

## **Working Group 10:**

# **Human Rights at the heart of the EU asylum policy framework**

### **Background**

As a result of developments beyond the EU's borders, European countries are being confronted with rising numbers of people requiring international protection. These high numbers of refugees will constitute the 'new reality' for the foreseeable future. This is having a wide-ranging impact on society. Irrespective of the number of people seeking protection, EU Member States are obliged to adhere to obligations deriving from international human rights and refugee law.

The existing 'Common European Asylum System' cannot adequately deal with the 'new reality'. This means that people in need of international protection are suffering. Politicians and experts are demanding a solution at EU level.

Within the EU, it was only at a comparatively late stage that refugee policy issues became subject to integration efforts. The first harmonisation phase of common asylum law (between 2000 and 2007) laid important foundations, but was unable to resolve central challenges. If there is to be a unitary asylum standard in the EU, it is not only the Member States who have obligations to fulfil. Vital coordination work needs to be done, especially by the European Commission and the European Asylum Support Office, along with FRA. Seminal court rulings in the last few years have helped to frame guidelines in more precise terms, and have shown that there is as yet no coherent application of Common European Asylum System standards.

The revision of the common asylum regulations, along with the various precedent-setting decisions of the highest European courts, have laid the foundations for a European protection system. Further efforts at harmonisation are needed in order to find joint EU solutions to the challenges associated with rising refugee numbers.

### **Objectives**

This workshop sought to discuss and develop recommendations for a future EU asylum policy based on human rights.

### **Speakers**

- Angelika Mlinar, Member of the European Parliament
- Timothy Kirkhope, Member of European Parliament, (video message)
- Michael O'Flaherty, FRA Director and Chair of the Forum

- Maria Stavropoulou, Director, Greek Asylum Service
- Tomáš Boček, Special Representative on Migration, Council of Europe
- Catherine Woollard, Secretary General, European Council on Refugees and Exiles
- James C. Hathaway, Professor of law, University of Michigan

## Main messages

1. There is a need for enhanced legal pathways to Europe, not only for refugees, but also for economic migrants.
2. Different aspects of the recent European Commission Proposal to reform the Dublin III Regulation need to be looked at, including:
  - Registration in first country of arrival. The current system is an 'accident of geography';
  - The opt-out option. If they are willing to pay an amount of €250,000 per asylum applicant, a Member State can decide against taking in a person that they would otherwise have been responsible for under the Dublin Regulation. Countries that cannot afford to do so may end up housing a disproportionate amount of arrivals. It also indicates a lack of solidarity and shared responsibility;
  - Penalties for secondary movement. These are not the answer. Instead, the focus should be on incentives to settle.
3. A Common Asylum Applications Office should be developed. This would see the redistribution of asylum seekers organised centrally, based on shared responsibilities between EU Member States, and monitored at the European level. This would ensure shortcomings are addressed at an early stage. However, there is a risk that low standards would be set

## Promising practices

- Integration is limited not only to cities but also takes place in medium sized towns, Italy.
- A temporary protection mechanism for Syrians has been set up to speed up the asylum procedure, Turkey.

## Next steps

- There needs to be a balancing act between existing rights and responsibilities for refugees and the costs and benefits to Member States. Relocation should take into account both the skills of the asylum seeker and the needs of the Member State.
- Reform of EU asylum policy cannot be limited solely to changes to the Dublin Regulation. There should also be effective asylum determination procedures, appropriate supervision of all EU Agencies involved and a fair redistribution system.
- Instead of the first country of arrival, redistribution should be based on other factors. These include:

- Refugees and EU Member States should indicate preferences;
- Human responsibilities should be based on factors such as available living space and the local employment rate;
- The financial burden should be shared and based on GDP;
- Ideally, human and financial responsibilities should not be mixed.
- There should be compliance with existing EU law and court decisions, along with the basic rule of law and general principles such as transparency. If this does not occur, then infringement procedures against Member States should start.
- There is a need to move away from the current 'not here' approach.
- Before returning people who are not granted international protection, tools developed by the Council of Europe should be utilised.
- Good integration practices need to be shared among Member States. Alongside national and supranational authorities, local authorities have a particular responsibility for facilitating integration. Otherwise there is the risk that more restrictive policies designed to deter refugees will hinder positive integration outcomes for all in the long run.
- Governments and the electorate need to regain their feeling of having 'control of the situation.'