

Refugees - border regime and admission policy in Europe

I. Introduction

Current situation – key points of the EU border and admission policy

According to UN figures, more than twice as many people died on the Mediterranean migration routes in the first six months of 2021 as in the same period in 2020. The International Organization for Migration (IOM) estimates that 76,000 (58% more than in the same period of the previous year) attempted to cross the Mediterranean to reach the European Union (EU) in 2021. North African countries apprehended 37% more refugees and other migrants. The EU border regime has once again become a deciding factor in the life chances given to thousands of people fleeing their home countries due to war and persecution, the climate crisis and poverty.

The Member States on EU external borders are in the situation that they must, on one hand, prevent irregular entry into the EU, and on the other, must grant those seeking protection permission to enter. At the same time, these countries are also the first point of entry into the EU and are therefore responsible for processing asylum procedures and for compulsory repatriation to the country of origin should asylum be refused. This means that the border Member States shoulder a large proportion of the responsibility upon the arrival of refugees and migrants into the EU. Excessive strain on the system and discontent due to insufficient solidarity from the other Member States lead to the fact that some first entry states attempt to pass this responsibility on as quickly as possible. By upholding poor reception conditions and a lack of prospects some member states foster secondary movement or redistribution within the EU. Others resort to illegal pushbacks on the border, preventing refugees from requesting protection and lodging an asylum application to be examined within the EU. Some even resort to both methods.

For some years, this unresolved issue has been causing untenable conditions at the external borders of the EU. A lack of suitable accommodation, adequate supplies and medical care leads to catastrophic, inhumane living conditions for refugees and migrants. The situation in camps within the EU and neighbouring third countries, as well as the lack of prospects poses an acute threat for the physical and mental health of the camp residents, in particular for children and other vulnerable groups. Following the recent fires in the refugee camps on the Greek islands and on the Bosnian/Croatian border, the topic has once again gained public awareness.

Those who lost their place of shelter due to the fire in the refugee camp Moria on the Greek island of Lesbos were given emergency accommodation in the temporary Mavrovouni camp on the former military firing range, Kara Tepe. This temporary shelter is gradually being replaced by containers and large-size tents with partitions. According to figures from the Greek Ministry for Immigration and Asylum, as of 5 August 2021, 4,050 people were still living in this temporary Registration and Identification Centre (known as RIC Lesbos), many of them families with children, the majority of whom are Afghans.

The pilot project planned to replace the camp is a new so-called “controlled centre”, which serves as both reception centre and to house people who are in detention pending deportation. It implements what the European Commission proposes in the EU Pact on Migration and Asylum: According to the European Commission, it is to become obligatory for a majority of asylum applications to be processed directly at the EU external borders. Should an application for asylum be rejected, the asylum seeker should be deported directly from there to their country of origin. These proposals largely centre on the cooperation with third countries, the prevention of irregular migration into the EU, a more rigorous removal of rejected applicants and on preventing migrants from moving on to other EU countries. Currently, these parts of the proposals are proving to be the most likely to meet with agreement from all Member States. Profound

disagreement continues to prevail in regard to solidary responsibility-sharing when it comes to taking in and relocating refugees.

As things stand, fair asylum procedures in line with the rule of law can still not be guaranteed due to continuous insufficient access to social services and legal advice on the Greek islands. However, refugees need a regular asylum procedure and access to effective legal remedies in the EU to safeguard their rights. Moreover, Turkey has refused to take back any persons over the past year. Currently, it is completely unclear to what extent the arrival figures will increase again as the pandemic subsides.

It cannot be ruled out that the number of arrivals from Afghanistan will increase again in the future in light of the radical Islamist Taliban seizing power, likely triggering a higher level of migration to the EU. Despite the Turkish and Greek governments recently having announced heightened border safety measures, it is conceivable that the number of people arriving at the EU borders will increase soon. The EU has so far been unable to reach a consensus on common reception procedures for refugees fleeing from Afghanistan. Instead, it has primarily relied on cooperation with the countries neighbouring Afghanistan with the aim for those affected to stay and receive provisions and care there.

It is very clear that the creation of new EU policies on refugees and support for them through transnational networks of solidarity must be a high priority in coming years. This must be done in order to prevent humanitarian disasters when heightened migration movements and steepening populism are colliding. It is also necessary to fulfil the human rights obligations as stated in the EU Charter of Fundamental Rights as well as to comply with international Global Compact agreements. Caritas is ready to be a partner within the framework of refugee policies based on solidarity and specifically calls for the following points.

II. Caritas' standpoint, requests and contributions

1. Support for a common European solution and achieving a functioning European asylum system

Caritas calls for an EU-wide solution that permits all Member States to take in asylum seekers and to offer migrants prospects for the future based on their capabilities. However, a common solution must not be made a prerequisite for additional admissions of migrants. In fact, those EU Member States who wish to take the lead and voluntarily take in more persons, must be enabled to do so. In the medium term, a reliable, coordinated, and functional European legal framework is required which regulates responsibility-sharing between Member States. To achieve this, it is essential to further develop the EU Pact on Migration and Asylum from solidarity and humanitarian points of view. Additionally, it must be ensured that concepts such as the safe countries of origin are not abused and that persons in need of protection are granted access to protection. The persons stranded within and outside of the EU borders must be accommodated and supplied with provisions and care in a dignified manner as well as be granted access to a fair asylum procedure, including access to independent advice and effective legal protection.

- This is what the German Caritas Association advocates, working with the German government and German parliament as well as on EU level (Council of the European Union, European Commission, European Parliament) and in close cooperation with Caritas Europa and the European Council on Refugees and Exiles. Caritas specialist organisations, Diocesan and local associations also contribute their experience and voice their demands at sub-national level (to the German *Bundesländer*, regions, cities and towns, and local communities). By doing so, they can influence European decision-making processes through decisions of the German Federal Council (*Bundesrat*) – which in turn is able to influence the German position in the European Council – and through the European Committee of the Regions.

- The German Caritas Association's aid organisation Caritas international works with Maltese International, alongside local partners, to provide help at EU frontline border hotspots to ensure the dignified provision of supplies and care for refugees.

2. Facilitating further admissions in Germany

Fundamentally, it should be made possible to receive additional persons in Germany. In particular, the admission programmes for refugees stranded in Greece should be continued to a necessary extent. Germany should also commit to taking in more persons in need of protection and persons at particular risk from Afghanistan, with new admission programmes set up for them. The high level of willingness to take in more refugees in the German *Bundesländer*, municipalities and Church structures and parishes must be considered. Regarding persons who have been in Germany for a long time, the aim should be to grant the right of abode after a specific period of time to end the insecure legal status.

- Caritas highlights at both national and regional level the need for more refugees to be granted admission from Greece and for the reception of more persons in need of protection from Afghanistan.
- Caritas makes clear its willingness to continue to advise, support and accompany these persons following their arrival in Germany. Caritas' work also helps strengthen the receiving society's willingness to integrate these refugees.
- In order to do this, independent asylum counselling services, migration and integration counselling as well as other social services must have sufficient financial means at their disposal, funded by public money and supplemented by the Church.

3. Creating regular pathways for admission, strengthening resettlement

Caritas advocates that Germany and the European Union grant persons in need of protection access to international protection. It is also in favour of the creation of regular pathways into the European Union. Above all, that means that resettlement quotas must be raised. Afghan refugees displaced in the countries neighbouring Afghanistan should also be taken into consideration in such a resettlement programme.

Furthermore, complementary pathways such as the "Community Sponsorship Programme" (community-based sponsorship programmes for the admission of refugees which are funded and/or ideally connected to non-government actors) should be established in the EU Member States. Existing programmes should be extended, and European humanitarian admission programmes should also be created.

Moreover, additional provisions for regular migration are required. The need for workers in the EU is high due to demographic development. Migration for labour purposes presents a huge opportunity in many sectors and regions for the EU Member States. At the same time, measures to prevent "brain drain" in third countries must be found, for example, through the implementation of clear rules on shuttle migration and forms of circular migration.

- Caritas supports the "Community Sponsorship Programmes" at European level and funds the national programme "Neustart im Team" ("New start as a team" – NesT) in Germany. Mentor programmes are being carried out at local level.
- Caritas is working towards migrants, independent of their qualifications, being permitted to travel to and remain in the EU for the purpose of taking up employment, as long as they can provide proof of a working contract or agreements with their country of origin exist.

4. Supporting family reunification

Caritas advocates for rapid unbureaucratic and pragmatic solutions to be found to reunite parents, children, married couples, and siblings. Refugees and migrants have the right to live together with their families. Experience has shown that enabling family members to live together promotes integration.

- In particular for refugees, Caritas campaigns for family reunification requirements to be based on actual family constellations so that close relatives, such as adults, unmarried children and orphaned nieces and nephews, can also be reunited with their families.
- Caritas assists in enabling family members to be reunited as quickly as possible and influences political decision-makers at all levels to facilitate this.
- Caritas advocates for beneficiaries of subsidiary protection to have the legal right to family reunification.
- Caritas accompanies and advises affected persons during the family reunification procedure and once the families are reunited.

5. Combating the causes of forced migration

Caritas is an advocate of combating the causes of forced migration. Combating these causes should be a central part of preventive human rights policy. However, it must not be misunderstood as a replacement of a responsible refugee and migration policy. The protection of refugees must be ensured. In order to combat the causes of forced migration, humanitarian and developmental measures, a responsible global health and climate policy and measures to support good government must be taken. Alongside this, an active peace policy from the international community must be established to resolve armed conflict in Syria, Afghanistan and other countries.

- The German Caritas Association engages in disaster aid and humanitarian assistance on the ground through its aid organisation Caritas international and as part of the international networks 'Caritas Internationalis' and Caritas Europa. Local actors and communities are supported to grant refugees protection and better living conditions. Programmes established to strengthen social structures make a contribution to mitigating the causes of forced migration. Precautionary and adaptive measures support communities to protect themselves from the effects of climate change and uphold their livelihoods.

6. Preventing pushbacks

Caritas calls for human rights violations at EU frontline borders to be stopped and not simply be tacitly accepted. This also means that people in distress at sea in the Mediterranean must be rescued. Border protection systems must be humane, meet human rights standards and comply with international law. Illegal rejections at the border (known as pushbacks) go against the principle of non-refoulement under the Geneva Refugee Convention. In order to prevent future pushbacks, an independent border monitoring mechanism must be established through Europe-wide coordination from the European Agency for Fundamental Rights.

Border protection and refugee protection must be made compatible. The European Commission should expand on regulations regarding how border protection works whilst enabling persons in need of protection to lodge their application for asylum in suitable places.

- Caritas stresses the need for a border protection system which does not violate human rights and condemns every breach of human rights at the EU borders. Both national and European border guards must respect the human rights of all migrants.
- Caritas encourages the development of a monitoring mechanism as well as principles and guidelines for reconciling refugee and border protection at EU external borders.

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Board

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For the Assembly of Delegates of the German Caritas Association