

NGO Statement on Europe

The time is now for Europe to (re)focus and lead with its principles of upholding human rights and life-saving protection

Dear Chair,

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

With the beginning of a decade and new Presidency of the European Commission, Europe stands poised, during 2020 and beyond, to make a positive, forward-looking difference in the lives of women, men and children on the move as they seek asylum, protection and a new life in its communities. We welcome the EU's pledge of 30,000 resettlement places for 2020 and congratulate the EU on nearly reaching the 2-year 50,000 quota last year. In addition, we look forward to reviewing the forthcoming Pact on Migration and Asylum. Yet this new start is already confronting Europe with several challenges, not least of which is at the border of Greece and Turkey. Moreover, NGOs are concerned about the Commission's noticeable focus on returns and, more specifically, with its consideration of conditioning development assistance on third-country compliance on returns.

Regarding the current, unfolding humanitarian crisis at the border of Greece and Turkey, we are deeply concerned by the absence of protection measures in the reaction of the EU and Member States to the situation at the Greek-Turkish border. Of the 42,000 people still stuck on the Greek islands, nearly 4 out of 10 are children; 40% of those residing at the Turkish border are families with children, we urge EU Member States to support Greece in three main ways. First, in responding with calm, order and life-saving protection for displaced and vulnerable populations at its borders; secondly, in showing solidarity with the hundreds of thousands of Syrian women, men and children forced to flee the recent fighting in Idlib, including and especially via access to the right to seek asylum and to temporary protection in European countries through a joint mechanism of responsibility-sharing and thirdly, through immediate commitments in relocating refugees from overcrowded camps in Greece, especially unaccompanied children. Indeed, now more than ever, it is imperative that Europe starts this new decade and Presidency by showing its leadership for principled, people-centred protection and responsibility-sharing between its Member States.

Furthermore, NGOs offer **8 practical recommendations** for a clear focus by the EU on people, saving lives and solidarity:

- 1. Member States should stop pushbacks, expulsions, and infringements on the human rights of asylum seekers at their borders and comply with EU and international law.** We urgently call on all deployed border guards to refrain from using violence and to uphold fundamental rights, including at the Greek-Turkish border. Troublingly, recent events indicate that asylum seekers and refugees are now primarily treated as a security threat requiring a military response. This is unacceptable. In addition, European States should desist from encouraging or silently sanctioning, actions leading to violations carried out by other Member States.

Moreover, EU funding for border management should be made conditional on Member States' respect for fundamental rights and should include stringent oversight mechanisms. The Schengen *acquis* also provides another opportunity to promote fundamental rights compliance. The European Commission should monitor and assess failure to implement, or comply with, the recast Asylum Procedures Directive (2013/32/EU) and where necessary, start infringement procedures. Moreover, Member States should grant civil society and international organisations access to borders and all related information necessary to support independent border monitoring, as well as the provision of legal aid and information.

2. **Member States should allow asylum seekers access to EU territory to lodge asylum claims and make asylum procedures efficient.** We urge other EU Member States to support Greece in accepting and processing asylum applications because all people should have access to an asylum procedure as a right under EU law. If the Treaty on the Functioning of the European Union (TFEU) is invoked, the provisions must comply with EU law, including the Charter of Fundamental Rights. The asylum process should be based on an equitable and sustainable allocation of responsibilities between EU Members. Governments should refrain from distinguishing between applicants based on so-called “safe countries of origin” or “first asylum countries”. Moreover, procedures should take into consideration special needs and family ties within the EU to facilitate family reunification. Intra-EU solidarity mechanisms must ensure a fair allocation and contingency planning in cases of large-scale arrivals. For example, Member States should commit to the emergency relocation of unaccompanied children. Contingency planning is also needed to ensure proper reception capacity and resource mobilization. Finally, States should make a greater effort to find alternatives to detention, using it *only* as a last resort and detention of children should cease.
3. **Any mandatory border procedure should be people-centred, fair and efficient.** The forthcoming Pact on Asylum and Migration may include or prepare the groundwork for introducing mandatory border procedures applicable to asylum seekers arriving in the EU. We consider this exceedingly risky for two reasons: first, it would reduce access to protection in Europe, and, most likely, truncate procedures that include many necessary safeguards – including ensuring non-*refoulement* – and second, many current versions of this concept significantly reduce the right to effective remedy. Moreover, we foresee such a provision as leading to a significant increase in detention centres and people detained at the borders. Any procedures *must* take a people-centred approach and should work for both border officials and asylum seekers.
4. **Europe should not link development assistance to third-country compliance to readmission/return of citizens.** Rather, Europe should create a return policy with terms that adequately account for the complexity of the factors involved, including an individual's decision to return and the third country's ability to provide viable socio-economic opportunities for him or her. Recent research concludes that the ability of returnees to establish themselves, earn money and support their families back home, makes them more willing to return. This suggests that regularisation and access to rights and services, including access to the labour market, need to be part of a comprehensive approach to return.
5. **Europe should be a leader in resettlement and expand safe and regular routes to access asylum.** We encourage Member States to establish resettlement commitments with Turkey and agree on a final European Resettlement Framework. Moreover, the EU's support for the Three-Year Strategy on Resettlement and Complementary Pathways, and UNHCR's projected

2020 global resettlement needs of 1.44 million¹, resettlement and other pathways in Europe should be expanded and bring additionality to existing resettlement pledges, both for emergency and protracted situations. For example, streamlining family reunification procedures, withdrawing overly restrictive conditions for family reunification – including for beneficiaries of subsidiary protection – and broadening family reunification criteria would constitute an important step in the right direction. EU resettlement policies must safeguard the fundamentals of resettlement — life-saving protection and solidarity — and should avoid attempts to instrumentalise it for migration control purposes or introduce exclusion grounds based on an individual’s “integration prospects”.

6. **Investing in robust integration mechanisms are indispensable for host communities and for the refugees they welcome, including municipalities and other local actors.** Smaller cities, towns and rural areas have made a particularly important contribution to recently expanded European efforts in integration. Indeed, many have expressed their solidarity by welcoming and supporting refugees for the first time. Expanding the role of smaller communities in welcoming refugees is critical; they need to receive the necessary support and resources to build their capacity to do so. For example, preparing communities beforehand is particularly important and effective, including making sure they have adequate housing and can provide easy access to facilities. European cities and towns play an essential role in the growth of refugee protection in Europe, both by receiving refugees via organized programmes and through the involvement of local citizens in private sponsorship.
7. **The EU institutions and Member States must put an end to the criminalisation of people and organisations supporting those in need.** The number of individuals in the EU criminalised for humanitarian activities, among them volunteers, NGOs, clergy and other religious workers, mayors, crew members of rescue ships and journalists, has grown tenfold from 10 people in 2015 to 104 in 2018.² The EU Facilitation Directive should be revised to clearly define migrant smuggling in line with the UN Migrant Smuggling Protocol that requires criminal intent, such as ‘financial or other material benefit’ or unjust enrichment. It should remove restrictions to civil society’s space and prevent violations of the rights of human rights defenders including smear campaigns, threats and attacks against them and other attempts to hinder their work. Even more concerning is the fact that these attacks against civil society have led to – and coincided with – the dismantlement of a functioning rescue-at-sea system which saved many lives.
8. **Europe should create adequate policies to prevent refugees, especially children, from becoming stateless in Europe.** Estimates reveal that at least half a million³ stateless people currently live in Europe. NGOs are concerned by the lack of an adequate policy response, which considers the particular situation of stateless refugees, or which is able to identify and protect stateless migrants who cannot be returned, including from arbitrary detention. Moreover, children born in Europe to migrant or refugee parents can sometimes be exposed to statelessness due to a combination of discriminatory nationality laws, lack of access to birth registration, or gaps in practice in their country of origin, as well as the lack of safeguards against childhood statelessness in nationality laws of European countries, or failures in effective implementation of such laws. Disappointingly, more than half of European Parties to relevant international conventions have not properly implemented their obligations to ensure

¹ UNHCR, [Projected Global Resettlement Needs 2020](#), 1-2 July 2019

² Conte, Carmine and Vosyliūtė, Lina, [Crackdown on Volunteers Helping Refugees and other Migrants](#), *ReSoma* (Research Social Platform on Migration and Asylum), June 2019, p. 32

³ [UNHCR and UNICEF urge action in Europe to end childhood statelessness](#), 14 February 2019

that all stateless children born in the country acquire a nationality. Worryingly, European States seem to be willing to consider withholding nationality in response to terrorism. Against this backdrop, however, NGOs continue to welcome UNHCR's #IBelong campaign and commend the important impact achieved with the recent High-Level Segment on Statelessness which saw 33 pledges made by 12 European States. This creates helpful momentum in trying to address current protection gaps, to promote greater political will and resourcing, and to promote a stronger and coordinated regional strategy. Such actions are urgently required if the #IBelong campaign goal of eradicating statelessness by 2024 is to be realised.

In conclusion, we consider that, had the EU built a solidarity and responsibility-sharing mechanism after the 2015 crisis, it would have handled the current humanitarian crisis at the border of Greece and Turkey in a more humane and efficient way. The challenges facing this new EU Presidency are actually opportunities for Europe to come together and finally craft and implement a sustainable Pact on Migration and Asylum promoting safe, orderly and regular migration that upholds EU law, dignity, human rights and ensures life-saving protection. Both Global Compacts are excellent, relevant resources from which Europe should draw and we congratulate Portugal for doing so. Getting this pact right is important because so many host communities and people on the move are counting on the EU to make the right decisions and take the right actions to sustainably improve the situation and their lives. Bringing order to chaos, reducing suffering and treating people with dignity isn't just the right thing to do; it is good politics. We hope this new Pact will enhance life-saving protection, motivate increased solidarity, galvanize solution- and responsibility-sharing and finally see asylum seekers and refugees as partners in Europe's future growth and development. NGOs stand ready to partner with UNHCR, European States and municipalities so that, together, we stand for people and protection.

Thank you, Chair.