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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by International
Organization for the Elimination of All Forms of Racial
Discrimination, Association Ma'onah for Human Rights and
Immigration, International-Lawyers.Org, Union of Arab
Jurists, United Towns Agency for North-South Cooperation,
non-governmental organizations in special consultative
status, International Educational Development, Inc., World
Peace Council, non-governmental organizations on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2021]

* Issued as received, in the language(s) of submission only.



Migration and Asylum Policies in Germany, Austria, and the Netherlands

This is a written statement on the migration and asylum policies situation in Germany, Austria, and the Netherlands to the 48th Regular Session of the UN Human Rights Council. This statement covers only a ray of the legal and political situation. It focuses on the national perspective from an international and human rights law standpoint.

1. Germany

i. Legal facts

Germany has not ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (ICRMW), 1990 and the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975 (No. 143). Germany also lacks a comprehensive plan to address climate change-induced migration, and its visa application process requires a digital adaptation process. Moreover, its family reunification requirements are purposively challenging.

ii. 2015 Refugee Crisis: Response and Effects

Following Chancellor Angel Merkel's liberal refugee policy exercised nationwide in 2015, a rise in anti-refugees and xenophobia tendencies have been felt; for instance, the creation of the PEGIDA movement and the increase in popularity of the right-wing party "Alternative for Germany" (AfD), with a 12.6% vote in 2017. Such a party goes against all international obligations regarding immigration and the protection of asylum seekers in general.

A new immigration law was enacted in 2019 to respond to popular demand, facilitating immigration for skilled workers, but controversially, easing the deportation process. The European Court of Justice (ECJ) declared that Germany's 2019 detention law was unlawful, but it is in majority not applied. Germany accepted 1,1 million refugees in 2019, making it the highest number in Europe but not the highest rate per capita.

iii. Developments

A growing political and social desire to impose stricter regulations on illegal immigration has led the government to call for new measures. According to the Federal Minister of the Interior, newly arriving asylum seekers should not exceed 200,000 per year. Further, the AfD presented its 2021 election plan with complete limitations on immigration policies, against international and national law.

iv. Public Opinion

A recent Friedrich-Ebert-Stiftung survey has shown that Germans are generally open to migration. Most Germans' biggest fear regarding migration is the risk of dividing society and a rise in extremism.

2. Austria

i. Legal Facts

Austria has not yet ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (ICRMW), 1990 and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). The country always had a stricter stance on illegal immigration, as made evident by Chancellor Sebastian Kurz.

ii. 2015 Refugee Crisis: Response and effects

The country's response to the crisis was strict, imposing strong regulations at all borders. Contrary to the European Schengen codex, Austria conducted stringent border controls to

prevent migrants from entering from the Balkans route. The government further built a fence along the Slovenian border and closed the West Balkans routes. Following the crisis, the government imposed a yearly limit of refugees' admission, which cannot exceed 1,5% of the Austrian population. Regardless of the controversial law, the limit was never reached, reflecting the rigid regulations imposed on migrants.

iii. Developments

As of March 2020, Austria only allowed the entry of asylum seekers with a negative Covid-19 test. Given the poor development of the tests at the time, it effectively suspended asylum laws. Right-wing parties demanded a complete halt in asylum immigration, but given the travel restrictions imposed by the pandemic, the numbers of asylum applications were reasonably low. Kurz denounced the European system of equally distributing refugees per capita in EU countries as a failure and rejects the term "solidarity" in the refugee debate for its "inadequacy."

Vienna plays a leading role in fighting illegal immigration in initiating and hosting the 2020 "Platform Against Illegal Migration," aiming to facilitate European actions in securing borders and proposing training to deportation specialists. The country further collaborated with Bosnia in securing the Balkans route, establishing joint deportation measures.

Important criticisms arose against Austria for violating international law in its immigration policies and for collaborating with the EU border agency FRONTEX, already in the spectrum of committed human rights violations.

The country also declared that there would be no halt to the deportation of Afghan citizens. Criticized by the UNHCR and investigated by the coalition party (Greens), Austria does not respect the non-refoulement principle by sending back asylum seekers to Afghanistan without proper checks of the risks they might endure once they have returned.

iv. Public Opinion

A 2021 study across Austria was conducted demanding all participants whether their nation should receive and support refugees currently in Greece and other EU countries. Almost half of the population responded not in favor of an influx of refugees coming within Austrian borders. The majority of the people in favor of the process were mainly under the age of 30.

3. The Netherlands

i. Legal Facts

The Netherlands has not yet ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (ICRMW), 1990 and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). The nation updated its asylum system in 2010, making it more effective with three weeks time decision for each application, with significant legal assistance throughout the process.

ii. 2015 Refugee Crisis: Response and Effects

In the wake of the crisis, this role model system established by the Netherlands reached its technical capacities. The system was unequipped to handle such a high number of applications, which led the government to slow the process and to discourage further immigration. It also adopted stricter deportation measures, and a conservative law in 2018, providing refugees with basic services and limited needs. However, local authorities openly criticized the steps and did not implement them.

iii. Developments

The ECJ recently ruled against the Netherlands for violating European law with its unsafe practice of deporting underage refugees. Further criticism was brought forward by civil society on the country's violation of the non-refoulement principle with their deportations to

Afghanistan. On the bright side, following the 2021 national election, Mark Rutte ruled out any cooperation with Geert Wilders' anti-Islam party.

iv. Public Opinion

The country has always been known for its open and multicultural approach to immigration. In the wake of 9/11, this popular opinion changed and gave rise to more strict and rigid sentiments towards migrants in general; however, social attitude is reported to alter daily back to immigration-friendly attitudes.

4. Illegal Push-Backs

There has been a rise in allegations against FRONTEX. According to the UNHCR, the Agency has conducted 382 illegal "push-backs" in 2020 alone, meaning that it forced numerous boats loaded with refugees to turn back in the Mediterranean Sea, rather than aiding, a critical part of their duty. These illegal push-backs and the negative collaboration with the Libyan coast guard amounted to severe human rights and humanitarian law breaches. Investigations of FRONTEX are internal and rely on their police, which makes no guarantees of any proper accountability. Germany is the direct authority of the German police personnel working for the Agency; the government's refusal to conduct appropriate investigations reflects its lack of interest in reporting severe human rights violations on the matter.

5. Recommendations

The NGO signatories to this statement recommend:

- All countries to ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (ICRMW), 1990 and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Germany to respect the right to asylum by reviewing and adapting its application process to be more efficient.
- Germany to raise awareness on the rise of far-right extremism and remind of the importance of human rights nationwide
- Austria to suppress its plan of imposing a 1.5% yearly limit on the influx of migrants in the nation
- Austria to facilitate its policies on family reunification, to which refugees should be able to apply as they are admitted in the country
- Austria to comply with the non-refoulement principle by stopping deportation to unsafe locations where refugees may face violence and persecution.
- The Netherlands to ensure that all refugees and asylum seekers' basic needs are adequately covered following humane treatment, protecting their fundamental human rights.
- The Netherlands to comply with the non-refoulement principle, and subsequently, exercise deportation only when safe. To stop the deportation of minors without ensuring their safe reception in the country of origin.
- Germany, Austria, and the Netherlands to take responsibility for the unlawful acts committed by FRONTEX in the Mediterranean Sea
- Germany, Austria, and the Netherlands to initiate proper investigations with accountability mechanisms within FRONTEX for all perpetrators of human rights violations.

Geneva International Centre for Justice (GICJ), Just Atonement Inc., The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussels Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organization for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, NGO(s) without consultative status, also share the views expressed in this statement.