

## **Shadow Position on EU Asylum and Migration Policy**

*This **Shadow Position on EU Asylum and Migration Policy** has been prepared by experts for asylum policies, human rights and peace-building policies, gathered in the Initiative “Welcome”, which is coordinated by the Centre for Peace Studies.*

Every day thousands of people from conflict zones risk their lives and the lives of their children as they embark on perilous journeys in the hope of finding safe haven in the European Union. Citizens of the European Union look to the EU and their respective governments to provide an adequate response to the humanitarian crisis. The only acceptable and immediate response is a common strategy that would provide the refugees with help in a dignified manner.

At the last EU summit, the debate focused on finding the most efficient model for deterring refugees from entering Europe, rather than directly addressing the root causes driving their flight and ensuring the best possible protection for refugees in the EU in the long term, which would require acting in solidarity and sharing responsibilities among member states.

The current EU response is inadequate. The rules of the European Union, which have been useful in certain other contexts, now stand in the way of providing safe haven for people in dire need of protection. The existing mechanisms and legal principles for the acceptance of refugees are crumbling or are inadequately enacted. It is clear that they are insufficient in terms of fulfilling the judicial and moral obligations of the EU and its member states in regard to international humanitarian law. With each passing day, it is increasingly apparent that the European Union has not been able to formulate a response to the questions it is facing, while its ability to provide a safe haven is increasingly in question.

The decisions reached at the summit indicate that Turkey is to become the new hotspot for the tide of refugees. These policies could contribute to increasing political instability in Turkey, and, in the medium term, the placement of millions of refugees in refugee camps could lead to precisely that which the EU fears — radicalism stemming from despair, hopelessness and poverty.



In dealing with this humanitarian crisis, a radical turn in EU policy is needed. The answer simply cannot be the current form of management of refugee corridors based on relocation and transfer and the sequential opening and closing of particular migration corridors and borders in hope that refugees will be deterred from their journey once it becomes too dangerous and uncertain. There can no longer be any doubt that we are dealing with an international humanitarian crisis which the EU is incapable of solving on its own. An international humanitarian crisis must be addressed through appropriate international legal and judicial responses and proactive political action.

The European Union now needs to design a system that makes it possible for member states to fulfil their International Refugee Law commitments. Above all, this system must guarantee that all refugees will be accepted in member states where they have family members and, if possible, social and cultural connections, with full respect of their dignity and all internationally and regionally guaranteed human rights.

In their desire to travel on to more developed Western and Northern European countries, refugees refuse to seek protection *prima facie* in member states most affected by their mass entry, which makes them even more vulnerable. Based on the principle of *non-refoulement*, the relocation of individuals who have not sought asylum to their countries of origin is unacceptable, as is their forceful removal to third countries or EU member states where they cannot receive adequate protection. The problems facing EU member states that can offer adequate protection, which refugees however refuse to accept, is a direct consequence of these policies.

**We call upon decision-makers who will be deciding on the EU response to the refugee crisis to initiate more efficient and humane mechanisms for crisis management at the EU level, mechanisms which are available in the framework of EU *acquis* and international humanitarian law and human rights instruments.** The EU plan for the reception of refugees must be based on principles which will guarantee safe passage, humanitarian assistance and the protection of basic human rights of all refugees on the way to their desired destinations. Following the reception of refugees in destination countries, the EU has to apply the principle of solidarity to responsibility-sharing in order to guarantee just reallocation, which takes into account refugees' social and family ties to particular countries.



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The EU needs to tackle these issues by adopting a series of measures that can wholly respond to the short-term and long-term challenges that the EU and its member states face. If the member states cannot effectively respond to these challenges, we ask the EU to act according to its responsibility to intervene in the areas of justice, freedom and security, and to respond to these challenges in a way that respects EU principles, not to delay solutions and create new crises that aggravate human suffering.

**In order to secure those goals, the EU has to put into force the following mechanisms:**

**Emergency measures:**

- **The EU must secure safe and protected corridors for refugees, including sea, land and air travel routes, in order to minimise human rights violations and exposure to illegal traffickers, and to counteract the rising death toll of refugees exposed to unsafe means of travel. In order to minimise the impact of local humanitarian crises, safe corridors should be provided on the way to and within the EU.**
- **The EU has to initiate negotiations with international institutions in order to establish safe corridors leading to the outside borders of EU. The EU has to remind the UN and the Security Council of their important role in sustaining peace and demand the activation of all mechanisms available for the proclamation of an international humanitarian crisis. Coordinated action is the only efficient response to this mass refugee influx which, given the complexity of its causes, will not end in the near future.**
- **The EU should consider the introduction of other mechanisms for securing safe travel and reception of refugees, such as resettlement programmes, abandoning visa regimes in some cases, issuing humanitarian visas in diplomatic missions and, most importantly, the introduction of temporary protection mechanisms and the lifting of sanctions on transport companies. The threat of sanctions for transport carriers is a huge obstacle to the safe arrival of refugees and should therefore be removed. Private carriers face punishment for the transfer of a person without valid travel documents, and possibly a visa, unless it is consequently established a person is in need of international protection. Because of these threats of sanctions, and as they cannot (nor would it be appropriate for them to) assess refugees' need for international**

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protection, the carriers refuse to transfer refugees. Finally, the EU needs to establish a mechanism for the coordination of humanitarian evacuations. It should be taken into account that humanitarian evacuations are a mechanism that the EU has used on several occasions in order to rescue its citizens and citizens of third countries from conflict zones.

- EU leaders should agree to abandon unilateral state policies of border closures and other methods that aim to prevent refugees from entering the EU, which directly result in humanitarian crises in the EU periphery and bordering countries. These types of unilateral actions lead to serious violations of the principles of *non-refoulement* and the family unification principle.
- Member states should agree to temporarily suspend the Dublin Regulation, because it has proven to be inadequate in the case of mass refugee crises. The EU should deploy mechanisms based on international humanitarian law, UN human rights treaties and the European Convention on Human Rights and Fundamental Freedoms. Not only does the Dublin Regulation endanger refugees, but it also stands in the way of the creation of a common EU asylum policy and goes against the solidarity principle and other basic values on which the EU was founded. Originally envisaged as an initial step on the path towards a uniform European asylum system, the Dublin Regulation has now become a major obstacle to providing effective protection, as has already been noted. The EU needs to take responsibility for providing effective protection across its entire territory; if the Dublin Regulation makes this impossible, the EU should take measures to suspend it.
- It is apparent that certain member states do not have the capacity to provide adequate reception for refugees, and it is neither just nor sustainable to expect a selected few member states to solely assume this responsibility. The proposed measures of relocation and the number of refugees included in these measures should be a binding requirement for all member states and an integral part of safe passage policy. Additionally, the refugee quotas should be significantly increased and expressed in percentages rather than absolute numbers, since the influx of refugees will continue until the wars that are the root cause of their flight come to an end.

- In applying measures of relocation, individual refugees' familial and social ties to their desired destinations should be taken into account, whenever this is possible, as well as refugees' familiarity with particular languages and cultures, and other factors important for successful integration in a new environment.
- In the event of the failure of ad hoc solutions that would include equitable relocation and safe routes for refugees, Croatia should propose that the Commission activate the mechanism of temporary protection applicable to all the persons coming from conflict zones, with the purpose of timely protection against violence, trafficking and existential endangerment. The European Union and its member states are responsible for any failure to regulate situations of mass influx of refugees with the view of protecting lives and dignity of refugees and implementing the principle of solidarity.

**Long-term measures:**

- Furthermore, the EU must immediately invest considerable efforts into the development of the asylum procedural and integration systems of member states that have difficulty with the reception of refugees, in order to reduce the pressure on these particular member states and assure the dignified and appropriate reception of each individual refugee.
- A true harmonisation of the Common European Asylum System and application of a uniform asylum status throughout the EU requires formal regulation of the principle of mutual recognition within the framework of EU law. Although international law already recognises mutual recognition of a granted asylum status, it is necessary to prescribe this regulation by EU law. It is also necessary to regulate mutual recognition of asylum status within other EU member states after a specific period of time, in the case of the relocation and settlement of refugees in other EU member states.
- The EU must increase funding for search and rescue operations, and it must make it mandatory for all member states to contribute to funding SAR operations, especially if it chooses to pursue policies of border closures and establish hotspots in Turkey, as this will inevitably increase the use of maritime routes.

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Finally, let us recall the words of a young Syrian refugee, “Stop the war and we will go back home!” The war in Syria and the problem of long-term asymmetry in the socio-economic and political development of the entire area of North Africa and the Middle East – an area where a multitude of interests of the great powers, including some of the EU member states, collide — requires responsible, coordinated and long-term political and developmental action at the EU level, as well as at the international level within the Security Council, whereby certain countries, particularly those with the greatest power, should cease equivocating. Endless equivocation and avoidance to render effective decisions have led to the current situation. One of the positive outcomes of the recent EU summit was the recognition of the importance of co-operation with the UN in order to stop the war in Syria. **Member states should strongly and urgently advocate for a unified position at the EU level and a political agreement within the UN on a common approach to ending the war in Syria. Given that military intervention in Syria is already taking place, the EU needs to assume an active and constructive role in advocating for a mutual agreement at the Security Council level, since it will be impossible to establish peace without the agreement of all of the superpowers.** Otherwise, tens of millions of people will never have a home to return to.



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