Berlin Action Plan on a New European Asylum Policy[1]

Twenty years after the Tampere European Council, civil society and municipalities are calling for a new start in European asylum and migration policy

The signatories to this declaration are civil society actors and municipalities from Germany, France, Poland, Italy and other EU member states. They deal on a daily basis with the reception, counseling and care of refugees and migrants and therefore know what is needed on the ground to ensure that third-country nationals can arrive in European societies under dignified and safe conditions and in a way that benefits everyone.

We, the signatory organizations, call on European institutions and governments to enter a post-populist era and to return, with serenity and restraint, to a humane policy in the field of asylum and migration.

We call on the Commission, the guardian of the EU Treaties, to uphold the unconditional right to an individual, fair and thorough asylum procedure in the EU and to ensure that this obligation is respected by all state levels. Similarly, Article 78 (1) of the Treaty on the Functioning of the EU (TFEU) needs to be reasserted: it binds all actors to the 1951 Geneva Convention on Refugees and other human rights instruments, as does the article 80 TFEU, which enshrines the principle of solidarity and fair sharing of responsibilities between Member States, including in terms of asylum policy.

We also emphasize that migration is a human phenomenon and should not be treated as a threat or disturbance to public order. It must only be steered in the right direction, starting from the idea that, under optimal conditions, everyone can benefit from it. Countless examples can be found in history and still today.

People might flee for their lives and labor migration creates new educational and life opportunities. Who knows this better than us, Europeans? Especially in the last few

[1] This Action Plan was published on the occasion of a European Conference on European Asylum and Migration Policy which took place on 25 November 2019 in Berlin, Germany.

centuries, many Europeans have sought protection and the prospect of a better standard of living in other continents.

Five issues were identified by the signatories as priorities for a new European asylum and migration policy, which should be taken into account to meet the current migration challenges in Europe, while respecting human rights standards.

Priorities for change

1. **Compliance with EU Asylum Law**

As long as the Acquis Communautaire is not (or no longer) fully supported by all Member States, emphasis should be placed on the implementation of all existing regulations and directives, as advocated by the European Council on Refugees and Exiles (ECRE)[2]. A Common European Asylum System (CEAS) reform should not be started until the consensus on the common core of human rights values, namely the protection of refugees and minorities and the rule of law, is fully restored.

Also, we call on the EU Commission to do everything in its power to put an end to violations of human rights by EU Member States such as violent and illegal push-backs at Europe's external borders, especially on the Balkan route in Croatia and elsewhere; inacceptable situation in the Greek islands' hotspots; food deprivation and inhumane treatments in Hungary's border zones.

2. **Fresh start for the sharing of responsibilities**

The EU must think differently to encourage further solidarity between Member States. The European Commission should withdraw the proposed Dublin IV Regulation and propose a new reform, to achieve an efficient, effective and rights-based distribution system for refugees once they arrived on EU territory. In this respect, the proposal for a legislative resolution adopted by the European Parliament's LIBE Committee in November 2017, which enshrines a permanent relocation mechanism through a simplified family reunification procedure and the consideration of significant links with a particular Member State – such as the extended family, cultural or social links and language skills – by replacing the country of first entry criterion, is an interesting approach. Moreover, it is crucial to involve the asylum seeker in the determination of the country responsible for his or her claim and to consider his or her wishes: gaining asylum seekers' trust in the system is a more efficient tool to limit secondary movements than sanctions. To that aim, information of asylum seekers' about their rights and obligations is key.

Considering the current devastating situation for asylum seekers at EU's external borders, the European Commission should oppose any mandatory border procedure that would go against the standards of EU asylum law. Also, the Commission should not introduce a mandatory safe third country concept, which would send a wrong signal to countries hosting a large number of refugees. The implementation of such measures would also severely threaten the right to international protection.

Besides, new political impetus is necessary in order to help EU Member states facing a high number of arrivals to improve reception conditions.

[2] ECRE, *Making the CEAS work, starting today,* Policy note #22, 2019.

3. **EU-wide status for refugees**

A uniform asylum status valid throughout the Union must finally be introduced for people granted protection as provided in Article 78 II of the Treaty on the Functioning of the European Union.

This status should be based on the mutual recognition of positive asylum decisions and allow refugees and beneficiaries of subsidiary protection to move to another EU Member State within a reasonable time limit under certain conditions. Other people with a humanitarian residence permit must also be able to access faster the labour market of other European countries, according to their national legislation and their needs. This will prevent irregular secondary migration, during and after the asylum procedure, and avoid coercive measures.

4. **Rescue at sea and temporary EU relocation programme**

As long as there is no agreement among all Member States on a fair shared responsibility mechanism for the reception of asylum seekers within the EU, there is an urgent need for a temporary relocation program for asylum seekers arriving in EU border States.

The so-called Malta Mechanism according to which disembarked refugees are temporarily distributed in other EU countries according to a specific distribution key is a good step ahead. However, it must be clarified, ensuring that the procedures for its implementation ensure compliance with procedural guarantees in the field of asylum and removal, and dignified reception conditions in accordance with European law. Cities and civil society that are willing to welcome these refugees and to accompany them in their asylum procedure should be enabled to do so. Until no common mechanism is agreed, a more sustainable and rights-based agreement between voluntary states should be formalized, with the support of the European Commission and the European Asylum Support Office.

This should also be coupled with the decriminalization of civil society rescue organizations and the resumption of a European sea rescue programme, or at least of a few Member States. Saving human lives is not a crime.

5. **Better accessible EU funding for civil society organizations and municipalities**

In various EU countries, regulations implemented by national authorities limit access to funding or make the implementation of funded programmes difficult because of bureaucratic measures and long processing times. These measures impact in particular smaller civil society organizations, especially organizations run by migrants or refugees. Control mechanisms should already be included in the EU regulations in order to avoid national regulations that prevent EU funds from being spent on refugee protection. Moreover, minimum percentages for the allocation of AMIF funds to civil society organizations should be set at European level.

To promote better involvement of civil society and local authorities in AMIF national programmes, further incentives may be needed, such as lower rates of own resources for civil society actors. It is also important to ensure complementarity between the different EU funds contributing to integration as the ESF+ and the AMIF. In addition, municipalities that receive asylum seekers following a rescue at sea could receive direct financial support from AMIF, as defended by the European Parliament.

Furthermore, integration and immigration priorities contained in the Urban Agenda for the EU, that was launched by the Union in 2016 to promote cooperation between Member States, cities, the European Commission and other stakeholders, should be pursued and broadened, including the continuation of funding opportunities for cities and regions, for example through the current Urban Innovative Actions initiative.

Signatories:

- Arbeitsgemeinschaft Migrationsrechts im Deutschen Anwaltverein
- AWO Bundersverband
- Brot für die Welt
- Caritas Germany
- CIR (Italian Refugee Council)
- City of Flensburg
- City of Paris
- Community of Sant'Egidio
- Der Paritätische Gesamtverband
- Diakonie Germany
- Equal Rights Beyond Borders
- Emmaüs Solidarités
- Fédération des acteurs de la solidarité
- Female Fellows
- Fondation Ocalenie
- Forum réfugiés-Cosi
- France terre d'asile
- Fundacja "Nasz Wybór"
- Heinrich Böll Foundation
- Institute of Public Affairs
- IslamistaBlog.pl
- Neue Richtervereinigung
- OPU (Organization for Aid to Refugees)
- Polskie Forum Migracyjne
- PRO ASYL
- Perichoresis
- Republikanischer Anwaltverein
- Samu social de Paris
- SIP (Association for legal intervention)
- Uniopss (National Interfederal Union of Private Social and Sanitary Non Profits)
- Unire