualification Regulation COM (2016) 466

In European law, the standards for granting international protection have so far been expressed as a Directive. The Commission wants to make the Qualification Directive into a Regulation: It is, however, questionable whether this will have any effect on the CEAS. Already the Qualification Directive has achieved a high degree of harmonisation through the case law of the CJEU and the applications in the Member States. Having said that, we note that the change to a Regulation in some cases exacerbates the existing rules and does not unify them.

So far the Qualification Directive has foreseen that the Member States can adopt **more favourable standards** regarding recognition as a refugee or as a person with subsidiary protection. This possibility has been removed (Art. 3) and the scope for decision of the Member States has been considerably restricted. The Commission wants to have uniform granting of protection in Europe and no discretion remaining with the Member States. Yet this approach disregards the fact that it is usual in European law to take account of the specific legal traditions of the individual Member States. If there is traditionally a more favourable treatment of a specific refugee group, it would be nonsensical and, moreover, untypical of administrative law, to prohibit the decree of more favourable standards.

According to the existing Qualification Directive, Member States *may* stipulate that the applicants **promptly provide all the details required for the examination of their request for asylum**. The new Regulation states that the asylum seeker *shall* do this, thus it is *obligatory* (Art. 4). Furthermore, the asylum seeker is obliged to "remain present and available throughout the procedure", and to "cooperate with the determining authority". The provision is comparable with the obligations introduced into the Dublin IV Regulation with its Art. 4 and 5, and aims at preventing secondary movement. However, it is unclear what consequences for the asylum seeker are if he or she does not submit all the substantiating elements as stipulated in Art. 4(1) Qualification Regulation. The Commission proposal is silent on the matter at this point. However, even if asylum seekers do not provide all their details immediately, the provision should not be used to bar them from a careful examination of the grounds for their case.

In certain cases, grounds for fleeing could arise after they have left their country of origin. This is possible, for example, if there is a change of regime during their absence and the person concerned has to fear persecution from the new regime. It is also possible that the asylum seekers themselves create grounds after leaving their country of origin, e.g. through certain political activities in exile. According to the existing Qualification Directive, if **applicant files a subsequent application**, it is within the discretion of the Member States not to recognise them as refugees if the circumstances of fear of persecution rest on

[9] BVerfG, - 1 BvL 10/10, 1 BvL 2/11, judgment of 18.07.2012, para. 120 [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2012/07/ls20120718_1bvl001010.html, last access on 01.08.2016].
[10] Ibid, para. 121.

circumstances created by the persons themselves. The new Regulation replaces this “may” clause by a “shall” clause (Art. 5(3)). In the abolition of the previous “may” lies a danger that the Member States might increasingly go over to no longer recognising political or other activities in exile as grounds for recognition as a refugee. Through the unifying of this clause, the refugees face a limitation of their protection to date.

The new Art. 44 represents an addition to the Long-term Residents Directive (2003/109/EC). Hitherto Art. 4(1) of the Directive provided that third state nationals who have been lawfully present in an EU Member State for five years can receive a long-term residence permit. The times in which they are not residing in their sovereign state have mainly not been counted to limit the five-year period (Art. 4(3)). The new Art. 44 of the Qualification Regulation changes this, in order to discourage secondary movement within the EU. The five-year period is interrupted and stopped until the person concerned is back in the country in which the recognition took place. The provision aims to **prevent the secondary movement of internationally recognised refugees**. They are already in a precarious situation, as often the fact that they have been granted international protection in certain Member States means that they have no rights to accommodation or social security. What happens is that many recognised refugees e.g. from Bulgaria, keep moving within the EU in order to seek a chance of making a living in another state. However, their refugee status does not go with them, so that they do not receive any rights corresponding to the Geneva Refugee Convention in the state of their actual residence. The new Regulation will additionally exacerbate the already very long five-year period through obstacles to achieving this period of residence, and consequently recognised refugees will sometimes be forced to stay in states in which they do not receive dignified treatment.

V. Asylum Procedures Regulation COM (2016) 467

The existing Asylum Procedures Directive is to become a Regulation and will then be immediately applicable in all Member States. The Regulation lays down common standards for implementing asylum procedures, which will probably have a considerable influence on the procedural systems of the Member States, especially as some states have not even transposed the existing Directive into national law.

It is positive that the new Regulation aims to strengthen some of the procedural rights of asylum seekers. Art. 15 grants them **free legal assistance and representation** in the asylum procedure and in legal remedies. For unaccompanied minors there is to be a guarantee that at the latest five working days after lodging their asylum application they will be placed in the **guardianship** of a person or an organisation (Art. 22(2)). This positive strength of the procedural rights, however, is at risk of proving ineffective. Art. 15(5b) equally provides that the free legal assistance may be excluded in appeal cases that are unlikely to be successful. This exclusion may be used widely and arbitrarily in practice. The new Dublin IV Regulation e.g. provides that the Member States conduct inadmissibility procedures with persons from “safe countries of origin” or with those who come from “safe third countries”. This group of people is likely to be excluded from the procedural rights. Another point to note about unaccompanied minors is that their applications, if they come from a safe third country or country of origin, must be conducted near the border according to Art. 41(5). In such situations it may happen that the Member States will not provide them with anyone to give legal assistance or procedural advice.

Apart from a few improvements, the Asylum Procedures Regulation contains far-reaching restrictions. In this context we should particularly stress the introduction of binding lists of alleged **safe countries of origin.** By the Asylum Procedures Directive becoming a Regulation, it will oblige the Member States to introduce this binding concept in future. According to the Art. 47(2), the new European Union Agency for Asylum will play a prominent role in classifying the states as “safe”. The list so far proposed by the Commission includes the Western Balkan states and also Turkey. This shows how comprehensively the concept will probably be used in future. The Commission issued its communication in mid-July, before the abortive coup in Turkey. Prior to that, however, there had been military actions by the Turkish government against the Kurdish population, with a considerable number of deaths and limitations of press freedom. Under these circumstances, classifying Turkey as a “safe country of origin” is completely absurd and irresponsible in terms of human rights.

The present list might be extended in future if the new EU Asylum Agency recommends reports and classifications to this effect. A five-year transition period is also provided (Art. 50(1)), in which the Member States may choose to apply the concept of safe countries of origin to other countries than are on the EU list.

Likewise changed are the provisions on "**safe third countries**" (Art. 45). Following the logic of the EU-Turkey deal, the EU Member States can also use the concept of safe third state "in individual cases relating to a specific applicant" (Art. 45(2c)). This opens the door to the authorities to apply the concept arbitrarily. The standard must also be read in connection with the new Dublin IV Regulation, which establishes a new inadmissibility procedure (Art. 3(3) Dublin IV Regulation), according to which asylum seekers from safe third countries shall be rejected. Changing to the Asylum Procedures Regulation therefore opens up the possibility of applying the inadmissibility procedure to an unlimited number of cases.

Not cooperating with the **obligations** of the asylum seeker (Art. 7) may have serious consequences. If applicants do not communicate what the determining authority regards as relevant information for their procedure they are at risk of it being "rejected as abandoned" (Art. 39). The asylum seekers only have a chance of providing the necessary information within a one-month period and must at the same time prove that the previous lack of information was based on circumstances beyond their control (Art. 39(3 and 4)). If they cannot do this, the asylum application is regarded as withdrawn and deportation threatens.

The **procedural periods** are also restricted. According to Art. 34(1) the inadmissibility procedure is to take no longer than one month. However, the time-limit is reduced to ten days if the state of first entry or registration applies the concept of "safe third country" or "first country of asylum". In the framework of accelerated examinations, which are to be concluded within two months, the period may be reduced to eight days, if the asylum seekers have only filed an application in order to prevent their deportation (Art. 40(2)). The **time-limits for legal protection** are also very short. According to Art. 53(6) they are:

- One week in the case of a negative decision relating to a subsequent application that has already been rejected as inadmissible or manifestly unfounded;
- Two weeks in the case of decisions relating to applications that have been deemed inadmissible, implicitly withdrawn or have been rejected in an accelerated procedure as unfounded or manifestly unfounded;
- One month for a normal rejection.

The first two periods of one or two weeks are much too short for the applicants to obtain effective legal protection. Precisely through the new inadmissibility procedures, they will be burdened with an effort to find grounds that they can hardly present legally in such a short time.

VI. Resettlement Regulation COM (2016) 468

For the first time, the European Commission has with the new Resettlement Regulation created a binding and lasting plan for resettlement. This must be appreciated in its historical significance; it commits the Member States to take charge of refugees outside Europe in the context of defined procedures. However, resettlement must not replace spontaneous fleeing. The Resettlement Regulation reads as though the Commission wants to organise resettlement as the only way for refugees to come to Europe. In connection with the numerous sanctions looming through other Regulations and Directives, every attempt to come to the EU independently is de facto penalised.

Yet the reality of refugee movements is much more complex than the Commission presents it. In many states, refugee movements are triggered suddenly, e.g. because a military conflict extends to a new territory, certain actors change their targets for attack, or material living conditions deteriorate massively. People then sometimes flee their places of origin or refuge within very few hours. If they succeed in reaching refugee camps adjacent to their countries of origin, their situation there is often marked by a lack of prospects and a life on, or even under, the subsistence level. Moreover, they have to fear that

fighting will rapidly spread. That is why people often flee without waiting to go through the long-drawn-out procedures for resettlement, that are often hopeless anyway for lack of available opportunities for reception. At the same time, many people obtain asylum when they file their application in an EU Member State, e.g. because they are granted protection status within the judicial system of legal protection. Possibly they would never have had a chance of entering the EU legally via resettlement. The Commission deliberately passes over these considerations.

Instead, resettlement is hedged with sanctions. **There shall be no resettlement for all those refugees** who have entered an EU Member State irregularly in the five years before resettlement (Art. 6(1d)). They must then wait for up to five years in order to have a chance of being resettled in the EU. Also excluded are those who have already been rejected for resettlement by a Member State within a period of five years before their renewed application. The negative decision of a Member State thereby also binds the other Member States, even if the UNHCR were to propose such candidates for distribution. Very many refugees are affected by these exclusions, precisely those who have tried to reach Europe in the last few years. Excluding them from resettlement retrospectively is a deeply inhumane decision by the Commission.

The Commission undermines the concept of resettlement when Art. 10 and 11 stipulate that Member States can grant not only refugee protection but also **subsidiary protection**. Selected applicants should receive refugee protection without further ado, in order to secure their chances in the receiving state.

It is particularly worthy of criticism that the Commission intends to attach conditions to the decision on the states in which **resettlement is to take place**. Art. 4d contains a list of preconditions leading to certain countries being regarded as taking priority. Resettlement is to be mainly carried out when the state concerned has entered into cooperation with the EU, in order to reduce the number of refugees migrating to the EU via a transit country. Cooperation in concluding readmission agreements is also rewarded, so that the EU can send refugees back to the respective states more quickly. This provision links resettlement with the EU's cooperation agreements to contain irregular migration. The interests of refugees in seeking protection are thereby sidelined. Third countries are instructed to step up their border defence so that more refugees can be distributed to the EU from their own country via resettlement. This presents a completely inadmissible link between refugee protection and plans to close the borders, which is consistent with the EU's attempts to conclude agreements on handling refugees even with particularly autocratic regimes.