

SYRIAN REFUGEES IN EUROPE: Protection in Principle, Chaos in Practice

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Origin and escalation of the Syrian conflict – the war on civilians

“With no end in sight, the Syrian conflict has continued to intensify. Civilians, Syrians of all backgrounds, have been the subject of crimes against humanity and war crimes, as well as other serious violations of international humanitarian law and gross violations of their human rights. (...) Civilians are suffering the unimaginable, as the world stands witness”¹. This is how the latest Report of the Independent International Commission of Inquiry of the Syrian Arab Republic, issued by the Human Rights Council and dated 13 August 2015, begins. The conflict that has been devastating Syria for about five years is a tremendous and bloody war that has developed from peaceful demonstrations of protest against an oppressive and dictatorial regime into a tragedy of violence, death, and displacement².

The Syrian uprising was “sparked by mounting anger”³ and developed in the geographical but also political peripheries. This term refers to all the social groups discriminated against and marginalized by the regime of Bashar al-Assad, an authoritarian system “with an Islamic spirit and no real opposition inside the country”⁴. Not only, indeed, had the country not witnessed democratic elections since 1963, but in between 2001 and 2011 (after a period of relaxation and hopes for reform known as the “Damascus Spring”), “corruption, political pressure, social injustice, and economic grievances were on the rise”⁵ and no opposition was tolerated. The social movements, therefore, were fuelled by “a widely shared

1. Human Rights Council, 13 August 2015, A/HRC/30/48, p. 1.

2. According to Philippe Droz-Vincent, the Syrian rebellion began thus: “Increasingly efficient organizational structures and adequate framing turned peaceful demonstrations into a national movement with an insurrectionist character, with massive demonstrations in public spaces that were countered by the deployment of security forces”. “State of Barbary (Take Two): From the Arab Spring to the Return of Violence in Syria”, *The Middle East Journal*, 2014, vol. 68, no. 1, pp. 33-58, at pp. 33-4.

3. *Ibid.*, p. 35.

4. Hakim Khatib, “Political Instrumentalization of Islam in a Violent State Crisis: the Case of Syria”, *Journal of Applied Security Research*, 2015, vol. 10, no. 3, pp. 341-61, at p. 347.

5. *Ibid.*

belief, especially among those in their 20s, (...) that the Asad regime has denied them their dignity [and] a fair chance to participate in their own fate”⁶.

In the wake of the Egyptian and Tunisian revolutions, which represented “motivating models”⁷ for the Syrians, the population organized protests to call for reforms and later for the fall of the regime, “to be replaced by a government guaranteeing human rights for all Syrians”⁸. Rather than faith in a particular view or ideology, the protesters shared “a generational experience of grievance and systematic disenfranchisement by a corrupt, repressive, and massively armed ruling elite”⁹.

The key ingredient of the regime’s response to the uprising was brutal repression¹⁰, accompanied by the expulsion of foreign journalists from the country and a prohibition on all (local and international) media coverage of the demonstrations. Armed forces of the regime became involved in the crackdown on peaceful demonstrations¹¹, “hundreds of students were suspended from their universities (...), thousands of civilians were driven into prison, beaten, tortured, terrorized, and horrified and millions were forced to flee their homes seeking refuge inside or outside the country”¹².

6. Droz-Vincent, p. 46.

7. Mojha Kahf, “The Syrian Revolution, Then and Now”, *Peace Review*, 2014, vol. 26, no. 4, p. 556-63, at p. 556.

8. *Ibid.*

9. *Ibid.*

According to Khatib, p. 349: “The drivers for protest were neither ideological nor religious, but rather common people who suffered from political oppression, social injustice, economic hardships, human rights violations, unemployment, poverty, corruption, and so forth”.

10. See e.g. the testimony of Alice Ramiz Mferij, a Syrian refugee living in Germany, interviewed by telephone by Al-Marsad on 24 December 2015 (Appendix, Interview 1): “I took part in various peaceful demonstrations and I was arrested on 20.07.2011. (...) I was held in prison for twelve days, and (...) accused of illegal demonstrations (...). The second time, I was arrested on 30.12.2013. (...) This time, I was tortured, beaten and isolated in a small crowded cell full of other prisoners and of corpses”.

11. See e.g. the testimony of Farizah-Jah Jah, a Syrian refugee living in France, interviewed by telephone by Al-Marsad on 28 December 2015 (Appendix, Interview 3): “I was an activist, and joined a lot of demonstrations in different places. We were often attacked by the *Shabiha* [militia supporting the government] and by snipers, in spite of the fact that on many occasions we were carrying roses to the soldiers, as symbol of the peaceful nature of our actions. The government would use any means to empty the places of the peaceful demonstrators”.

12. Khatib, p. 349. Government repression was so extreme that “hospitals were tentative to

In early 2012, the situation had already reached a mutually painful deadlock, “where neither camp prevailed nor was crucially overwhelmed”¹³, giving the regime the possibility “to push the country towards war and to play on sectarian divisions”¹⁴. In particular, violence by the regime against the unarmed civilian population increased steadily in scale, with attacks against opposition strongholds in civilian-populated areas becoming regular and indiscriminate in nature, in order to show to the population “the high price it could pay in physical destruction if it joins the revolution”¹⁵. What began as a widespread social movement of protest became a militarized response when armed groups started to emerge after the summer of 2011, with the international community standing by, inert. It is interesting to underline that “the opposition’s turn to violence should not be interpreted solely as a creeping militarization of the Syrian uprising; it was also a deliberate product of the regime strategy. (...) The Asad regime’s allegations of an armed uprising were false at the beginning, but, as a consequence of the concrete practices of the Asad regime – by demonizing demonstrators and sowing fear and violence – the fears became reality”¹⁶. The regime’s ferocious response to the peaceful uprising, therefore, contributed to the outbreak of a civil war in between August 2011 and January 2012¹⁷, leaving no single Syrian citizen unaffected.

As outlined in the latest report of the United Nations Commission of Inquiry on Syria, the war continues to intensify, “across an increasing number of complex and often unpredictable frontlines”¹⁸. The warring parties benefit from the support of a number of external backers, and none of them “seem either close to collapse or positioned to secure an outright military triumph. (...) [Therefore,] current trends suggest that the Syrian conflict – and the killing and destruction

receive any wounded people because they were under surveillance. Any medical help offered to protestors was considered an act of treason”. *Ibid.*

13. Droz-Vincent, p. 49.

14. *Ibid.*

15. *Ibid.*, p. 53.

16. *Ibid.*, p. 51.

17. Christopher Phillips, “Sectarianism and Conflict in Syria”, *Third World Quarterly*, 2015, vol. 36, no. 2, pp. 357-76, at pp. 358-9.

18. A/HRC/30/48, p. 3, para 7.

it wreaks – will continue for the foreseeable future”¹⁹, especially given the fact that “the war is increasingly driven by international and regional powers, primarily in accordance with their respective geostrategic interests”²⁰. In order to provide an idea of the impact the conflict is having on civilian groups and communities, it is useful to make further reference to the latest report of the Commission of Inquiry, which summarizes the violations of international humanitarian law that all belligerent parties are committing. In particular, the report describes how “warring parties conduct hostilities with little, if any regard for the laws of war and, in particular, its foundational principle of distinction. Regardless of the belligerent involved, the majority of attacks are not directed at a specific military objective or fail to employ a method or means of combat that can be directed at a specific military objective. Indiscriminate attacks on residential areas have led to massive casualties among Syrian civilians”²¹. Moreover, “Government forces, anti-Government armed groups, Jabhat Al-Nusra and ISIS all locate military objectives within or near densely populated civilian-inhabited areas, endangering the civilian population”²², and killing civilian residents during ground attacks on villages located on frontlines²³ and during aerial bombardments and shelling²⁴. Civilians are also regular victims of enforced disappearance, torture, unlawful killing and arbitrary arrest, especially among the section of the population represented by men of fighting age²⁵. Women and girls are also targeted, victims of different atrocious violations of human rights and dignity on the basis of their gender. As underlined by the

19. *Ibid.*, p. 3, para 8.

20. *Ibid.*, p. 4, para 9.

21. *Ibid.*, p. 6, para 26.

22. *Ibid.*, p. 6, para 27.

23. *Ibid.*, p. 6, para 28.

24. *Ibid.*, p. 7.

25. *Ibid.*, p. 8, para 44: “The Government’s ubiquitous checkpoints have vastly limited the freedom of movement of men seeking to leave opposition-held areas. Civilian men are effectively trapped in areas in which there may be heavy clashes or intense aerial bombardments. Even in calmer areas or periods, the specific threats posed to civilian men from Government checkpoints have prevented them from accessing work and therefore, from being able to provide for their families. Multiple accounts have been documented of women leaving their husbands behind in opposition-held areas to accompany their pre-adolescent sons through the checkpoints and out of the area before they reach an age where they are likely to be stopped by Government forces”.

Commission of Inquiry, “female detainees are imprisoned in squalid, insect-infested cells and subjected to torture and inhuman treatment”²⁶, and “have suffered rape and other forms of sexual violence by Government personnel while held in detention facilities. Sexual assault has also been committed by Government forces at checkpoints. That women can move more freely than men in Government-held areas has increased their vulnerability to physical and sexual assault, by Government forces and by criminal elements within the civilian population”²⁷. It is also important to underline that “the mental anguish that women endure as a result of the disappearance of their male relatives is a human rights violation in itself. Beyond this, female relatives are often left with no means of supporting themselves or their children”²⁸. Finally, “ISIS continues to hold Yazidi women and girls captive in sexual slavery [and] has (...) forced Sunni women and girls into marriages with its fighters”²⁹.

With regard to the identity of the victims and the kind of groups that are targeted, the Commission notes that “all of the Syrian Arab Republic’s religious and ethnic communities are suffering as a result of the conflict. Some communities have been specifically targeted, with discriminatory intent, on the grounds of their actual or perceived religious and/or ethnic background, by ISIS and Jabhat Al-Nusra. (...) In other instances, the motivations for attacks are more complex, resulting from perpetrators conflating a community’s ethnic and/or religious backgrounds and its perceived political loyalties. Where ethnic or religious groups are believed to be supporters of an opposing warring faction, the entire community has been the subject of discrimination and, in some instances, violent attack”³⁰.

It is clear, therefore, that the warring parties are daily violating the laws of

26. *Ibid.*, p. 9, para 52.

27. *Ibid.*, p. 9, para 53.

28. *Ibid.*, p. 9, para 54.

29. *Ibid.*, p. 9, para 59. The Commission adds (*ibid.*, para 60): “ISIS has removed women and girls from public life and placed them entirely under the control of male relatives. Women and girls over the age of 10 may not appear publicly without being entirely covered, and may not travel without a close male relative. It is impossible for women whose husbands have died, fled, or are at the battlefield, to leave their homes for any reason without risking punishment”.

30. *Ibid.*, p. 15, paras 109-111.

war and targeting civilians indiscriminately³¹. When the Geneva Conventions are so openly disregarded, indeed, the main casualties of conflict are no longer combatants, but women, children and men who have not joined the fighting³². These are the segments of the Syrian population that bear the heaviest consequences of this brutal conflict, and are the ones who are trying to flee from death, pain, violence. The “dreadful combination of (...) [the] government’s indiscriminate attacks, including by barrel bombs and suffocating sieges, and atrocities by ISIS and other extremist groups”³³ made thousands of desperate people risk their life to reach Europe, seen as a ‘safe heaven’ just a sea journey on teetering boats or a perilous land route through the Balkans away. Leaving their homelands and lives behind, in the desperate hope to be given the chance to reassemble the pieces of their existence, “most of the refugee population have no idea how their journey will end; their only aim is to reach Europe, depicted as a promised land, a continent of peace and opportunity”³⁴.

As the Commission of Inquiry has noted, “the brutality of the conflict continues to generate unprecedented levels of displacement. With more than 4 million refugees and some 7.6 million IDPs, half of the Syrian Arab Republic’s

31. For a comprehensive account of the violations committed by a number of armed groups belonging to the opposition side, see the report “You Can Still See their Blood” (10 October 2013) by Human Rights Watch, at: <http://tinyurl.com/hebzphv>: “The evidence gathered by Human Rights Watch strongly suggests that the killings, hostage taking, and other abuses committed by the opposition forces on August 4 [in a number of villages in the Latakia countryside] rise to the level of crimes against humanity. The scale and organization of these crimes indicate that they were systematic as well as being planned as part of an attack on a civilian population”.

32. See e.g. Kenneth Roth, “To Stem the Flow of Syrian Refugees, Stop the Barrel Bombs”, Human Rights Watch, 23 September 2015, available at <http://tinyurl.com/z62utc4>: “Much of what makes the Syrian war so ugly is that the Assad government is also attacking civilians who live in areas seized by armed opposition. The aim of this war-crime strategy is to depopulate these regions and send a lesson to other Syrians that they will be attacked if the opposition takes their neighbourhood. (...) But barrel bombs are so imprecise that the Syrian military rarely drops them near the front lines for fear of hitting its own troops. They are used mainly to pummel civilian neighborhoods”.

33. Kenneth Roth, “The Refugee Crisis that Isn’t”, Human Rights Watch, 3 September 2015, available at <http://tinyurl.com/nsyac34>.

34. S. Furstenberg, “The European Union’s Search for Unity as the Refugee Crisis Continues”, Oxford Human Rights Hub, 22 September 2015, available at <http://ohrh.law.ox.ac.uk/the-european-unions-search-for-unity-as-the-refugee-crisis-continues/>.

population has now been uprooted”³⁵, with the majority of the displaced being women and children³⁶. Thousands of them, unfortunately, have placed their fate in the hands of unscrupulous traffickers, risking and too often losing their lives³⁷. Under the framework of international refugee law, when an individual does not enjoy the protection of his or her state of origin, his/her protection falls upon the international community. Under the instruments ensuring their protection, refugees are legally differentiated from other categories of international migrants due to their “special circumstances”, and comprise “a specific category of victims of the most atrocious human rights’ violations, to which the international community owes special attention”³⁸.

How is the international community, and in particular the European Union, coping with the situation? This is what the following chapters of the present paper will explore.

35. A/HRC/30/48, p. 12, para 81.

36. The Commission notes that “[t]his is a consequence of their being able to move more freely through checkpoints, save for those areas controlled by ISIS. Many have been repeatedly displaced. Some have fled bombardments or ground attacks”. Ibid., p. 12, para 83.

37. Ibid., p. 12, para 87: “More than 2,000 Syrian refugees have drowned in desperate efforts to reach safety in Europe since 2011”.

38. Violeta Moreno Lax, “Must EU Borders have Doors for Refugees? On the Compatibility of Schengen Visas and Carriers’ Sanctions with EU Member States’ Obligations to Provide International Protection to Refugees”, *European Journal of Migration and Law*, vol. 10, no. 3, 2008, pp. 315-64, at p. 329.

States' obligations under International Refugee Law – the 1951 Convention on the Status of Refugees

The adoption of the Universal Declaration of Human Rights (UDHR) by the General Assembly of the United Nations in 1948 represented the commencement of a 'human rights revolution', of which the Convention relating to the Status of Refugees also became a milestone³⁹. This instrument, adopted in 1951 and integrated with a fundamental Protocol in 1967, is the key legal document for the definition of a refugee and the establishment of his or her rights. Moreover, it establishes human rights obligations that "impose a humanitarian exception to the right of States to freely delineate their national communities"⁴⁰. In particular, "the unlimited power of States to control the entry, residence and removal of undesired immigration has from then on been constrained by the recognition of rights inherent to the human person"⁴¹.

The Convention was drafted in the aftermath of WWII, when millions of people "were forcibly displaced, deported and/or resettled [and] governments responded by drawing up a set of international agreements to provide travel documents for these people who were, effectively, the first refugees of the 20th century"⁴². While the Convention was initially intended for the protection of refugees from Europe, the 1967 Protocol removed the geographical and temporal restrictions from the definition⁴³. According to Article 1 of the Convention, as amended by the

39. Press Release GA/9536, "General Assembly Concludes Commemoration of the Fiftieth Anniversary of Universal Declaration of Human Rights", 11 December 1998, available at <http://tinyurl.com/j4rdtub>: "The Universal Declaration of Human Rights, adopted by the United Nations on 10 December 1948, represents a common statement of the goals and aspirations regarding human rights and other fundamental freedoms. It recognizes among other things: the fundamental rights of all people to life, liberty and the security of person; the right to an adequate standard of living; the right to own property; the right to freedom of opinion and expression; the right to education, freedom of thought, conscience and religion; and the right to freedom from torture and degrading treatment".

40. Moreno Lax, p. 350.

41. *Ibid.*

42. UNHCR, "The 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol", September 2011, available at <http://www.unhcr.org/4ec262df9.html>.

43. UNHCR, "The 1951 Refugee Convention", available at <http://www.unhcr.org/pages/49da0e466.html>.

1967 Protocol, a refugee is a person who, “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”⁴⁴.

The Convention protects a refugee against the possibility of forcible return by establishing the state parties’ obligation to respect the principle of *non-refoulement* in its Article 33: “No Contracting State shall expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”⁴⁵.

It is easy to see that refugee law occupies a legal space that comes in between the principle of state sovereignty, with its correlated ideals of territorial supremacy and self-preservation, and humanitarian principles of international law essential to guarantee the preservation of life and liberty of those individuals escaping from persecution or other relevant harm⁴⁶. In value of its sovereignty, indeed, every state has the power to control its territorial borders and the entry and exit of foreigners. Obligations accepted under the Convention, however, impose a restriction on the free exercise of this right, which all state parties have agreed to. A balance needs to be found, therefore, between “the national interest of States to control access to their territories”⁴⁷ and the protection of migrants as derived from the international regime. The existing regime of protection under refugee law is indeed still imperfect and incomplete, badly “covering what ought to be a situation of exception. It goes some way to alleviate the plight of those affected by breaches of human rights standards or by the collapse of an existing social order in the wake of revolution, civil strife, or aggression; but it is incomplete so

44. UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, pp. 137ff., available at <http://www.refworld.org/docid/3be01b964.html>.

45. *Ibid.*

46. Guy S. Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (OUP 2007) 1.

47. Moreno Lax, p. 350.

far as refugees and asylum seekers may still be denied even temporary protection, safe return to their homes, or compensation”⁴⁸.

The reasons behind these imperfections and limits lie in the difficulty of conciliating “the fundamental rights of migrants with the imperatives to which domestic immigration policies attempt to respond”⁴⁹. Even though entry controls must take place within the framework of respect for human rights provisions⁵⁰, it is often complicated to isolate the legal obligations under the international regime from the political options available at the national level.

48. *Ibid.*

49. *Ibid.*, p. 351.

50. The status of refugees, indeed, “is determined not only on the premises of international refugee law, but rather by the compendium of all different human rights instruments relevant to any person in the same circumstances”. *Ibid.*

The European system and its lack of harmonization

The Syrians trying to escape the conflict, often by perilous journeys through the Balkans or on unseaworthy boats across the Mediterranean, are entitled to and need protection. The international community, however, is proving unable to grant them protection and this failure is translating into a crisis at the European level.

Some of the main challenges arise from the fact that, despite the European Union's efforts and ambitions to create a harmonized reception system for asylum seekers, the reality is that standards and conditions vary considerably from one EU member state to another. Lack of uniform and harmonized rules, indeed, is the primary reason for the Union's inadequacy and proven incapability to contain and confront the present humanitarian crisis arising from the mass flow of refugees from Syria.

The plan to establish a common and harmonized legal framework of protection for asylum seekers from outside the EU has been incorporated in the most fundamental treaties at the heart of the Union. Article 78 of the Treaty on the Functioning of the European Union, in particular, states: "The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of *non-refoulement*. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties".

The right to asylum is also established by the European Charter of Fundamental Rights. Its Article 18 recites: "The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community". This entails the double consequence that "setting norms in contravention of the 1951 Convention by an EU member state when transposing secondary legislation, or applying EU law in a manner contrary to the 1951 Convention, would also be a violation of the

EU treaties”⁵¹ and that “any norm of European secondary law may be invalid if it fails to meet the standards of the Refugee Convention”⁵². In addition, Article 19 underlines that “no one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment”.

Moreover, the European Union and all its member states are prohibited from enforcing the return of an individual who would face a real risk of treatment contrary to the provisions of the European Convention on Human Rights, and in particular to its Article 2, declaring the right to life, and Article 3, which reiterates the prohibition of torture⁵³.

It is on these premises, therefore, that the Common European Asylum System (CEAS) was established. Created as a common regional asylum legislation that would ensure the orderly reception of asylum claims, the CEAS is based on the principle that “it should not matter which country you flee to”⁵⁴ and is mainly constituted by four EU directives that largely incorporate the 1951 Geneva Convention and its 1967 Protocol and protect against *refoulement*⁵⁵. The primary goal of this legislation is to “reduce the differences between countries through common supranational legislation that binds national legislators”⁵⁶ and, consequently, reduce the reasons and possibility for ‘asylum shopping’, which consists of moving from country to country and applying multiple times for protection.

51. Roland Bank, “The Potential and Limitations of the Court of Justice of the European Union in Shaping International Refugee Law”, *International Journal of Refugee Law*, 2015, vol. 27, no. 2, pp. 213-44, at p. 218.

52. *Ibid.*, p. 221.

53. It is important to underline that such risk is different from and broader than a risk of persecution on one of the grounds set out by the 1951 Geneva Convention.

54. Jan-Paul Brekke and Grete Brochmann, “Stuck in Transit: Secondary Migration of Asylum Seekers in Europe, National Differences, and the Dublin Regulation”, *Journal of Refugee Studies*, 2015, vol. 28, no. 2, pp. 145-62, at p. 146.

55. Bank, p. 214: “The 1951 Convention on the Status of Refugees (...) and the 1967 Protocol and ‘other relevant treaties’ were established as the legal yardstick for all directives and regulations to be adopted as secondary legislation on the protection of refugees in the EU”. Moreover: “EU primary law establishes the 1951 Convention and other relevant treaties of international refugee law as the legally binding framework for EU asylum policies, both in the Charter of Fundamental Rights as well as in the TFEU”. *Ibid.*, p. 215.

56. Brekke and Brochmann, p. 147.

The Dublin rules

The key element of the common European legislation is the Dublin regulation, introduced in 1997 and reformed in 2003 (Dublin II) and 2013 (Dublin III), and covering issues of asylum, border control and irregular migration. The Dublin Regulation's provisions are closely linked to the principles and provisions of the Schengen system, consisting of rules that "set out conditions for crossing external borders, in conjunction with no controls on internal borders"⁵⁷. The core objective of the Regulation, therefore, is to ensure a balance between the need to enhance internal security within the area of free movement on one hand, and adhere to the obligations of international law related to the protection of refugees on the other. This objective is (supposedly) realized through the distribution of the responsibility to consider asylum applications between states that recognize each other as 'safe states' – in terms of respect and implementation of international law concerning human rights and refugee protection – and the implication that "decisions denying international protection in any one state are in principle recognized as valid in others"⁵⁸.

The Dublin Regulation, in particular, "is formulated to ensure that only one country shall be responsible for processing an asylum seeker's application"⁵⁹ and thus establishes a mechanism that assigns the responsibility for receiving and considering asylum applications in the European Union to the 'country of first entry'. The aim, therefore, is to regulate secondary movements of asylum seekers, hinder them from asylum shopping and prevent them from "orbiting throughout Europe with no single country taking responsibility for their cases"⁶⁰. In cases of asylum-seeker migration, in fact, the consequence is the return of the

57. Steve Peers, "The Refugee Crisis: What Should the EU Do Next?", EU Law Analysis, 8 September 2014, available at <http://tinyurl.com/jco4jz5>.

58. Silvia Morgades-Gil, "The Discretion of States in the Dublin III System for Determining Responsibility for Examining Applications for Asylum: What Remains of the Sovereignty and Humanitarian Clauses After the Interpretations of the ECtHR and the CJEU?", *International Journal of Refugee Law*, 2015, vol. 27, no. 3, pp. 433-56, at p. 437.

59. Brekke and Brochman, p. 147.

60. *Ibid.*

person to the European country where they first filed an asylum application. The limits and problems of this Regulation were clear from its origin, but became disastrously manifest due to the mass influx of refugees that is currently occurring in Europe and that the Union and all its member states are struggling to handle. The Dublin rules and the principle of the ‘country of first arrival’, indeed, lay a disproportionate burden on the countries on the Southern border⁶¹, particularly on Italy and Greece, which, even before the Syrian diaspora, were already “struggling with the twin pressures of the financial crisis and a large increase in north-African migrants from (...) [the Arab Spring] uprisings”⁶². This principle, however, is not only unequal among the member states, but also unfair towards the refugees, who often aim to join their families or try their luck in countries different from the ones on which they entered European territory. Countries such as Norway, Sweden and Germany are usually better equipped to offer them more valuable opportunities in economic and social terms.

It is no secret, therefore, that “differences among the member states in living standards, labour-market conditions, and access to government support create incentives for asylum seekers to move on from the first country of asylum to better conditions in other EU countries”⁶³. Due to the Dublin rules, instead, they are stuck in (usually overcrowded and inadequate) asylum centres in Italy or Greece, and since their fingerprints are forcefully taken and their entry registered, they are obliged to stay where they feel unwelcome and hopeless, and cannot move on to complete their journey and take responsibility for their lives⁶⁴.

61. Eiko Thielemann and Carolyn Armstrong, “Understanding European asylum cooperation under the Schengen/Dublin system: a public goods framework”, *European Security*, 2013, vol. 22, no. 2, pp. 148-64, at p. 149: “In establishing this mechanism, the Member States have placed the responsibility for (and the cost of) securing the EU’s external border disproportionately onto the EU’s external border countries”. Also, at p. 151: “The distributional consequences of the Dublin system are therefore predictably uneven with some of the external border countries of the EU forced to make the highest contributions, thereby facing disproportionate costs”.

62. Harriet Grant and John Domokos, “Dublin regulation leaves asylum seekers with their fingers burnt”, *The Guardian*, 7 October 2011, available at <http://tinyurl.com/qy4t3be>.

63. Brekke and Brochmann, p. 148.

64. *Ibid.*, p. 153: “Most of our informants stated that their aspirations, their hopes and dreams,

The vicious cycle of welfare and integration

There are many challenges, therefore, that the Dublin system is now facing. The most striking is the lack of harmonization, and the absence of a consistent *European* asylum system. The gaps across Europe in reception policies and living standards are manifest, and “significant national differences prevail as to liberality in granting asylum status, access to welfare goods and the labour market”⁶⁵. These challenges, which encourage the secondary movement by migrants that the CEAS was intended to prevent, have been accentuated by the current economic crisis, which heightens the differences and creates tension between countries. The differences in the conditions across the region, which European regulations were meant to render comparable, are not only caused by “persistent institutional differences in reception conditions and integration efforts”⁶⁶ among the member states, but also by national differences in areas beyond migration policies (such as general welfare provisions and labour-market conditions).

Moreover, the way in which the Dublin system is built provides states “with an incentive to use restrictive policies to limit the number of asylum seekers that arrive in their territories and to indirectly encourage them to seek protection in another country or region”⁶⁷. The supranational ambitions of governance at the EU level, therefore, are challenged by the persistent differences at the national level, deriving from uncoordinated action and regarding primarily reception conditions on one hand and integration and welfare policies on the other. This tension has very profound impact and consequences on the lives of individual refugees. Too many of them, indeed, remain stuck in the first country of arrival, where they often receive poor assistance and inadequate

lay outside Italy’s borders”. The ‘informants’ that the authors refer to are the asylum-seekers of various nationalities who are hosted in a number of asylum centres across Italy, and that they had the chance to comprehensively interview.

65. *Ibid.*, p. 146.

66. *Ibid.*, p. 159.

67. Thielemann and Armstrong, p. 151.

treatment due mainly to unsatisfactory reception and processing policies but also to the high number of applications and human lives that the border countries have to handle and protect these days. Many of them try to bypass the law by avoiding authorities and fingerprints registration, and keep on taking huge risks by placing their lives in the hands of ruthless smugglers who offer to help them reach the Nordic countries (such as Norway or Sweden, where most of them aim to end up) in exchange for exorbitant sums of money⁶⁸. Unfortunately, just as a great many lose their lives in the waters of the Mediterranean to reach European land, many others die traveling *across* the European Union to reach illegally their country of final destination⁶⁹. For others, the impossibility of moving on to a different country, where they would have better opportunities and higher chances of building a new life, produces a sense of frustration and often anger, leading to their refusal to try to integrate⁷⁰. Even though integration comes after survival, this phenomenon causes unease and fear in public opinion within the EU, whose member states and governments consequently feel even less inclined to accept refugees and provide them protection⁷¹. Obviously, however, “welfare is crucial to help

68. See, for example, the story of Mohammad, whose fingerprints were forcefully taken in Hungary. This forces him to live with the fear of being sent back to that country instead of being given the possibility to build a sustainable future for himself and his dependants in Norway. “A Perilous Journey: Mohammad’s Flight to Europe from Syria – An Illustrated Account”, *The Guardian*, 13 November 2015, available at <http://tinyurl.com/o7jmlcg>.

69. See e.g. Adam Withnall, “EU migrant crisis: 50 refugees found ‘suffocated’ in the back of a single lorry in Austria”, *The Independent*, 27 August 2015, available at <http://tinyurl.com/zn6ocqo>.

70. Grant and Domokos: “For many European countries including the UK, Dublin is a key tool in a regime of tough border controls, allowing refugees to be deported back to Europe’s southern border countries where they first entered the EU. Countries such as Italy and Greece, with minimal welfare provision for refugees, receive the most Dublin returns each year because so many of the asylum seekers who land there do not wish to stay”.

71. In the fortunate cases in which protection is granted, on the other hand, division and malaise across Europe make the hosting states less inclined to provide the refugees with emotional support and means to socially integrate. See e.g. the testimony of Ms. Mferij (Appendix, Interview 1): “We [my family and I] did not have high expectations about Europe, but we are not happy here. We all suffer from psychological trauma, we miss our family and social relations – the society here is too individualistic. Even though we live in a comfortable place, we miss home”.

integrate refugees”⁷², and in order to have an efficient welfare system there must be solid political willingness and capacity in the receiving state. When you have the rights but the welfare system is weak, those rights remain on paper, and integration becomes unlikely. The analysis of this tragic vicious circle makes it evident that, by harmonizing the asylum system and reception conditions, and stepping away from the Dublin Regulation and its ‘country of first entry’ principle, the situation would be handled in a very different, more positive way in full accordance with the fundamental principles of refugee law. For the moment, instead, the case is often that, in order to limit their responsibilities towards refugees and avoid being faced with disproportionate flows, Member States deliberately restrict their access policies and protection standards, engaging in a competitive ‘race to the bottom’ that could, in some cases, lead to violations of their obligations under international law⁷³.

The current refugee crisis, therefore, has very well proven the inadequacy of the Dublin system, arising from its nature as an “administrative instrument that links border control with responsibility for examining an asylum application, rather than (...) [a] mechanism for sharing burdens and for protecting asylum seekers and refugees”⁷⁴. The next, necessary step to take would be a real attempt to harmonize integration policies, which need to be coordinated by the EU.

The root of the difficulty lies in the fact that making asylum-processing uniform and equitably sharing the related financial-administrative burden across the EU is only the beginning of a solution. Unless a uniform welfare regime applicable specifically to refugees is implemented, the perverse incentive for asylum-seekers to gravitate towards the countries with the most generous welfare systems will not disappear, and feelings of fear and suspicion in European public opinion will only increase, with the consequent issues of integration deepening and leading to division⁷⁵.

72. Grant and Domokos.

73. For example, in the case of Denmark. See Richard Milne, “Denmark to cut immigrant benefits in half”, *Financial Times*, 1 July 2015, available at <http://tinyurl.com/znumna7>.

74. Morgades-Gil, p. 436.

75. See e.g. the testimony of Ms. Jah (Appendix, Interview 3): “I am living in a rural area [in France], which makes it hard to mix with the locals. The neighbourhood I live in is full

Suspension of the Dublin rules by Germany and violations in Hungary

In the absence of harmonized policies of reception and integration, the individual Member States have instead acted on their own to overcome these challenges. In some cases, their actions were driven and characterized by aims of solidarity and compassion, while in others, fear and insensitivity prevailed. An example of the first kind of behaviour is Germany, which on 24 August 2015, officially announced that it was suspending the Dublin rules for the Syrian refugees arriving in Germany⁷⁶. Under Article 3.2 of the Dublin Regulation itself, “each Member State may examine an application for asylum lodged with it by a third-country national, even if such examination is not its responsibility under the criteria laid down in this Regulation. In such an event, that Member State shall become the Member State responsible within the meaning of this Regulation and shall assume the obligations associated with that responsibility. Where appropriate, it shall inform the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of or take back the applicant”.

Therefore, from that date onwards, the refugees of Syrian nationality making it to German land would not be sent back to the ‘country of first entry’ (most commonly Hungary, Greece or Italy), even if registered and fingerprinted there under the EURODAC regulation and system, and their application for asylum would be considered and processed in Germany. The implementation

of refugees from everywhere, but I stick with the Syrians. In this place, they are not used to deal with foreigners, and they have many stereotypes about us, but when you approach them and break the ice, they change their idea and that is good. After the Paris attacks, however, women wearing the *hijab* are looked at differently. (...) Never has anyone knocked at my door to ask about me, to offer help, or just ask ‘How are you?’”.

76. Matthew Holehouse, “Germany drops EU rules to allow in Syrian refugees”, The Telegraph, 24 August 2015, available at <http://tinyurl.com/qg88cvk>.

of the suspension rule by Germany resulted from the rising consciousness that the rules established under the Dublin system are inadequate and ineffective, and that the ‘countries of first entry’ would not have been able to cope with the massive influx of refugees from Syria, had those rules continued to be implemented.

Most Member States and European institutions backed the decision. The European Commission, for example, “immediately voiced support for this initiative, qualifying it as an ‘act of European solidarity’, and its recognition of the fact that member states at the external borders cannot be left in isolation to deal with the large numbers of asylum seekers”⁷⁷.

Before that, however, another country had suspended the EU rules of asylum, but for profoundly different reasons. In the context of growing anti-immigration rhetoric, the government of Hungary announced on 23 June 2015 that it had “‘exhausted the resources at its disposal’ to accept further asylum seekers”⁷⁸, and that they would not take back the asylum seekers who “‘had first entered Hungary and then continued their journey to other neighbouring member states”⁷⁹. This decision was followed by the construction of a border barrier (a four-metre high double security fence) along the borders with Serbia and Croatia.

Hungary kept coming under the spotlight in the following months, in particular for its resort to violent means – especially teargas and water cannons - to prevent thousands from crossing the Serbian border⁸⁰. A number of other kinds of violations of international obligations to give protection to people fleeing war

77. Solon Ardittis, “On the future of EU asylum and free movement rules”, *EU Observer*, 15 September 2015, available at <https://euobserver.com/opinion/130266>. As of October 21st, 2015, however, Germany resumed application of the Dublin system (with its ‘country of first entry’ rule) to Syrian nationals, even if on a case-by-case base and with the exception of refugees having entered through Greece. Wire agencies, “Germany reinstates Dublin rules for Syrian refugees”, *Deutsche Welle*, 10 November 2015, available at <http://tinyurl.com/pl4ldhk>.

78. Agence-France Press, “‘The boat is full’: Hungary suspends EU asylum rule, blaming influx of migrants”, *The Guardian*, 24 June 2015, available at <http://tinyurl.com/oe34t9b>.

79. Ardittis.

80. Matthew Weaver and Haroon Siddique, “Refugee crisis: Hungary uses teargas and water cannon at Serbia border – as it happened”, *The Guardian*, 16 September 2015, available at <http://tinyurl.com/po3n3nc>.

have been reported in Hungary. Right groups, in particular, recount that “under the new measures, there is no possibility to refer to new facts and circumstances during appeal. In other concerns, Hungary isn’t suspending decisions in case of appeals, so people asking for asylum in Hungary are forced to leave the country before the case has been heard”⁸¹. Moreover, it is documented that asylum seekers often do not have access to translation of their official papers nor to interpreters during the procedures⁸². Finally, “poor camp conditions and slow registration for asylum seekers have contributed to rising tensions at Hungary’s refugee facilities”⁸³.

Even if driven by substantially different reasons and objectives, both these countries’ decision to suspend the implementation of the EU rules of asylum demonstrate that the Dublin system was flawed from the start. In particular since, “by imposing the same obligations on all member states, it was assuming that all of them were experiencing similar pressure at their borders, and enjoying similar resources and infrastructure, and similar asylum procedures and standards, in line with existing international conventions”⁸⁴. It has now become clear that this was never the case, especially given the fact that the majority of the EU’s external borders are in those member states – such as Greece and Italy – which have been hit the hardest by the 2008 financial crisis and possess “the least optimal resources and capacity to deal with significant migration and refugee inflows”⁸⁵.

81. Eszter Zalan, “EU launches migration cases against Croatia, Greece, Hungary and Italy”, EU Observer, 10 December 2015, available at <https://euobserver.com/migration/131479>.

82. *Ibid.*

83. Emma Graham-Harrison, Patrick Kingsley, Rosie Waites, and Tracy McVeigh, “Cheering German crowds greet refugees after long trek from Budapest to Munich”, The Guardian, 5 September 2015, available at <http://tinyurl.com/qgj9mqr>.

84. Ardittis.

85. *Ibid.*

The Temporary Protection Directive

In 2001, in response to the massive influx of people from the Balkan area seeking refuge in Europe in consequence of the tremendous conflicts afflicting Yugoslavia and then Kosovo in the 1990s, the Council of the European Union adopted the so-called ‘Temporary Protection Directive’. The purpose of the Directive was to establish minimum standards⁸⁶ and promote balance of efforts⁸⁷ among the Member States to “deal with a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin”⁸⁸ by offering them protection for a limited period.

The framework introduced by the Directive, based on formalised and harmonised protection standards, is “practical and efficient”⁸⁹, and it would seem like the most appropriate and useful instrument to activate with regard to the current crisis of Syrian refugees in Europe. Nonetheless, the Directive has not yet been implemented.

According to its Article 5.1, “the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council”⁹⁰. Accordingly, the activation process has to be triggered by a Member State⁹¹ through the European Commission, or by the Commission *proprio motu*. It is then the Council’s task to establish the occurrence of ‘mass influx of displaced persons’, which is defined by Article 2(d) as the “arrival in the community of a large number of displaced persons, who came from a specific country or geographical area”⁹².

This legislative instrument was meant to guarantee the protection of “persons who

86. Council of the EU, Directive 2001/55/EC, 20 July 2001, preamble, para 13.

87. *Ibid.*

88. *Ibid.*

89. Meltem Ineli-Ciger, “The Missing Piece in the European Agenda on Migration: the Temporary Protection Directive”, 8 July 2015, available at <http://tinyurl.com/ohoyrbt>.

90. Directive 2001/55/EC, art. 5.1.

91. Ineli-Ciger.

92. Directive 2001/55/EC.

have fled areas of armed conflict or endemic violence⁹³ and/or are “at serious risk of, or (...) have been the victims of systematic or generalised violations of their human rights”⁹⁴, in situations in which it becomes harder to do so. In particular, it aimed at ensuring protection of a vast selection of individuals in situations in which “the movement of people, gradual at the outset, intensifies in such a way that it becomes massive and the normal asylum system is unable to absorb the flow”⁹⁵. It is hard not to agree that these definitions accurately portray the situation of today’s refugees from Syria.

The Directive, which envisages a “status that confers temporary residence permits, emergency health care, shelter, social benefits, education for minors as well as limited access to the labour market and a limited right to family reunification”⁹⁶, calls for a burden sharing mechanism. Article 25, indeed, establishes that: “The Member States shall receive persons who are eligible for temporary protection in a spirit of Community solidarity. They shall indicate – in figures or in general terms – their capacity to receive such persons”⁹⁷. Moreover, “when the number of those who are eligible for temporary protection following a sudden and massive influx exceeds the reception capacity referred to in paragraph 1, the Council shall, as a matter of urgency, examine the situation and take appropriate action, including recommending additional support for Member States affected”⁹⁸. In other words, “Article 25 (...) allows for the transfer of protection beneficiaries between Member States following a voluntary offer from one of them and provided the transferees give their consent to such a transfer”⁹⁹, and thus promotes solidarity and aims at reducing disparities in the individual states’ policies of reception and treatment of displaced persons.

Even though the asylum capacities of the countries at the external borders,

93. *Ibid.*, art. 2(c)(i).

94. *Ibid.*, art. 2(c)(ii).

95. Ineli-Ciger.

96. *Ibid.*

97. Directive 2001/55/EC, art. 25.1.

98. *Ibid.*, art. 25.2.

99. Ineli-Ciger.

in particular Greece and Italy, have been challenged and overwhelmed by the arrivals of refugees from Syria, the Directive has not been activated yet. The reason for this, once again, lies in the lack of solidarity between Member States, which makes it hard to reach a political agreement and, more technically, to secure “a qualified majority vote in the Council in the face of an influx situation which only seriously affects a limited number of Member States”¹⁰⁰. It would be time for the EU to consider whether the implementation of this Directive could be the most effective step towards a practical solution, in addition to representing a constructive way to “help Member States to more effectively cope with the ‘mixed flows’ and provide better protection for persons in need”¹⁰¹. It probably would not resolve the crisis completely, but it would certainly constitute an important step forward in alleviating its symptoms and the connected human suffering.

100. Ineli-Ciger.

101. *Ibid.*

Ineli-Ciger (*ibid.*) comments further: “The lack of solidarity in the EU in addition to the unfair asylum distribution criteria provided in the Dublin Regulations have increased the asylum pressure on states including Greece, Italy and Malta and, as a result, the reception capacities and quality of protection offered in these states to asylum seekers have diminished. States at the external borders of the Union are under constant pressure and have been seeking assistance from the EU to find solutions to these arrivals. So far, the EU has, however, not been able to formulate and implement a comprehensive plan to secure the safety of irregular migrants and refugees arriving by boat and some Member States cannot provide persons seeking refuge adequate reception conditions as prescribed by EU law. Considering the high number of persons arriving at the shores of Italy and Greece irregularly by sea to seek refuge each month and the inadequate reception and asylum capacity of these states, can we still say there is no mass influx situation? No we cannot”.

Conclusions and recommendations

The Hungarian border fence has come to be the sad symbol of the current division between Eastern and Western states within the European Union. It symbolizes the disharmony at the heart of European policies, which is the main obstacle with regard to the efforts Europe is making to solve the deepening crisis. Overturned by the weight of numbers, with just about one million refugees and migrants having arrived on European shores this year, Europe seems to be going adrift while still struggling to maintain unity and preserve its values of cooperation and solidarity.

These struggles have been heightened after a series of terrorist attacks took place in Paris on the evening of 13 November 2015. After the terrorist organization known as ‘Islamic State’ claimed responsibility for the attacks and it was alleged that two of the attackers had entered Europe through Greece from Turkey, there has been a proliferation of voices demanding the EU to stop accepting refugees looking for safety. These events have shaken and disturbed even the most unprejudiced, compassionate souls, and the alarm that followed is understandable¹⁰². However, the acts of a single man, “however evil and misguided, should not damn an entire nation”¹⁰³, nor should they stop Europe from welcoming families fleeing slaughter and devastation. To do so would only fuel and encourage fear and terror, which instead can only be defeated through compassion, solidarity, and peaceful coexistence.

Europe, instead, should keep in mind that the reason why loving parents risk the lives of their children, and their own, on unreliable boats or hazardous land journeys, is that events such as the terrible attacks in Paris happen in Syria on a daily basis. It is only desperate people - fleeing from torture, war

102. See e.g. the testimony of Ms. Mferij (Appendix, Interview 1): “Syrians represent one third of the refugee population in Germany, and after the events in Paris there have been a lot of security investigations around them”.

103. Ian Birrel, “To turn on refugees because of Paris is weak and absurd”, *The Guardian*, 18 November 2015, available at <http://tinyurl.com/ooz29eu>.

and repression - who resort to desperate measures¹⁰⁴. This would encourage European leaders to stop treating immigration and asylum as the same matter, and remind Europe that helping people in situations not of their own making is part of Europe's shared ideals, and that for this reason it is the continent as a whole, and not the individual member states, which should deal with the issue. So far, the attempts to move towards a solution have mainly included a relocation scheme for the refugees who are already inside European borders. The plan, however, has been strongly opposed by many member states, predominantly in Eastern Europe, demonstrating Europe's lack of solidarity not only towards refugees, but also between its own member states.

What has not been addressed yet is the way in which refugees arrive on European borders and land. Creating legal entry channels is crucial to regain control over migrant flows and "strike a mortal blow in the heart of the criminal smuggling networks"¹⁰⁵ to whom we no longer want to delegate Europe's border policy. Such entry channels could consist of a system of humanitarian visas, allowing asylum seekers "to come legally to Europe for a limited period while their asylum request is processed"¹⁰⁶, or asylum processing centres outside the EU borders. If these were established, refugees would be able to apply without having to place their lives in the hands of smugglers and risking them in deadly journeys.

As has rightly been noted, "there is nothing new in mass flight from war, or the mass movement of peoples across borders. Whether today or in the past, large-scale influx presents an acute challenge to asylum procedures which are

104. See e.g. the testimony of A.B., a Syrian refugee living in Germany, interviewed by Skype by Al-Marsad on 24 December 2015 (Appendix, Interview 2): "[In our area] there was no fighting but (...) people from surrounding areas would flee to seek security and shelter. My family and I helped them and the government did not like that. I did not feel safe there anymore, I felt threatened. (...) Syrian intelligence was following me to work, and to my house. (...) I was scared for my family".

105. Bruno Maçães, "Europe has turned its refugee crisis into a morally disastrous Hunger Games", *The Guardian*, 7 December 2015, available at <http://tinyurl.com/o4pmf29>.

106. *Ibid.*

equipped to assess individual applications for protection in detail”¹⁰⁷. That challenge, however, needs to be won. As outlined throughout this report, the present refugee crisis represents a major test for the European Union. Whether Europe will come out of it stronger or defeated depends on its ability to stick to its values of oneness and solidarity, and avoid falling into the easy trap of fear and ignorance, which lead to racism and Islamophobia. In the meanwhile, Europe cannot allow these homeless refugees to be reduced to the subject of a legal and diplomatic battle, nor can it be allowed to forget that behind all those numbers, statistics, and legal cases, there are unimaginable stories of pain and suffering, there is trauma, there is loss, there are people. The EU needs to remember that improving reception conditions at the border, establishing legal entry possibilities and implementing a harmonized system with quotas for distribution and relocation are only the first (necessary, but insufficient) steps towards a solution. All of this, indeed, needs to be accompanied by a real political effort to ensure the integration of these new citizens in Europe, and to guarantee them a chance to rebuild their lives.

107. Furstenberg.

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Appendix: Edited Transcriptions of Testimonies from Syrians Interviewed for This Report

Interview 1 (24 December 2015)

Alice Ramiz Mferij, born in Sweida in 1971. Married to Maen Safadi, born in Kunetra (Occupied Golan Heights) in 1967. The couple have two children, born in 1996 and in 2000 respectively. They are currently living as temporary asylees in Germany.

“I studied Arabic at Damascus University. I have a BA and I was an Arabic teacher in Damascus. I took part in various peaceful demonstrations and I was arrested on 20.7.2011, during a protest in Bab Tuma [‘Thomas’ gate’]. I was held in prison for twelve days, and during this time, I was not tortured. I was accused of illegal demonstrations but did not show up at the trial, and I was released due to an amnesty. I was part of a humanitarian group working on issues of welfare, and in politics. I was active in an initiative aiming at finding a political solution for the conflict, according to the Geneva principles. Our main goal was to strengthen women’s position in all political activities and give them representation in all fields of society, including in the committee aiming at drafting a new constitution that would establish full civil and political rights for women.

I was meant to join the Syrian delegation at the ‘Geneva II Conference on Syria’, but I was arrested while arranging my trip, on 30.12.2013, in the ‘Home Office’ [department of Ministry of Interior Affairs issuing traveling and identity documents], where I had gone to receive my passport to travel to Geneva.

I belong to a left wing party called ‘Workers’ Communist Party’. As member of both that party and the humanitarian group, I was dealing with the cases of kidnapping and disappearances, searching for the people and trying to locate

them.

During the time of imprisonment, I was transferred three times, from one security unit of the regime to another. This time, I was tortured, beaten and isolated in a small crowded cell full of other prisoners and of corpses. On 6.2.2014, I was released with another four women and sixteen men, in exchange with Free Army prisoners. The day they released me, the governor of Damascus was there, together with a representative of the state leadership of the Baath party, a representative of Hezbollah, and a representative of the National Defence Forces. I was asked to talk to the Syrian media but I refused, because I would have been obliged to thank the regime. Later on, when I was already out of Syria, I gave a testimony to Amnesty International.

I owned a bookstore with my husband, in Germana [town in the rural area of Damascus]. When it was bombed, the building was destroyed together with everything it contained. We were prevented from getting any compensation. Moreover, since I was accused of terrorism in front of the ‘Ethics Court for Teachers’, I was fired, I stopped being paid and receiving benefits from the state, and I lost all financial, social and economic rights.

After I was arrested for the second time, it came out that there was an arrest order against my husband. Alone with the children, he had to hide and prepare to flee. He was haunted by two different groups, the ‘Military Security’ and the ‘Political Security’. Since my husband was ‘absent’ when I was released, my house was confiscated and given to a Commander of the National Defence Forces, and I was not authorized to represent my children nor get passports for them. [Women, in Syria, do not have full property rights or parental authority, and furthermore cannot ordinarily travel without the permission of their husband]. I appealed to the court, supported by five lawyers, to obtain full parental responsibility over my children, and was finally able to obtain passports for them and for myself. I travelled out of Syria on 4.9.2014.

We stayed for one year in Lebanon, where my husband had already fled, by paying smugglers and traveling illegally. There, we lived without any support

or income. During that entire year, my children were out of any school system. In Lebanon, I contacted the UNHCR and the German embassy, applying for ‘political protection’ under [the German] Law 23/2, which foresees a two-year residence permit. However, when we got to Germany, on 6.9.2015, they did not consider this law, and gave us residence permits only for six months, but promised that they would renew it for two years. Now we live in a town 60km from Frankfurt.

Here, my younger son, who is 16, attends a school for refugees in English, while my older son, aged 19, needs to wait. He is studying to sit for the German language exam that you need to pass in order to attend university. My husband and I are not working, but we get an allowance from the state. I am very active here too, providing presentations about the situation in Syria to the German political parties from the leftist and Green area. Together with my husband, I often join demonstrations against the rising neo-fascist movements. In addition, I work towards demanding special protection for victims of sexual crimes, and I succeeded to meet Merkel with regard to this issue.

Syrians represent one third of the refugee population in Germany, and after the events in Paris, there have been many security investigations around them. We did not have high expectations about Europe, but we are not happy here. We all suffer from psychological trauma, we miss our family and social relations – the society here is too individualistic. Even though we live in a comfortable place, we miss home. Knowing that you are unable to return to your home is incredibly hard”.

Interview 2 (24 December 2015)

A.B. [fake initials for convenience], born near Damascus in 1958. Married with two sons aged 20 and 23. All members of the family are currently living as asylees in Germany. The interviewee requested that his name not be published.

“I am from Germana, in the rural area of Damascus. I left two years ago, in November 2013. There are people of many religions there – Druze, Christians, Muslims.

There was no fighting there, but people from surrounding areas would flee to seek security and shelter. My family and I helped them and the government did not like that. I did not feel safe there anymore, I felt threatened. I am an engineer. Syrian intelligence was following me to work, and to my house. I was afraid of losing my job forever; I was scared for my family.

I have a wife and two sons. The older one is 23, and studied art at Damascus University. The younger one is 20, and holds a high school diploma.

When we left Syria, we went to Lebanon, where I had friends that were able to host us. We stayed there for nine months, and I had no job. (There is very high unemployment in Lebanon; it is very hard to find anything). I had sold a car in Syria to come to Germany, where I was able to obtain a two-year visa. We live in Berlin, where we have our own apartment that the government helped us find.

I am trying to learn the language. I am at a good level, though not as good as my sons. They are very good at it! I would like to find a position in my field, a job as an engineer, but you need to speak German to work. You also need to speak the language to get into university. My sons want to study art and music, respectively. I like Europe, I knew what to expect when I came, because I had visited it many times before.

But we are not here for a long time. When the war is over in my country, I

will go back. My hopes are in Syria, not in Germany. I hope not to be here for a long time. I hope that our new life will be without Bashar Al-Asad. What I miss most about Syria is my job and my house.

I am working with refugees coming to Berlin, together with my family. We help them with practical things like translation and documents, and we help them with the transition to their new life.

But this is not the life we want. We want to go back to our place, to our house. Without the dictator!”.

Interview 3 (28 December 2015)

Farizah-Jah Jah, born in Sihnaya in 1968. Married to Nassir Bondok, born in 1967. The couple have two children, born in 1998 and in 2004 respectively. She and her children are currently living as asylees in France; the husband and father in the family disappeared in Syria.

“I graduated in Mathematics and Physics from Damascus University, and I hold a teaching certificate. I was working as a teacher in a high school in the outskirts of Damascus, an area under the control of the regime. I left Syria in June 2012 through legal channels, went to Lebanon for two days, and then to Egypt for four months. Then, I went back to Lebanon, to Aley [17km east of Beirut]. There, I organized a school for refugees and stayed until 10.9.2013, when I travelled to France.

In Syria, I was an activist, and joined various demonstrations in different places. We were often attacked by the *Shabiha* [militia supporting the government] and by snipers, in spite of the fact that on many occasions we were carrying roses to the soldiers, as symbol of the peaceful nature of our actions. The government would use any means to empty the places of the peaceful demonstrators.

I will not have peace until we obtain what we are dreaming about: a democratic state.

I live in France now, where I have a ten-year visa beginning from January 2014. Fortunately, I have enough energy to adapt myself to the new life, and my kids are growing up well – my son is playing football here, and my daughter started to do ice-skating. What makes life harder is the issue of language. Without speaking French, it is difficult to find a job and work, and the language courses I attend now are just too difficult. I am trying to find and attend a new one. When it comes to finding a job, my age is a problem too, and also you need to be a citizen to be a teacher in France.

I receive an allowance from RSA [Revenu de Solidarité Active], which is enough

for covering the basic expenses such as water, electricity, transport and food. We also have health insurance, which is the most important thing for me.

I am living in a rural area [in France], which makes it hard to mix with the locals. The neighbourhood I live in is full of refugees from everywhere, but I stick with the Syrians. In this place, they are not used to deal with foreigners, and they have many stereotypes about us, but when you approach them and break the ice, they change their idea and that is good. After the Paris attacks, however, women wearing the hijab are looked at differently.

When I came to France, I thought of it as the country of Voltaire, with values of freedom and republic. I was initially placed in a refugee camp, where I had food and supplies, for one month and 18 days. Then I moved to the North, on the border with Belgium, on 13.12.2013. There, we were in the hands of a humanitarian organization that provided us with accommodation. We were sharing an apartment with a family from Chechnya, but receiving no support other than housing.

Even though my visa allows me to work, the procedure is too long and slow. It took eight months before we finally managed to get a private house, and only in July 2014 did I start to receive financial support.

We never received any psychological help, despite the fact that my husband was arrested in Syria while I was hosted by the humanitarian organization near the border with Belgium. It was a very difficult time, and instead of helping me, they kept bothering me with issues of official papers and bureaucracy. Never has anyone knocked at my door to ask about me, to offer help, or just ask ‘How are you?’.

My husband was a peaceful activist, against militarization of the revolution. He worked as an official in the Arab Media Institute [a journalist organization in Syria], was studying law and loved to write poems. When our town began receiving IDPs, he started to arrange supplies for them, and tried to break the siege in other towns to help the population in need and provide them with supplies. On 17.2.2014, the army security invaded Sihnaya, and they arrested my husband. I do not know what happened to him”.

Interview 4

Translation of a recorded interview by a humanitarian organization operating in Lesbos (Greece).

The interview was conducted on 15 November 2015 by Muhammad Mansur, head of the psychosocial of the said organization.

The woman interviewed had lost her husband and infant daughter on 28 October 2015, during the family's journey to Europe by sea. She survived with her two boys.

“All the people were running, especially people who had kids and babies with them (...) [as] the area was bombed and we were panicking. We finally reached my sister's house, which was more secure. Later we left and we went to Lebanon.

[My husband's brother] is a truck driver in Turkey. We contacted him from Lebanon and stayed in contact for two months. We explained to him that we were afraid of the sea and of getting on boats because of all the stories that we heard on the news. We would have preferred to travel by land, but he answered that all ways were closed, and that the sea was the only option. (...) The day we wanted to leave they picked us up in Istanbul on a big bus, and we travelled for ten hours to Izmir. Before getting to Izmir, we were stopped by Turkish police and ordered to go back or they would confiscate the bus. They took us back and gathered us in a park. After that, they made us walk to an isolated place outside of the city. We marched a lot. At the end of the day, they picked us up with a smaller bus and then we travelled to Izmir. The trip lasted from 8pm until 7am the next day. It was a long trip, it took us eleven hours, and the way was constantly downhill.

We reached the coast. They gathered us in the woods near the sea, somewhere, and then brought a yacht and a smaller boat. I thought it looked safe and comfortable and I got on the yacht with my son. The yacht was made of wood, it had two floors but it seemed to be very old and broken. I was among

the first people getting on, and then more and more passengers joined. In the end it was more than 300 people. The maximum capacity of the boat was 50 people. The captain came and we began sailing. In the middle of the water somewhere, before reaching territorial water, a big ship came towards us, and it looked like we were going to collide. We began screaming and shouting, and suddenly the captain of the yacht jumped onto the other ship and he was moving his hands to tell us to keep calm and quiet.

Then they fired in the air and someone on the yacht began driving it, in a very bad way. This person was probably part of the plot himself. He did not seem qualified, he drove terribly, we screamed and were afraid, the waves were high and the water began filling the boat. The boat began shaking and shaking, until the second floor collapsed. In this accident, many people died and many were injured, stuck by their arms or legs. I was among the survivors with my son. My son told me that he was freezing. Around him, it was bodies and injured people. He told me he wanted to undress and jump into the water. I kept holding him until they came to rescue us. They could have saved more of us had they come earlier, but the help was too slow. Maybe they were slow on purpose, to let more people die – I don't know”.