

Mr Jean Asselborn
Ministère des Affaires étrangères et européennes
Ministre de l'Immigration et de l'Asile
Le Gouvernement du Grand-Duché de Luxembourg
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AMNESTY
INTERNATIONAL



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Dear Minister Asselborn,

**WESTERN BALKAN ROUTE CONFERENCE AND JUSTICE & HOME AFFAIRS COUNCIL OF 8 OCTOBER:
FOCUS MUST BE ON SAFE AND LEGAL ROUTES AND DIGNIFIED TREATMENT OF MIGRANTS AND
REFUGEES**

In September, subsequent extraordinary Council meetings and Summits have been called to decide upon emergency measures to support Member States in managing exceptional numbers of refugees on their territory. Decisions were adopted concerning the emergency relocation of altogether 160,000 asylum seekers from frontline member states and other measures of support in the form of Migration Management Teams to be dispatched to 'hotspots'. Despite these decisions and a raft of other proposals currently on the table, the EU is a long way from offering safer options for refugee to come to Europe and from finding solutions to the structurally unbalanced European asylum regime. Resettlement pledges are still low, compared to global needs; initiatives to open more legal and safe routes are lacking; and land borders are increasingly difficult to access. This has the consequence that people continue to be exposed to hardship and suffering on their journey to Europe and in addition, deaths at sea continue.

In Hungary, struggling to provide adequate reception for the numbers of refugees and migrants entering the country, the government swiftly proceeded with the adoption of measures aimed at keeping refugees outside its borders. The draconian response of the Hungarian government includes the construction of a fence on the border with Serbia and the adoption of legislation criminalising illegal entry through the border fence, introducing transit zones and safe third country rules which effectively deny access to asylum in Hungary. An amendment of the Police Act and the Act on National Defence further authorises the army to support the police in the "crisis caused by mass immigration" and to use rubber bullets, tear gas grenades and pyrotechnical devices. Hungary's violent response to the refugee crisis puts the country completely at odds with European commitments on human rights. Not only should the recent legislative measures be challenged by the European Commission through infringement action, but Hungary's standing as an EU member should itself be questioned by activation of Article 7(1) of the Treaty of the European Union (TEU) and the rule of law mechanism.

The EU has also increasingly been paying attention to the Balkan countries both as source and transit countries for refugees and migrants. In order to "tackle the migration challenge" from the Western Balkans route, the EU has pledged EUR 17 million to help Serbia and, to a lesser extent, Macedonia. Refugees and migrants transiting through these countries receive very limited assistance and face severe obstacles in claiming asylum. In Serbia, by the end of September, 154,677 individuals registered their intention to claim asylum in the country. However, only 545 asylum applications have actually been submitted and 15 refugee and 9 subsidiary protection statuses granted. All other refugees and asylum seekers left the country towards Hungary, and since 15 September, towards Croatia, in the hope that they will access protection in the EU. Refugees are forced to sleep rough in makeshift camps between Croatia and Serbia, as well as in Belgrade, waiting to be able to cross borders. There continue to be reports of pushbacks to Macedonia, and allegations of ill-treatment by law enforcement officers. In Macedonia, according to Ministry of Interior statistics, 111,361 individuals (mainly from Syria, Afghanistan and Iraq) registered from 19 June to 1 October 2015, including 3,934 unaccompanied minors, expressing their intention to claim asylum. However, only 50 asylum applications have been submitted following initial registration. Not one applicant has been provided with asylum. There have been reported pushbacks to Greece and repeated resort to violence by the Macedonian authorities.

Amnesty International is urging you and other Ministers attending the Western Balkan Route Conference and the Justice and Home Affairs Council (JHA) on 8 October 2015 to focus on actions which, both inside and outside the EU, enhance access to protection and ensure a dignified treatment of migrants and refugees on whichever side of the border they are. In particular, focus should be on the following:

- Member states should together address as a matter of urgency the need to create **more safe and legal routes to reach Europe**, in particular by significantly increasing resettlement places, humanitarian admissions, humanitarian visas and family reunification. This would reduce the number of refugees undertaking dangerous journeys, reduce the pressures on periphery EU states, ensure a fairer distribution of refugees globally and across EU member states, and decrease the opportunities for smugglers to profit.
- While encouraging member states to pledge and fill **relocation** places, relocation should respect family unity and only be carried out with the informed consent of the asylum seekers concerned, while taking into account to the extent possible their preferences and links with specific member states. Irregular secondary movements are only likely to be limited by giving meaningful integration prospects rather than introducing disincentives or sanctions.
- The **'hotspots'** system should be organised with a view to improving asylum processing and reception conditions and must ensure full observance of international human rights law – in particular respect of the prohibition of arbitrary detention, collective expulsions and the use of excessive force during identification. International and civil society organisations should be guaranteed access to hot spot areas at all times.
- The European Commission should use all necessary means, including formal infringement proceedings, to ensure **Hungary's** full compliance with European Union law, and start a structured dialogue with Hungary within the EU Framework to strengthen the Rule of Law.
- The European Parliament, the European Commission and EU member states should submit a reasoned proposal to the European Council to activate the preventive mechanism foreseen under Article 7(1) TEU, in the light of the evidence of "a clear risk of a serious breach of the values referred to in Article 2 TEU", including "the respect for human dignity ... and respect for human rights".
- The EU states participating in the Dublin Regulation should refrain from transferring asylum-seekers back to Hungary on the basis of deficiencies in reception conditions and asylum procedures and a genuine risk of *refoulement* due to legislation designating Serbia as safe third country.
- Additional support provided by the EU to **Serbia and Macedonia** should go into ensuring that both countries improve their asylum systems and the reception of asylum-seekers.
- Serbia and Macedonia, as candidate countries to the EU, should improve the treatment of refugees and migrants without delay, and take immediate measures to ensure human rights standards are respected and adhered to, within the country, at its borders and in its asylum procedures.

Thank you in advance for your commitment to upholding the human rights of refugees with these urgently-needed measures. We would be glad to provide any further information you may require.

Yours sincerely,



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