

Open Letter to the peoples of Europe, the European Union, EU Member States and their representatives on the Justice and Home Affairs Council

28th September 2015

We, the undersigned international lawyers, gathered at the European Society of International Law 11th Annual Meeting in Oslo on 12th September 2015, and other international law scholars and experts, condemn the failure to offer protection to people seeking refuge in Europe, and the lack of respect for the human rights of those seeking refuge.

In particular, we express our horror at the human rights violations being perpetrated against those seeking refuge, in particular the acts of violence, unjustified coercion and arbitrary detention.

We note that European states have obligations not only to refugees and migrants on their territories, but that international refugee law rests on international responsibility sharing. The world's refugees are disproportionately outside Europe. We note that over nine-tenths of Syrian refugees are in five countries, Turkey, Lebanon, Jordan, Egypt and Iraq. We note that around one quarter of Lebanon's population comprises refugees.

We note that all European states have obligations not only to refugees as defined under the 1951 Convention on the Status of Refugees, but also to those protected against return under international human rights law and customary international law. We note that this broad duty of *non-refoulement* protects all those at real risk of serious human rights violations if returned. They should be afforded international protection. EU Member States have further obligations under EU law.

We urge European states and the EU to alleviate the humanitarian crisis, prevent further loss of life in dangerous journeys to Europe by providing safe passage, and live up to their obligations in international and EU law.

We recall the legacy of Fridtjof Nansen, the first League of Nations High Commissioner for Refugees, and the initiator of the Nansen passport, created to facilitate the safe passage and legal migration opportunities for refugees and stateless persons.

We urge European states and the EU to:

- meet their obligations of international responsibility-sharing, to resettle significant numbers of refugees and provide aid to countries hosting large numbers of refugees.
- as regards those seeking protection in Europe, abandon those policies which prevent safe and legal access to protection. The UNHCR estimates over 2,860 people have died at sea trying to get to Europe this year alone. Suspending carrier sanctions and issuing humanitarian visas would largely prevent the need for those seeking refuge to make dangerous journeys.
- respect and protect the human rights of those seeking refuge once they are in Europe, including by enabling them to access asylum procedures or ensuring safe passage to countries where they wish to seek international protection.
- immediately suspend Dublin returns of asylum-seekers to their first point of entry, but ensure that its rules on family reunification are implemented fully and swiftly.
- relocate asylum-seekers and refugees in a manner that respects the dignity and agency of those relocated, and increases Europe's capacity to offer protection.

- replace the Dublin System with one which accords with international human rights law and respects the dignity and autonomy of asylum-seekers, and supports international and intra-European responsibility-sharing.
- implement fair and swift procedures to recognize all those in need of international protection.
- while claims are being examined, afford those in need of international protection, at a minimum, the reception conditions to which they are entitled in international human rights and EU law.
- respect the right to family life, including positive obligations with regard to family unity, facilitation of swift family reunification and family tracing.
- treat all refugees, asylum-seekers and migrants with dignity and respect, respecting and protecting their human rights, irrespective of status.

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