

## COMMENTARY

### Which EU Institution still Cares about "European Values" in Practice?:

#### A Continued Denial of Reality<sup>1</sup>

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Business as usual at the EU level – they confer, decide on something - and no sooner has the ink dried on the signatures to the agreements than no one cares any more or they argue about how something is meant and should be implemented in practice. Even in the second half of 2022, no further regulations were passed and the “package” on the CEAS, which has been on the table since September 2020, was not brought forward. Perhaps this standstill is even a good thing, because other than “defence against illegal immigration”, repatriation, border procedures, border management and “dismantling smuggling networks” was and is not on the agenda anyway. Human rights? European values? Topics for Sunday speeches.

However, the fact that the EU institutions do not enforce EU law at the external borders, nor does the Commission oblige Frontex in particular to consistently comply with it, represents a crisis in the rule of law. The information summarised in the News & Notes section of this issue on the situation in Bulgaria, Hungary, Croatia or on the behaviour of Frontex with regard to cooperation with the so-called "Libyan coast guard" has been available in abundance for some time thanks to the committed work of various NGOs and speaks for itself. The Commission could initiate infringement proceedings in case of human rights violations. The Federal Ministry of the Interior could examine whether Frontex missions with the participation of the Federal Police must be terminated if they violate EU law. However, in response to a question from the left-wing Member of the Bundestag Clara Bünger, the Federal Government replied on 10 December 2022 that it saw “no reason to withdraw German officers from the Frontex operation in Greece”.

What else but continued denial of reality is what the EU Council and Commission are demonstrating? In May, it is decided to “take” 8,000 refugees from Italy and distribute them among other EU states. Germany agrees to take in 3,500 people. 117 had actually arrived in Germany by mid-December.

Has the situation on the Polish-Belarusian border improved for the refugees concerned in 2022 thanks to EU intervention? One is inclined to conclude: Of course not. And on the Greek-Turkish border? The Bulgarian? The Hungarian? The Croatian? - See the News & Notes. Everywhere you look: It is a horror, unworthy of the “European values” that supposedly apply everywhere at the external borders. And what is the situation of refugees

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when, despite everything, they have reached Greece, Belgium, France or Hungary? The above-mentioned case law of the ECtHR, even if it unfortunately all too often reaches its decisions years after the actual events, shows how often “European values” and the applicable legal norms, e.g., the Directive on Reception Conditions, are disregarded in these states as well, and refugees are forced to live in homelessness without any provisions (see the Jurisdiction section of this issue).

The EU institutions praise themselves incessantly for activating the “Mass Influx” Directive in 2022 and accepting Ukrainian nationals – which, however, applies exclusively to them and not to third-country nationals with the right of residence in Ukraine – thus establishing two-tier refugee law at the European level. Human rights apply equally to all? So please: Where is that supposed to be?

“Tragically, far too many people still die at sea in search of protection”, UNHCR said in an appeal to the EU. This has been the case for almost ten years, with the first major shipwreck off Lampedusa in October 2013. Since then, many more have followed – and the rescue ships that take in shipwrecked people continue to be discredited. European value: saving people? But who does it – apart from the committed NGOs? EU agencies and institutions tend not to do it.

Antonio Vitorino, Director of IOM, said migration must be regulated not by closing borders but by opening regular channels for immigration. To whom is he saying this? Apparently to deaf ears in the EU Commission and Council.