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FORGOTTEN AT THE GATES OF EUROPE

Ongoing protection concerns
at the EU's external border

EXECUTIVE SUMMARY & RECOMMENDATIONS



Executive Summary

Between 2014 and the beginning of 2016, Europe was faced with a considerable increase in arrivals of migrants, asylum seekers, and refugees. The European Union (EU) reacted by initiating a series of policy and legislative changes with the principal aim of stopping more people from coming. Since then, arrivals have considerably decreased, and EU policymakers claim that their policies have worked. What the decline in numbers does not measure, however, is the impact of these policies on people's lives.

In *Forgotten at the gates of Europe*, Jesuit Refugee Service Europe (JRS Europe) provides a picture of how migrants, asylum seekers, and refugees experience Europe's borders – their journey, the obstacles they face at the border, and the continued difficulties they face once arrived. Throughout 2017, we interviewed people in Croatia, Greece, Italy, Malta, Romania, and the Spanish enclave of Melilla – locations that represent many people's first points of contact with European soil. Then, we analysed the interviews based on JRS's years-long experience working in these locations, where our staff provide accompaniment and services to people every day as they arrive to Europe in search of protection. We wanted to understand what people are up against as they arrive, what the consequences of Europe's policies at its borders are, and what Europe needs to change to provide people with better access to protection and more dignified conditions.

The report shows that while the emergency at Europe's borders may be resolved in terms of decreased arrivals, the human rights emergency is still with us. People are still arriving at the gates of Europe, and the obstacles they face have become worse. Specifically, we found that:

- **People are taking increasingly more dangerous journeys to Europe** because there are hardly any safe and legal pathways to seek protection in Europe.
- **Some EU Member States deny people access to their territory** by violently pushing people back from their borders without giving them any chance to apply for protection or otherwise explain why they have arrived.
- **People often face great difficulty in accessing asylum procedures** because they are not given sufficient information by the authorities, or they are purposely misdirected by the authorities of EU Member States.
- **People experience very difficult, and often undignified, reception conditions** once they have passed through an EU Member State's border – including dangerously overcrowded reception facilities that force some people into homelessness or informal camps, situations where people are left ill-informed about what rights and services are available to them, and in some cases detention.

“Here I thought I could start my life again, from scratch, and fulfil my dreams. But it's not like that. There is no prospect of a future, no horizon at all. I am swimming between so much uncertainty.”

Asylum seeker interviewed in Melilla, Spain

Recommendations

These findings lead us to the inevitable conclusion that Europe's asylum and migration policies are not designed to save lives, but to prevent more people from coming to Europe – no matter how much danger people may be in. Moreover, by continuing to implement highly dysfunctional systems, such as the Dublin Regulation, EU policymakers also make it difficult for asylum seekers to achieve protection and a legal status once they have arrived. If Europe wishes to be faithful to its core values of human dignity, freedom, equality and solidarity, a fundamental change of policy is needed – adapting asylum and migration policies so that people come first. To move in this direction, what Europe needs is:

Safe and legal pathways

For European policies that actually save lives, JRS Europe recommends to EU and national policymakers to:

- **Refrain from shifting responsibility for refugee protection outside the EU** by utilising agreements such as the EU-Turkey statement or the Italy-Libya bilateral Memorandum of Understanding. Such agreements are both legally and morally questionable, and they either force people to take greater risk to reach Europe or keep them in situations where their human rights are violated.
- **Ensure access to Europe for people seeking protection by providing safe and legal pathways** that provide alternatives for people who would otherwise embark on life-threatening journeys. In particular, EU Member States should:

- **Considerably increase resettlement commitments**

Refugee protection should be the principle guiding the process of establishing a Union Framework on Resettlement in the CEAS reform. Considerations such as the presumed integration potential of refugees, or whether or not third countries cooperate in reducing irregular migration and taking back irregular migrants, should not be used to condition the choice of eligible refugees or the countries from which refugees will be resettled.

- **Adopt generous family reunification policies**

- **Provide a clear legal EU framework on the use of humanitarian visas**

- **Facilitate access to other legal pathways**, such as student or workers' visas, for people seeking protection.

To end push-backs and violence at the borders once and for all

The EU and its Member States must put an end to push-backs, and the violence associated with them, once and for all. In particular:

- When cases of violent push-backs are reported, the Member State concerned must ensure that the cases are **investigated by independent bodies** and that **action is taken against the perpetrators**.

- If the Member State concerned omits to do so, the **European Commission** should take appropriate action and start an **infringement procedure**.

A Common European Asylum System that lives up to its name

EU institutions and Member States must remove all existing obstacles for asylum seekers to swiftly gain access to the asylum procedure, both at the EU's external borders and elsewhere on its territory. In particular:

- **Ensure that all relevant public officials** – such as police officers, border guards, members of the coast guard, and civil servants – who come into contact with asylum seekers, **are adequately trained to provide asylum seekers with correct information** and be able to refer asylum seekers to the appropriate institutions.
- **In reported situations where public officials have intentionally misled** asylum seekers, national administrations must **open a transparent investigation** and duly sanction those responsible.
- **Access to correct and objective information** – on the right to seek asylum, on the asylum procedure, on the application of the Dublin Regulation, and on the rights and duties of asylum seekers and irregular migrants – **must be guaranteed** to everyone who is intercepted while irregularly crossing an EU external border. Member State authorities must provide this information both orally and in written form, in a language that the person understands.
- **Swift formal registration in the asylum procedure must be guaranteed.**
 - **Provide adequate investment in staff and equipment** by Member States, supported, when necessary, by EU funding.
 - Ensure legislation at the EU level to **improve the Asylum Procedure Regulation through further harmonising and simplifying Member States' practices.**
 - **Asylum seekers must be able to formally register their applications as soon as possible after expressing the wish to do so.** Finally, upon registering their applications, asylum seekers must be provided with the documents necessary to prove their status in order to allow them to access services they are entitled to, such as reception.
- **The Dublin Regulation must be radically reformed**, such a reform of the regulation should:
 - **Take the preferences and needs of each asylum seeker into account individually** when determining the Member State responsible for his or her application.
 - **Ensure a fairer distribution of responsibility** among the Member States for the examination of asylum applications.

A Europe that welcomes and protects

At JRS we believe in a Europe that is true to its values of human dignity, freedom, equality, and solidarity, and that consequently welcomes and protects refugees. In order to do this, the EU institutions and Member States must:

- **Ensure dignified reception conditions across Europe for all asylum seekers.**

To do this, Member States, supported when necessary by the EU, must:

- **Allocate the necessary budget** to guarantee adapted infrastructure.
- Ensure the provision of the necessary **information, interpretation services and legal assistance.**
- **Guarantee asylum seekers a dignified standard of living**, as foreseen by the EU Reception Condition Directive. Policies forcing people into homelessness, either to sanction secondary movements or to punish misbehaviour in reception centres, are not acceptable.

- **Never detain asylum seekers.**

If, however, Member States do decide to use detention, this should always be done as a last resort, based on a clear legal framework, and subject to regular judicial review. Asylum seekers in detention must be provided with the necessary information and legal assistance for both the asylum procedure and the possibility of challenging the detention decision.

- **Prohibit the detention of migrant and**

- asylum-seeking children.**


Administrative detention can never be in the best interest of the child. In the current discussions on the recast of the EU Reception Conditions Directive, the Council of the EU should align its position to that of the European Parliament, and agree on a ban on child detention.

- **Adopt policies that ensure that asylum seekers have no motive to engage in secondary movements.**

Next to guaranteeing **dignified reception conditions and swift and fair asylum procedure** and taking in consideration **asylum seekers preferences** when deciding which Member State is responsible for their application, conditions should be elaborated to allow the **free movement in the EU for people once they have obtained a protection status** in a Member State. With these conditions in place asylum seekers may be more motivated to stay in the Member States that was assigned to them, even if that was not their first choice.

“They sent me to detention and looked at me as an offender, since I crossed the border illegally. I had no proper interpreter, no lawyer, no information, and no time to understand my situation. Nobody gave me proper information on the possibility and consequences of asylum.”

Asylum seeker interviewed in Romania



Jesuit Refugee Service (JRS) is an international Catholic organisation with a mission to accompany, serve and advocate for the rights of refugees and others who are forcibly displaced.

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