

Tuesday 9 July 2024

## Joint Statement: The future EU must uphold the right to asylum in Europe

To ensure that refugees can access protection, states must guarantee the right to seek and enjoy asylum and uphold their commitments to the international refugee protection system. This obligation applies to all EU Member States under Article 18 of the EU Charter of Fundamental Rights. Yet, the recent and increasing attempts by the EU and its Member States to evade their asylum responsibilities by outsourcing asylum processing and refugee protection risk undermining the international protection system. The undersigned human rights and humanitarian organisations are alarmed by these developments and urge the EU and its Member States to safeguard the right to territorial asylum in Europe.

Discussions on the externalisation of asylum are not new, and have been consistently criticised, contested and rejected over the years. The [European Commission](#) itself ruled out the legal feasibility of such models in 2018, describing them as "neither desirable nor feasible". Global protection needs are higher than ever and low and middle income countries are hosting [75%](#) of the world's refugees. Despite this, there has been a recent upsurge in proposals to shift the processing of asylum applications, or indeed the responsibility for providing refugee protection, to non-EU countries.

Italy, for instance, is currently seeking to process asylum applications of certain groups of asylum seekers outside of its territory, from detention in Albania - which risks leading to prolonged, [automatic detention](#), a denial of access to fair asylum procedures with necessary procedural guarantees, and delayed disembarkation for people rescued or intercepted at sea. [Others](#), such as [Denmark](#) and [Germany](#), are assessing the feasibility of this type of arrangement. [15 EU Member States](#) and some political groups have endorsed similar shortsighted measures to shift asylum processing outside EU territory and encouraged the European Commission to explore ways to facilitate this through further legislative reform, including through a watered down 'safe third country' concept.

These attempts must be seen in the context of parallel containment efforts that seek to stem departures and prevent the arrival of asylum seekers to EU territory through partnership agreements with third countries, with little to no attention to the human rights records of those authorities. Over the past years, the European Commission has continued bypassing public or parliamentary scrutiny and EU legislative frameworks as it concludes ever more controversial and untransparent deals with non-EU countries, throwing at them large sums of money with no genuine human rights safeguards or monitoring mechanisms, with the aim to contain and deter migration and onwards movement of refugees toward the EU at seemingly any human cost.

### Human costs of externalisation

Attempts to outsource asylum to third countries are a manifestation of states' flagrant shirking of their legal responsibility for people in need of protection. Outsourcing asylum processing and protection to third countries who cannot provide effective protection or are already disproportionately hosting refugees, is inconsistent with the objective and spirit of the Refugee Convention. It also obfuscates [jurisdiction and responsibility](#), making it more difficult for people to access justice when their rights are violated. Where extraterritorial asylum processing has been tested, it has caused immeasurable human suffering and rights violations.

Most notably, [Australia's](#) offshore detention [scheme](#) demonstrates how these models have created **prolonged confinement and restricted freedom of movement, deeply harming both the mental and physical health of people seeking protection. Persistent human rights abuses arise as a result**, including the imposition of [conditions amounting to inhumane and degrading treatment](#), neglect, a lack of access to legal aid, lack of identification of and support for specific needs, and family separation. This should have served as a warning.

But more recent attempts – such as the [UK-Rwanda](#) asylum scheme, which is not yet in effect following the [UK Supreme Court declaring it unlawful](#) and in any event is unlikely to be operationalised at any significant scale – have already led to people being placed in detention and in a damaging legal limbo under threat of removal. Sending asylum seekers to Rwanda and other third countries breaches arrival countries' obligations under [international refugee norms](#), and undermines their commitment to the rule of law.

The EU and Member States' false promises of ensuring compliance with fundamental rights in the context of externalisation arrangements are no more than empty words. As the extensive track record of human rights violations in partner countries such as [Libya](#) demonstrates, the EU and Member States have no adequate tools and competencies to effectively monitor or enforce human rights standards outside of EU territory.

Beyond the dire human cost, these arrangements also have a **ruinous impact on the administration and cost of asylum systems**, with the UK's attempts to forcibly remove people to Rwanda being [projected](#) to cost a staggering £1.8 million per asylum seeker returned. This is not only an unjustifiable waste of public money, but also a lost opportunity to spend it in ways that would truly aid people seeking asylum by investing in fair and humane asylum systems and the communities that welcome them.

### **Ripple effects of evading responsibility**

The political feasibility of externalisation arrangements has also been heavily contested, given third countries' reluctance to take on responsibility for asylum seekers or refugees that Europe refuses to welcome. The outsourcing of asylum processing and refugee protection **sends a dangerous signal to countries in the global South on EU countries' refusal to uphold their responsibilities towards refugees and do their fair share**. Far from showing international solidarity, the EU is attempting to further push its responsibilities onto countries who already host the majority of refugees with often far fewer resources - a policy that is not necessarily conducive to building global influence, the European Commission's [stated aim](#). Simultaneously, the bloc is reducing the non-migration-related support it offers partner countries, by [redirecting](#) already scarce aid to efforts to prevent migration, and spending large shares of development aid on domestic programmes. Almost [17%](#) of EU Development Assistance Committee (DAC) members' Official Development Assistance (ODA) is allocated to in-donor refugee costs, meaning it never leaves their territories. [Trade](#) or visa relations have also become bargaining chips in controversial deals with non-EU countries to press them to fulfil the EU's domestic migration objectives.

This **lack of commitment to responsibility sharing, international treaties and the global refugee protection system** is [not lost on partner countries](#), and risks [undermining](#) their willingness to provide protection: why would other major refugee hosting countries be incentivised to take on the EU's responsibility for refugee protection, when the EU itself refuses to uphold the right to seek asylum on its territory? The potential ripple effect could be devastating for refugee protection globally.

[Civil society organisations](#) have been [clear about](#) their [serious concerns](#) with regards to the recently agreed reforms under the Pact on Migration and Asylum. Nonetheless, the transfer of asylum seekers outside of EU territory for asylum processing and refugee protection is not provided for in the Pact, nor within current EU law. After the EU and Member States have spent close to a decade attempting to reform the EU's asylum system, they should now focus on implementing it with a human rights centred approach that prioritises the right to asylum per EU law and fundamental principles of international refugee law to which they remain bound. They should not, mere weeks after the reform has passed, waste further time and resources on proposals that are incompatible with European and international law.

## Signatories

11.11.11

ActionAid International

Adopt a Revolution

AGDDS

AMERA International

Amnesty International

APDHA - Asociación Pro Derechos Humanos de Andalucía

ARCI (Associazione Ricreativa e Culturale Italiana)

Asociación de Mujeres migrantes y refugiadas Tierramatria

Asociación Elin

Asociación Rumiñahui

Bedsteforældre for Asyl

Brot fuer die Welt

Caleidoscopia

Caritas Europa

Casa do Brasil de Lisboa

CCFD-Terre Solidaire

CEAR

Centre for Peace Studies

Christian Council of Norway

Churches' Commission for Migrants in Europe, CCME

Ciré asbl

CNCD-11.11.11

Commission on Migration of the European Baptist Federation

CONVIVE - Fundación Cepaim

CRLDHT

Danish Refugee Council

Danish United Nations Association / FN-forbundet

DIGNITY

Dutch Council for Refugees

Ellebæk Contact Network

EuroMed Rights

Europe Cares eV.

European Council on Refugees and Exiles (ECRE)

European Evangelical Alliance (EEA)

European Network on Statelessness

Federation of Protestant Churches in Italy (FCEI)

Finnish Refugee Advice Centre

Finnish Refugee Council

Foundation for the Promotion of Rights, Algeria

Fundación Alboan

Fundacja Inicjatywa Dom Otwarty

Fundacja Right to Protection

Geloof & Samenleving

Greek Council for Refugees (GCR)

HIAS Europe

Human Rights Legal Project

Human Rights Watch  
I Have Rights  
International Rescue Committee  
Iridia-Center for the Defense of Human Rights  
iuventa-crew  
JRS Europe  
Justice & Peace Netherlands  
La Cimade  
LeaveNoOneBehind  
LGBT Asylum  
Ligue des droits humains Belgique  
Lysfest for Humanisme  
Médecins du Monde International Network  
Migration Consortium  
Migration Policy Group  
Mission Lifeline International.e.V.  
Movimiento por la Paz, MPDL  
Novact  
Ocalenie Foundation  
Oxfam  
Platform for International Cooperation on Undocumented Migrants - PICUM  
Polish Migration Forum  
Polska Akcja Humanitarna  
PRO ASYL  
r42-SailAndRescue  
RECO SOL - Rete delle Comunità Solidali  
RED ACOGE  
Refugees International  
Refugee Legal Support (RLS)  
Refugees Welcome  
RESQSHIP e.V.  
Salud por Derecho  
Save the Children  
Sea-Watch  
Seebrücke  
Servicio Jesuita a Migrantes España - SJM  
Små Broer  
SOLIDAR  
Solidarity with Kærshovedgård  
SOS Humanity  
SOS Racism Denmark  
Statewatch  
Stowarzyszenie Egala / Egala Association  
Svenska Kyrkan (Church of Sweden)  
United Against Inhumanity  
Vluchtelingenwerk Vlaanderen  
Vores Asylbørn  
Zusammenland gUG