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Response to Senat of Hamburg and proposal for a solution in regard to human dignity and human rights

We, the group of the Libyan war refugees „Lampedusan in Hamburg“, want to again try to bring some transparency into the rigid and escalated situation concerning the future of our lives.

First, we would like to recall to mind the causes which brought us here, since this is often suppressed by the politicians and not mentioned in the media, however our presence in Hamburg and our demand are based exactly on this.

We all left our various countries of origin to Libya at various times and for different existential reasons. From this point we have joint biographies and fates. We lived and worked in Libya when the conflict between rebel and government forces broke out. With the intervention of NATO the conflict escalated into war all over the country. We lost everything we possessed and were constantly under the threat of death, we survived the hazardous journey through the Mediterranean Sea and arrived in Lampedusa.

We were distributed to different regions in Italy where we were received accommodation and the minimum entitlement as stipulated in the „the emergency programme “Notstand Nord Afrika” (emergenza nordafrica). We went through the individual application proceedings and were issued residence permits and Italian documents, which guaranteed our protection status. However the emergency programme was suddenly terminated in winter 2012. The Italian authorities put us out on the streets, explaining that we had no perspective in Italy. They requested us to leave Italy and move to other countries of the European Union. This is the summary of our background before we became the game point and victims of European politics. We came to Hamburg and some of us went to various other European countries and cities.

In Italy we received a legal status to enable us overcome the losses we suffered and to rebuild our lives. However till today no implementation has occurred. The European governments have not only refused to accept their collective responsibility for the decision before participation in the war in Libya but have also rejected us, the civilians in need of protection.

However our existence and those of our families and relatives, whom we could cater for sufficiently before outbreak of the war, This is not a power play for us but we have no other possibility but to fight for the recognition of our rights.

This dispute has been going on in Hamburg for the last six months and a large number of

supporters join us in demanding a solution to our existential emergency. Following an unfortunate escalation which developed as a result of a police operation against us, initiated by the senate against us, we would like to present a solution which we think is constructive and acceptable for all involved.

Position of the Senat

We welcome the fact that after a half year of refusing a direct dialogue with us the senate has taken step towards us and we see this as possibly the beginning of a solution. However, In it's current form the proposal offers us no legal security. In order to understand the proposal, we have outlined and analyzed the proposal under the following some aspects:

The Senate still stands by the position that the humanitarian reasons we stated , in particular the catastrophic conditions refugees experience in Italy would not be relevant to the application proceedings nor lead to a positive decision of the applicant. This was again confirmed In following discussions between representatives of the senate, the authorities and our legal advisors

To us this means that there is still no political will or choice to assume responsibility for the recognition of our rights.

All members of the group „Lampedusa in Hamburg“ are requested to place a separate individual application for residence and in exchange will receive a *Duldung*.

A special panel at the Foreign Office will be set up and an Ombudsman is to oversee the proceedings. Additionally protection from deportation will be granted during court proceedings.

A „Duldung“ is not a residence permit but only a confirmation over the suspension of a deportation. It is usually given for arbitrary periods and can be recalled at any time.

Although in our case we were assured that the *Duldung* would be valid during the entire proceedings, it became clear in discussions with the Foreign Office that the Hamburg Authorities are not legally bound to the effect of the assured deportation protection.

Consequences of being issued a *Duldung* are that we would have to give up our Italian documents which guarantee us rights as recognized refugees, that our freedom of movement is restricted and that in earliest one year a work permit might be issued.

Concretely this means we could go into lengthy proceedings, lose our Italian recognized status and remaining in uncertainty for indefinite and uncertainty over our fate. This is not a proposal which can be called fair. Rather it poses a threat to our lives in addition to the continued police operations carried out against us in order to force an agreement.

To be constructive position would mean to accept that we are not guaranteed the appropriate refugee protection in Italy which is a result of the failure of the Dublin II-System and here in Hamburg, the refugees concerned should not be made to pay for this failure instead responsibility should be taken and possibilities of residence permits being issued should be seriously considered.

We have always stated that we would not be here if we had the chance to live humanly and opportunity to secure our livelihood. Also note that in the short time we have been in Hamburg we are integrated in the society than was ever possible even after two years residence in Italy.

Concerning our situation and the general discussion about the European refugee policy

In view of the intensive dispute in the society and the political committees over a necessary change in the European refugee policies, Hamburg could send a positive signal not only consisting of a general declaration but also raise the topic in the current coalition talks for the new formation of government in Berlin. We are surprised that in the last meeting with the SPD parliamentary group the members repeated again and again the need to make urgent changes in the European Asylum and refugee policies. They repeatedly stressed and acknowledged the importance of the major contribution of „Lampedusa in Hamburg,, but still we are continuously rejected.

In view of the immense solidarity, increasing awareness about the reasons for leaving our continent (from Libya via Lampedusa and then Italy to Hamburg) as well as the understanding and respect for defending our lives through our public resistance, we think: it is time to begin a concrete procedure to acquire our residence permits . Numerous organizations, institutions, professionals and ten thousands or more citizens in Hamburg and beyond , support our demands in acknowledgment and in accordance with § 23. For several months now, social, political, culturally committed groups and private individuals have provided us with accommodation and supplied our most necessary daily needs.

Our proposal for the political solution to the situation that escalated and our catastrophic situation

We want to present a proposal which meets the willingness of the Senate to talk and which is practicable:

We would like to remind you that we are of the firm conviction that laws are made for people and not vice versa. The existing European system for the admission of refugees violates human rights, we as victims can testify to that. At this point in time it is not sufficient to only speak about the rule of law, without regard to the actual impact. We call again the § 23 Residence Act, which for example offers a solution to our existential crisis.

Why should we be forced into single processes, which are long lasting will take much time starting from the fact that the Senate will continue trying to deport us following a long judicial process? Since the war and NATO intervention in Libya in the spring of 2011, we have not been at rest. We do not want to lose any more time before we can start our new life all over again. We are recognized as refugees equipped with Italian – European documents. We have gone through the process already.

Why should we be forced to go through individual proceedings, when we all have the same background and escape history, starting from the war in Libya, where we were the working civilians? Why should tax payers money be spent on hundreds of individual proceedings?

If understood correctly the § 23 Residence Act was made exactly for this reason. It allows the

recognition of a specific group that fulfill the same criteria in order to avoid time-consuming and cost-intensive single proceedings. If § 23AufenthG is applied then on the basis of this each individual could apply for a residence permit and prove that they fulfill the criteria. for a residence permit based on this of this. For further discussions we are ready to submit a draft prepared by our lawyers as a basis for further discussions

What we need is a legal certainty, which gives us the opportunity to start our new life, and to overcome the serious losses we have suffered since the war in Libya.

One possibility would be under refugee protection, already granted in Italy, to grant a work permit for at least one year. If we would have had a work permit in Hamburg, many of us would already work and contribute taxes. None of us has the interest to be dependent on government money and we can imagine to waive benefits if § 23 is applied. In this case, it would be conceivable and possible that from among the broad movement of solidarity and support the legally prescribed declaration of commitment would be given to it.

For six months people have supported us with their hands and hearts with the hope and desire that we remain able to live here. Especially in St. Pauli but also in other parts of the city we and the neighborhoods have already got integrated with each other. A simplified process and a work permit would accommodate our wishes and all people who support us tirelessly every day. This would also be in alignment with the European human rights conventions.

Formation of a commission for the concrete design and implementation of a workable solution

However, since in our opinion the best approach so far has been vehemently rejected and a strong polarization between the Senate and broad sections of the civil society has emerged, we propose the formation of a commission to address the specific preparation for further action. Such a commission would consist of a mediator and some representatives of the society and institutions

which have supported us could assist in the development for further action.

The police operation against us and the claim for specifying our identities to the authority

To the untenable accusation of the Senate that we would hide our identities, we have already expressed our opinion in our open letter to the Senate dated 16.10.2013:

1. We are holders of valid identity documents - which put the entire police operation in question.
2. Our identity is not hidden, we are one of the most present and most public groups of people in this city.
3. We are not applying for asylum, because we have already gone through the proceedings in Italy. This is why a renewed process is not only unnecessary but it also makes no sense legally.

Even if from our point of view it is essential to progress in the substantive discussion before we submit a list of our names - we see the current intention of the Senate, only as a perspective for deportation - we want to make a proposal to this point. We are willing to submit our documents and identity papers to the suggested commission. We are aware that this move puts us in greater danger of deportation to Italy however we want to defuse the situation which escalated

by the police operations and got gridlocked in recent weeks in order to continue to stand for a more constructive process. We make no claims referred to the proposal of the Senate and we will not let the authority remove our valid documents, because of the sufficient reasons stated above.

While some of us slowly break under the overpowering pressure and threats, we will continue to fight for our rights as a group – together with the many people who have had enough empty words of false grief and feigned humanity.

Despite the threat of deportation we repeat again, “We are here to stay” as a group of Libyan war refugees “Lampedusa in Hamburg”. Each of us longs for peace, for normalization, for some stability but we support each other and with great warmth and sincerity of the population of Hamburg as the reputation of St. Pauli “u never walk alone”.

Hamburg, 28th October 2013

We can be contacted through the above mentioned speakers and telephone numbers.
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