

Schriften zum Migrationsrecht

30

Marie-Claire Foblets | Luc Leboeuf (eds.)

Humanitarian Admission to Europe

The Law between Promises and Constraints



HART
PUBLISHING



Nomos

Schriften zum Migrationsrecht

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Foreword

*Winfried Kluth*¹

Scientific research on migration law is not possible without a close link to reality. For courts and judges the situation is not very different. This was made clear in the opinion of Advocate General *Mengozzi*, presented on 7 February 2018, in the case *X. and X.* involving a Syrian family that had already been subjected to torture and which applied for humanitarian visas at the Belgian embassy in Beirut.

Advocate General *Mengozzi* argued with respect to the responsibility of the EU and the Member States: “It is, in my view, crucial that, at a time when borders are closing and walls are being built, the Member States do not escape their responsibilities, as they follow from EU law or, if you will allow me the expression, *their* EU law and *our* EU law.”

The impulse given by Advocate General *Mengozzi*’s opinion was answered by organizing an international conference focusing on the legal framework of persecution and the genuine dangers that refugees face on their way to “safe harbours”. The formidable scientific network of *Marie-Claire Foblets* and the excellent coordination by *Luc Leboeuf* made it possible to invite outstanding experts from several countries to discuss the legal aspects of humanitarian visas and other instruments that can be used to facilitate safe escape paths.

The conference organizers took the very compelling approach of focusing on the topic from different legal and institutional points of view, and this volume likewise follows that logic. The first part starts with an analysis of humanitarian admission in international and EU law, with *Dirk Hanschel*, *Stephanie Law* and *Sylvie Sarolea* presenting their sophisticated observations. The second part adds three national perspectives. The contributions of *Katia Bianchini (Italy)*, *Pauline Endres de Oliveira (Germany)* and *Serge Bodart (Belgium)* vividly illustrate how different nation-states deal with the same problem. The great difficulties inherent in claiming and actually being granted humanitarian admission in reality are demonstrated by *Sophie Nakueira (with reference to Uganda)* and *Tristan Wibault*, who represented the plaintiffs before the European Court of Justice in the case *X*

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Foreword

and X. Finally, some future prospects on humanitarian admission to Europe are presented by *Catharina Ziebritzki*, *Eugenia Relano Pastor* and *Jean-Yves Carlier*.

This collection of inspiring and dense articles is the result of two days of intensive discussions. The contributions touch on all relevant legal aspects that should be taken into account by the Member States and the EU when they are searching for a “value-based” response to the problems observed in the Mediterranean Sea region.

Recently, the first steps towards such a response were taken with the Malta Declaration of 23 September 2019, but the political agreement on burden sharing between Germany, France and some other countries is only a first step and is not legally binding. The scientific considerations in this book are sure to prove very useful as further political and legal solutions are sought.

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