

To the 27 European Member States

Copy to the European Council, the European Commission, the European Parliament and the relevant EU agencies, namely Frontex, EASO and the EU Fundamental Rights Agency

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An emergency which knows no borders: Europe must lead by example and 'leave no one behind'

The past months have seen Europe and the world face unprecedented circumstances following the outbreak of the Corona virus. This public health emergency has shown that we are all in this together - disease does not discriminate between borders, nationalities, or status and only an inclusive response which 'leaves no one behind', will allow us to stop its spread and recover together.

Some states have moved to include all individuals without discrimination in their public health responses, paused evictions from state accommodation for asylum seekers, or have granted residence to all immigrants and asylum seekers with pending residency permits.

At the same time, however, the health crisis has mostly given rise to concerning attempts to use Covid-19 as a pretext to suspend human rights of displaced individuals. At the European Union's external sea borders, while pushbacks continue we've seen the suspension of search and rescue operations and 'closing' of ports of arrival, and at external land borders we've witnessed the withholding of reception conditions and access to asylum. Similarly, at Schengen borders the practices of illegal pushbacks and arbitrary detention continue to unfold.

As a result, the EU Fundamental Rights Agency, UNHCR, the Council of Europe Commissioner for Human Rights, Members of the European Parliament and many others have issued clear message to European states. Governments must show solidarity and responsibility in order to safeguard all individuals' right to life and health,¹ echoing the plea those governments are making to their citizens, on a daily basis.

Our Call to Action

We, the undersigned academics, lawyers, medical doctors and human rights defenders, thus call on European states, with the support of international as well as European Union institutions and agencies, to uphold the rights of refugees and displaced people at Europe's borders amid the Covid-19 crisis. These actions must equally apply to the EU's internal and external borders, whether land or maritime frontiers.

Firstly, allow individuals seeking international protection to access asylum registration despite border closures and refrain from unlawful summary pushbacks to uphold access to asylum² and the principle of *non-refoulement*³, in line with guidance issued by the United Nations High Commissioner for Refugees. More specifically:

- We urge European states along the Mediterranean and in the Aegean Sea to safeguard the right to life⁴ by ending push backs and maintaining open ports for the safe arrival and disembarkation of displaced individuals, in line with international human rights and maritime law. EU Member States must continue responding to calls of distress at sea and deploy sufficient rescue capacity while allowing NGO vessels to do the same. This is in line with a recent statement issued by the Council of Europe's Commissioner for Human Rights stating that, despite current challenges, "[...] saving lives at sea and disembarking survivors in a safe port must continue".

- At the Greek-Turkish border, and at the borders between EU Member States and neighbouring countries along the Balkan route, national authorities must put an end to the criminalisation of border crossings, ongoing violence, and arbitrary restrictions of movement putting individuals at further risks.
- At Schengen borders, EU Member States must ensure that any border measures taken to manage public health risks are non-discriminatory and proportionate, while not preventing people from seeking international protection⁵. Moreover, we urge the EU Commission to actively monitor these borders to ensure European Union law is upheld, in line with its mandate⁶.

Secondly, at EU internal and external land and sea borders, ensure adequate health and sanitation provisions, including access to sufficient testing and medical facilities, provision of infrastructure allowing for non-discriminatory and proportionate quarantine measures, as well as reception conditions facilitating social distancing and other preventive actions. Where this is not feasible, large-scale evacuations to adequate accommodation, such as those measures provided for individuals in overcrowded camps on the Aegean islands, must be expedited. Displaced individuals detained in makeshift and other detention facilities at EU borders should be released, using all available alternatives to detention, and provided with appropriate accommodation as well as access to health services, in line with guidelines issued by the Council of Europe and others.

The past weeks have proven that where there is political will, there are ways to protect all individuals, including the most vulnerable, to ensure a swift and durable end to the health crisis.

The undersigned groups and individuals stand ready to support the above call to action in the spirit of solidarity and human rights. Together, we urge the European Union member states, with the support of EU institutions and agencies, to seize this opportunity to lead by example and tackle the Covid-19 crisis by leaving no one behind.

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Notes

1. Art. 11(3) European Social Charter
2. Art. 18 & 19 EU Charter of Fundamental Rights
3. According to Art.2 & 3 ECHR, this principle is non-derogable.
4. Art. 3 UDHR, Art. 2 & 3 ECHR, Art. 2 European Charter
5. Rec. 36, Arts. 3b & 7 of the Schengen Borders Code, Reg (EU) 2016/399
6. Art. 17(1) Treaty on the European Union