

Humane and rooted in solidarity

A Social-Democrat path towards a Common European Asylum System

“Nobody dies at our European external borders. Everyone who comes to the border is treated with dignity. Every asylum seeker can be sure of a fair asylum procedure. No one is sent back to anywhere where they face death and doom. And we do everything we can in the migrants’ countries of origin to ensure that there are prospects for the people there.”

Cardinal Reinhard Marx, former Chairman of the German Bishops’ Conference

The European Union needs a humanitarian, long-term and orderly asylum and refugee policy. The German EU Council Presidency in the second half of 2020 should be used to resume the deadlocked negotiations and bring about an agreement. With this aim in mind, we present the following Social-Democrat proposals for a new Common European Asylum System (CEAS).¹

Global challenges

Forced migration is a global challenge that can only be met by working together at European level. In 2019, over 70 million people were fleeing persecution or war and conflict - more than ever before. Many of them are internally displaced persons in their own country or are able to take refuge in neighbouring countries. A lack of safety and prospects sees people increasingly making their way towards Europe in search of protection.

The European countries need to do their bit in providing safety and protection for people. At the same time, we should recognise and harness the opportunities and potential that the immigration of young people harbours. Of course, it costs money to house and feed those seeking refuge – but these expenses are simultaneously an investment Europe’s future. We need to be honest in identifying and remedying the problems that accompany forced migration. The majority of people in Germany see migration as an opportunity and as something positive; likewise, the vast majority of Europeans are also in favour of taking in those in need of protection.

The Social-Democrat perspective

When reforming the European asylum system, we must combine humanity and solidarity. The Social-Democrat view adopts the perspective of the vulnerable. It was Social Democrats who - also because of their own history of persecution and displacement - made sure that the right of asylum was enshrined in the constitution in Germany and that all those subject to political persecution have a legal entitlement to have their case heard individually. We stand by our humanitarian responsibility and grant protection to those fleeing political

¹ We address the causes of displacement and questions surrounding partnerships and cooperation with countries of origin in a separate paper.

persecution or wars and conflicts and who seek to protect their lives in coming to us. For us, an orderly and intelligently managed migration policy is by no means in contradiction to this: As Social Democrats, we have always advocated an orderly and Europe-oriented policy on refugees, asylum and migration. We continue to work on the project of the United States of Europe, which today ensure peace, freedom and prosperity. That is why, in the field of migration too, we are seeking European solutions. This means, *inter alia*, that the interests of our partner countries have to be taken into account.

European challenge

The CEAS urgently needs to be reformed. The current Dublin system, based on the principle that responsibility falls on the first country of entry, is characterised by great injustice and a disproportionate strain and complete overburdening of the European Union Member States at the external borders, especially the Mediterranean countries of Greece and Italy. This system of non-solidarity has proven unable to respond adequately to refugee movements coming to Europe. Not least, it has led to the current humanitarian disaster on the Greek islands. So a departure from the current system is absolutely necessary.

We need a new concept with realistic proposals for a common asylum system that can work, which is backed by all Member States and is able to reconcile the different national interests. We champion European asylum procedures where humanity towards those seeking protection and solidarity, especially towards the states at the EU's external borders, play an overriding role. The rights and standards of international treaties and conventions for refugees must be fully upheld and there must be a stop to inhuman conditions. The abolition of internal borders means this also includes sharing responsibility for securing the EU's external borders.

Our principles

- **Substantial changes** are needed to the approaches adopted thus far. We advocate sharing responsibility within the asylum system, as enshrined in the European Treaties. We want to further **Europeanise** the common asylum system. This also includes **stepping up joint funding** from the European budget.² Here, we believe in a **model based on a division of tasks within common asylum policy** which does not demand the same of everyone, but instead takes into account history, strengths and weaknesses as well as the interests of the partners.
- New rules and regulations need to comply with existing high standards and the Geneva Convention on Refugees. **Uniform application of the law** must be guaranteed in all states (at the external borders). Those arriving must have **access to advice and legal counsel**. In addition to this, the states at the EU's external borders should not have to bear the brunt of the new regulations. The Malta agreement on maritime search and rescue and the coalition of host countries to relieve Greece are first steps in this direction.

² All planned spending takes place within the scope of the available budget funds.

- Integration happens locally. This makes **towns, cities and municipalities** one of the key factors in European refugee policy and they need to be appropriately involved in further developing it. We firmly believe that both demographic and financial challenges facing municipalities can be linked and solved together. With this in mind, we want to make funds from EU financial instruments available to municipalities that volunteer to take in and integrate asylum seekers and to enable development projects to be funded that are co-developed by citizens and benefit everyone. This should involve money being made available in a European fund for common municipal development, which would clearly and symbolically identify hosting refugees as a European project.
- Recognised asylum seekers have to be assigned to new locations from central initial reception centres. One potential way of doing this is a new **matching procedure**, where asylum seekers can choose one of the municipalities willing to host them. Accommodating both the preferences of those arriving and the host communities means we create good conditions for successful integration from the start. From the very outset, the decision to take in refugees should be based on an on-going and constructive dialogue with citizens to ensure the requisite acceptance by the local community as a whole.
- People who do not qualify as requiring protection but who cannot be repatriated should not remain in the countries on the external borders. If repatriation is not possible for the foreseeable future, these people also need to be distributed among the Member States if they themselves are not responsible for obstructing repatriation. To this end, an EU-wide status equivalent to our “Duldung”, so temporary suspension of deportation, should be created. It should also be routinely possible for people whose deportation has been temporarily suspended to work in the assigned Member State so that they have the chance to provide for themselves independently.
- We reject **preliminary checks** at the EU's external borders that undermine the right to asylum. Legal recourse must remain possible and ensured. All those seeking protection applying for asylum in the EU must receive a **fair asylum procedure**. We are also very critical of the **concept of safe third countries** and the automatic rejection of asylum applications this entails. There must be no **lowering of the requirements** to be met in order to be deemed a safe third country (Article 38(1) of Directive 2013/32/EU). **Push backs**, so turning away people in need of protection, are illegal and must not be allowed under any circumstances.
- A **European solution** includes **ad-hoc mechanisms** for acute emergencies, e.g. for distributing refugees after a sea rescue or for relocation programmes for Greece.
- Effective **border management** at the external borders of the European Union is essential to maintain the *acquis* of open borders inside Europe. We support the implementation of the Frontex reforms proposed in 2016 and 2018 and which have already been passed. Mixed teams from different Member States should ensure that human rights standards are upheld. What is also needed is an independent commission comparable to the election observation missions of the Organization for Security and Co-operation in Europe (OSCE), which

investigates violations of the law. A different solution needs to be worked on inside the Western Balkans, though; the history of the Western Balkan states makes any new division between them by Frontex unacceptable.

- The conditions for refugees in **transit countries**, especially on the African coast and, here, in Libya in particular, are catastrophic for the most part. The EU, in concert with the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), needs to become more active here. The objective must be accessible and safe places, including along the refugee routes and at refugee facilities. Humanitarian standards must apply and basic services, counselling and support must be provided wherever people need them.

Our vision: Joint implementation of asylum procedures at the EU's external borders

From a Social-Democrat point of view, the fairest and in turn preferable solution for asylum seekers and Member States is to conduct **asylum procedures** as **common European asylum procedures** on European soil in the future. In the Coalition Agreement, too, we have agreed that at European level we will advocate and work towards the joint implementation of asylum procedures predominantly at the external borders and joint repatriation from there.

- The entire procedures including repatriation are carried out at **EU asylum centres**. This entails setting up open EU asylum centres on EU territory, based on the standard of Germany's facilities. A condition of residence applies for the duration of the procedure, any benefits and services are provided at the assigned facility. This should ease the strain on the Member States bearing the brunt of the burden, harmonise and accelerate the application of the law and create an organisational structure allowing effective implementation. The asylum centres do not necessarily have to be located on the external borders, they can also be located in other Member States. We **do not** want "**mass camps**" on the EU's external borders, like we already have today. So first of all, a **realistic demand analysis** has to be carried out, for the standard situation and acute emergency situations alike, in order to be able to ramp up in step with demand, building on the infrastructure already in place. The requisite resources must be provided by the EU. Here too, mixed teams from different Member States should be used to ensure that human rights standards are upheld. **Individual centres** must not be allowed to become **overfilled**. This means setting a **maximum occupancy** and a **maximum length of stay**. If the maximum number of occupants defined is exceeded, it should be mandatory to relocate the occupants to other facilities, including in other Member States. Particularly vulnerable or at-risk groups such as women travelling alone, pregnant women and women with children, children and young people travelling alone, as well as LGBTQ people, people with disabilities and traumatised refugees also need special protection during the asylum procedure itself. This is not sufficiently ensured to the requisite level of certainty at central asylum centres. So special protection needs have to be reviewed right away when an asylum application is submitted and particularly vulnerable asylum applicants need to be accommodated decentrally or at specially protected shelters during the asylum procedure.

- **Funding** comes from the **European budget**. This already needs to be taken into account now in the multiannual financial framework by the Member States providing the according financial resources and **sharing the costs of this in a spirit of solidarity**.
- The European Asylum Support Office (EASO) is expanded into a fully-fledged **European Asylum Agency**, which conducts the asylum procedures at the asylum centres for all asylum seekers coming to Europe. To limit **secondary migration** to especially popular Member States, it should also be possible to be allocated to a suitable asylum centre if an application is made at an internal border. The only **exception** to this is arrival via an airport. Conducting asylum procedures jointly at the distribution centres should bolster our asylum system, not replace it. So this is without prejudice to the implementation of our own asylum procedures in the event of direct entry from a third country.
- The future EU Asylum Agency should be equipped with more **staff**. The asylum procedure is conducted in compliance with **uniform, high European standards**. The goal must be to complete the procedures within a maximum of **three months**. Compliance with European **human rights standards** must be fully guaranteed throughout the procedure. All those seeking protection must be guaranteed **access to advice on the asylum procedure and legal advice** that is **independent of government structures** from day one until the procedure has been completed with a final and legally effective decision. Appropriate medical and psychological care as well as the services of qualified interpreters should also be ensured. Non-governmental organisations (NGOs) and local and regional administrations should be involved to this end.
- **Distribution among the Member States** only takes place if and when the outcome of the procedure is positive. Distribution among the Member States is to be based on the principle of **solidarity**. States not wishing to participate in this system **must provide equivalent material or human resources**, e.g. pay compensatory funds, which are made available to the Member States or their municipalities willing to take in asylum seekers, or do more in other areas within the common asylum policy set forth in the Treaty.
- Within this distribution process, it should be mandatory for **family relationships** to be taken into account. This also applies to family ties beyond the nuclear family which are key in supporting acclimatisation and integration. Where possible, the **priorities of those seeking protection** above and beyond this should be taken into account. To ensure fair distribution within Europe and to prevent internal migration, a temporary residence requirement for the assigned location may be decided on, with benefits and services only being provided at this location. Recognised refugees should be able to move directly to another Member State after a short time, but no later than one year after receiving recognised refugee status, if they find a job, training or study place there and are able to earn a living and provide for themselves. We want to continue to fund successful programmes that help refugees to start training, studies, doctoral studies or further training in the medium and long term.
- The sovereignty clause, as currently set forth in the Dublin procedure, must be upheld. If an EU state wants to take in more refugees than required as per the allocation formula, flexibility should be possible. **Municipalities voluntarily agreeing to take in and integrate asylum seekers receive funds from EU financial instruments** to cover the costs of housing

refugees and an equal contribution to municipal development. Accommodating the preferences of both those arriving and the host community in equal measure means we create good conditions for successful integration right from the outset. **Funding municipal infrastructure** from a dedicated EU fund or alternatively from existing funds benefits everyone in the community equally, in turn making hosting and integrating asylum seekers a joint project for everyone concerned.

- If the asylum application is rejected, there is the possibility of **appealing** the decision of the asylum agency. Here it must be reviewed whether this can also happen at **European level** and whether an independent European body can be created for this purpose or whether the existing national legal systems can be used. Possible new approaches could also be examined, such as **establishing a kind of local appeals commission** comprising legal representatives, representatives of the asylum agency and civil society. This would ease the strain on the courts and shorten the length of proceedings.
- If the outcome remains unchanged even after appeals have been lodged, **migrants are repatriated directly from the asylum centres** to their countries of origin. Repatriation is also **organised by Frontex for the whole EU**. **Repatriation agreements** with third countries, combined with tailored offers of cooperation with the respective countries, whose interests must be taken into account and incorporated in the mutual search for solutions, are designed to facilitate the willingness to take back migrants. This can only succeed if **cooperation takes place as equal partners**. This includes above all legal migration channels and visa simplifications. Voluntary return is something that should be especially supported. There will continue to be a group of people who cannot be repatriated despite their application being denied. Suitable measures must be taken to lower this number (readmission agreements, etc.). Until then, these people must also be distributed to other locations in Europe to avoid precisely those with no prospects of staying remaining at the external borders, which already bear the brunt of the burden from the asylum system.
- This common European approach leads to a **certain surrender of national sovereignty and competencies**. Governments need to make a strong case for this and incentives need to be created for municipalities and regions. **Dialogue with citizens** is essential. This political initiative is a long-term project that must be explained and communicated well. Establishing a functioning EU asylum agency alone is already a huge feat in and of itself.

Intermediate step: procedures are conducted jointly for smaller groups of asylum seekers, for instance from safe countries of origin, at the external borders plus joint relocation review

Alternatively, European asylum centres could also be used in line with the aforementioned criteria to conduct entire asylum procedures for smaller groups of asylum seekers only, e.g. those from safe countries of origin or whose applications can be decided quickly and easily as being obviously well-founded. This applies in particular if when assessing demand it transpires that available capacities do not allow all asylum procedures to be conducted at the external borders.

- This means we need an **EU list of safe countries of origin**, although the strict standards of the **Asylum Procedures Directive** governing the categorisation of safe countries of origin and the **Geneva Convention on Refugees** must be adhered to. The criteria must not be allowed to be undermined. Equally, a common **list of nationalities especially in need of protection** is needed, which must be regularly updated by the European Asylum Support Office (EASO). This would make it possible to identify groups of people whose applications can be accepted in a fast-track procedure.
- It is also important to consider the **special situation of vulnerable groups in particular**, who often cannot talk about what they have experienced within short timeframes. So there should be a direct review of whether there is a special need for protection right when the asylum application is submitted and the rest of the asylum procedure should not be conducted at central asylum centres if this is the case. At decentralised accommodation or specially protected shelters it must be ensured that support is available from trauma counsellors and educational staff for unaccompanied minors seeking asylum, that legal counsel is involved early on from day one and that there is adequate legal aid. The infrastructure this requires should be put in place in different Member States.
- **Distribution among the Member States** based on the **principle of solidarity** only happens if asylum is granted. Otherwise, **repatriation** happens **directly from the asylum centres**. Here, too, the comments above on solidarity-based cost sharing, asylum procedure advice and legal advice as well as on legal aid apply.
- For all others seeking protection, only a **relocation review** is conducted involving the following elements:
 - Registration
 - Review of whether an asylum application has been made
 - Review of whether there is a need for special protection
 - Identity check
 - Security check
 - Relocation decision based on the principle of solidarity, taking into account family relationships and priorities of the individuals seeking protection
- The **asylum procedures, including appeal procedures and repatriation**, are then carried out in the **Member State responsible**. The sovereignty clause under the current Dublin procedure continues to apply.
- **Uniform procedures and conditions for recognition, reception, the provision of basic services and, where applicable, repatriation with high European standards** are essential prerequisites

for ensuring that the system works, offers effective protection to those requiring it and is accepted by asylum seekers and European citizens alike.

- We therefore want to examine the possibility of **EU-wide funding** for accommodation and basic services during the asylum procedure, which the Member States provide the financial resources for.

For both alternatives, we are against “free choice” in migration, that is to say a general right to decide for oneself where one wants to live. Instead, we are in favour of a matching system that takes the needs of municipalities and those seeking protection seriously.

Distribution among the Member States needs to take place **swiftly**, and in particular the needs of unaccompanied minors and other vulnerable groups need to be taken into account adequately. Family reunification must be possible in the course of the procedure. NGOs must be guaranteed access to the centres at all times. As a **pilot project**, two European asylum centres could be put in place quickly - both on one of the Greek islands under the most strain and, as a demonstration of European solidarity, in a country less strained by first arrivals. **Contact points or centres for refugees** should help prevent mass deaths along the refugee routes, in particular in the Mediterranean Sea, stop people smugglers and provide asylum seekers and potential immigrants with reliable information, advice and assistance services, and in turn help control and order displacement and migration (example: UNHCR Gathering and Departure Facilities).