

## NGO Statement on Europe

Dear Chair,

Thank you for the opportunity to speak today. This statement was drafted in consultation with a wide range of NGOs.

The past year has presented enormous challenges. Even as the coronavirus remains a risk to our health, economies, and societies, we have begun to hope and plan for the future. The pandemic underscored that we are all interconnected. And because we are only as strong as the most vulnerable among us, a robust recovery means building just, inclusive societies. Doing so requires fulfilling legal and moral obligations to protect the millions of refugees, asylum seekers, stateless persons, and other displaced individuals seeking protection in Europe.

One year ago, the promise of a new EU Pact on Migration and Asylum renewed hopes that Europe would establish an effective and humane system for protection and responsibility-sharing. However, [the European Commission's proposal](#) fails to apply the lessons of the past. Against promises of “no more Morias,” it seeks to institutionalize a policy of exclusion that will exacerbate human suffering.

At the same time, the Commission has issued Action Plans to [promote integration and inclusion](#) and [combat racism](#). These will directly impact the experiences of displaced people arriving and living in Europe—they cannot be assumed in isolation from one another or the Pact. Thus, while we welcome these commitments and allocations in the bloc's new [long-term budget](#) (MFF) to realize them, we caution policymakers to adopt a holistic view of asylum and protection.

Real reform is possible. As Member States negotiate the terms of the Pact, they should seek sustainable, comprehensive solutions that balance the interests of displaced people, host communities, and states. Non-EU countries in the region should work towards the same aims. Only in this way can Europe go forward as a leader, upholding the law and European values.

Specifically, civil society calls on European governments to:

- (1) Safeguard fundamental rights at Europe's internal and external borders and allow access to territory for asylum seekers.** The number of reported pushbacks, mass expulsions, and other rights violations at European borders has risen at an alarming pace. From the Mediterranean coast to the Balkans, border guards [use unlawful means](#) to keep people out of the EU. Allegations of Frontex's involvement and complicity in these practices—namely in Greece and Hungary—are particularly concerning. National authorities and the European Commission must swiftly investigate and take action in response to any such claims. The need for independent monitoring at borders is clear. We welcome the mechanism proposed in the Pact but recommend it be expanded and strengthened to truly protect fundamental rights and hold Member States to account. A new mechanism should complement—not replace—the roles of existing institutions with independent mandates to protect human rights. They include national ombudspersons as well as UNHCR, whose ability to monitor borders is important to ensure access to territory for people with protection needs.

**(2) Uphold the right to asylum, ensuring that procedures are fair, efficient, and consistently applied without discrimination on the basis of national origin or any other characteristic.**

Asylum seekers have the right to a thorough review of their individual cases. Elements of the proposed Pact, building on a legal fiction of non-entry, risk undermining this right and violating the *non-refoulement* principle. The Pact assumes most people arriving in Europe do not have valid claims to protection and that authorities can determine this and quickly return rejected applicants to their countries of origin. This belies the facts and people's complex lived experiences at home, in migration, and at borders. Europe's approach should focus not on keeping people out, but on humanely and responsibly providing access to protection for those who might need it.

Pre-screening and border procedures can lead to cursory reviews that more often result in unfounded rejections. There is concern that individuals subject to the proposed Screening Regulation will not receive critical information, legal assistance, or adequate health and vulnerability assessments, which could affect their access to asylum. Similar concerns arise from the expanded use of accelerated border procedures that provide fewer due process guarantees. Detention risks becoming the norm rather than the exception, exacerbating overcrowding in border areas. Asylum procedures should be fast but must also be fair.

Safeguards must also be in place to prevent authorities from exploiting emergencies to limit access to international protection. The EU's uncoordinated response to the outbreak of COVID-19 was devastating for displaced persons—ad hoc border closures and service suspensions effectively eliminated access to international protection in most countries, despite guidance from [the Commission](#) and [UNHCR](#) to preserve it. Even in emergencies, the right to asylum, reduction of statelessness and [protection of stateless people](#), and humanitarian imperative must be upheld. The risk that purportedly temporary derogations of states' obligations could become the norm is evidenced by Hungary's [recent decision](#) to extend policies that block access to territory and asylum for people who may need international protection.

**(3) Commit to real solidarity in action and abandon measures that beget crises.** Humanitarian crises arise when states undermine protection and do not cooperate. Authorities' failure to ensure timely disembarkation and distribution of individuals arriving by or rescued at sea, and the criminalization of people and organizations supporting displaced persons put lives at risk and undercut states' own interests. The Pact should create an EU-run search-and-rescue capacity and protect civil society efforts to assist displaced people. Authorities and humanitarian actors must also design and implement differentiated responses for members of marginalized and vulnerable populations, including women and girls, LGBTQ+ individuals, people with disabilities, and unaccompanied minors. Adequate procedures must be in place to quickly identify individuals with vulnerabilities or special needs upon arrival and trigger appropriate referral pathways. More generally, the Pact must establish a permanent, equitable, and sustainable solidarity mechanism requiring all states to share responsibility for protection. Cooperation must be mandatory, continuous, and predictable, and not only during "emergencies."

**(4) Expand safe and regular routes to international protection.** Absent legal pathways to seek refuge, individuals will resort to dangerous routes, risking exploitation by human traffickers and smugglers and destined for clandestine lives of fear. Expanding access to resettlement and complementary pathways is an obvious solution. However, global resettlement [was at a record low](#) in 2020 and remains on a dismal track. The proposed EU Pact extends the bloc's 2020 pledging exercise to a two-year scheme, granting just 29,500 places through 2021 notwithstanding UNHCR's estimates that 1.44 million refugees urgently need resettlement. As of

late February 2021, the EU had implemented 38 percent of the scheme, [resettling just 11,200 refugees](#). While acknowledging the impact of COVID-19 on resettlement, we urge all countries to immediately resume their resettlement programs and, at the least, fulfil their pledges this year. We encourage the use of flexible processing modalities to ensure states can meet their targets.

In addition to—and not instead of—resettlement, states should expand complementary pathways, including humanitarian admissions, labour mobility, and education programs. We welcome the Pact’s proposal to broaden the rules governing family reunification and urge the United Kingdom to follow suit. We support the development of community-based private sponsorship programs and urge governments to further them through multi-stakeholder initiatives. We also encourage states to consider expanding the criteria that qualify individuals for protection—such as [climate change-induced displacement](#)—to better reflect evolving challenges in our world. All complementary pathways and subsidiary forms of protection must uphold EU law and individuals’ dignity, security, and human rights.

- (5) Address statelessness in Europe’s response to displaced persons.** Today, there are [over half a million stateless people in Europe](#), among whom are displaced persons who were stateless prior to leaving their country of origin or have since become stateless.<sup>1</sup> However, most European states lack statelessness determination procedures to identify and protect stateless people on their territory, and more than half have not fully implemented their obligations to ensure that all stateless children born on their territory acquire a nationality.

It is therefore critical that Europe adopt a region-wide response to statelessness, including by addressing the matter in the EU Pact. Stateless persons have thus far been left out of the Pact’s proposals, despite their right to protection under the 1954 Convention relating to the Status of Stateless Persons. This year’s 60<sup>th</sup> anniversary of the 1961 Convention on the Reduction of Statelessness provides an opportunity for states to step up to advance UNHCR’s #IBelong Campaign, which aims to eradicate statelessness by 2024. European states should prioritize implementation of the 40 statelessness-related pledges they made in 2019, which have now been incorporated into the Global Refugee Forum follow-up. The ongoing evaluation of UNHCR’s statelessness work also provides an opportunity to critically assess the resourcing and action required to meet the #IBelong campaign objectives.

- (6) Invest in robust integration mechanisms to support displaced people’s inclusion through multi-stakeholder partnerships, especially at the local level.** Facilitating integration helps displaced people become self-reliant, lead better lives, and more fully contribute to their host communities, creating widely shared economic and social benefits. Citizens in cities and towns throughout Europe have urged their governments to welcome refugees—powerful shows of solidarity where it matters most. With its Action Plan and dedicated funding in the MFF, the EU has signalled that integration and inclusion are priorities. National governments must now take up these calls and adequately resource efforts to promote integration. From access to education to livelihoods, they must work together with civil society and the private sector to provide opportunities and the support individuals need to access them. In addition, political, and community leaders should consistently reinforce a positive narrative around asylum to combat xenophobia and discrimination.

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<sup>1</sup> Many refugees come from countries where, due to discrimination in nationality laws, state succession, or deprivation of nationality practices, they or their children are stateless or at risk of statelessness. Around 3% of asylum applicants to the EU each year are recorded as “stateless” or of “unknown nationality.” The lack of capacity and tools to identify and record statelessness means the actual number is likely much higher.

**(7) Uphold the integrity of foreign aid in partnerships with countries of origin and transit countries.** International cooperation is essential to make migration and international protection mechanisms safe, orderly, and humane. Foreign aid can help address root causes of displacement. However, international partnerships must be fair, transparent, and mutually beneficial. European states' moves to externalize asylum procedures are irresponsible and ineffective—agreements with North and West African countries to block Mediterranean routes have instead created a humanitarian emergency in the Atlantic; the EU-supported Libyan coastguard abuses and detains forced migrants; thousands linger outdoors along Bosnia's border; and the failure of the EU-Turkey Statement is evident in Moria's ashes. Recent proposals, like Denmark's and the United Kingdom's, to process asylum claims in extraterritorial centres would further breach states' obligations under the 1951 Refugee Convention. The EU should monitor spending to ensure it is not complicit in severe human rights violations. Development assistance should be conditional on recipients' compliance with international law and human rights, but not on preventing migration or access to international protection, nor readmitting citizens.

When displaced persons opt to return to their countries of origin, they should receive support to do so in a safe and dignified way. Decisions about whether a country is safe for return must be based on genuine assessments of the security landscape and availability of socioeconomic opportunities needed to make return sustainable. Denmark's decision to withdraw protection for some Syrian refugees demonstrates that this is not always done. Similarly, [bilateral](#) and [regional](#) agreements deeming Afghanistan safe for voluntary and forced returns disregard warnings in [EASO's own security analysis](#). Displaced people should be consulted in these assessments and have agency to make informed decisions about whether to return. The complexity of return for stateless persons must also be better understood and mechanisms put in place to guarantee their rights under international law.

**(8) Demonstrate leadership in responding to displacement crises beyond EU borders.** As [major donors](#) and diplomatic actors, European states and institutions have important roles to play in responding to situations of forced displacement and promoting refugee and stateless persons' rights globally. We commend the EU's recent leadership in raising funds for major refugee host countries<sup>2</sup> and the [coronavirus global response](#). We welcome the Commission's [new global humanitarian strategy](#) and increased aid.

However, Europe has been relatively absent from efforts to address the fallout of the recent Nagorno-Karabakh conflict, which displaced [more than 90,000 people](#) from Nagorno-Karabakh, mostly women and children.<sup>3</sup> Fighting also temporarily displaced some 80,000 people in Azerbaijan along the former line of contact. Although most are thought to have returned to their area of origin, extensive damage means about 60,000 people remain unable to access their homes or are otherwise in need of humanitarian assistance. European countries should help fund the [inter-agency response plan for Armenia](#) and UN Country Team efforts [in Azerbaijan](#) to provide both immediate relief and longer-term assistance to those who have been displaced.<sup>4</sup> UNHCR also needs support to fulfil its role in facilitating voluntary, dignified returns of displaced

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<sup>2</sup> Including for those hosting displaced [Venezuelans](#), [Syrians](#), [Rohingya](#), and people from the [Central Sahel](#).

<sup>3</sup> According to [data](#) from the government of Armenia, as of February 17, 2021, about 68,050 people in a refugee-like situation remained in Armenia and about 22,634 people had returned to Nagorno-Karabakh. Estimates for the number of returns varies and has not been verified.

<sup>4</sup> In mid-February 2021, UNHCR published an adjusted appeal for \$25.4 million to fund its operations in Armenia and Azerbaijan in 2021, including \$17.3 million within the next six months to assist and protect 52,500 people affected by the Nagorno-Karabagh conflict. The appeal does not cover the needs of people in Nagorno-Karabakh itself, as UNHCR has lacked access to the area to date.

individuals. Humanitarian and civil society actors need access to the region to support these efforts, meet humanitarian needs, and ensure sustainable re-integration and early recovery.

- (9) Elevate refugee voices and support refugee-led efforts.** The success of the above recommendations depends on the involvement of displaced communities themselves. International organizations leading humanitarian response efforts should partner with local groups and refugee-led initiatives. Where these groups have significant capacity, they can directly implement programs; in other cases, partnership can facilitate skill transfer within a short time to strengthen partners. Genuine engagement is essential to building trust with authorities and humanitarian workers and to accurate information exchange. Governments and all relevant stakeholders must create spaces in existing and new fora for displaced people to communicate their needs, interests, and recommendations directly. This includes engagement in accountability mechanisms, especially those used to monitor and evaluate programs designed to support displaced communities. This can help ensure that the most effective projects receive funding and support while less effective projects are reviewed and redesigned to meet the needs and aspirations of displaced people. People are their own best advocates and should be involved in the design and implementation of decisions that affect them.

## **Conclusion**

Common to these recommendations is the need to put human life first. Unfortunately, through both their actions and inaction, European countries and institutions have undermined their commitments to uphold rights and share responsibility for international protection. As proposed, the EU Pact may institutionalize a policy of exclusion; avoid robust commitments to solidarity; and set the stage for an erosion of human rights, humanitarian values, and personal security. Member States should reverse course and establish Europe as a leader in protection. As negotiations proceed, they must apply the lessons of the past to achieve a real reform of EU asylum law that is rights-based and people-centred.

States should continue to engage in multilateral fora to promote protection, supporting and cooperating with UN agencies and other international organizations. NGOs and UNHCR have mutually benefited from recent efforts to exchange views and information in more regular dialogues. Policymakers should similarly pursue stronger partnerships, recognizing and enabling civil society's added value. States must fulfil commitments under the Global Compact on Refugees and pledges made at the 2019 Global Refugee Forum. In doing so, Europe can establish credibility as a partner and help build global support for protection.

Europe's response to the COVID-19 pandemic demonstrated that when focused on our common values, shared humanity, and mutual interests, governments can innovate, cooperate, and reach difficult agreements to save lives. Measures that once seemed extraordinary—from conducting asylum and resettlement procedures virtually to automatically extending documents' validity—became obvious good practice. Throughout, Europe's leadership on the global stage highlighted its norm-setting power. European countries must now sustain and build upon this momentum to finally establish a regional approach to international protection that is fair, sustainable, and humane, ensuring the safety, rights, and dignity of all displaced people.

Thank you, Chair.