

Access to International Protection in the EU for People Fleeing Syria

14.10.2014

migration

Recommendations of the National Red Cross Societies of the Member States of the European Union and the International Federation of Red Cross and Red Crescent Societies⁽¹⁾

We, the National Red Cross Societies of the Member States of the European Union and the International Federation of Red Cross and Red Crescent Societies, call on the European Union (EU) and its Member States to respect their international obligations under the 1951 Convention relating to the status of refugees and its 1967 Protocol and to ensure people fleeing Syria are provided with safe and effective legal avenues to the EU territory to exercise their right to apply for international protection.

To this effect, we make the following six recommendations to the EU and its Member States:

1. Ensure that people fleeing Syria have effective access to asylum procedures in the EU.
2. Consider visa applications from people fleeing Syria in a protection sensitive way.
3. Facilitate family unity in Europe for people fleeing Syria.
4. Offer emergency resettlement to the most vulnerable people fleeing Syria.
5. Review refugee status determination procedures and reception conditions for people fleeing Syria.
6. Do not return people to Syria and its neighbouring countries.



The aim of this position paper is to put forward recommendations to ensure that safe and effective legal avenues for persons fleeing Syria are put in place. It is imperative that the measures put forward in this document are seen as complementary forms of seeking protection that in no way constrain the right of asylum seekers to ask for international protection irrespective of the way they arrived in the EU. However, we also underline that these recommendations should apply to all persons fleeing armed conflict or persecution and are in need of international protection. Effective access to international protection is a fundamental right that must not be denied.

These recommendations do not intend to relieve the EU and its Member States from the responsibility of creating a fair and well-functioning Common European Asylum System.

'Twenty-year old Berivan from Syria has been reunited with her mother Leila and her father Raduan and one and a half months separation, 09 October 2013, 11 February 2014, Voenna Rampa, Bulgaria.

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1. Including the Norwegian Red Cross as members of the Red Cross EU Office.

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Background

Resolution 3 adopted at the 31st International Conference of the Red Cross Red Crescent calls upon States to ensure that procedures at international borders include adequate safeguards to guarantee the dignity and safety of all migrants and grant migrants appropriate international protection. Following this Resolution, the RCEU Office and its members have adopted two papers calling upon EU Member States to create legal avenues to access protection in the EU⁽²⁾.

We urge EU Member States to adopt the following recommendations, in light of the severity of the Syrian crisis and the extreme conditions and vulnerabilities that people fleeing Syria face.

«Syria has become the great tragedy of this century – a disgraceful humanitarian calamity with suffering and displacement unparalleled in recent history⁽¹⁾»

To this effect we make the following recommendations to the EU and its Member States.

1. António Guterres, United Nations High Commissioner for Refugees, 3 September 2013.

Resolution 3

The Red Cross Red Crescent requests States to ensure that relevant laws and procedures are in place to enable National Societies to enjoy effective and safe access to all migrants without discrimination and irrespective of their legal status.

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Our Recommendations

1. Ensure that people fleeing Syria have effective access to asylum procedures in the EU.

EU Member States should keep their borders open to people fleeing Syria and set up appropriate and effective legal avenues for potential asylum seekers so they can reach EU territory and lodge an asylum application in safety and dignity.

EU Member states must make sure that pushbacks, interdictions or other forms of denial of access to international protection do not take place at their borders. To this aim they should review their surveillance and border protection activities and mechanisms to ensure that these are respectful of refugees' rights, needs and dignity. The EU and its Member States should implement safe and effective legal avenues to ensure access to protection in the EU for people fleeing Syria.

In line with their international obligations, all EU Member States must provide fair and effective asylum procedures for all peoples fleeing Syria and entering the EU who wish to apply for international protection. More needs to be done to provide effective access to the asylum system, improve the quality of asy-

2. RCEU, "Legal Avenues to Access International Protection in the EU", 27 February 2013 and RCEU, "Position paper on Access to International Protection", 17 November 2011.

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Our call

The EU and its Member States should implement safe and effective legal avenues to ensure access to protection in the EU for people fleeing Syria:

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lum procedures throughout the EU, promote fair and efficient asylum systems, develop and clarify uniform legal standards, and to find long term solutions, including integration, for persons fleeing Syria. Additionally, Syrians who are already residing in the EU should be allowed to apply or reapply for asylum, irrespective of their legal status.

2. Consider visa applications from people fleeing Syria in a protection sensitive way.

At the moment, visa requirements for people fleeing Syria remain in place in all EU Member States. Some Member States have also instated airport transit visas. As a consequence, people fleeing Syria must obtain a visa for those countries through which they may be transiting, as well as for entry into their country of destination. We therefore encourage EU Member States to consider visa applications from people fleeing Syria in a protection sensitive way.

3. Facilitate family unity in Europe for people fleeing Syria.

EU Member States should ensure that people who have fled Syria – including those who have been granted international protection - have their right to family unity respected and safeguarded. Refugees, beneficiaries of subsidiary protection or of other forms of international protection including temporary protection, should have access to family reunification under favourable rules. In this regard, family reunification should be afforded to family members in the broad sense of the term, not just to nuclear family members. EU Member States should facilitate family reunification and limit legal, practical and/or administrative obstacles which limit or prevent family unity.

4. Offer emergency resettlement to the most vulnerable people fleeing Syria.

The number of resettlement places offered by EU Member States⁽³⁾ is low and inadequate compared to the number of persons who are currently in need of international protection. In view of the extremely harsh living conditions faced by persons fleeing Syria, the pressure on Syria's neighbouring States and the high vulnerabilities of many refugees finding themselves in those countries, EU Member States should offer a far higher number of emergency resettlement places to refugees that have fled Syria. Such resettlement places should be supplementary to existing national resettlement quotas.

The United Nations High Commissioner for Refugees (UNHCR) should be involved in the identification of those refugees needing to be resettled, with

3. UN High Commissioner for Refugees (UNHCR), Syrian Refugees in Europe: What Europe Can Do to Ensure Protection and Solidarity, 11 July 2014, available at: <http://www.refworld.org/docid/53b69f574.html> [accessed 9 October 2014].

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priority given, but not limited to, the most vulnerable refugees: women and children at risk, unaccompanied minors, survivors of violence and torture, people with serious medical needs, and those in need of emergency or urgent resettlement for legal and/or physical protections reasons.

Member States that do not yet operate regular annual resettlement programmes should be encouraged to do so. Emergency resettlement programmes for persons fleeing Syria could be a way to gain expertise that could be easily transferred to regular annual programmes.

5. Review refugee status determination procedures and reception conditions for people fleeing Syria.

There is currently no EU-wide common approach to dealing with those fleeing the conflict in Syria⁽⁴⁾. While some Member States automatically grant subsidiary or temporary protection to persons fleeing Syria, others are only suspending return decisions. This leads to different rights and entitlements being granted to persons fleeing Syria and to different legal status throughout the EU. Considering the situation in Syria, most of those fleeing the country should be recognised as refugees⁽⁵⁾ and granted corresponding rights, particularly with regard to family reunification.

All EU Member States must provide adequate reception conditions and dignified standards of living. Many of the people fleeing the conflict in Syria, like any other conflict, have experienced torture, trauma, or sexual violence. EU Member States should take swift and effective measures to ease and reduce the length of national asylum procedures for such persons. Practices which contribute to reinforcing these traumas, such as detention, and lengthy and multiple interviews should be avoided. As a general rule, vulnerable persons seeking protection in the EU should not be detained⁽⁶⁾. Support for the rehabilitation of torture victims and victims of trafficking should be immediately available.

6. Do not return people to Syria and its neighbouring countries.

We strongly support the recommendation of the UNHCR calling upon states to maintain a moratorium on all returns to Syria for the time being, pending an assessment of when the situation in the country would permit return in safety and dignity⁽⁷⁾. In view of the extreme violence of the conflict in Syria and the deteriorating humanitarian situation in neighbouring countries, all returns, including to neighbouring countries, must remain suspended. This measure should be kept in place at least until the country's security and human rights situation has sufficiently improved to permit safe, dignified and sustainable return.



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4. *ibid.*

5. According to the UNHCR, persons fleeing Syria who are seeking international protection are likely to fulfil the requirements of the definition of refugees contained in the 1951 Convention Relating to the Status of Refugees. See [International Protection Considerations with regard to people fleeing the Syrian Arab Republic](#), Update II, 22nd of October 2013, UNHCR.

6. "In accordance with Article 31 of the 1951 Geneva Refugee Convention, illegal entry for the purpose of seeking international protection must not be penalised. Asking for international protection is a right, not a crime. The Red Cross is of the view that people seeking protection should not be detained, and urges states to refrain from using this measure. (...) We therefore urge EU decision makers, Member States to ensure that any national frameworks for asylum reception limit detention possibilities, in order to truly make this a measure of last resort"; RCEU, [Letter of the Red Cross EU Office on the revised Directive laying down minimum standards for the reception of asylum seekers](#), 10 June 2013.

7. [International Protection Considerations with regard to people fleeing the Syrian Arab Republic](#), Update II, 22nd of October 2013, UNHCR.