What demands EU law to assist and integrate refugees and asylum seekers?
by Eberhard Eichenhofer
Refugees and asylum seekers in national(istic) perception - Widespread sayings:

- Sovereignty,
- Democracy,
- Generosity!
- EU and UN demand from the states too much!
EU = Europe without Borders (1570)
Europe a part of the World (16. century.)
Migration issues are not national, but international ones as international law

- Endows refugees and asylum seekers with a status.
- This lays the fundament to give rise to international human rights.
- These rights impose the states the commitments to be respected, protected and fulfilled!
Current state of Euope ?(1870)
The Europe Vision of the Formative Era!

Félix Vallotton, Mythological Reveries (The rape of Europa), 1908 (Kunstmuseum Bern)
EU law and Migration of Third States‘ Nationals:
Art. 3 III TEU The Single Market is an economic device to foster social justice. Social justice is not to be restricted to EU citizens but extended to EU residents!
EU law facilitated and protected since the beginning internal mobility = freedom of movement (economically active, later all).

The Schengen rule transformed Europe to the Area of Freedom, Security and Justice.

EU became competent for the external migration.
Three Dimensions of EU Migration Law:

- **General**: Visa, long-term-residence, family unification, and return;
- **Work**: researchers, seasonal workers, highly qualified personnel (Blue Card);
- **Humanitarian Migration**: Refugees and Asylum Seekers.
Common European Asylum System:

- Based on the 1951 Geneva Refugee Convention.
- Directive 2013/33/EU Status of Asylum Seekers.
Refugee

- Living outside the state of origin,
- No return possible or acceptable,
- Due to persecution – or well-founded fear thereof -
- because of race, religion, nationality, class or political opinion.
SUBSIDIARY PROTECTION

- Persons who are exposed to violence,
- Without being a refugee,
- But in need for protection either.

COMMON IDEA: BOTH GROUP SUFFER FROM THE DEPRIVATION OF HUMAN RIGHTS UNDER DOMESTIC LAW;

PROTECTION UNDER INTERNATIONAL LAW
Social Rights for refugees and subsidiarily protected:
Basis: Art 2 I ICCPR = *Equality* among all residents;
Legal Basis Dir. 2011/95, articles 23 – 34, especially: family unity, documentation of the status, employment, education, acknowledged qualifications, social welfare and health care to equal conditions, special treatment for persecution – consequences, unaccompanied minors, freedom of movement and integration.
Social Rights for Asylum Seekers
Directive 2013/33/EU
Articles 12 – 18, especially
Family, documentation, administrative procedure with accompanying rights, medical screening, schooling, employment and vocational training, adequate living standards and health care.
Conclusion: EU /UN Law identifies shortcomings in national law, to be corrected by the states,

- Sovereignty and democracy cannot outweigh human rights;
- Social rights for refugees, subsidiarily protected persons and asylum seekers have to bring about equality, because:
  - Social rights are human, not citizen’s rights!
THANKS FOR YOUR INTEREST!
QUESTIONS OR COMMENTS ?
Contact:
eichenhoferberlin@t-online.de