**Task Force: Advocating a human rights approach to Migration/Refugees**

***National Context Fiche***

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**1. State of play on migration/asylum**

**Asylum:** 2015 saw the arrival of 890.000 asylum seekers in Germany. The number of 1.1 million asylum seekers referred to by the Federal Ministry of the Interior in January 2015 was significantly revised downwards later in the year. 39.2% of all asylum seekers came from Syria, 14.1% from Afghanistan and 11.1% from Iraq. 9.4% of all asylum seekers came from Albania and Kosovo, now classified as safe countries of origin. In 2016, the number of asylum seekers fell significantly, presumably caused by the closure of the Balkan rote, by the EU-Turkey-Deal and by stricter asylum legislation. By the end of November 2016, 304.929 asylum seekers had arrived in Germany. The main countries of origin were Syria (28.3%), Afghanistan (15.5%) and Iraq (14.7%). Albania and Kosovo no longer play a major role. The number of asylum applications reached a record level of 476.649 in 2015. This number will be clearly exceeded in 2016. By November 2016, 723.027 asylum applications have already been submitted. Although the number of decisions on asylum applications has more than doubled in 2016, the number of asylum applications not yet processed is still 473.712. The number of asylum seekers who have not yet applied for asylum is not known. The rate of recognition of asylum applications is significantly higher in 2016 (63%) than in 2015 (48.5%). Recognition rates for asylum seekers from the main countries of origin are 99.1% for Syrians, 55.5% for Afghans and 72.3% for Iraqis.

**Programme refugees:** Resettlement programs play only a small role compared to the number of asylum seekers. By 2015, 1.402 people were included in these programs. Far more important were Human Admission Programs, which brought 20.000 Syrians and 2.500 Afghans to Germany in 2013-2015. In addition to the Federal Reception Program, the federal states also began to set up their own “private sponsorship” programs for Syrian refugees from 2013 onwards. If a member of a family signs up for the life support of a relative still in Syria, he may bring him to Germany at his own expense. The costs can also be borne by third parties. By spring 2016, another 21.000 Syrians came to Germany via these programs.

**Migration:** Due to the high number of asylum seekers, Germany achieved the highest migration surplus since the founding of the Federal Republic of Germany with 1.24 million people in 2015. 37.9% of the immigrants came from EU countries, 62.1% from non-EU countries. EU migrants came mainly from the eastern Accession Countries, with citizens from Romania (25.5%) and Poland (21.6%) forming the largest group. The crisis countries in southern Europe, Spain, Italy, Greece and Portugal, accounted for 14.6% of EU migrants. Syrians (332,800), Afghans (93,500) and Iraqis (83,300) are the largest groups of third-country nationals.

**2. Policy Responses:**

Since October 2015 several reforms of asylum and residence law have come into force in Germany.

The Asylverfahrensbeschleunigungsgesetz (“Asylum Procedure Acceleration Act”) which came into force in October 2015, contains the following new regulations:

* The residence requirement, that is, the duty of asylum seekers to remain in an initial reception facility, was increased from 3 to 6 months. In addition, the socio-cultural subsistence level is only to be spent as a contribution in kind during this period. The federal states can, however, make other arrangements and do so mainly.
* Albania, Kosovo and Montenegro were declared safe countries of origin. Asylum seekers from these countries must remain in the initial reception facility until the completion of their proceedings without any time limit.
* Asylum seekers, who actively prevented their deportation, only receive lower benefits. As a result, they receive benefits below the socio-cultural subsistence level.
* The deportation date is no longer to be disclosed to persons who are to be deported.

The Gesetz zur Einführung beschleunigter Asylverfahren (“Act for the introduction of accelerated asylum procedures”), which came into force in March 2016, contains the following new regulations:

* For asylum seekers from safe countries of origin and for asylum seekers who make false statements or provide false documents, destroy documents, make a request for the prevention of deportation, or pose a threat to public security, new accelerated asylum procedures apply. They take place in special reception facilities and are to be decided within a week.
* If the residence requirement is breached twice, a running asylum procedure is suspended and the deportation to the country of origin threatens. It is, however, disputed whether this regime can be applied if persecution and torture are threatened in the country of origin.
* If a deportation is to be carried out, this can only be prevented in the case of a life-threatening or serious illness of the person concerned. Psychological assessments are not permitted to diagnose such a disease; posttraumatic stress disorders are no longer considered to be serious diseases. In addition, the presumption that there is no life-threatening or serious disease is generally valid. This means that the person concerned must prove the existence of such a disease himself and immediately.
* The family reunion for asylum seekers with subsidiary protection is suspended for 2 years.
* A new Ankunftsnachweis (“proof of arrival”) is introduced for the period between the registration of the asylum seeker and the asylum application. Asylum seekers receive social benefits only if they have a valid proof of arrival.

The Integrationsgesetz ("Integration Act"), which came into force in July 2016, contains the following new regulations:

* A person entitled to asylum may be required for a period of 3 years to choose his place of residence only in the federal state to which he has been assigned for the purpose of implementing his asylum procedure. This requirement is enforced by the fact that asylum-seekers can only receive social benefits from institutions in the state that is assigned to them. In addition, asylum seekers can be banned from living in certain places in the state where they are assigned.
* The conditions of obtaining an indefinite right of residence in Germany are exacerbated. By 2015 the possession of a three-year residence permit was sufficient if the conditions of the refugee status were still present. According to the new regulation, a permanent residence permit is granted only if a person entitled to asylum has proved his/her willingness to integrate (living accommodation is largely secured, sufficient living space for himself or his/her family, sufficient knowledge of the German language and the German society). If the conditions are not fulfilled, a further three-year residence permit is issued.
* Sanctions can be imposed if asylum seekers do not comply with an official call to participate in integration courses.
* Asylum seekers, who have already been recognized as asylum seekers in another EU country, are now only given services to meet their needs for food, accommodation and personal care. In addition, asylum seekers' benefits are already reduced if a fixed appointment for asylum application is not exercised.
* Asylum seekers can be obliged to take up unpaid charitable work. For this work, they receive only a “compensation for additional costs” of 0.80 € up to a maximum of 1,05 € per hour. If they refuse the admission, benefits will be reduced.