

## **Call on the EU: Restore rights and values at Europe's borders**

As European civil society and professional organisations working on asylum, migration, humanitarian assistance and human rights, we are shocked by the continuing humanitarian crisis at the borders between the EU and Belarus which causes immense suffering and has led to the deaths of at least ten people.

While we fully condemn the actions of Belarus, we urge a response from the EU, the EU's Member States, and all relevant European and international organisations that is in line with EU and international legal obligations and with standards of common decency.

While the people in the middle of the crisis are being used as parties in the conflict between the EU and Belarus which has a security dimension, the people themselves are not a security threat, and should neither be referred to nor be treated by either side as though they were a weapon. Indeed, all accounts suggest that there are many highly vulnerable groups among those caught up in these events, including pregnant women, families with young children and people who are elderly or injured. Among them are people who have fled war and persecution from Syria, Yemen, Afghanistan and Iraq, and who, in the absence of safe and legal pathways, had no alternative way to reach safety. We also note that despite the serious tensions that exist between the states involved, the situation, like many others at the EU's borders, is manageable, and should be approached with a sense of perspective. Globally, many countries in very fragile situations face complex displacement challenges, with geo-political and security dimensions and involving far larger numbers of people. What is needed is a clear-headed response that includes a firm defence of the right to asylum, and of EU and international law.

We thus propose the following responses covering the various elements of the crisis:

### **Ensure access to asylum at the borders**

Under EU and international law, everyone seeking asylum at the borders, irrespective of the manner of their arrival, has the right to make an asylum application. Access to asylum in Poland, Lithuania and Latvia should immediately be restored both in law and in practice. This means that all measures aimed at preventing people from accessing EU territory and from lodging an application for asylum, must cease. This includes preventing people from reaching the EU's territory, including through the use of force and instructions to border guards to conduct push-backs, prohibiting their asylum applications from being lodged through limiting effective access to the procedure via geographical restrictions on where claims can be lodged, and attempting to derogate from asylum law and protection against *refoulement*.

### **Guarantee humanitarian access**

In the short-term, it is essential that the states involved grant humanitarian access to the people affected so that humanitarian organisations can reach them and provide assistance. The fact that EU Member States prevent the delivery of life-saving assistance to people, some of whom are extremely vulnerable, is deplorable and reckless. It furthermore risks having negative implications for humanitarian access in displacement contexts outside the EU and undermines the EU's role as a credible humanitarian actor.

Should the stand-off continue, the decision to immediately evacuate people from the border region into EU Member States, also by making use of the offers already received from civil society, cities and faith groups to welcome people is one option that could prevent further loss of life. In parallel, EU Member States should discuss and agree on ad-hoc relocation arrangements. Transporting people to third countries for asylum processing as has been proposed is unlawful under international and EU law, and politically unfeasible.

## **Withdraw non-compliant domestic legislation**

The situation at the external border has led to changes to domestic asylum legislation. As legal analysis of the adopted legislation in [Lithuania](#), [Poland](#) and [Latvia](#) demonstrates, some legislative changes are incompatible with the EU asylum *acquis*, the EU Treaties, the Charter for Fundamental Rights, and international law. In Lithuania, the changes aim to restrict access to asylum; remove protections for people in vulnerable situations; allow for automatic detention; restrict access to an effective legal remedy; and reduce access to reception conditions.

In the case of Poland, the new legislation is in direct violation of the principle of *non-refoulement* by allowing the removal of people from Poland even after they have applied for international protection and without an individual examination of whether the removal will lead to a violation of their human rights. In Latvia, the changes preclude the possibility of seeking asylum for persons crossing the border, meaning the right to seek asylum and protection against *refoulement* is not respected. While some of the amendments are – in theory – temporary and their application geographically restricted, they nevertheless risk institutionalising unlawful practice. Seeking asylum is a fundamental right and *non-refoulement* is a non-derogable principle that must be observed even in times of emergency.

The European Commission needs to follow through on its request to Member States to remove aspects of the legislation which violate EU law. Compliance with EU law should be a basic condition for all EU support. If Member States refuse to respect EU and international law, infringement and disciplinary measures must be considered.

## **Counteract repression of civil society, media and legal practitioners**

The situation at the EU's borders has provoked attempts by Member States to intimidate and repress independent civil society, media and legal practitioners seeking to respond in line with their professional functions. Activities aimed at providing humanitarian assistance and legal aid to people at the border must not be criminalised. Banning access to the border zones for civil society and journalists not only leaves people without support but also has repercussions for the work of independent civil society and media beyond Europe. It is essential that the situation in the border area is monitored by independent actors to ensure that EU and international law is respected. Acts of violence need to be condemned and investigated.

## **Place human rights standards and transparency at the heart of cooperation with third countries**

Currently, the EU is proactively seeking agreements with third countries either to stop people from arriving at the EU's border or to take back their nationals. It must be ensured that any agreement with third countries, such as Iraq, Turkey or Lebanon is in line with international human rights standards, starting with the right to leave one's country and *non-refoulement* obligations. To enable democratic accountability over EU agreements with third countries, the content of any arrangements should be made publicly available, and the European Parliament should have a meaningful role in monitoring agreements. Independent monitoring and support to those returning should also be guaranteed.

The EU and its Member States must respond to the crisis at the border in accordance with their international and EU legal obligations. The current political and legal framework, if applied, provides all the elements for handling this situation in a rights based, calm and well managed manner. We are alarmed to hear of proposals being drafted that may allow for unjustifiable derogations from EU and international law.

## **Signatories:**

11.11.11.

A Buon Diritto Onlus

A.S.G.I. - Associazione per gli Studi Giuridici sull'Immigrazione

ACT Alliance EU

Action Aid International

ActionAid Italy

ActionAid Spain

aditus foundation

Africa Solidarity Centre Ireland

Amnesty International

Andalucía Acoge

ANTIGONE Information and Documentation Centre on Racism, Ecology, Peace and Non Violence

ARCI (Associazione Ricreativa e Culturale Italiana)

ARENE (Afghan Refugees Experts Network in Europe)

Association for Economic Consultations for Immigrants and Refugees (ACEIR)

ASSOCIATION ODNOS

AsyLex

asylkoordination österreich

Asylrättscentrum – Swedish Refugee Law Center

AWO Bundesverband e.V.

BRD-Sweden

Brot für die Welt

Bundesverband Netzwerke von Migrantenorganisationen e.V. (NeMO) Germany

Cambiare L'Ordine delle Cose, Forum Nazionale

Caritas Europa

CEAR

Centre for Peace Studies

Centre for Research and Social Development IDEAS (Serbia)

Centro Astalli

Centrum pre výskum etnicity a kultúry / Centre on the Research of Ethnicity and Culture

Church of Sweden

CIR

CIRÉ (Coordination et Initiatives pour Réfugiés et Étrangers)

Concord Italy

Conselho Português para os Refugiados (CPR)

Consorzio delle Ong Piemontesi (COP)

Convive-Fundación Cepaim

Cordaid

Danish Refugee Council (DRC)

Defence for Children – ECPAT Netherlands

Der Paritätische Gesamtverband

Diakonie Austria

Dutch Council for Refugees

Ecological Movement of Thessaloniki

ECRE

Entreculturas

Estonian Refugee Council

Eurochild

EuroMed Rights

European Association of Development Research and Training Institutes (EADI)

European Center for Constitutional and Human Rights

European Network on Statelessness

fairness-asyl

FARR - the Swedish Network of Refugee Support Groups

Fédération de l'entraide protestante  
Federation of Protestant Churches in Italy (FCEI)  
Finnish Ecumenical Council  
Finnish Refugee Advice Centre  
FOCSIV- Italian federation Christian organisations of international voluntary service  
Forum for Equitable Development (Slovenia)  
Forum réfugiés-Cosi  
France terre d'asile  
Geloof en Samenleving (de Remonstranten)  
German Caritas Association  
Global Call to Action Against Poverty (GCAP) Europe  
Greek Council for Refugees  
Greek Forum of Refugees  
Helsinki Foundation for Human Rights  
HIAS Europe  
HIAS Greece  
HumanRights360  
Hungarian Helsinki Committee  
I.C.S. (Consorzio Italiano di Solidarietà)  
ICMC Europe/SHARE network  
IGLESIA EVANGELICA ESPAÑOLA  
ILGA-Europe  
Immigrant Council of Ireland  
Institut Emma - center for victims of violence  
Institute Circle, Slovenia  
International Rescue Committee  
Intersos  
IPSIA ACLI  
Irish Refugee Council  
Ivorian Community of Greece  
JRS Europe  
La Coordinadora de Organizaciones para el Desarrollo  
Legambiente  
Liga za ljudské práva / Human Rights League  
Lunaria  
Mareena  
Médecins du Monde International Network  
Medici per i Diritti Umani (MEDU)  
Missing Children Europe  
Mosaico azioni per i rifugiati  
Nadácia Milana Šimečku / Milan Simecka Foundation  
New Women Connectors  
NOAS  
Norwegian Refugee Council  
Ocalenie Foundation  
OMEP  
Open Society European Policy Institute (OSEPI)  
OPU - Organisation for Aid to Refugee  
Oxfam International  
Passerell  
PIC – Legal centre for the protection of human rights and the environment  
PICUM  
PRO ASYL  
Rainbow4Africa  
Red Acoge (Spain)  
Refugees International

Refugees Welcome Italia  
Safe Passage International  
Save the Children  
she4she  
Slovene Philanthropy - Association for Promotion of Volunteering  
Slovenská katolícka charita/Caritas Slovakia  
Stop Mare Mortum  
Swiss Refugee Council  
Symbiosis-School of Political Studies in Greece, Council of Europe Network  
Tür an Tür  
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Vluchtelingenwerk Vlaanderen  
Voci Globali APS  
World Hazara Council (WHC)