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HUMANITARIAN VISA: A possible gate into Fortress Europe

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Similarly to the riddle ‘why did the chicken cross the road?’ there are a multitude of reasons why asylum seekers risk their life trying to reach Europe when they have a legitimate right to international protection. The most standard answer is also the most comprehensive: to get to the other side. While the European Union’s fortification has made accessing Schengen nearly impossible for refugees, the possibility to provide safe passage is currently back on the table following the Lampedusa crisis. A European Humanitarian Visa (EHV) could provide a secure entry for them because they could request it directly in a third country, and would also increase member state’s control over these flows. However, at the moment it is nothing more than a non-applied legal loophole.

So why do they risk their life if they have a legitimate entitlement for protection? Because while the EU does have an existing regulation to safeguard and guarantee the right to asylum, it only applies to people that have reached EU territory and place an asylum request. But it does not envisage the possibility of guaranteeing safe travel to Europe to search for protection. Asylum seekers are faced with the same requirements as other people when applying for a Schengen visa (short term visa) which in most cases they cannot meet. Furthermore the increasing externalisation of EU migration control and the criminalisation of irregular migration, entail that the only entry ways are not only illegal, they are also dangerous and even deadly.

The **5th Annual Report on Immigration and Asylum (2013)** by the European Commission reports that in the last year alone 40.000 people arrived to Europe via maritime routes and 600 people died in the attempt. Although refugees only represent a very small number of the people who are currently displaced, the most common nationalities accounting for 52% of total illegal border crossing in the Mediterranean in 2013 were, according to **Frontex**: Syrians, Eritreans, Afghans and Albanian. Of which the first three are among the **top ten** countries of origin for asylum seekers.

Technically there are only three legal entry possibilities for asylum seekers in the European Union: Resettlement, Humanitarian Admission and Family Reunification. However these measures are neither adequate nor enough, because: there

are no uniform policies throughout the EU; the flows are managed by the international organisations and depend on quotas; and these measures take away migrant's agency and control over their own fate. Additionally, a further problem relating to the current European asylum system is the obligation for the asylum requests to be managed only by the first country of entry, due to the **Dublin II Regulation**. The established system does not allow asylum seekers to arrive to the country where they might have connections; which would facilitate their integration and provide them with a safety net that would diminish their reliance on social benefits and services. Therefore, this entails an unequal sharing of the social and economic burden between member states.

The limited scope of the current EU intake of asylum seekers is clearly illustrated in the Syrian case. As the UNHCR numbers show, from the onset of the conflict in March 2011, there have been over 6.5 million internally displaced Syrians, and 2.5 million people registering as refugees outside the country, of which less than 4% (over 76.000) have done so in the EU (with nearly 60% of the applications in two countries: Germany, Sweden). And in terms of resettlement, 13 member states and 3 Schengen countries (Liechtenstein, Norway and Switzerland) have promised to accept over 16.000 Syrians in 2014, a little over half of the 30.000 refugees the UNHCR was asking for.

Currently, while normalised common protected entry procedures do not exist, the **Schengen Visa Code** that regulates the short term visa has a loophole. The Code refers to the issuing of a visa with Limited Territorial Validity (LTV) –it allows travel to only one country– which can be issued exceptionally in the case “when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations.” Therefore short term visas for humanitarian reasons can already be issued according to EU legislation as an extraordinary measure. However, it is unclear to what extent this is carried out by different member states. If the Commission establishes this as a normal practice, it is necessary to harmonize it, with clear instructions for when and how to issue this LTV visa.

However other possible actions to create legal access for asylum seekers to Europe have been suggested. For instance, in 2009 during the drafting of the strategic program for the area of justice, freedom and security the **European Commission** suggested procedures for protected entry; but this was not incorporated in the final Stockholm Programme. However the opportunity to reintroduce the topic now that the multiannual programme expires by the end of this year has already been seized by the Commission. After Lampedusa it created a special **Task Force on the Mediterranean** to prevent more deaths, which highlighted the need for legal entry ways for asylum seekers. Furthermore, in the March 2014 **strategic vision communication** on the future orientation of the migration policies post-Stockholm, the Commission suggested studying the possibility of creating protected entry procedures specifically mentioning humanitarian visas, to complement the existing asylum and resettlement procedures.

With the recent European Parliament elections and the rise of extreme-right and Eurosceptic groups, who risk further debilitating the pro-asylum voice the need for a strong case towards humanitarian visas needs to be heard. The current European priorities on asylum must focus on eliminating mortality at sea, improving solidarity between member states, and providing legal and controlled passage for asylum seekers.

In this context, a humanitarian visa would benefit both the asylum seekers and member states as it could ensure the legal, safe, and controlled travel to the EU. Possible refugees would therefore, not have to depend on mafias nor risk their lives to seek protection, they would be able to reach the country they have fam-

ily ties or connections rather than being limited to the country of first entry, and this process might even increase their chances of being granted asylum once in territory. As for member states, it would enable them to screen the applicants of this visa by checking their background in an individual basis, and furthermore it would enable them to better control these irregular flows.