Access to Europe

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Sehr geehrter Herr Bundespräsident Gauck, sehr geehrte Damen und Herren,

zunächst ist es mir eine große Freude, heute in der Heimat meiner Eltern und Familie, das Wort ergreifen zu dürfen. Als frischgebackener Deutscher Staatsbürger bin ich froh über mein deutsches Erbe, aber es ist mir auch bewusst, dass wir in der heutigen Zeit auf europäischer Ebene denken und handeln müssen. Dies gilt insbesondere für den Schutz der Rechte von Flüchtlingen, Asylsuchenden und Migranten. Ich möchte mich noch sehr herzlich dafür bedanken, dass ich heute die Ehre habe, vor Ihnen sprechen zu dürfen.

Ich möchte jetzt meine Rede weiter auf Englisch halten.

President Gauck, Ladies and Gentleman,

I'm deeply honoured to have been invited to address you at this 14th Berlin Symposium on Refugee Rights. As many of you know, ECRE is an Alliance of 84 refugee-assisting NGOs from 37 countries across Europe – including 6 member organisations from Germany. ECRE has now been active for 40 years protecting the rights of refugees, asylum seekers and displaced persons. It is truly disheartening to hear that over 50 million people around the globe are now categorised as such, the highest number since the end of WWII (a time, you will all recall, of enormous displacement throughout Europe). The biggest increase in refugees today comes from those people fleeing the violent conflict in Syria; over 2.8 million have fled and been registered by UNHCR, the true number is surely significantly higher.

We need to be reminded that "one of the greatest humanitarian tragedies of our time" is not happening on the other side of the planet. While it is 2,800 km as the crow flies from Damascus to Berlin – roughly the same distance as from Tallinn, Estonia to Madrid – it is less than 300 km from Damascus to Cyprus (that's a trip from Berlin to Hannover) and 1200 km to the Evros river on the Greek-Turkish border (the same distance as Berlin to Tampere, Finland).

I mention Tampere because, 14 years ago at the Tampere Summit, Member States set out the goal of achieving a common European asylum system, and stated [QUOTE] "The European Council reaffirms the importance the Union and Member States attach to **absolute respect of the right to seek asylum…**and offers…**guarantees** to those who seek **protection in or access** to the European Union." [END QUOTE] This position is fully consistent with Article 18 of the European Charter of Fundamental Rights, which guarantees the right to asylum. On 1 December 2009, with the entry into force of the Treaty of Lisbon, the Charter of Fundamental Rights became legally binding on all Member States as well as the EU institutions, when implementing EU law.

So why provide a quick review of the Tampere statement and the Charter of Fundamental Rights? Because the EU's current policy and practice with respect to access to Europe is not in line with European values and fundamental rights, nor defensible on moral grounds.

Let's examine what is meant by "fundamental European values" because we often throw terms around without having given sufficient contemplation to their meaning. Article 2 of the Treaty on the European Union reminds us that "the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and the respect for human rights." Let's compare these fundamental European values with the motivation of those people forced to flee their homes due to war or persecution.

These men, women and children are fleeing for:

- Their lives and dignity as human beings;
- For freedom;
- For safety;
- Most for democracy and equality;
- And to have their human rights respected;
- Due to a breakdown in or lack of the rule of law and security in their home countries.

This list sounds familiar because these people who are trying to get to Europe are doing so for the same fundamental reasons upon which the European Union was created.

No person in Syria thought "I hope my child's school will be bombed today so that I can travel to Europe." No doctor, lawyer, teacher or business owner in Syria thought, "Oh good, the war has destroyed my livelihood and is threatening the lives of my family and loved ones, NOW I can give up everything I've built during my life to re-locate to Europe." People are fleeing Syria, as well as other countries such as Eritrea and Sudan, to save their lives. Period.

There is one other fundamental European value we must add to the list; the essential principle of solidarity, which has been defined in the bureaucratic European Union context as sharing both advantages and burdens equally and justly among EU Member States.

Now, the Oxford Dictionary defines the word solidarity simply as "unity or agreement of feeling or action, especially among individuals with a common interest." We see simple examples of solidarity around us every day. As I travel around Europe I see, as we all do, the rituals of boarding an airplane or train. On every trip I see someone who needs assistance, for whatever reason, to put their bag into overhead storage. I have never, in my entire life, overhead anyone say, "well, what's in it for me?" or "sure, but times are tough, you'll need to give me 5 Euros for such help." We provide this assistance, this solidarity, not because we are "sharing both advantages and burdens equally," but because it is simply the right, decent and human thing to do to provide help where it is needed.

We should also keep these basic concepts of humanity in mind when we look at how our governments fulfill our wishes.

But let's get back to European Union asylum policy and practice, especially with respect to access to Europe, because given our shared fundamental values, the Charter of Fundamental Rights and the recently enacted legislation making up the Common European Asylum System, we must be treating refugees and asylum seekers with the dignity and respect they so deserve, no?

Well, NO we aren't.

Let's look at the Syrian situation, although we must not forget people from other lands who are fleeing war and persecution and also deserve our respect and support. In just over 3 years of violent conflict, over 9 million people have been forced to flee their homes (that's the current population of Denmark, Estonia and Latvia COMBINED). While two thirds are displaced within the fractured state, 2.8 million people have fled the country. Half of the refugees are children. 97% of the refugees are hosted in the surrounding countries – over 1.2 million in Lebanon (a country with an estimated population of just over 4 million), over 1 million in Turkey and over 600,000 in Jordan (a country where 90% of its land is classified as desert, and where its total refugee population is also over 1 million).

By contrast, less than 100,000 people, or 3% of the refugees from Syria have sought protection in Europe.

To put that in full perspective, in 2013, there have been 433,000 **applications** for asylum, **IN TOTAL**, in all 28 Member States of the European Union. Five EU Member States, Germany, Sweden, France, the UK and Italy, receive 70% of the total number of applicants. Only 113,000 persons **IN TOTAL** in 2013 received some form of protection across the entire EU. The entire population of the EU equals 506 million people. As President Gauck asked, are we doing enough?

To the credit of Member States, the blended EU recognition rate for Syrian asylum seekers is over 90% and almost no Syrians are returned. The 28 EU Member States, however, cannot even agree to take a unified position with respect to the disposition and status of refugees from Syria. Just one of the many challenges for a truly common European asylum system.

Like President Gauck, I would also like to look for a moment at the experiences of these refugees. Less than two months ago, British writer Neil Gaiman made his first visit to a refugee camp, visiting two separate camps in Jordan. I'd like to paraphrase and share some of his poignant and powerful observations:

We are in a metal shed in Azraq refugee camp, Jordan, sitting on a low mattress, talking to a couple who have been here since the camp opened two weeks ago. Abu Hani is a good-looking man in his late 40s who looks beaten, like an abused dog. He hangs back. His wife Yalda talks more than he does.

There is a water jug on the floor. It is the only water they have. We have managed to knock it over twice, and each time we apologise and feel awful, as in order to refill it there is a five-minute walk to the four taps embedded in concrete at the corner of the block. The desert air dries out the thin carpet in moments.

The couple are telling us why they left Syria. Abu Hani once owned a small supermarket, but the "officials" who ran his town trashed it, mixed detergent into the grains and pulses, and took his stock. He spent his savings restocking the shop, but when he opened again they closed him down permanently. People were killed. On the local news they would show bodies that had been found, so people could identify their relatives: one time he saw a cousin's severed head on there.

Mostly their relatives just vanished. Yalda's brothers and cousin were on their way to deliver blood for a transfusion to their infant nephew who was having an open-heart operation when they were stopped at a roadblock, and interrogated about the blood. The three men did not arrive at the hospital and were never seen again. I did not want to ask what happened to the nephew.

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Abu Hani and Yalda tell us about the border crossing into Jordan, how they tried to leave their town without bribing a checkpoint officer, and how Abu Hani was taken into the office by the official and punched, kicked and jumped on in front of his wife and children for an hour and a half. All their money was taken from them. They left that checkpoint with him covered in blood, concussed, barely able to move and penniless.

"We woke up every morning glad we were alive, and went to sleep every night knowing we might not wake in the morning. There are so many ways to die in Syria now," says Yalda. Their relatives have been imprisoned, gone missing, been murdered and killed in explosions.

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Abu Hani and Yalda now both have jobs in the camp. She greets new arrivals and he works as a porter for them (although people know he has back injuries and they give him light work). They want to save enough in the camp to replace broken hearing aids for two of their four children, both of whom are deaf. They worry that if she does not hear anything, their five-year-old daughter will forget the words she already knows how to speak.

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Everyone I talk to in the camps has a nightmare story: they stayed in Syria, going through hell, until they could take no more, and then the journey to the border, with whatever they could carry, normally just a change of clothes for the children, would be a journey across hell. They put their lives at risk, and if they arrived at the border alive, it was worth it.

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I realise I have stopped thinking about political divides, about freedom fighters or terrorists, about dictators and armies. I am thinking only of the fragility of civilisation. The lives the refugees had were our lives: they owned corner shops and sold cars, they farmed or worked in factories or owned factories or sold insurance. None of them expected to be running for their lives, leaving everything they had because they had nothing to come back to, making smuggled border crossings, walking past the dismembered corpses of other people who had tried to make the crossing but had been caught or been betrayed.

I keep going, talking to the refugees, to the people who run the camps and care for the refugees, and then, after accompanying Ayman, a Syrian volunteer nurse on his rounds, as he changes the dressings on a youth whose foot was blown off by a landmine and an 11-year-old girl who lost half her jaw in a mortar attack that killed her father, I realise I can't think straight. All I want to do is cry. I think it is just me, but Sam, the cameraman, is crying too.

I imagine the world dividing into the people who want to feed their children, and the ones shooting at them…. [I]t is rare that you know you have picked the right side. You are on the side of people.

This is the current reality for the people fleeing Syria. And remember, this does not include the challenges and trauma they will face if they attempt a journey to Europe.

There are positive developments in Europe with respect to access by refugees and asylum seekers. Germany, for example, is showing leadership and responsibility. Not only are Germany and Sweden registering by far the highest number of asylum claims from Syrians across the EU, Germany recently announced an additional 10,000 places for refugees from Syria under a temporary Humanitarian Admissions Programme. This brings the total to be granted protection under this programme to 20,000. It is a sizeable number, but balanced again the enormous needs it is not even a drop in the ocean but rather a few gains of sand from the beach. And at

the same time, there is a backlog of 80,000 family reunification applications across Germany. And Germany is not alone, family reunification backlogs occur across the EU. Since when has it become EU policy to discourage unity within the family? Respect for family, in all its forms, has been the bedrock, and I would say, a long held core value of European society.

The Italian navy, through its humanitarian Mare Nostrum operation, is saving tens of thousands of people by providing search and rescue in the dangerous and deadly Mediterranean (as President Gauck mentioned, tragically, it is estimated that 23,000 refugees and migrants have drowned attempting to cross since 2000). The EU has only provided limited assistance to the Italian government, which is shouldering the full cost of the operation, estimated to be 9 million Euros per month. Frontex, the EU Border agency, while recently having its mandate extended to include search & rescue, has not yet joined or directly supported the Mare Nostrum operation. This seems to be a strong case for more EU solidarity, as the proper response to those risking their lives to cross the Mediterranean to seek protection should be European, and not just the sole responsibility of the southern Member States.

The Mediterranean Sea is particularly important not only because it is a dangerous and deadly route, but because under an EU policy on access that would probably even shock Franz Kafka, persons wishing to apply for asylum within the EU, almost without exception, must first physically reach EU soil. A quick glance at a map shows land routes to Europe through Turkey at the Greek and Bulgarian borders, and sea routes across the Mediterranean and Aegean seas from Turkey to Greece and from Libya and Egypt to Italy and Malta.

The lack of legal paths to access asylum in Europe directly results in the economic enrichment of smugglers, life threatening journeys, and the criminalisation of those seeking to exercise a fundamental right recognised across the entire EU – the right to asylum – instead of an EU apparatus providing a safe and dignified path to protection.

And even worse, there have been many credible and consistent allegations – too many to ignore – that states have been involved in illegal push-back operations where refugees are physically prevented from reaching EU soil. In these instances, it is credibly and consistently alleged that boats are turned around on the sea in dangerous operations or people are physically prevented from accessing EU soil to file an asylum claim, or even expelled after having reached EU soil without being given the opportunity to file an asylum claim. Push backs are illegal under international and EU law, yet credible and consistent allegations of illegal push backs continue to be raised. And although no facts link Frontex to such allegations of push backs, and I raise no such allegations today, with its annual budget of almost 90 million Euros, its sophisticated surveillance and intelligence-gathering activities, and with its specific mandate to prevent non-refoulement and protect fundamental rights, it is not unfair to ask:

- “If Frontex is not aware of such push back activities, why not?” and
- “If Frontex is in any way aware, why haven’t they taken any action?

The particular situation in Bulgaria is deeply troubling. During a short period between 2013 – 2014, thousands of asylum seekers crossed the Turkish-Bulgarian border, many Syrians. Bulgaria and the EU were not prepared for such numbers. UNHCR even found it necessary to provide food and shelter for these people hosted on EU soil. Efforts were made to improve reception conditions in Bulgaria and progress did occur, conditions were improved from “degrading and inhumane” to minimally acceptable. But rather than create a well-functioning asylum system in Bulgaria and keep the land border open (as the EU has loudly and consistently urged the countries neighbouring Syria to do), Bulgaria spent millions of Euros building a fence

on its Turkish border and increasing the sophistication of its border control. In apparent cooperation with Turkish border authorities, the flow of refugees now entering Bulgaria is down to less than 100 per month. The EU border in Bulgaria has effectively been sealed.

The Spanish exclaves of Ceuta and Melilla, politically part of Europe but geographically in Africa, are also borders protected by high fences and advanced technology.

So how should we better address the rights of those seeking protection in Europe? In many ways, it is very straightforward if there is the necessary political will.

One option that could balance border protection with refugee protection would be the introduction of a broad resettlement programme for the most vulnerable. At present, while Germany has agreed to accept 20,000 under its Humanitarian Admissions Programme, the total resettlement places offered by the remaining 27 EU Member States is just over 5,000. This cannot be seen as a serious response to such a humanitarian crisis, particularly when resettlement is one of the few ways in which people can legally, safely, and in an organized manner, reach Europe and be offered a durable solution.

It may make sense to explore the feasibility of private initiatives to complement on-going Member State resettlement programmes. Under such “private sponsorship programs” – utilized, for example, here in Germany or in North America – associations, organisations and groups of individuals, working with their government authorities, could agree to provide financial sponsorship to help resettle specific individuals or families. This would allow European citizens to directly show their support for resettlement, and would offer diaspora communities and others the chance to support a solution that is, as well, structured, safe and legal.

Another way of facilitating legal access is through the reform of EU visa policies. Visa requirements continue to be imposed on most of the countries that produce refugees and constitute a major obstacle preventing persons fleeing persecution to enter the EU in a safe and regular way. The EU should explore the possibility of suspending visa restrictions or exempting transit visa obligations for nationals and residents of countries experiencing a significant upheaval or humanitarian crisis.

The EU visa code **today** provides an opportunity for Member States to issue visas on humanitarian grounds. Some Member States are currently using this procedure in very limited cases. It has also been used before; for example, Malta used such a procedure in 2011 to evacuate people from Libya during the turmoil. Common EU Guidelines on this provision could further promote its use as a protection tool and encourage its increased use by Member States.

Another option is the use of existing family reunification rules. More flexible family reunification could contribute to facilitating access for family members of refugees. Such a change could be put into place quickly and would confirm Europe’s fundamental support for the family unit as a matter of policy.

It is clear that humanitarian visas, more flexible family reunification rules and increased resettlement will always have its limitations in terms of the number of persons who benefit. Refugees who are not accepted under such procedures will continue to try to find other ways to reach Europe. In addition, such channels will not solve the challenge of those who do not come to the EU for international protection but for other reasons. These options, however, can be put into place if the political will to do so exists.

It is also critical to remember that organising legal channels to access asylum does not absolve us of our duty to implement protection-sensitive border control policies. The fact that today access to an asylum procedure is not guaranteed at the EU's external borders and that people are being *refouled* is unacceptable and not in line with fundamental European rights and values. Such a situation undermines the credibility of the EU as a whole. Current policies must be changed to bring them in line with Europe's fundamental rights, values and guiding principles.

I'd like to conclude with a personal story. There is a young Syrian man I know, who I'll call Adnan. I've gotten to know Adnan because he works as a specialist for our IT service provider. You see, he was an IT specialist in Syria, and needed to leave the country almost 3 years ago because he was politically active. He has refugee status in Belgium, a good job, has become fluent in Dutch and pays his taxes as a fully functioning member of Belgian society. He has used the money he earns to bring his two brothers to safely and to support his parents who were still in Syria. His two brothers were able to join him, although they were pushed back several times before successfully reaching the EU. One of his brothers was beaten in Italy by the authorities until he lost consciousness and they were able to take his fingerprints.

When I saw Adnan working in our office, he always struck me as a rather serious person, although always approachable and polite. I met Adnan last week and he looked like he would explode from happiness; he was a completely different person, as if the weight of the world had been lifted from his shoulders. He told me he literally had too much energy to sleep or stand still. The reason he was so overjoyed was because he and his brothers were finally able to bring their parents, their wives and children to Brussels.

This decent man, who had quickly rebuilt his life and is a productive member of society, had tried for almost 2 years to find a legal way to reunite his family in safety. In the end, he was not successful and had to resort to irregular means, thereby putting the lives of his parents and loved ones at risk, so they could be reunited and rebuild their lives outside Syria. How can I explain Europe's policies to Adnan and his parents? To his young nieces and nephews who had to risk their lives to reach Europe? Ironically, Adnan is EXACTLY the type of educated, resourceful and resilient individual that Europe needs; in fact, the EU has built up a "Blue Card" system to attract just such qualified people.

The true measure of a country, as well as a person, is how it deals with the most vulnerable. Our children may not consider this one of Europe's finest hours. Fundamental rights and fundamental values are just that, and should not be modified or curtailed based upon the strength of economic indicators. For if that is the case, they were not fundamental rights or values at all.