

NGO Statement on Europe

Dear Chair,

These past weeks have seen the **unthinkable come to pass, with Russia's attack on Ukraine** resulting in a **devastating war in Europe**. The fast-deteriorating conflict has already led to tragic civilian deaths, gravely exacerbated humanitarian needs for the people of Ukraine, and displaced hundreds of thousands of people within the country and beyond its borders, only in its first days. At this time, as ever, NGOs stress the importance for European states to **facilitate safe passage for asylum seekers into their territories; invest into adequate reception and assistance for refugees** reaching their borders; ensure that they receive a **prompt, durable and predictable protection status upon arrival; share the responsibility for hosting refugees** in the spirit of European solidarity; and **deliver urgent humanitarian assistance to Ukraine** to address the internal displacement and grave needs resulting from the war. States must ensure the availability of accurate information in the relevant languages and formats, so that people can access the support to which they are entitled. Moreover, we note that women, children and the elderly – who at present make up the majority of those fleeing into European states – are often the most adversely affected by crises. We call on states to ensure their preparedness and response is age, gender and disability responsive, and that the specific needs often faced by displaced women and girls in particular are addressed as a priority. Crucially, we stress that **protection must be offered without discrimination** and regardless of citizenship, ethnicity or nationality, **including to non-Ukrainian nationals seeking safety in Europe**.

NGOs greatly commend the statements of solidarity with Ukrainian refugees made by governments across Europe in the past weeks, and the steps taken to ensure their dignified reception upon arrival, including the **welcome decision to trigger the Temporary Protection Directive** across EU member states. Beyond this immediate response, states must ensure that **expanded capacity, resources and political commitments are sustained for as long as protection needs remain**. This tragic emergency must serve as a lasting reminder of the values that Europe holds dear, and of what it can accomplish when it acts jointly, in a spirit of solidarity, to uphold refugee protection. We urge states to **display this same level of preparedness, commitment and humanitarian leadership to other displacement situations and people seeking safety** in Europe, who have regrettably received a very different treatment in the past. Other ongoing displacement situations, and the fate of asylum seekers elsewhere in Europe, have not disappeared as a result of the crisis in Ukraine, and **must not be forgotten or under-resourced as a result**.

Indeed, people seeking protection in Europe continue to face significant, lasting, and rapidly mounting obstacles to the right to request asylum.

Across Europe, states not only increasingly fail to comply with asylum norms and obligations but are doing so more openly and with apparent impunity. Multiple states have, in various ways, sought to externalise their protection responsibilities, keep asylum seekers out, and return people to danger – by building walls, conducting violent pushbacks, seeking to offshore asylum procedures, or applying the safe third country concept. Other governments have made repeated efforts to effectively suspend the right to asylum, *de facto* or in national legislation, and failing to protect people arriving at their borders. In addition to harming international protection norms and undermining European states' credibility as humanitarian actors, these trends amount to a grave rule of law crisis within the EU. Outside the EU, proposed legislation such as the UK's Nationality and Borders Bill undermines the right to seek asylum, including by creating a two-tiered approach to refugee protection that discriminates against asylum seekers who arrive irregularly.

States' interest in containing displaced people outside their borders and outsourcing protection responsibilities also shapes their external action. In response to the Afghanistan emergency in 2021, European leaders stoked fears over possible arrivals of people in need of protection and predominantly focused on keeping refugees in Afghanistan's neighbouring countries. Meanwhile, civil society's calls for an ambitious and transparent resettlement and humanitarian admissions scheme have not yet been met.

Even as negotiations on the Pact are progressing slowly and uncertainly, the more concerning and restrictive elements of the proposals are being translated into practice by member states or advanced in separate EU legislation. Meanwhile, compliance with existing laws and obligations continues to suffer. It is not too late for European states to reverse course, reaffirm their commitment to humanitarian leadership and refugee protection, and reflect these principles through their national policies and the Pact negotiations alike.

NGOs urge European governments to:

1. **Ensure access to the territory for asylum seekers and address human rights violations at European borders.** Illegal, violent, and dangerous pushbacks have become alarmingly prevalent in Europe in recent years, and risk becoming a mainstream tool for states to keep people out of their territory. National authorities must make ending human rights abuses at EU borders a priority and urgently establish independent border monitoring mechanisms. While we welcome the mechanism proposed in the Pact, we stress that it must be expanded and strengthened to be truly effective and independent, and that states should not wait for negotiations before establishing national instruments. The European Commission must fulfil its mandate to uphold the rule of law in the EU, including by withholding funding or launching infringement procedures if necessary. It must use these concrete tools to hold states accountable for violations of the right to seek asylum and the failure to establish and empower independent monitoring mechanisms.
2. **Ensure access to a fair and full asylum procedure for people seeking international protection, no matter the circumstances and without undue restrictions.** We regret the application of the 'fiction of non-entry' in the Pact and in subsequent EU proposals; states' growing reliance on 'safe country of origin' or 'safe third country' concepts to deny asylum applications; and the increasingly prevalent use of accelerated border procedures, which involve fewer safeguards and weaker access to effective remedy. Recent attempts to allow derogations from asylum and reception obligations in cases of so-called 'instrumentalization' of migrants risk irreparably damaging asylum norms in Europe and punishing refugees and asylum seekers for governments' actions. These instruments deny people a fair and full assessment of protection claims, may lead to expanded detention, and leave more people in legal limbo, without full access to services.
3. **Ensure humane and effective reception systems in Europe, which respect people's dignity, protect their mental health, and foster their inclusion into European societies, in line with the aims of the EU Action Plan on Integration and Inclusion.** Across states of first arrival, restrictive and isolated accommodation for asylum seekers is becoming the norm, with devastating impacts on their wellbeing, dignity, and inclusion prospects alike. The Closed Controlled Access Centres (CCACs) recently inaugurated across the Greek Aegean islands amount to *de facto* detention. These are already greatly harming the mental health of residents, exacerbating their fear and uncertainty, and making them feel like prisoners. The possibility that these are replicated across Europe is greatly alarming. States should reject such models and invest in community-based accommodation, with a commitment to ending migration-related detention. States must likewise commit to improving their reception systems, which continue to be vastly inadequate in many parts of Europe, and to ensuring sufficient capacity.
4. **Establish a fair, predictable and sustainable system to share responsibility for people seeking protection in Europe, centred on relocations.** States' failure to invest into fully resourced asylum and reception systems and the absence of meaningful intra-EU responsibility-sharing will leave states in a reactive posture, issuing emergency responses when people in

need of protection reach European borders in the future. EU states must ensure that solidarity with states of first arrival and with refugees themselves is at the core of any progress on the New Pact files, including by delivering a predictable and mandatory responsibility-sharing system centred on relocations. In the meantime, states must build on the success of recent *ad hoc* voluntary relocation schemes and seek to develop them into sustainable, large-scale solutions.

5. **Significantly expand safe and regular pathways to protection, including by increasing and fulfilling European refugee resettlement pledges.** At two high-level fora in 2021, European states expressed their commitment to leading global resettlement efforts post-COVID-19. However, resettlement is yet to resume on the scale needed. As of October 2021, European states had fulfilled only 65% of their 30,000 resettlement pledges for 2020-21, and reports suggest that they will fall far short of civil society's calls to resettle at least 36,000 refugees in need in 2022. Moreover, while European governments made positive efforts to evacuate thousands of Afghans at risk in 2021, this has not been matched with meaningful pledges to resettle refugees from the region in line with [UNHCR's calls](#). States must urgently deliver on pending pledges, make ambitious commitments to resettle and admit refugees through a range of pathways in 2022, and plan for a sustainable and significant increase in these pathways in the coming years, including by adopting the long overdue Union Resettlement Framework. The EU should also accelerate the pace at which people are resettled through the Emergency Transit Mechanisms (ETMs) in Niger and Rwanda.
6. **Place refugee protection and humanitarian principles at the centre of the EU's external action, in response to growing humanitarian needs.** Approximately 274 million people will need humanitarian assistance and protection in 2022. As a leading global donor of humanitarian and development aid, the EU should use its instrument for development cooperation (NDICI/Global Europe) to address the needs of people on the move along migratory routes, with particular attention to women and children. The NDICI resources should not be provided to third countries as a condition or an incentive to enhance their cooperation on migration management or return and readmission agreements. This would undermine the role of the EU as a credible development actor and would divert essential resources from contributing to an inclusive response to and recovery from the COVID-19 pandemic in partner countries.
7. **Show greater humanitarian leadership beyond EU borders.** Global humanitarian needs have continued to grow year after year in places like Syria, Afghanistan, Ethiopia, Yemen and the Sahel due to the combined effect of protracted conflicts, climate change, COVID-19, and increasing inequality. Addressing chronic emergencies worldwide and their impact on civilians, including forcibly displaced people, will require stepped up humanitarian aid and diplomacy alike, to ensure unfettered humanitarian access, champion international humanitarian law, and ensure that the needs of populations in vulnerable situations are met. The European Humanitarian Forum will provide a crucial moment to articulate a stronger approach to diplomatic action in fragile and conflict-affected states through high-level bilateral diplomacy and leadership in multilateral institutions to best serve people caught in crises.
8. **Take urgent action to address the deaths and pullbacks at the Mediterranean Sea,** the most dangerous migratory route in the world. UNHCR reports that nearly 2,000 migrants were dead or missing along the Mediterranean Sea in 2021 alone, with the death toll similarly rising along the Atlantic route to Spain. To align its external action with international law and respect for human rights, and prevent further loss of life, the EU must immediately re-establish a dedicated search and rescue capacity in the Mediterranean. European states must also put an end to the criminalisation of people and organisations supporting those in need, which includes supporting NGOs' lifesaving search and rescue work, as well as those organisations running humanitarian activities on land. 2021 also saw record numbers of interceptions and pull backs to Libya by the Libyan Coast Guard. The EU and European states must work to end all returns to unsafe ports, including Libya, where migrants are routinely detained and exposed to violence and abuse. In its diplomatic efforts with the Libyan authorities, the EU should prioritise the safe

and swift release of all migrants from detention centres, and drive efforts to establish and expand alternatives to detention.

9. **Invest in refugees' integration and inclusion.** The European Commission put forward a highly welcome Action Plan on Integration and Inclusion in November 2020. EU states must now promptly implement its recommendations, mainstream inclusion objectives across policy areas, and guarantee the meaningful involvement of refugees and other migrants in policymaking. Two years into the COVID-19 pandemic, states must do more to ensure an inclusive response and recovery, including by uplifting and cooperating closely with refugees and refugee-led organisations, recognising their vital contributions not only to the COVID-19 response, but to European communities and economies every day. In tandem, European states and EU institutions must take concrete steps to tackle racism, xenophobia and discrimination against refugees, asylum seekers, migrants and other marginalised communities, which continue to hinder their wellbeing, inclusion and empowerment.
10. **Address statelessness in Europe's response to forced migration.** There are estimated to be over half a million stateless people in Europe today, often living in the margins of society and denied access to their fundamental rights. This includes people who have fled countries in which discriminatory nationality laws and policies create a risk of statelessness. However, European states still lack an adequate policy response, including dedicated statelessness procedures enabling the identification and protection of stateless people on their territory who are owed protection. Equally, Europe is still a producer of statelessness. This includes some children born to migrant or refugee parents, who are currently exposed to a risk of statelessness due to a combination of discriminatory nationality laws, lack of birth registration or gaps in practice in their country of origin, as well as the lack of safeguards against childhood statelessness in European countries' nationality laws, or failures in their effective implementation. NGOs call on all European states to implement their international obligations to ensure that all stateless children born on their territory acquire a nationality. The coming years offer a pivotal window to garner momentum towards meeting UNHCR's #IBelong campaign objectives to eradicate statelessness by 2024. European states must implement the 40 statelessness-related pledges expressed at the 2019 ExCom High Level Segment on Statelessness, which were subsequently incorporated in the first Global Refugee Forum framework. UNHCR's response to the recent evaluation of its statelessness work provides a further opportunity to support and galvanise these efforts.

Conclusion

In recent weeks, the war in Ukraine and resulting displacement has demonstrated the importance of solidarity and reinforced global commitments to refugee protection. While global humanitarian needs are escalating, pathways to safety or long-term solutions for refugees are being limited further. This vast and growing protection gap is fuelled by COVID-19, ongoing conflicts, climate change, and increasing inequality, in turn leading to more protracted displacement. European leadership and action on refugee resettlement, protection, and integration is therefore crucial.

European states must significantly strengthen these commitments in 2022, including an expansion of pathways to safety in Europe and investing into more humane and dignified reception systems. The European Commission and other EU institutions should use all tools at their disposal to encourage positive action. Conversely, where states fail to do so, EU institutions must not forego their vital role in holding states to account for violations of the right to asylum and of the rule of law in Europe.