



ZdK

Zentralkomitee
der deutschen Katholiken

Humane asylum policy as a joint task of the European Union

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> | Resolution adopted by the General Assembly of the Central Committee of German Catholics on 24 November 2017

The Central Committee of German Catholics (ZdK) calls on those in positions of political responsibility, both in the European Union (EU) and in Germany:

- to stand up for the **provision of international protection** in Europe and to support it via a humane European asylum system,
- to respect the commandment to **protect human life** as the paramount principle at the EU's external borders for all people arriving there,
- to expand the possibilities for gaining **legal, safe access to international protection**, for instance by doing more to support the resettlement programmes and by issuing humanitarian visas. This includes granting family reunification to persons who are entitled to subsidiary protection.
- to reform the Dublin System in order to achieve **distribution mechanisms** within the EU that are based on **solidarity and transparency** and which involve all Member States,
- to ensure access to **fair, standardised asylum procedures** in all Member States.

1. Introduction

The refugee tragedies involving large numbers of people dying at the EU's external frontiers, and the ongoing arrival of refugees on the territory of the EU, call for action to be taken on the part of the Member States and of all stakeholders within civil society. It has been particularly evident since the immigration of a very large number of people in the summer of 2015 that the Member States are not working hand in hand when it comes to dealing with refugees. As a community of values, they have, however, committed themselves to respecting the human dignity of all, regardless of their origins, their sex, their religion, their social status or their status under migration law. This is founded on respect for human rights, as enshrined in the EU's Charter of Fundamental Rights and other instruments of international law.

These values also form part and parcel of our Christian conviction. Our respect for human dignity stems from the fact that each person is created in God's image. The Bible's statements and parables call on Christians to love their neighbours and to welcome strangers, the sick, the disadvantaged and the vulnerable.

The topic of flight and migration covers a variety of different fields, each of which is deserving of discussion. We will focus here on the regulatory area of the law on asylum of both the EU and of its Member States.

Europe needs an asylum system that respects human dignity so that people can gain access to international

protection. It consists of the right to asylum and refugee protection in accordance with the Geneva Refugee Convention, and subsidiary protection for civil war refugees.

2. Legal, safe paths for access to international protection

As a supranational confederation of states, it is legitimate for the EU to safeguard its external frontiers. This is the only way in which to record and monitor the entry and exit of individuals, particularly also in the interest of protecting the population against terrorism and serious crime. This applies especially to an EU which has open internal borders within the "Schengen Area". Having said that, border controls need to be in conformity with international law and human rights, and they need to comply with the stipulations laid down in European law. The inviolability of human dignity that is anchored in Art. 1 of the Charter of Fundamental Rights is paramount, and also applies at the EU's external frontiers to anyone arriving there, as well as to people who are in distress in international waters such as the Mediterranean. They need to be saved from drowning, and may not be returned to a country in which it is not guaranteed that their protection status will be clarified in line with the rule of law and that they will receive humane treatment.

When it comes to extending the list of safe third countries and stepping up cooperation with these countries, as currently discussed, it must be ensured that persons seeking protection can actually obtain protection there within the meaning of both the Geneva Refugee Convention and of the European Convention on Human Rights and

of the Basic Law (Grundgesetz) of the Federal Republic of Germany. The situation in the third country must also be evaluated in individual cases in terms of specific threats. Anything else would risk undermining the right to asylum in Europe.

It will not be possible to implement in the foreseeable future the proposal that has been put forward to transfer the asylum procedures to countries outside the EU. As a precondition, one would need international agreements in order to carry out asylum procedures in conformity with European law, and it appears to be utopian to expect any such agreements to be concluded in the near future. One would need to carry out asylum procedures which are in conformity with European law and which respect the rule of law – including judicial protection – and in addition practical problems relating to dignified, safe accommodation for the duration of the procedure would need to be solved, without provoking conflicts with the local population.

Legal ways of gaining access to international protection in the EU are highly limited. This leads to a situation in which many people try to come to Europe by "irregular" means in order to obtain protection. In order to do so, they not infrequently place their fates in the hands of traffickers and smugglers of human beings. Expanding safe, legal opportunities to obtain protection in Europe might prevent large numbers of people from exposing themselves to the additional risk. There is an urgent need to expand the possibilities which are already available. These include resettlement and humanitarian visas. Other methods might be considered, such as private or community-based sponsorships. What is more, family reunification is an important form of legal

access. This right must not be undermined because of migration policy considerations. Different concepts will have to be applied when expanding legal access for different groups of individuals. Granting access via contingents serves to complement the individual right to asylum and the procedures applying to it.

In order to increase the number of humanitarian visas, there is a particular need to top up the resources on the ground in the respective diplomatic representations. The resettlement programmes enable particularly vulnerable refugees to travel legally from a first country of refuge to another country. The EU Member States need to participate more in these programmes – if necessary in a coalition of the willing countries at a first stage. At the same time, we need to devote more effort to a joint approach. Resettlement is an instrument for the protection of those who are particularly vulnerable.

3. Elements of a lasting European asylum system

Distribution mechanisms based on solidarity

We are observing with considerable concern that it is no matter of course for those seeking protection to be accepted in the EU. Some countries flatly refuse to take in any refugees, or make no contribution towards resolving the challenges. Others in turn are facing up to their responsibility and accepting a large number of persons seeking protection. Some Member States located at the EU's external frontiers are under considerable pressure, and frequently

do not have the requisite capacities to implement fair asylum procedures. There is an urgent need to come to their aid.

The foundation on which the EU is built includes the concept of the area of freedom, security and justice. Solidarity between its Member States forms part of the foundation on which the EU is built. Refugee protection is a fundamental joint task that is incumbent on the EU as a whole. This is why a distribution mechanism based on solidarity is needed, to be complied with by all Member States. Until such time as this has been achieved, we would like to encourage a continued path of cooperation between the willing Member States, so that political differences are not played out at the expense of those seeking protection.

Replacing the present "Dublin System" with a system of joint responsibility based on solidarity

The Member States of the EU need to launch a real reform of the "Dublin System" in the medium term. Today's complex regulations and the obligation incumbent on those seeking protection as a rule to lodge their application for asylum in the country in which they first enter the EU is not resilient to large immigration movements triggered by wars or crises and they display a lack of solidarity unless they are fundamentally reformed. The "Dublin System" must be replaced by a solidarity-based system of shared joint responsibility for granting an entitlement to asylum in Europe among the Member States of the EU.

A fair and standardised asylum procedure

Fair asylum procedures are crucial. They are fair if they afford sufficient opportunities to those seeking protection to set out the reasons why they are requesting protection, and if these reasons are taken into account when taking the decision. This requires well-trained decision-makers and asylum procedures that are standardised in a manner that is orientated towards the particular vulnerability of refugees. Amongst other things, this includes recruiting qualified interpreters, and given the complexity of asylum procedures, it necessitates providing access to legal advice and advice on the asylum procedure from the outset. Moreover, asylum procedures need to be processed within an appropriate timeframe.

The structure of the asylum procedures, as well as the conditions for reception (e.g. accommodation, protection from violence, access to medical and psychosocial care) need to be adjusted accordingly for groups of individuals with additional needs, such as minors, people with disabilities, expectant mothers, women travelling alone and women with minor children or individuals suffering from the consequences of trauma. The EU Member States have already undertaken to do this by adopting the Reception Conditions Directive and the Asylum Procedures Directive. However, the implementation of these Directives is inadequate, and this applies in Germany as well. The European Commission should therefore subject the implementation of these conditions to closer scrutiny.

Standardising the decision-making criteria for the recognition of the right to asylum

A fair, standardised asylum procedure is contingent on the existence of an appropriate common understanding of the need for protection throughout the Union. This is why the Common European Asylum System (CEAS) combines the instruments that have been adopted at EU level in order to standardise asylum procedures and provide substantive refugee protection. These standards are to be implemented uniformly. As long as the standards that have been applied in the Member States diverge widely, this leads to distortions. People with the same reasons for flight, or who belong to the same persecuted minority, are recognised as refugees in one Member State and rejected in another.

Only an asylum policy which is orientated towards human dignity and human rights will endure in the long term.

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