Contribution to the European Commission’s consultation on the post-Stockholm agenda

Migration

Our Principles
We are guided at all times by our Fundamental Principles:
- Humanity
- Impartiality
- Neutrality
- Independence
- Voluntary Services
- Unity
- Universality

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 (IFRC)(1)

The National Red Cross Societies of the Member States of the European Union and the International Federation of Red Cross and Red Crescent Societies welcome the public consultation launched by the European Commission on the future of Home Affairs policies - “An open and safe Europe – what next?”(2) as it allows us to make known our humanitarian point of view and recommendations in relation to the future migration, asylum and border European Union (EU) policy agenda.

As we have done during the discussions leading to the adoption of the Stockholm programme(3) and of The Hague programme,(4) we would hereby like to put forward our perspective on the future of EU migration and asylum policies. This is based on our experience, our global network and our commitment to protect and assist migrants by addressing their needs and vulnerabilities.

We agree with the European Commission that Home Affairs policies have undergone a profound transformation during the last two decades and we celebrate the achievements of the EU and its Member States, which have led to the foundations for a common legislative framework and operational cooperation across the EU. We consider that key future challenges lie in the implementation of EU migration and asylum legislation, and in the need to draw lessons from the past 20 years (both in terms of policy-making and of funding experiences).

The implementation and monitoring of policies should now be the main focus leading to a truly harmonised system on migration and asylum. We support the European Commission’s role in monitoring and supervising the implementation of EU legislation at national level, and call for reinforcement of the links with Civil Society Organisations as we have the capacity to provide information as well as unique practical experience.

While the format of the new agenda for Home Affairs remains uncertain, we would like to stress the importance of ensuring transparency, accountability and democratic dialogue in the definition of its content. We hope that the next programme will allow for adequate cooperation with Civil Society in the elaboration, implementation and evaluation of EU policies and programmes.

At the 31st International Conference of the Red Cross and Red Crescent the Movement(5) in 2011, States agreed to work towards enhanced cooperation between public authorities at all levels and National Red Cross and Red Crescent Societies in order to promote respect for diversity, non-violence and social inclusion of all

1. Including the Norwegian Red Cross as members of the Red Cross EU Office. Thereafter, the Red Cross’ refers to National Red Cross Societies of the Member States of the European Union and the International Federation of Red Cross and Red Crescent Societies. It does not include the International Committee of the Red Cross.
5. At the International Conference, representatives of the components of the Movement meet with representatives of the States Party to the Geneva Conventions. Together they examine and decide upon humanitarian matters of common interest and any other related matter.
migrants; to enhance cultural awareness among migrant and local communities; to promote through formal and non-formal education, humanitarian values and the development of interpersonal skills to live peacefully together; and to enhance social cohesion through the engagement of local and migrant populations and civil society organisations in voluntary service, community and sport programmes.

With this in mind, we call for the next programme to be based on a spirit of partnership, and to allow for the EU, and its Member States and agencies to closely cooperate with Civil Society Organisations active in the field of migration and international protection inside and outside the EU.

During the implementation of the Stockholm Programme, we witnessed the increasing role of Human Rights instruments and of the judiciary in interpreting home affairs policies and in assessing their compatibility with fundamental rights. The next years should provide an opportunity for the EU to review the impact of the common European legislative framework on international obligations, with a view to ensuring that the rights of all persons, irrespective of their legal status, are not violated.

There should be an evaluation of measures such as carrier sanctions that impose financial penalties on private transport companies carrying persons who do not possess the necessary travel documents and should such measures be found to be in breach of Human Rights Law, in particularly the right to seek asylum and the right to leave a country including one’s own, then they should be revised. The EU must ensure that migration takes place in safety and with full respect for fundamental rights.

Through Resolution 3 adopted during the 31st International Conference of the Red Cross and Red Crescent, States have undertaken to ensure that within the framework of applicable international law, their “national procedures at international borders, especially those that might result in denial of access to international protection, deportation or interdiction of persons, include adequate safeguards to guarantee the dignity and safety of all migrants”.

We believe that legal channels for migration including in cases of asylum, family reunification and labour purposes will crystallize the full benefits of migration be it for the migrant, the country of origin or the country of destination.

Our Practice
To protect and assist migrants irrespective of their legal status by addressing their needs and vulnerabilities.

Our call
“The EU must ensure that migration takes place in safety and with full respect for fundamental rights. A truly open Europe should be based on clear values and principles”

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1. Protect and respect human rights of migrants – irrespective of their legal status

As a humanitarian network we believe that people made vulnerable as a result of migration policies should receive fair and humane treatment. The human rights and dignity of migrants – irrespective of their legal status - must be protected and respected. Migrants in an irregular situation clearly belong to the most vulnerable people in European society. The term ‘illegal migrant’ should not be used to refer to this group, as it further stigmatizes and criminalises already vulnerable persons. Because of their precarious legal status, in many countries such migrants have limited or no access to basic medical, social and educational services. In addition, we are concerned that the possibilities to detain migrants are increasing, putting their life, health and social wellbeing at risk.

- Access to medical treatment for all migrants should be made effective without negative consequences, especially for pregnant women, children and the elderly. Basic services such as education for children and labour rights should be guaranteed for everyone across the EU. Current legislation which complicates or even criminalises the provision of humanitarian aid to migrants should be revised and abolished. This requires that the right to access all migrants in need is upheld - including access to those currently in detention – especially to be able to provide them with humanitarian assistance and tracing services.

- Sufficient funding should be made available at national level to guarantee all migrants access to adequate health, housing, justice and social services in dignified conditions. This would help to tackle the issue of destitute migrants.

- Detention should only be used for a minimal period and as a last resort, and it should be subject to judicial review. Current detention practices need to be reviewed in order to assess whether they are necessary and proportional. Alternatives to detention should be further developed and promoted. Conditions of detention should also be regularly reviewed, so that the human rights and dignity of detained migrants are protected and respected, taking into account the specific needs of vulnerable persons.

- Victims of trafficking must be recognized as victims. Such recognition should be unconditional, irrespective of their cooperation in criminal procedures. This status determination should be made a priority, including by ensuring their access to asylum procedures or other protection measures.

2. Counter negative attitudes towards migrants, like racism, xenophobia and discrimination

Migrants are often among the worst affected following the onset of a crisis. In addition, the many benefits of migration and the contribution of migrants to the countries of origin, transit and destination tend to be overlooked in the public discourse on migration. Awareness raising of the positive contribution of migrants to EU development and economic growth is essential in order to counter stereotypes that feed discriminatory attitudes and lead to situations of exclusion, poverty and racism. Migration should not be regarded as a threat or just as an instrument to respond to the specific needs of the la-

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6. 31st International Conference of the Red Cross and Red Crescent, Resolution 3 – Migration: Ensuring Access, Dignity, Respect for Diversity and Social Inclusion, November 2011.


Our call

Existing migration policies should be reviewed to ensure that they are fair and truly create opportunities for legal and safe migration in dignity, whether for employment purposes or for family reunification.

2. Support migration policies that are guided by the principle of respect and dignity towards migrants

Existing migration policies should be reviewed to ensure that they are fair and truly create opportunities for legal and safe migration in dignity, whether for employment purposes or for family reunification. The promotion of a consistent labour migration framework across the EU would help to mitigate the negative consequences of demographic change and an ageing population. Yet migration cannot be managed solely from the point of view of economic and demographic needs; this topic deserves humanitarian attention. From a humanitarian point of view, migration schemes and debates should be guided by the principles of humanity, respect and dignity, with careful provision made for the needs and interests of migrants.

- Strong legal provisions governing migrant rights, decent work, social protection and the portability of social rights should be mainstreamed into the existing labour migration framework to ensure that legal migration policies are fully rights-based. Such a framework would optimize the positive effects of migration for development.
- Effective mechanisms should be in place to protect migrant workers against exploitation, in particular by guaranteeing effective access to justice and access to complaint mechanisms for all migrants irrespective of their administrative status.
- Future mobility partnerships should be based on clear humanitarian principles 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.
- There should be a review of the adequacy of current labour migration channels in reflecting the needs of the EU employment market. Consideration should be given to establishing additional channels that increase opportunities for legal migration to the EU for employment purposes.

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Resolution 3

The Red Cross 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.

In view of the transposition of the new asylum package we would like to invite the EU to use this as an opportunity to simplify asylum procedures at national level and to ensure access to fair and high quality asylum systems that provide a uniform status throughout the Union. In particular, we would encourage the EU to support the introduction of a single and uniform status for all persons eligible for international protection in the EU which as far as possible builds on the rules and standards pertaining to refugee status and promotes equal treatment of refugees and beneficiaries of subsidiary protection. Existing integration policies should be evaluated and reviewed to ensure that a protection-sensitive approach is upheld, in particular with regard to Family Reunification and Tracing.

Our call

Access to the Common European Asylum System remains the key challenge for the EU in the years to come. Legal avenues to access international protection within the EU must be put in place.

In accordance with Article 31 of the 1951 Convention relating to the status of refugees, illegal entry for the purpose of seeking international protection must not be penalised. We believe that people seeking protection should not be detained, and we urge EU decision makers and Member States to ensure that any national frameworks governing asylum reception limit the possibility of detention and envisage a priori other alternatives, in order to make this truly a measure of last resort.34

The Common European Asylum System must guarantee that Member States and EU institutions allocate sufficient resources, including adequately trained staff, to processing asylum applications and to the reception of asylum seekers.

5. Uphold border management policies and practices that are respectful of the rights and dignity of all migrants, irrespective of their legal status

EU border procedures should not result in the denial of access to international protection and they should include adequate safeguards to guarantee the dignity and safety of all migrants. Rescue at sea must be implemented effectively. Border control measures, even far away from the EU territory, must always be in line with the EU Charter of Fundamental Rights, the European Convention on Human Rights and the principle of non-refoulement; they must not lead to push-backs or pull-backs at

34. RCRC, Letter on the revised Directive bring down minimum standards for the reception of asylum seekers, 03 June 2014.

www.redcross.eu

Representing EU Red Cross National Societies and the IFRC

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Our call
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6. Address the needs of migrants in the countries of origin and transit through the external dimension of the EU asylum and migration agenda

European National Societies have expressed concerns about the current externalisation of EU migration policies and its impact on migrant vulnerabilities.\(^{11}\) It is essential that the external dimension of the EU asylum and migration agenda serve to address the needs and rights of migrants in the countries of origin and transit, and be rooted in principles of solidarity and the protection of fundamental rights. Capacity-building of immigration and asylum authorities and stakeholders, including the judiciary and civil society organisations in third countries, is important. However, it should always be complementary and not a substitute for measures that ensure access to protection in the European Union. Third country support beyond resettlement should be considered as secondary to the establishment of high quality EU migration and asylum policies.

\(^{11}\) IIRC (2013), Migrants smuggled at sea - ensuring their dignity and safety: an IIRC perspective, 20 April 2013

\(^{12}\) IIRC (2013), Shifting borders. Externalising migrant vulnerabilities and rights?, 4 November 2013
Representing National Red Cross Societies of the Member States of the European Union and the International Federation of Red Cross and Red Crescent Societies

28 National Societies in the European Union and Norway form part of the world’s largest humanitarian network, and employ over 250,000 staff. They also engage well over one million volunteers, and have more than eight million members. The Red Cross EU Office represents their interests, as well as those of the International Federation of Red Cross and Red Crescent Societies (IFRC), before the European Union (EU) and its institutions.

We work to increase Red Cross influence on European Union policy, legislation and practice so as to improve the humanitarian situation of the most vulnerable, and aim to increase EU resources for our work at home and abroad in order to maximise the reach and scope of our global network through a coordinated approach.

Asylum and Migration

Asylum, migration and displacement are of high importance to Red Cross Societies in the EU, as many play a key role in receiving refugees and providing counselling, health care and social assistance, as well as supporting integration and participation in community life. We help Red Cross Societies in the European Union to better understand the EU policy framework on migration and asylum, and advocate for EU migration policies that safeguard humanitarian principles and respect the dignity of migrants and refugees, regardless of their legal status. We promote adequate support for vulnerable migrants irrespective of their legal status, including access to protection and to basic services.

1. Disaster and Crisis
2. Development Aid
3. Asylum and Migration
4. Social Inclusion

OUR VISION 2020:
‘The Red Cross is a unique and trusted partner to the EU institutions in terms of policy dialogue and programming. It speaks with a common voice and acts in the interest of vulnerable people across the European Union and around the world.’

1. Our members include Austrian Red Cross, Belgian Red Cross, British Red Cross, Bulgarian Red Cross, Croatian Red Cross, Czech Red Cross, Danish Red Cross, Estonian Red Cross, Finnish Red Cross, French Red Cross, German Red Cross, Hellenic Red Cross, Hungarian Red Cross, Italian Red Cross, Irish Red Cross, Latvian Red Cross, Lithuanian Red Cross, Luxembourg Red Cross, Malta Red Cross, Netherlands Red Cross, Norwegian Red Cross, Polish Red Cross, Portuguese Red Cross, Romanian Red Cross, Slovak Red Cross, Slovenian Red Cross, Spanish Red Cross, Swedish Red Cross and the International Federation of Red Cross and Red Crescent Societies. It does not include the International Committee of the Red Cross.