

Reference: B1754

Klaas Diikhoff,
State Secretary of Security and Justice and
Minister for Immigration

Presidency of the Council of the European
Union

18 April 2016

Dear State Secretary Dijkhoff,

JUSTICE AND HOME AFFAIRS COUNCIL 21 APRIL: REFORM OF THE COMMON EUROPEAN ASYLUM SYSTEM (CEAS)

The Justice and Home Affairs Council on 21 April will discuss amongst others the European Commission Communication on the reform of the CEAS. In this respect, we would like to raise a number of issues, which we think should inform member states' orientations for the legislative reform packages that have been announced.

Amnesty International believes that a reform oriented towards increasing responsibility-sharing among EU member states is a positive step. Given that, as acknowledged in the Communication itself, the weaknesses in the Dublin system are not only of implementation but also of design, it is not possible to fix the system without adopting a fundamentally different approach. This approach should be based on the principle of solidarity and improving conditions for asylum seekers and refugees in the EU: it is simply unfair to expect frontline member states to carry on bearing a disproportionate burden in determining protection needs, providing asylum support, and then long-term residence to those who are granted status. It has also proven unworkable in the face of sustained migratory flows and continues to cause intense hardship and human suffering.

Amnesty International believes that the following core principles should guide the Dublin reform:

- Swift access to international protection;
- Respect for human rights, particularly the right to seek asylum, the right to family unity, the principles of non-refoulement and non-discrimination;
- Strong procedural rights, such as provision of information, access to a lawyer, personal interview and effective remedies, in line with European Court of Human Rights jurisprudence and the EU Charter of Fundamental Rights;
- Flexibility to accommodate personal and humanitarian circumstances.

Adherence to those principles would imply a relocation/distribution system involving all asylum seekers, not only people with manifest protection needs; not delaying access to asylum procedures by subjecting asylum seekers to multiple transfers before allocation of responsibility for their claim is determined; ensuring compliance with the system through flexibility to accommodate individual circumstances, rather than relying on coercion and sanctions.

With regard to the proposed reform of the other CEAS instruments, while agreeing that greater harmonization of member states' asylum systems is necessary, this should not come at the expense of downgrading standards of the current system. Amnesty International is particularly concerned that entrenching EU-wide "safe country" concepts and inadmissibility procedures would, in practice, render the EU inaccessible to asylum seekers, ultimately undermining global responsibility for refugees. We are also concerned by the highly punitive measures suggested to deter irregular secondary movements within the EU. Procedural rights, as well as substantive rights relative to reception, are human rights and cannot be made conditional upon compliance with national or EU legislation or policies.

Amnesty international believes that any CEAS reform should not only step up efforts towards a truly harmonized European asylum space, but also implement the Treaty of Lisbon's call for the creation of a "uniform status of asylum for nationals of third countries, valid throughout the Union". As a first step, mutual recognition of positive asylum decisions and transfer of protection statutes should be considered as part of this reform, not confined to a longer term perspective.

Finally, Amnesty International welcomes that the Communication gives due account to the need to ensure and enhance safe and legal migration pathways. We believe the proposal for a structured EU resettlement scheme can add value to EU resettlement efforts, provided it is mandatory, aligned with UNHCR resettlement targets, and preserves the nature of resettlement as a measure to ensure the rights of the most vulnerable. The concept of making EU policy on resettlement conditional on migration management cooperation is deeply troubling and should be resisted.

We look forward to engaging with you on the CEAS reform and would welcome the opportunity to discuss this and wider EU migration policy with you personally. Thank you in advance for giving consideration of this meeting request.

Yours sincerely,



Iverna McGowan

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