



## Welcoming Europe ECI annex

### Community sponsorship of refugees

Under Articles 78(2) and 79(2)(a) & (4) of the Treaty on the Functioning of the European Union (TFEU), the EU shall develop a common policy on asylum governed by the principle of solidarity and fair sharing of responsibility.

Many refugees are fleeing from war; others are people fleeing from persecution because of their beliefs. Attacks are increasing around the world on health workers and hospitals, writers, journalists, environmentalists and actors promoting democracy. In 2018, the United Nations called the richer countries in the world to show their solidarity and urgently offer resettlement places for 1.2 million men, women and children. However, only 1% of the world's refugees ever get the chance to be resettled by national governments.

In his 2017 State of the Union's speech, the President of the European Commission Jean-Claude Juncker stated that: *"Europe is and must remain the continent of solidarity where those fleeing persecution can find refuge...Irregular migration will only stop if there is a real alternative to perilous journeys"*.

Many citizens, whenever they are given the chance, are willing to welcome many more refugees than what governments pretend. Enormous potential for sponsorship exists among families, professionals, faith groups, youth groups, local authorities, universities, doctors, private companies, unions, journalists, cultural institutions and human rights defenders. The Commission's invitation to the European Asylum Support Office (EASO) to coordinate a pilot project on private sponsorship is a positive move forward but it is not sufficient to respond to this demand. Resettlement funding under the European Asylum Migration and Integration Fund (AMIF) is only directed to Member State governments, who lack clear definitions and standards for community sponsorship<sup>1</sup>. This situation may mean that community sponsorship does not lead to additional resettlement places, which is not desirable. Although AMIF is the key EU fund for supporting reception and early integration, local authorities and non-governmental actors face many obstacles to access the fund. AMIF will undergo a mid-term review and further revision after 2020.

Civil society, as European citizen volunteers and local groups, should be able to sponsor additional refugees to come legally and safely to their country and fully integrate in the local community.

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<sup>1</sup> <http://resettlement.eu/sites/icmc.ttp.eu/files/ERN%2B%20ICMC%20Conference%20Report.pdf>



We call upon the European Commission to amend REGULATION (EU) No 516/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL to include:

- A new direct budget line in AMIF for community sponsorship with an additional 10,000€ per refugee for civil society sponsors and their capacity-building and training. Once the sponsor and refugee have been approved by Member State authorities, grants would be awarded at EU level and either managed through Union Actions or channelled to Member States' national programmes.
- A definition of community sponsorship eligible for AMIF funds. Community sponsorship is a safe and legal pathway for additional refugees, beyond government's own resettlement pledges, who are granted national visas and supported by third-parties (i.e. civil society and formal volunteer groups), who provide 1-2 years of in-kind or co-funded housing and integration support. Refugees must receive the same vetting, status, rights and services as other refugees under national and EU law. Clear national procedures must also exist for sponsors to be vetted, trained and supported to meet quality standards for reception and integration.

*Legal basis: Articles 78(2) and 79(2)(a) & (4) TFEU*

*Instrument: Amendment to Regulation (EU) No 516/2014*

### Humanitarian help to all in need

Under Articles 67(3) and 79(2)(c) TFEU: the Council shall adopt “measures to prevent and combat crime” and “measures on illegal immigration and illegal residence, including repatriation of illegal residents”.

On 30 March 2017 the European Commission published its staff working document REFIT evaluation<sup>2</sup> of the EU legal framework against facilitation of unauthorised entry, transit and residence. Sanctions vary greatly across the EU – from one year to 14 years – and the lack of legal clarity leads to some civil society organisations that provide humanitarian assistance to undocumented migrants fearing and sometimes facing sanctions, intimidation or funding cuts. The Commission reports that a majority of stakeholders – including civil society organisations – were in favour of a revision of the Directive to ensure that humanitarian assistance is never a punishable offence. Stakeholders are critical of the legislation, especially its deterrent effect and the legal uncertainty it creates for service providers. Regrettably, the Commission concluded that at that time there was insufficient data to prove that such problems are widespread.

We challenge the Commission's previous decision in its REFIT evaluation not to propose a revision of the Facilitators Package. Since the closure of the REFIT, a number of new cases

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<sup>2</sup> Council of the European Union (2017). *COMMISSION STAFF WORKING DOCUMENT REFIT EVALUATION of the EU legal framework against facilitation of unauthorised entry, transit and residence: the Facilitators Package (Directive 2002/90/EC and Framework Decision 2002/946/JHA)*. Brussels.



have emerged that demonstrate that civil society volunteers are still being targeted for offering humanitarian help and normal services. A 2016 study of the European Parliament<sup>3</sup> proposes the EU Facilitation Directive to be reformed in line with UN human rights standards, ensuring a mandatory humanitarian exemption.

European citizens should be able to offer humanitarian help and services to all people in need, regardless of their status, without fear of sanctions or prosecution. We want the European Commission to amend the current EU Facilitations Directive (2002/90/EC) in order to include:

- Amendment to article 1(2) of the EU Facilitations Directive (2002/90/EC) to prevent Member States from imposing sanctions on individuals or NGOs that provide assistance on a non-profit basis and humanitarian assistance at entry to those in need.
- Amendment to article 1(1) of the EU Facilitations Directive (2002/90/EC) to specify that only the production, procurement, provision and possession of fraudulent documents, for financial benefit may be criminalised, and not all assistance for financial gain, which inadvertently targets providers of goods and services available to the general public, (e.g. professional service providers, landlords, shopkeepers and domestic violence shelters).
- New article requiring the EU to provide guidance to Member States to ensure that all service providers are not required to report undocumented migrants they encounter when providing assistance (e.g. provision of emergency shelter, food, healthcare and other necessities).

*Legal basis: 79(2)(c) TFEU.*

*Instrument: amendment to the EU Facilitation Directive (2002/90/EC)*

#### Help victims seek justice to fight labour exploitation and human rights abuses

Under Article 79(2) of the TFEU, the European institutions can adopt measures on the conditions of entry and residence of third-country nationals, and under Article 77(2)(d) of the Treaty on the Functioning of the European Union: “the Union shall develop an integrated management system for external borders”.

The European Union has established a legal framework addressing aspects of legal migration, undeclared work, victim’s rights and the common management of borders, including specific provisions on the rights of migrant concerned. The European Commission is also conducting an evaluation of existing EU legislation on regular migration, which will conclude in early 2018. The European Commission now needs the infrastructure to ensure effective implementation in the Member States through effective monitoring, complaints and redress mechanisms. The focus on enforcement of labour and social rights and social protection is in line with the European Union’s new Social Pillar and the proposed European Labour Authority.

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<sup>3</sup>[http://www.europarl.europa.eu/RegData/etudes/STUD/2016/536490/IPOL\\_STU\(2016\)536490\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/536490/IPOL_STU(2016)536490_EN.pdf)



Most migrants who are victims of work exploitation, trafficking, crimes or human rights abuses do not submit complaints or get justice because complaints mechanisms required under EU law are not effective and support from third parties is not sufficient. The main problems revolve around the risk that victims will be arrested, detained and deported because of their immigration status and/or during the procedure, challenges around proof and actually receiving any compensation awarded, and lack of legal assistance, as well as lack of resources for monitoring and enforcement systems. Guidance is needed on the measures needed to address these challenges and ensure that all victims - regardless of their residence status or the status of their work - are able to enforce their rights and access justice.

When complaints and redress mechanisms do not work for a specific segment of society, it undermines justice, the rule of law and social and work regulations for all. European citizens want and need systems that protect all people, regardless of their status, and enable them to seek justice when they are the victims of work exploitation, crime, trafficking and human rights abuses. We want the European Commission to:

- Strictly enforce that all Member States to develop effective labour complaints mechanisms and safe police reporting, making full use of the provisions in the relevant EU directives 2009/52/EC (on minimum standards on sanctions and measures against employers of illegally staying third-country nationals), 2012/29/EU (on minimum standards on the rights, support and protection of victims of crime), 2011/36/EU (on preventing and combating trafficking in human beings and protecting its victims) and Council Directive 2004/81/EC (on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities), as well as national regulations. This includes issuing guidance on the need for additional implementing measures, including a clear separation between the powers and remit of labour inspectors, authorities, courts from migration law enforcement, and explicit requirements for police to ensure victims and witnesses of crime can safely report crime and engage in criminal justice mechanisms without facing repercussions for their immigration status. This should also include residence permit schemes to provide victims having an ongoing complaint/ criminal procedure with a permit for at least the duration of the procedure, with the possibility of extension and change of permit/status.
- Fully implement a transparent and effective complaint mechanism for the European Border and Coast Guards (EBCG) Agency for victims and third parties. The EBCG mechanism and annual report covers possible fundamental rights abuses by the EBCG as well as the border and coast guards of the Member States and third countries receiving EU or Member State support. In case appropriate follow-up of the complaint is not ensured, the European Commission must suspend related financial and technical support to the EBCG, member state or third country concerned.
- Annual reporting of EU-wide disaggregated data on the effective complaints mechanisms: the number and types of complaints lodged and the



number/type/amount of sanctions imposed and outcomes for the appellant (e.g. compensation/status awarded, voluntary return, deportation, etc.)

- Following the REFIT, consider new legislation to address the gaps in the EU legal migration framework in the regulation of critical medium-and-low qualified sectors and guarantee equal treatment for these workers in order to avoid labour exploitation.

Legal basis: Articles 77(2)(d) and 79(2)(c) TFEU

Instrument: Guidance and support for the proper implementation of article 72 of the European Border and Coast Guard regulation (2016/1624) and relevant European Parliament and Council directives 2009/52/EC (on minimum standards on sanctions and measures against employers of illegally staying third-country nationals), 2012/29/EU (on minimum standards on the rights, support and protection of victims of crime), 2011/36/EU (on preventing and combating trafficking in human beings and protecting its victims) and Council Directive 2004/81/EC (on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities).