

## European Refugee Policy

### The Dublin-agreement has failed

For years, the European refugee policy has failed the task to take care of people, who flee their home countries because of war, persecution and destruction. Its legal basis is the Dublin III agreement. It applies to EU member states, as well as Liechtenstein, Norway, Iceland and Switzerland.

The Dublin procedure determines which State is responsible for the execution of an asylum procedure. It also rules that asylum seekers can only pass through the asylum procedure in one country. For the clarification of national competence there are a number of criteria. Most commonly, the decision is based on the country in which fleeing people have first entered EU-territory. These are mostly countries located on the outer Southern or Eastern borders of Europe.

#### Criteria for competence

But it is also agreed that if a concerned person has an EU-visa, then the country that issued the visa is responsible for him. If the asylum seeker has family members in an EU country, then this member state might be responsible for him. The Dublin procedure guarantees the right on family unity only within a narrow framework. That means, only the nuclear family, i.e. parents and their minor children, is united. There is the additional restriction that a reunion is only possible, when the spouse or the children have begun the asylum procedure, or have already received international protection, in another member state.

A Dublin-case occurs when an asylum seeker makes an application for asylum and another state is responsible according to the Dublin-III Convention. The asylum application will be rejected as inadmissible by the competent authority and the deportation to the competent state will be arranged. However, this does not mandatorily need to happen, as each state may decide to voluntarily accept the competence. Therefore Austria could suspend deportations to Hungary.

#### Application for asylum in the EU

In the EU asylum applications can only be made, if the fleeing persons are already located in EU-territory, at the border or in transit zones.

A legal entry is therefore only possible with a visa or another legal residence permit. However, these are bound to prerequisites, which cannot be fulfilled by the majority of refugees.

Also, it is virtually impossible for refugees to enter by plane, because of a EU directive, making airlines liable for bringing persons without a valid asylum claim to Europe.

#### Why Dublin III does not work

The Dublin-agreement creates a rough imbalance in the distribution of refugees. Southern and Eastern countries with external borders that are already less affluent have the most responsibility, which also leads to the catastrophic conditions in provisions for refugees. In addition, the Dublin transfers are hardly feasible in practice. In 2014, in Austria alone there were 6.065 requests for Dublin transfers, of which only 1.080 were actually carried out. This is because due to a lack of willingness for cooperation in other EU states and the massive administrative burden. In some cases, European Courts decide that one must not transfer people back to some EU countries, because human rights standards are not adhered to.

#### European asylum procedures

In order to realize the human right to asylum in Europe, EU-wide measures are required. The clear objective: full Europeanization of asylum procedures, so that thus asylum does not remain a plaything of national disputes. In order to prevent humanitarian disasters at European external borders, legal and safe corridors are needed as well as the possibility of applying for asylum

in places outside of the EU (e.g. embassies). This would diffuse dangerous escape routes and would destroy the basis of businesses that profit from fleeing people. It is clear however, that national governments already have the option to allow the application for asylum in embassies - It is a question of political will.

### Safe corridors

The humanitarian situation for refugees in transit and destination countries must be improved. This also means that neither the supply of refugees is outsourced to profit-oriented companies, nor that human rights organizations are refused access to the facilities.

### Transnational peace and social policy

All the above measures, however, cannot replace international peace and social policies. The political and social debate must develop a common perspective for those countries, from which people flee, because the vast majority flees from countries in which there is war currently or where military disputes have happened in the last 20 years (cf.. BAMF 2014 and BMI 2015). In many of these countries there were interventions of the US and its European allies that were contrary to international law. In order to give the people there a perspective, these states need investments in the construction of infrastructure, similar to the Marshall Plan for Europe after the Second World War.

## What happens next in Hungary?

The Hungarian government is cracking down on migrants. A planned emergency law allows the country to take military action against the refugees. The military will receive the same rights as the police, it would be allowed to use firearms and enter private homes without a search warrant, if it suspects hidden refugees there. Public institutions can be seized at any time. The entry of refugees will be limited on a few crossing points and the people are then immediately brought to transit zones. Crossing the border at another point is threatened with a prison sentence of up to three years. The asylum procedure is shortened to eight days, appeals are abrogated, legal assistance is no longer provided and interviews with refugees can be done via telephone. In addition, the Hungarian citizens are forbidden to help refugees - punishable by imprisonment from two to eight years. With this legislative package Hungary violates the Geneva Convention as well as current EU law.

## Wave of helpfulness in Austria

For days a wave of helpfulness and solidarity is rolling through Austria. People from different parts of our society actively help refugees. Within a very short time a support network of voluntary and professional helpers was established stretching from Vienna to Munich. This is a clear signal: many people in Austria are on the side of the people who have to leave their home in order to be able to start a new life.

It is positive that this civil courage leads to media hegemony. A joint commitment to the cause is the loudest and clearest message against agitators and misanthropists.