

# Recommendations to the European Union to Urgently Address Criminalisation and Violence Against Migrants in Greece



This document brings together recommendations towards European Union (EU) policy makers and other representatives of the EU institutions, from numerous organisations representing and working with migrants, asylum seekers and beneficiaries of international protection in Greece. It is a joint initiative calling for urgent action to improve the situation of migrants in Greece.

The challenges regarding the criminalisation of and violence against migrants in Greece relate directly to several inter-linked policy areas which are to varying degrees legislated, coordinated and monitored at the EU level. The document elaborates concrete measures to improve the situation for migrants, asylum seekers and beneficiaries of international protection in Greece and the European Union by using all available tools at EU level, and adapting EU law and policy where appropriate, across three policy areas – migration and asylum, justice, and employment and social policies. The transversal issue of stakeholder consultation is also addressed.

An executive summary provides an overview of the key challenges and recommendations per policy area. This is accompanied by a fuller review and more detailed recommendations for action. This document does not attempt to reproduce the numerous and crucial reports and evidence gathered by human rights bodies and civil society. The analysis and recommendations are based on their work, and contribute to the policy discussions by gathering together and identifying concrete and immediate actions that all our organisations recommend be taken at EU level.

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# Executive Summary

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“Criminalization is often linked to anti-migrant sentiments, based on a flawed conceptualisation of the role of migration in our diverse societies, and on inappropriate language in the political and media discourse. [...] The EU must thus fight racism and xenophobia much more vigorously, celebrating the diversity of cultures and religions as an enrichment for everyone, citizens and foreigners alike.”

**François Crépeau**, United Nations Special Rapporteur on the human rights of migrants, “Debate on the future of Home Affairs policies: An open and safe Europe – what next?”, January 2014

“Migrants are getting in these vessels because there are no legal ways to come to Europe. There are very serious allegations of pushbacks and ill treatment of migrants in Greece. We need to shed full light.”

**Cecilia Malmström**, European Commissioner for Home Affairs, European Parliament plenary session, 5 February 2014.

“While I am fully aware of the dimensions and complexity of challenges that Greece is faced with due to the migratory flow pressures, I would like to underline that all efforts to manage migration should be made strictly within the contours of the rule of law and binding international legal principles.”

**Nils Muižnieks**, Council of Europe Commissioner for Human Rights, letter sent on 5 December, 2013 to the Greek Ministers of Public Order and Citizen Protection, and of Shipping and the Aegean.

## Key Challenges Facing Migrants in Greece

Since the early 2000s, Greece has become one of the major gateways to the European Union for migrants and asylum seekers from Asia and Africa.

The failure of both the EU and successive Greek governments to adopt coherent migration policies, chronic mismanagement of the asylum system, and the deep economic crisis and resulting austerity measures promoted by the European Union, have exacerbated what the United Nations High Commissioner for Refugees (UNHCR) described in late 2010 as a “*humanitarian crisis*.”

The pressure on Greece from the EU to take responsibility for a disproportionate number of asylum seekers due to mechanisms such as the Dublin system, on the one hand, and to prevent third country nationals from traveling irregularly across its internal EU borders on the other, also means that many migrants, asylum seekers and beneficiaries of international protection find themselves trapped in dire circumstances in Greece.

### Impact of the Crisis on Migrants

In recent years, Greece has experienced a socio-economic and political crisis which has caused high unemployment, widespread destitution and the introduction of draconian austerity measures affecting all sectors of the economy. The financial implications of the global economic crisis have dominated the agenda of the Greek government, with little to no focus on the human implications of the financial crisis. The key omission of the human impact of the financial crisis has gravely impacted the human rights of both Greek citizens as well as migrants, particularly undocumented migrants. Migrants have become further excluded from accessing public services, pushing them into destitution, exclusion and isolation. This situation is also contributing to the rise of racism and xenophobia, fuelling rhetorics of criminalisation, where migrants are becoming scapegoats for the economic recession and social crisis.

Despite some improvements and commitments to address Greece’s dysfunctional asylum system, access to a meaningful assessment of their protection needs is still not guaranteed, while countless migrants, including families with children and unaccompanied migrant children, live in deep destitution. Greece has one of the highest poverty rates in the EU, with migrants and asylum seekers among the most affected groups. Yet, there was no mention of their harsh living conditions in the Country Specific Recommendations addressed to Greece in 2013.<sup>1</sup>

<sup>1</sup> See Country-specific Recommendations 2013, available at: [http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm).





As is currently the case in other EU member states, Greece is implementing policies that directly expose vulnerable groups of residents – migrants, asylum seekers and beneficiaries of international protection – to situations of poverty and social exclusion. They face highly restricted access to the labour market and social protection (with increased conditionality and tightened and restricted coverage), and to services, including essential services such as health care, education, shelter and bank accounts. There are almost no efforts to support the integration of migrants, such as language courses and employment counselling.

### **Criminalisation of Migrants**

The rise in xenophobia and anti-migrant sentiment, coupled with a lack of accountability for racist violence, has led to multiple violations of human rights and an increase in criminalization of migrants in recent years in Greece. Acts of violence against migrants have been occurring increasingly and systematically in Greece over the last few years. While the initiation of court proceedings against some perpetrators is welcome, the systematic failure of the police, judiciary and government to condemn and prosecute attacks remains a major concern. The police have failed to take preventive action or respond adequately to reports of xenophobic attacks, have discouraged victims from filing official complaints, and have threatened undocumented migrants with detention if they persist in seeking justice.<sup>2</sup> Perpetrators are rarely arrested or prosecuted; to date there have been only two convictions of racially-aggravated crime under the 2008 statute on hate crime<sup>3</sup>

Feelings of public insecurity about the perceived competition for resources caused by migration have been exacerbated by the criminalising public and political discourses in Greece. In this context, in early August 2012, the Greek government launched Police Operation Xenios Zeus aimed at cracking down on irregular migration and crime in Athens. Between August 2012 and June 2013 – the most recent period for which government statistics are available – police had stopped and detained in police stations a total of 123,567 third-country nationals for verification of their documents. Yet only 6,910 persons, or 5.6% of the total of those detained, were actually found to be residing irregularly in Greece, raising concerns about the use of discriminatory ethnic/racial profiling.

### **Securitisation of Borders and Detention**

Increased security along the Greece-Turkey land border in Evros with increased patrols, including by Frontex, and the construction of a 12.5-kilometer fence, have rerouted flows of migrants and asylum seekers, including those fleeing the conflict in Syria. As a consequence of the Evros border region securitisation, migrants are now being rerouted to Aegean Sea islands where allegations of

<sup>2</sup> See: Human Rights Watch, "Hate on the Streets. Xenophobic Violence in Greece", July 2012, p. 78, available at: [http://www.hrw.org/sites/default/files/reports/greece0712ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/greece0712ForUpload_0.pdf).

<sup>3</sup> See for example: Human Rights Watch, "World Report 2014", available at: <http://www.hrw.org/world-report/2014/country-chapters/european-union?page=2#greece>.



collective expulsions, pushbacks, and dangerous manoeuvres by the Greek Coast Guard have been regularly recorded by numerous nongovernmental organizations as well as UNHCR.

Since the launch of Operation Xenios Zeus, the Greek government has adopted a policy of systematic and prolonged detention (of up to 18 months) for undocumented migrants. Undocumented migrants arrested by the police are transferred to detention centers throughout the country, and detained pending deportation. It is worth noting that many migrants remain detained in police station cells across Greece without being transferred to detention camps, often because of severe overcrowding in the camps. Migrants and asylum seekers are being detained in extremely poor conditions, facing severe overcrowding, no access to outside space, extremely limited sanitary facilities, etc., amounting to inhuman and degrading treatment in some cases.<sup>4</sup> Access to healthcare in some of the centers is also almost non-existent.

Detention decisions are usually determined in the absence of an adequate individual assessment, and are often standardized, while authorities detain people without any prospect of deportation. The few who appeal their detention order in court with the help of NGOs are systematically adjourned.<sup>5</sup> Vulnerable migrants are often not identified as such and are detained. This includes unaccompanied migrant children who are often not properly registered and are systematically detained, often remaining in detention for prolonged periods of time, awaiting an opening in reception facilities. Once in detention, those who wish to apply for asylum risk being detained up to 18 months following the extension of the permissible time for the detention of asylum seekers in 2012. The UN Working Group on Arbitrary Detention condemned the policy of systematic detention adopted by the Greek government and highlighted that this policy “*appears to be a serious violation of the principle of proportionality which may render the deprivation of liberty arbitrary*”.<sup>6</sup>

Calling the growing population of undocumented migrants in central Athens “*a ticking time bomb for public health*,” in April 2011 then Health Minister and Public Order Minister pushed legislation through Parliament to permit detention of migrants and asylum seekers suspected of representing a danger to public health. Carrying an infectious disease, belonging to a group vulnerable to infectious diseases (an assessment which can be based on country of origin), being an intravenous drug user or sex worker, or living in conditions that do not meet minimum standards of hygiene are all grounds for detention and deportation.

<sup>4</sup> See for example: European Court of Human Rights, *Horshill v. Greece*, Case n. 70427/11, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122973>. See also: European Court of Human Rights, *Case of M.S.S. v. Belgium and Greece* (Application no. 30696/09), Judgment of 21 January 2011, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050>.

<sup>5</sup> See for example: Pro Asyl, “*Pushed Back. Systematic human rights violations against refugees in the Aegean sea and at the Greek-Turkish land border*”, November 2013m available at: [http://www.proasyl.de/fileadmin/fm-dam/L\\_EU\\_Fluechtlingspolitik/proasyl\\_pushed\\_back\\_24.01.14\\_a4.pdf](http://www.proasyl.de/fileadmin/fm-dam/L_EU_Fluechtlingspolitik/proasyl_pushed_back_24.01.14_a4.pdf). See also: Amnesty International, “*Frontier Europe. Human Rights Abuses on Greece’s Border with Turkey*”, 2013, available at: [http://www.amnesty.eu/content/assets/PressReleases/Frontier\\_Europe.pdf](http://www.amnesty.eu/content/assets/PressReleases/Frontier_Europe.pdf).

<sup>6</sup> UN Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece, 31 January 2013.

## Responses by EU and International Bodies

Following reports by key civil society actors<sup>7</sup>, various EU and international bodies have documented serious concerns about the situation of migrants in Greece.

In its 2013 report on “*Racism, discrimination, intolerance and extremism: learning from experiences in Greece and Hungary*”, the **EU Agency for Fundamental Rights (FRA)** recorded the use of ethnic/racial profiling, arbitrary deprivation of liberty, verbal and physical abuse, intrusive searches, and other degrading treatment by police officers during immigration stops. The FRA made a series of recommendations for EU member states when developing policies and actions to combat racism, discrimination, intolerance and extremism.

Recognising that undocumented migrants are currently denied access to emergency and social assistance in Greece, the **European Committee of Social Rights** highlighted, in its Conclusions XX-2 on Greece, that, in 2013, “*the situation in Greece was not in conformity with Article 13§4 of the 1961 Charter on the ground that it cannot be established that foreign migrants in an irregular situation received emergency social assistance as needed*”.

In its judgment of 21 January 2011 in *M.S.S. v Belgium and Greece*, the **European Court of Human Rights** condemned the deplorable detention conditions of migrants and asylum seekers in Greece and ruled that Belgium had violated Art. 3 ECHR by exposing asylum seekers to the risks of the deficient asylum procedure and to the degrading detention and living conditions in Greece.

Following the ruling of the ECHR, the **Committee on Migration, Refugees and Population of the Council of Europe’s Parliamentary Assembly (PACE)** issued a resolution on 24 January 2013 calling for firm and urgent measures to tackle the mounting pressure and tension over asylum and irregular migration into Greece. The Parliamentary Assembly called on the EU to make a “quantum leap in responsibility sharing for countries in the region,” called for an increase in assistance to these countries, and made specific recommendations to Greece concerning the detention of irregular migrants and asylum seekers, its asylum policy, and the rise of racism and xenophobia.

In his letter dated 5 December 2013, the **Council of Europe Commissioner for Human Rights** urged Greek authorities to end and prevent recurrence of collective expulsions and to carry out effective investigations into all recorded incidents. Similarly, the **EU Commissioner for Home Affairs** on the occasion of the European Parliament plenary session on 5 February 2014, emphasised that respect for human rights needs to be upheld by states at all times, including respect of the principle of non-refoulement, which renders the practice of pushbacks illegal according to EU and international law.

<sup>7</sup> See for example: [Pro Asyl](#), [Amnesty International](#) and [Human Rights Watch](#).



# Key Recommendations

To the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

## Migration and Asylum Policies

### 1. Border Control, Apprehensions and Deportations

Address the persistent rights violations, particularly of various articles of the EU Charter on Fundamental Rights, and undertake concrete steps to ensure the protection of migrants' human rights in the context of migration and border management:

- a) Amend Frontex Regulation Art. 26a, as to establish a mechanism for dealing with both individual and public complaints about infringements of fundamental rights in all Frontex-labelled joint operation in cases of persistent and serious violations of the Charter of Fundamental Rights and empower the Fundamental Rights Officer to take up this role;
- b) Implement the recommendations in the Commission Communication on the Evaluation of EU Readmission Agreements, ensuring that the human rights of all migrants concerned are the primary consideration of all negotiations;
- c) Promote implementation of the EU Fundamental Rights Agency's (FRA) guidelines on "Apprehension of migrants in an irregular situation – fundamental rights considerations" and affirm that ethnic/racial profiling in policing is unlawful, including in the context of immigration control;
- d) Ensure a fundamental rights compliant implementation of Facilitation Directive 2002/90/EC and clarify, by issuing practical guidance for Member States to implement the Directive, that the provision of humanitarian assistance, social services and renting accommodation to undocumented migrants should not be criminalised;
- e) Develop clear procedural and legislative safeguards to protect seriously ill migrants from being returned to countries where they will not be able to access health care, in line with Arts. 2 and 3 ECHR and Art.1 and 4 of the Charter of Fundamental Rights;
- f) Promote a comprehensive evaluation of the utilisation of EU funds for border controls, returns and asylum in Greece, to ensure that no EU funds allocated to Greece have resulted in human rights violations and ensure that such monitoring is conducted on any future funding to Greece.

## 2. Immigration Detention

Reiterate that, in order not to violate international human rights law and EU law, including the Returns Directive, detention must always be prescribed by law, necessary, reasonable and proportional to the objectives to be achieved:

- a) Reiterate that systematic detention of migrants or asylum seekers, and detention on public health grounds, as currently established in Greece through article 59 of Law 4075/11.04.2012, is unlawful;
- b) Promote viable alternatives to detention by developing open reception infrastructures for migrants, asylum seekers and beneficiaries of international protection and suitable accommodation for members of vulnerable groups;
- c) Ensure that procedural guarantees, including access to legal representation and legal aid, in decisions surrounding any deprivation of liberty, are fully implemented;
- d) Ensure the non-detention of vulnerable groups, including children, in line with the guidance of the UN Committee on the Rights of the Child.

## 3. Regular Residence and Fair Working Conditions

Promote regular residence and employment, ensuring rights for migrant workers in line with international human rights law, including labour standards and respecting the principle of non-discrimination and the right to family unity:

- a) Promote channels for migrants to work regularly in the European Union, including for low-wage employment;
- b) Ensure the effective transposition by EU Member States of the rights enshrined within the Seasonal Workers Directive and monitor its effective implementation at national level;
- c) Ensure the effective implementation of the Employers' Sanctions Directive 2009/52/EC and investigate the frequent reports of incidences of violence against migrant workers. Take concrete measures to ensure access to justice and redress against exploitative employers and recruitment agencies;
- d) Ensure the effective implementation of Directive 2011/36/EU on Trafficking in Human Beings and other initiatives to tackle trafficking in human beings and labour exploitation, as well as undeclared work.

## 4. International Protection

Promote better implementation of protection and resettlement according to asylum seekers' individual and family situations, connections and needs, and ensure responsibility sharing according to actual protection standards:

- a) Provide Greece with financial and technical support to ensure compliance with EU legal standards, particularly on procedures and reception. Financial support should be provided for adequate accommodation and subsistence support for asylum seekers, in line with the Reception Conditions Directive;
- b) Promote unconditional access to the labour market for asylum seekers and beneficiaries of international protection in the European Union;
- c) Reform the Dublin system to accord greater weight to the variety of factors that might connect an asylum applicant to one state over another, to include community ties, prior residence, language, job skills, and the personal preference of the applicant.

## Justice Policy

### 1. Criminal Justice

Ensure Greece's compliance with obligations under human rights and EU law:

- a) Promote the effective transposition and implementation of Directive 2012/29/EU to ensure access to justice and victim support for all victims of crime, irrespective of their residence status, in line with Art. 1 of the Directive;
- a) Ensure the effective implementation of the EU Framework Decision on combating racism and xenophobia to include provisions to protect undocumented migrant victims and witnesses of hate crimes from detention and deportation, also in line with Directive 2012/29/EU. Improve the scope and application of provisions allowing for higher sentencing when a crime is committed with racist motivation.

### 2. Anti-Discrimination

Refrain from the use of hostile terminology that may exacerbate xenophobic trends and violence and ensure that all member states, including Greece, prohibit all forms of hate crimes:

- a) Start infringement proceedings against Member States in cases of violation of the Framework Decision on combating racism and xenophobia and report on its implementation;
- b) Improve the effectiveness of Article 4 of the Framework Decision to ensure that authorities do the utmost to unveil any alleged racist motive associated with a crime in the phases preceding the trial of suspects, particularly in the investigation and propose a revised instrument that tackles the shortcomings of the Framework Decision, including the limited scope, which covers discrimination only on grounds of race.

### 3. Gender Discrimination

- a) Ensure that all migrant women, irrespective of residence status, are explicitly included in EU initiatives to address gender-based discrimination and violence, including the development of indicators, data collection and funding programmes;
- b) Build member state capacity to introduce gender-sensitive procedures, guidelines and support services in the asylum process to allow the gender-specific issues to be taken into account, including effective access to asylum procedures and protection for LGBTI asylum seekers and beneficiaries of international protection

## Employment and Social Inclusion Policies

### 1. Poverty and Social Exclusion

Address the poverty, social exclusion, homelessness and unemployment of vulnerable groups, including migrants, in Greece, within the framework of the European Semester – National Reform Programmes and Country Specific Recommendations:

- a) Require the Greek Government to report on measures taken to ensure migrants' integration in the National Reform Programmes and address one Country Specific Recommendation to migrants' integration;
- b) Prioritise funding of integration, protection, healthcare and social service provision to migrants over funding for border control and migration management;
- c) Support, encourage and prioritise investment in universal, quality and affordable social services and adequate social protection, including providing more direct support to civil society organisations supporting vulnerable groups, including migrants and promote non-discriminatory access to essential services including education, health care and emergency shelter;
- d) Integrate investment in services and social protection into the budgetary negotiations with the Troika, as well as in the allocation of the European Social and Investment Funds (ESIF);
- e) Ensure that the new Structural Funds' framework as well as the 20% of the European Social Fund on poverty reduction effectively target migrants;
- f) Promote measures to effectively implement the European Commission recommendation of 20 February 2013 on Investing in Children, which specifies that Member States should provide access to health care for undocumented children.

## Stakeholder Consultation

Embed meaningful consultation with migrant communities and civil society organisations into decision-making processes:

- a) Ensure structured dialogue with stakeholders to concretely and regularly incorporate an increasing body of evidence gathered by practitioners, think tanks, human rights bodies and academics in policy-making, monitoring and evaluation;
- b) Ensure partnership for civil society organisations at EU level in setting the agenda for the European Integration (and Migration) Forum and in the programming and evaluation of the new Asylum, Migration and Integration Fund. The European Social Fund and the new Asylum, Migration and Integration Fund should be implemented in a way that include all migrants, in particular the most vulnerable migrants, irrespective of residence status.

# 1. Migration and Asylum Policies

The pressure from the European Union to secure the EU's external borders and prevent irregular migration into the EU, as well as to process asylum applications for the majority of asylum seekers for whom Greece is the first port of entry into the EU,<sup>8</sup> places disproportionate responsibility on Greece. Further, the control and security-oriented approach taken by Greece, focusing on increasing surveillance and border controls, and facilitating return through detention and readmission agreements, is in line with the priorities of European cooperation in the field of migration.

Along with the Greek government, EU institutions and all EU member states must take responsibility for addressing daily violations of human rights and other provisions of EU law in Greece and pursue a more rights-based approach. The focus of the EU and Member States' support to the Greek government should be to ensure the human rights of all migrants and beneficiaries of international protection regardless of their administrative status, and to support well-functioning migration and asylum systems, rather than increasing border control and detention capacities.

The routes to becoming an undocumented migrant are complex and evidence indicates that irregular stay is often the result of malfunctioning asylum and migration systems, as there are very few possibilities for people to migrate regularly to the EU. Nonetheless, the majority of undocumented migrants enter Europe regularly, experience difficulties in renewing their residence permit

or in complying with the increasingly tight requirements for a permit renewal, and so, lose their status or become 'undocumented'.<sup>9</sup>

This is the case in Greece, where the most significant reasons for irregularity are:

- the lack of possibilities for migrants to work regularly;
- loss of employment or inability to meet social security stamp requirements to renew work permits;
- lack of access to and poor functioning of the asylum system;
- the Dublin Regulations which trapped asylum seekers in Greece (before transfers were suspended in 2011 following the European Court of Human Rights case *MSS v Belgium and Greece*).<sup>10</sup>

Nevertheless, the EU is focusing its efforts on increasing border control, surveillance and deterrence. The EU Action Plan on Asylum demonstrates efforts to improve implementation of the asylum *acquis*, but few measures have materialised to help people access the EU's territory through regular channels. The EU has also failed to adopt measures that would help prevent loss of life by prompt rescue, to assess and provide for protection needs. The focus remains on punitive measures, such as detention, for those who reach the EU territory. At the EU's external borders, including in Greece, this approach is leading to numerous human rights violations, such as:

<sup>8</sup> According to the Dublin Regulations. See: Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32013R0604:EN:NOT>.

<sup>9</sup> According to the findings of the Clandestino research project, irregular entry is the least relevant pathway into irregularity. See: F. Düvell, "Comparative Policy brief Clandestino project. Pathways into Irregularity: The Social Construction of Irregular Migration", December 2009, available at: [http://research.icmpd.org/fileadmin/Research-Website/Startseite/Clandestino/celandestino\\_policy\\_brief\\_comparative\\_pathways.pdf](http://research.icmpd.org/fileadmin/Research-Website/Startseite/Clandestino/celandestino_policy_brief_comparative_pathways.pdf).

<sup>10</sup> See: European Court of Human Rights, Case of *M.S.S. v. Belgium and Greece* (Application no. 30696/09), Judgment of 21 January 2011, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050>.

- Loss of life of migrants trying to enter EU territory;
- Illegal deportations, including summary expulsions, and 'push backs';
- Violence by police and border guard officers (especially at borders but also throughout the country);
- Arbitrary and prolonged detention in conditions which are inhumane and degrading without access to essential services, hygiene, etc., as well as the detention of vulnerable groups such as children, including unaccompanied migrant children.

Not only do these policies lead to human rights violations, but they are also extremely costly and do not achieve their stated purpose to deter, prevent and reduce irregular migration. Where they succeed in preventing some people from entering the EU, they do so at extremely high human, social and financial costs, which cannot be justified.

The EU should support the Greek government in strengthening its administrative infrastructure to process claims for international protection, to ensure that procedural guarantees in decisions surrounding any deprivation of liberty are fully implemented, including medical screening of new arrivals, to ensure that vulnerable groups including children and victims of torture are not detained and receive appropriate referrals and services, and that migrants are not arbitrarily detained.

## 1.1 Border Control, Apprehensions and Deportations

### At the border

At the external borders of the EU in Greece, there have been numerous independent reports of migrants being 'pushed back' to Turkey from Greece.<sup>11</sup> These illegal 'push backs' appear the result of policy as opposed to malpractice by particular border officials. Migrants report violence and theft from border guards, as well as direct actions which endanger migrants' lives. There have been around 87 recorded deaths at the Greek borders since January 2013.<sup>12</sup>

### On the streets

Migrants who are within Greece are subject to frequent and arbitrary large scale immigration sweeps, raids and abusive identity checks, with significant impacts on access to essential services and general mobility and safety. Concerns around the use of ethnic/racial profiling, arbitrary deprivation of liberty, verbal and physical abuse, intrusive searches, and other degrading treatment by police officers during immigration stops have been raised, including by the Fundamental Rights Agency's (FRA).<sup>13</sup>

<sup>11</sup> See for example: Pro Asyl, "Pushed Back. Systematic human rights violations against refugees in the Aegean sea and at the Greek-Turkish land border", November 2013m available at: [http://www.proasyl.de/fileadmin/fm-dam/L\\_EU\\_Fluechtlingspolitik/proasyl\\_pushed\\_back\\_24.01.14\\_a4.pdf](http://www.proasyl.de/fileadmin/fm-dam/L_EU_Fluechtlingspolitik/proasyl_pushed_back_24.01.14_a4.pdf). See also: Amnesty International, "Frontier Europe. Human Rights Abuses on Greece's Border with Turkey", 2013, available at: [http://www.amnesty.eu/content/assets/PressReleases/Frontier\\_Europe.pdf](http://www.amnesty.eu/content/assets/PressReleases/Frontier_Europe.pdf).

<sup>12</sup> See: Η Εφημερίδα των Συντακτών, 27 January 2014, available at: <http://www.efsyn.gr/?p=169550>.

<sup>13</sup> See: EU Fundamental Rights Agency, "Racism, discrimination, intolerance and extremism: learning from experiences in Greece and Hungary", December 2013, available at: [http://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3_en_1.pdf).

## Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committee and working groups:

- Publicly and expressively condemn Greece's violations of international human rights and European fundamental rights standards and procedural safeguards in the context of border and immigration control, apprehensions, and deportations, including violations of articles 2, 18, 19 and 24 of the EU Charter of Fundamental Rights.

### Deportations and 'Push-Backs'

- Urgently investigate allegations of frequent illegal deportations (collective expulsions and pushbacks) at sea and land borders, as reported by numerous human rights entities. Examine the scope of these illegal actions and determine whether they amount to a de facto policy;
- Urge Greek authorities to initiate and complete with due diligence, independent, impartial and transparent criminal and administrative investigations based on reliable evidence and to ensure access to justice for surviving migrants;
- Take concrete steps to effectively address issues of illegal deportations, and the persistent rights violations in the context of border control more broadly at the EU level in keeping with the EU's legal obligations (not only focusing on the externalisation of EU border control through cooperation with third countries);
- Ensure that migrants apprehended in Greek territory or at the border – whether on land or at sea- are treated in a humane and dignified manner, are given the opportunity to seek asylum if they so choose, and are not subject to refoulement;
- Establish effective and transparent monitoring systems with periodic public reporting mechanisms to ensure that European Union funds and other technical assistance are not being used in the context of illegal deportations and other human rights violations at the borders;
- Amend Frontex Regulation Art. 26a, as to establish a mechanism for dealing with both individual and public complaints about infringements of fundamental rights in all Frontex-labelled joint operation in cases of persistent and serious violations of the Charter of Fundamental Rights<sup>14</sup> and empower the Fundamental Rights Officer to take up this role;

- Develop means to protect seriously ill migrants from being deported to countries where they will not be able to access healthcare as this might –in certain cases- amount to refoulement and/or result in breach of Article 2 or Article 3 of the European Convention on Human Rights. To avoid potential violations the EU must consider the consequences of deporting undocumented migrants with HIV/AIDS, renal failure, cancer, hepatitis, etc. in terms of serious deterioration in their health or even, for some, the possibility of death, and avoid this at all costs by protecting them in Europe.

### Border Control and Border Management

- Frontex should assist the Hellenic Coast Guard and the Hellenic Police in preparing internal guidance for their officers on how to implement the principle of *non-refoulement* and the prohibition of collective expulsion in practice; such instructions should have clear guidance on the prohibition of turning back or escorting migrants to the country from where they departed against their will before their individual situation is assessed;
- Urge the Hellenic Coast guard and the Hellenic Police to implement the Frontex training on fundamental rights for border guards and ensure that each coast guard and police guard is clearly instructed on how to communicate with migrants and provide them training on how to do this in an effective manner to reduce the risk of human rights violations;
- Carefully monitor the Greek authorities' continued implementation of Operation Xenios Zeus and communicate effectively with the government about violations of fundamental rights in the course of immigration sweeps and raids such as ethnic/racial profiling and ill-treatment.

### Readmission Agreements, Mobility Partnerships and other Bilateral Agreements

- Issue negotiation directives for readmission agreements only with countries of origin (as opposed to general readmission agreements with third countries), as recommended by the Commission in its Communication on the Evaluation of EU Readmission Agreements. Readmission agreements, mobility partnerships and

<sup>14</sup> See for example: Pro Asyl, "Pushed Back. Systematic human rights violations against refugees in the Aegean sea and at the Greek-Turkish land border", November 2013m available at: [http://www.proasyl.de/fileadmin/fm-dam/l\\_EU\\_Fluechtlingspolitik/proasyl\\_pushed\\_back\\_24.01.14\\_a4.pdf](http://www.proasyl.de/fileadmin/fm-dam/l_EU_Fluechtlingspolitik/proasyl_pushed_back_24.01.14_a4.pdf). See also: Amnesty International, "Frontier Europe. Human Rights Abuses on Greece's Border with Turkey", 2013, available at: [http://www.amnesty.eu/content/assets/PressReleases/Frontier\\_Europe.pdf](http://www.amnesty.eu/content/assets/PressReleases/Frontier_Europe.pdf)

other bilateral agreements should include explicit provisions for ensuring the human rights of migrants, including undocumented migrants;

- In negotiations with third countries, refrain from making the adoption of positive measures for third countries, including visa liberalisation, facilitation agreements or commercial agreements, conditional upon readmission of third-country nationals and upon the establishment of systems of migration and border control aimed at preventing irregular migration to the Europe Union at the expense of the human rights of migrants, such as immigration detention centres.

### Apprehensions

- Promote implementation of the EU Fundamental Rights Agency's (FRA) guidelines on apprehension practices<sup>15</sup>, which stipulate the need for a clear separation or 'firewall' between the provision of services and immigration enforcement, in terms of apprehensions and data protection (including by ensuring there is no duty to denounce or criminalisation of assistance);

<sup>15</sup> Available at: [http://fra.europa.eu/sites/default/files/fra-2013-apprehension-migrants-irregular-situation\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2013-apprehension-migrants-irregular-situation_en.pdf).

- Ensure a fundamental rights compliant implementation of Facilitation Directive 2002/90/EC and clarify, by issuing practical guidance for Member States to implement the Directive, that the provision of humanitarian assistance, social services and renting accommodation to undocumented migrants should not be criminalized. Clarify that irregular entry and stay should not be criminalised in the European Union;
- Affirm that ethnic/racial profiling in policing is unlawful, including in the context of immigration control, and has no place in the European Union. The European Commission should formulate an inclusive definition of ethnic profiling, taking as its starting point the one adopted by the European Commission against Racism and Intolerance, which captures the intentional and unintentional aspects of ethnic profiling, the range of law enforcement activities where there is risk of illegitimate profiling, and emphasises the need for objective and individualised suspicion.

## 1.2 Immigration Detention

Detention of migrants in Greece is a systematic practice<sup>16</sup>, without procedural safeguards and for prolonged periods of time of up to 18 months, in extremely poor conditions (in police stations and detention centres completely unadapted for long-term detention).

Numerous international human rights bodies, including the UN Working Group on Arbitrary Detention and the European Court of Human Rights, have characterized the detention conditions of migrants in Greece, as inhumane and degrading.<sup>17</sup>

<sup>16</sup> For more information see also: UN Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece (21 - 31 January 2013), 31 January 2013, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12962&LangID=E>.

<sup>17</sup> See: UN Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece (21 - 31 January 2013), 31 January 2013, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12962&LangID=E>. European Court of Human Rights, *Horshill v. Greece*, Case n. 70427/11, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122973>. See also: European Court of Human Rights, *Case of M.S.S. v. Belgium and Greece* (Application no. 30696/09), Judgment of 21 January 2011, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050>. See also: European Court of Human Rights, *Horshill v. Greece*, Case n. 70427/11, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122973>.



## Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

- Do not invest in the construction of more detention centres, but support the Greek government in developing:
  - its open reception infrastructure (capacity and conditions) for asylum seekers and suitable accommodation for members of vulnerable groups (including children and their families, survivors of torture and victims of trafficking); and
  - alternatives to detention.
- Monitor and promote, using all available tools at EU level, the effective implementation of the procedural guarantees contained in the Returns Directive to:
  - Clarify that, in order not to violate human rights, detention must always be prescribed by law and necessary, reasonable and proportional to the objectives to be achieved, and that the detention of migrants or asylum seekers on grounds of health is not legitimate in the EU;
  - Put an end to the systematic use of immigration detention as a punitive measure. Issue further guidance to member states on the specific circumstances in which detention is exceptionally allowed under the Returns Directive;
  - Urge Greece to end systematic use of prolonged detention of third country nationals in police stations and other common law enforcement detention facilities;
  - Urge Greece to immediately repeal the provision of article 59 of Law 4075/11.04.2012 permitting detention of migrants and asylum seekers on public health grounds, and pending repeal, suspend implementation of the law;
- Take appropriate action against Greece for violations of EU law in terms of the conditions in immigration detention, including in police stations, including by launching and progressing on current infringement proceedings as appropriate:
- Ensure the effective implementation of the Reception Conditions Directive and urge Greece to repeal the law allowing for detention of asylum seekers up to 18 months, in violation of the safeguards set out in the directive, and ensure meaningful access to asylum procedures;
- Urge Greece to act with greater transparency with respect to nongovernmental human rights monitors by acceding to requests from NGOs for access to monitor conditions of detention, including by permitting the conduct of private interviews with detainees;
- Increase coordination among the involved stakeholders including civil society—locally, nationally and at the EU level—to maximise the timely and appropriate use of existing funds and resources to improve the protection of the rights of detainees and those at risk of detention, including through the provision of free legal counselling and support;
- Ensure the non-detention of children, in line with the guidance of the UN Committee on the Rights of the Child,<sup>18</sup> that detention of a child because of their or their parent’s migration status always constitutes a child rights violation and contravenes the principle of the best interests of the child and adapt and clearly communicate the interpretation and application of relevant EU legislation governing the detention of migrant and asylum-seeking children and families accordingly;
- Work with Greece and other member states to develop good practice in alternatives to detention for families, with ending child detention to be acknowledged as a clear goal of EU policy;
- Ensure the provision of legal assistance, representation and information to support efficient applications for international protection, the right to suspensive appeal against removal directions and return directions and access to justice and compensation for those being unlawfully detained.

<sup>18</sup> See: Committee on the Rights of the Child, Report of the 2012 Day of General Discussion, “The Rights of All Children in the Context of International Migration”, 28 September 2012, available at: <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/DGD2012ReportAndRecommendations.pdf>.

### 1.3 Regular Residence and Employment

Many migrants that have been living and working regularly in Greece for a number of years have lost their jobs due to the economic recession in Greece, or have been unable to meet the social security stamp requirements to renew work permits, and so have lost their regular status (as residence permits are linked to employment, and work permits are usually linked to a single employer). Moreover, according to Greek Law, in order to renew a work permit, besides a sufficient income, it is necessary to prove a sufficient knowledge of Greek language. However, the authorities have not created an examination system to provide the language certification.

Restrictive long-term residence and citizenship policies are also preventing children who have been born and raised in Greece from regularising their status before they are 18 years of age, and from becoming citizens.

Many other migrants who should also have the right to reside on human rights or other protection grounds are not being officially recognised and living in prolonged situations of irregularity as a result with little recourse or possibility to address their precarious situation.

#### Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

- Address reasons why migrants lose their status, for example, by providing temporary residence permits for migrants that have lost their jobs to find alternative employment or reducing administrative requirements for work permit renewal;
- Establish the possibility of independent residence status for migrant women who are victims of violence to regain their residence status, as recommended by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention);
- Promote permanent mechanisms for undocumented migrants within EU member states to regularise their status through alternative employment, and on grounds relating to human rights, health conditions and connection to the country. In particular, the EU should standardise the conditions for acquisition of long-term residence status and citizenship based on length of residence, regardless of the applicant's administrative status during the period of residence, to reduce situations of protracted irregularity, especially for children and young people.
- Invest resources in services that promote the integration of all migrants, help them maintain their status and facilitate re-documentation or regularisation through providing information, support and counselling about future prospects, regardless of status;
- Promote the protection of the basic labour rights of all workers regardless of the status of work (formal or informal) and the status of the worker, in connection with ensuring the effective implementation of the Employers Sanctions Directive and initiatives to tackle trafficking in human beings and labour exploitation, as well as undeclared work. Investigate the frequent reports of incidences of violence against migrant workers that claim rights such as payment of wages and take concrete measures to encourage prosecution of exploitative employers and recruitment agencies.

## 1.4 International Protection

Greece has taken positive steps in recent years to address the deficiencies in its asylum system. A new asylum service has begun operating in Athens since June 2013, and in Lesbos and Evros. Recognition rates for those that apply for asylum are currently increasing.<sup>19</sup>

However, severe problems still remain. Regional Asylum Offices have been established in Athens, Evros and Lesbos. However, two - the offices in Lesbos and Evros - are located within detention centres, so asylum seekers that are not being detained there are unlikely to apply, and it is still not possible to access the asylum system in the rest of the country. Further, asylum seekers are being detained for up to 18 months, often in unacceptable conditions. This is not in compliance with the Reception Conditions Directive,<sup>20</sup> according to which a person should not be held in detention for the sole reason that he or she is seeking international protection, and applicants may be detained only under very clearly defined exceptional circumstances laid down in Article 8 of the Directive and subject to the principle of necessity and proportionality with regard to both to the manner and the purpose of such detention and subject to the guarantees laid down in Article 9 of the Directive.

In addition, even when asylum seekers manage to file an application for asylum, accommodation in reception centres is extremely limited and they are not provided with any financial support. While formally asylum seekers have the right to work, under a Circular of the Greek Ministry of Labour, asylum seekers cannot be granted a work permit for a job, if Greek and EU citizens suitable for the job are unemployed. Therefore it is not currently possible for asylum seekers to obtain work permits to support themselves and their families. This is in line with the Reception Conditions Directive (Article 11.4). However, the Directive requires a minimum level of accommodation and subsistence support to be provided, which is not being met in Greece - with neither support nor the possibility to work, asylum seekers live in state-imposed poverty.

The asylum procedures, reception conditions and detention conditions are not in yet conformity with EU standards. This has been stated by the Court of Justice of the European Union, which, in its ruling in the case of *N.S v Secretary of State for the Home Department* (C-411/10) has found that "there was a risk that [the applicant's] fundamental rights under European Union law, the ECHR and/or the Geneva Convention would be breached if he was returned to Greece".<sup>21</sup>

<sup>19</sup> See: Joint Press Release of NGOs participating in the "Asylum Campaign", "Preliminary findings on the operation of the Asylum Service", 19 December 2013, available at: [http://asylum-campaign.blogspot.be/2013/12/blog-post\\_19.html](http://asylum-campaign.blogspot.be/2013/12/blog-post_19.html).

<sup>20</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 on "laying down standards for the reception of applicants for international protection (recast)", available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0096:0116:EN:PDF>.

<sup>21</sup> See: Court of Justice of the European Union, *N.S v Secretary of State for the Home Department* (C-411/10), para. 40, available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=117187&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=43817>.

## Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

- ▶ The management of asylum applications in European Union member states should focus on better implementation of protection standards and respect for the rights of beneficiaries of international protection. Fair and efficient asylum procedures are necessary as well as reception conditions which respect the fundamental rights of asylum seekers and beneficiaries of international protection. Responsibility sharing should be addressed;
- ▶ The Dublin system should be reformed to focus on better protection according to asylum seekers' individual and family situations, connections and needs;
- ▶ Greater weight should be accorded to the variety of factors that might connect an asylum applicant to one state over another, which go beyond the qualifying family relationships in the Dublin Regulations, to include community ties, prior residence, language, job skills that might be in demand in one country over another, and the personal preference of the applicant, a legitimate factor to consider. Less weight should be accorded to the country of first arrival in assessing the state responsible for examining asylum claims than under the current regulation;
- Promote the development of protected entry procedures and humanitarian visas, to enable beneficiaries of international protection to access protection in the EU through safe and legal channels. Such legal channels must never substitute or negatively impact on asylum applications lodged on the territory of one of the EU Member States.
- Promote full or improved access to the labour market for asylum seekers and beneficiaries of international protection;
- Ensure that standards in EU law are fully implemented and launch or efficiently advance infringement procedures against Greece for failure to comply with standards;
- Support Greece to implement and further develop its concrete action plan to lift standards, particularly on procedures and reception, to those in EU law. This should include financial and technical support to Greece to increase its open reception and administrative capacity for asylum seekers and other vulnerable groups, including unaccompanied children. Improve access to the asylum process and the identification of persons in need of international protection, enhance registration capacity in Athens and at the borders. Financial support should also be provided for adequate accommodation and subsistence support for asylum seekers, in line with the Reception Conditions Directive and to sustain the work of the Asylum Office and the services provided by NGOs;
- Build member state capacity to introduce gender-sensitive procedures, guidelines and support services in the asylum process to allow the gender-specific issues to be taken into account, including effective access to asylum procedures and protection for LGBTI asylum seekers and beneficiaries of international protection.

# 2. Justice Policy

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Acts of violence against migrants have been occurring increasingly and systematically in Greece over the last few years.<sup>22</sup> While the initiation of court proceedings against some perpetrators is welcome, the systematic failure of the police, judiciary and government to condemn and prosecute attacks remains a major concern. The police have failed to take preventive action or respond adequately to reports of xenophobic attacks, have discouraged victims from filing official complaints, and have threatened undocumented migrants with detention if they persist in seeking justice. Perpetrators are rarely arrested or prosecuted; to date there has been only one known conviction of racially-aggravated crime under a 2008 law provision.

Feelings of public insecurity about the perceived competition for resources caused by migration have been exacerbated by the criminalising public and political discourses in Greece which blames many of the challenges

that the country (and the EU) is facing in the context of economic crisis, severe cuts in public spending and high unemployment, on the presence of migrants. Migrants have been used by the authorities as a scapegoat for the economic recession and social crisis. The realities of migration, the reasons for and contributions of migration and irregular migration in Greece and the realities of the economy and budgetary choices being made are not adequately represented.

It is important to note the link between this de-humanising rhetoric and public acceptance of the use of punitive measures, which are often in direct violation of migrants' rights.

The European Union has an important role to play in supporting a more comprehensive approach, from the perspective of criminal law and access to justice as well as from the perspective of anti-discrimination.

<sup>22</sup> For more information visit: Racist Violence Recording Network at: <http://www.unhcr.gr/1againstracism/en/category/racist-violence-recording-network/>.

## 2.1 Criminal Justice

Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

- Support and promote the correct transposition and implementation of Directive 2012/29/EU to ensure equal rights for undocumented victims of crime, through a de-linkage of immigration control and police reporting and access to justice and support services, in accordance with Article 1 of the Directive.
  - The European Commission should promote the effective transposition, implementation, monitoring and evaluation of Directive 2012/29/EU to ensure access to justice and victim support for all victims of crime, irrespective of their residence status, in line with Art. 1 of the Directive;
  - EU institutions should adopt guidelines to ensure this issue is specifically addressed through the adoption of positive measures and plan monitoring and evaluation accordingly;
  - Practically, the EU should also facilitate the exchange of good practices, allocate funds and technical support for specialised training for police and justice departments, and invest resources to build member states capacities to ensure legal representation, legal aid and procedural safeguards to all victims, regardless of status.
- Ensure the effective implementation of the EU Framework Decision on combating racism and xenophobia to include provisions to protect undocumented migrant victims also in line with Directive 2012/29/EU and witnesses of hate crimes from detention and deportation. Improve the scope and application of provisions allowing for higher sentencing when a crime is committed with racist motivation.
- Ensure appropriate data collection on hate crimes at EU level and systematically monitor hate crime incidents in Greece and across the whole territory of the EU to ensure evidence based policy-making.
- Urge Greek authorities to take more concerted effort to prevent and prosecute attacks, including:
  - Ensuring appropriate data collection on hate crimes;
  - Amending the bill aiming to transpose the 2008 European Union Framework Decision on combating certain forms and expressions of racism and xenophobia, currently under examination in the national parliament, to:
    - Improve the scope and application of the provision allowing for higher sentencing when a crime is committed with racist motivation. As noted above, this provision has been applied only once since its introduction in 2008;
    - Include provisions to protect undocumented migrant victims and witnesses of hate crimes from detention and deportation. Law enforcement officials should be required to suspend return or removal directions arising from the irregular status of a victim or witness of an alleged attack pending a prima facie assessment by a prosecutor of the merits of the complaint about the attack. These provisions would be consistent with the EU directive on the rights, support and protection of victims of crime.

## 2.2 Anti-Discrimination

Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

- Irrespective of the fact that they require a response which has to be partially grounded in criminal law, hate crimes constitute a form of discrimination. The EU response to hate crimes should stem from its competences to combat discrimination and be coherent with and integrated within its policies aimed at that purpose. Adopting enhanced measures to combat all forms of hate crime is essential for EU antidiscrimination policies to be effective. The EU's mandate as regards social cohesion is also relevant;
- The European Commission should take the opportunity of the review of the Framework Decision on combating racism and xenophobia, promote infringement proceedings against Member States in cases of violation and report on its implementation to highlight the shortcomings of the Framework Decision, propose a revised instrument that tackles them. The Council of the European Union should adopt such an instrument. In particular, the following should be addressed:
  - Some member states have not prohibited all forms of racist hate crimes; in Greece there is a lack of provision in the legal framework for victims of racism, xenophobia and linked crimes;
  - Article 4 of the Framework Decision is not effective in ensuring that authorities do the utmost to unveil any alleged racist motive associated with a crime in the phases preceding the trial of suspects, particularly in the investigation;
  - The restricted material scope of the Framework Decision, limited to hate crimes based on race or ethnic origin, is not in line with international and European standards on discrimination and is at odds with the need to tackle hate crimes perpetrated on grounds other than race;
- Condemn and transparently investigate the rising of xenophobia, monitoring that the perpetrators of crime against migrants will be prosecuted and assuring that everyone - including police officers border guards, but also Ministers - will take on their own responsibilities and that all victims of violence and racist crimes are ensured access to justice, irrespective of their administrative status;
- The European Parliament should, in the context of its periodic reports on fundamental rights in the European Union as well as through other actions, assess Greece's compliance with EU law and principles in the field of anti-racism and discrimination. The European Parliament should address the problem of racist violence in the European Union more broadly and include recommendations for concrete action to address these concerns;
- Following the adoption of the Justice and Home Affairs Council conclusions on combating hate crime in the EU on 6 December 2013<sup>23</sup>, the Council should take up the issue of racist violence in Greece and in the European Union more broadly, and consider concrete steps to effectively address these concerns at an EU level;
- Following the publication of the report on "Racism, discrimination, intolerance and extremism: learning from experiences in Greece and Hungary" in December 2013,<sup>24</sup> the EU Fundamental Rights Agency should continue to thoroughly investigate racist and xenophobic violence in Greece with a view to providing decision-making institutions such as the European Commission and the European Council with information and analysis relevant to assessing Greece's compliance with its obligations to counter racist and xenophobic violence;

<sup>23</sup> Council conclusions on combating hate crime in the European Union, Justice and Home Affairs Council meeting, Bruxelles, 5 and 6 December 2013, available at: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/139949.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/139949.pdf).

<sup>24</sup> See: EU Fundamental Rights Agency, "Racism, discrimination, intolerance and extremism: learning from experiences in Greece and Hungary", December 2013, available at: [http://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3_en_1.pdf).

- All EU institutions should refrain from political action or using discourse that could further boost and exacerbate or encourage escalating xenophobic trends and violence. This should include using correct and neutral terminology when describing migrants, asylum seekers, beneficiaries of international protection and undocumented migrants and migration and presenting a more balanced and evidence-based analysis and approach to managing migration. Focus on supposed negative impacts of migration and criminalisation of migration and migrants in EU migration policy and discussions on migration contributes to creating a context where discrimination, xenophobia and violence can thrive;<sup>25</sup>
- Provide comprehensive training on anti-discrimination law and practice for all police officers, border guards and members of the judiciary, and promote education on human rights, equality and the benefits of migration.<sup>26</sup> Support to initiatives to encourage reporting of hate crimes, including racist and xenophobic violence, particularly among migrants and asylum seekers, should also be considered: an implementation of data collection about racist violence incidents and its regular publication would let all the EU Community aware of the serious, violent and tragic situations in Greece and in the other States for all migrants;
- Anti-racism education should be promoted and financed.

## 2.3 Gender Discrimination

Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

- Ensure migrant women – both with regular and irregular migration status – are explicitly included in EU initiatives to address gender-based discrimination and violence, including the development of indicators, data collection and funding programmes. This should include a gender-analysis of EU policies on asylum, family reunification, labour migration and irregular migration (including measures which limit access to services, such as health care and shelter) and redress gender discrimination; in particular, how existing policies place migrant women at disproportionate risk of violence, exploitation and abuse, and of becoming undocumented. Ensuring access to independent status and to gender-sensitive services is crucial;
- Urge Greece and other member states to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The European Union should also sign and ratify the Istanbul Convention.

<sup>25</sup> On the negative impact of using incorrect and hostile terminology see for example: Contribution by Mr. François Crépeau, United Nations Special Rapporteur on the human rights of migrants, "Public consultation – Debate on the future of Home Affairs policies: An open and safe Europe – what next?", January 2014, available at: [http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2013/pdf/0027/organisations/special-rapporteur-on-the-human-rights-of-migrants\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2013/pdf/0027/organisations/special-rapporteur-on-the-human-rights-of-migrants_en.pdf).

<sup>26</sup> See for example the training programme promoted by the OSCE Office for Democratic Institutions and Human Rights (ODIHR): more information available at: <http://www.osce.org/odihr/66388>.



# 3. Employment and Social Inclusion Policy

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Migration must be recognised as a social policy issue. It concerns the well-being and participation of men, women and children living in Europe. It concerns social services, employment, health, justice for all residents, regardless of status, as well as the managing the mobility of people.

As many other member states, Greece is presently implementing policies that directly expose and trap certain groups of residents – migrants, refugees and asylum seekers -- in situations of poverty and social exclusion. They face highly restricted access to the labour market and social protection (with increased conditionality and tightened and restricted coverage), and to services, including essential services such as health care, education, shelter and bank accounts. There are almost no efforts to support the integration of migrants, such as language courses and employment counselling.

While social policy is not an area the EU has full competence, the Europe 2020 Strategy as well as the European Semester and other initiatives in the field of employment and social inclusion, such as the Social Investment Package and measures to reduce undeclared work, homelessness, gender discrimination and poverty and social exclusion, are highly relevant. Policies aiming to curb irregular migration (and in the case of Greece also to reduce asylum applications) through policy-driven poverty and exclusion have impacts which can undermine and contradict these other policy objectives. Indeed, Greece has one of the highest poverty rates in the EU, with migrants and asylum seekers among the most affected groups. Yet, there was no mention of their harsh living conditions in the Country Specific Recommendations addressed to Greece in 2013.<sup>27</sup>

<sup>27</sup> See Country-specific Recommendations 2013, available at: [http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm).

The subjects of these policies are people with rights, needs and contributions to make. They are not a burden on destination countries, but rather make important contributions economically, socially and culturally despite facing significant exclusion and barriers to do so - policies that disempower people and prevent them from participating fully in their communities.

Contrary to EU objectives to fight gender-based discrimination and violence and promote gender equality and women's rights, migration policies often push migrant women into situations of legal and financial dependency, particularly in relation to their residence status, and place them at risk of violence, exploitation and abuse. This is even more marked when women are undocumented.

Children and families are among the worst hits by the cuts in public spending, with the increase in child poverty and social exclusion notable. The impacts on particularly vulnerable groups of children and families are elevated. Non-governmental organisations and community movements of social solidarity are bridging the gaps in services for many in need, but their resources remain extremely limited.

The European Union should use the tools at its disposal to advance the social inclusion of migrants in Greece. Further, as a member of the Troika, the EU has influence over the fiscal readjustment programme pursued by Greece. Indeed, the requirements of the Troika to cut public expenditure to secure loan payments must be balanced with ring-fenced funds for investment in social services. While this is not prioritised, the significant reductions in public sector staff are contributing to high unemployment, while deep cuts in social security and services are leaving many facing increasing poverty and limited access to health care.

### 3.1 Poverty and Social Exclusion

Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

- Through the European Semester – National Reform Programmes and Country Specific Recommendations – support and encourage investment in universal, quality and affordable social services and adequate social protection. Non-discriminatory access to essential services including education, health care and emergency shelter should be promoted within this framework;
- Equally integrate supporting investment in services and social protection into the budgetary negotiations with the Troika, as a priority, as well as in the allocation of the European Social and Investment Funds (ESIF). The new Structural Funds’ framework (i.e. the ex-ante conditionality on poverty reduction) as well as the 20% of the European Social Fund earmarked for poverty reduction should be used in a targeted manner to make sure that the Greek anti-poverty strategy is adequately funded, and includes targeted actions for migrants experiencing poverty and social exclusion;
- The increase in poverty, social exclusion and homelessness of children and families in Greece warrants urgent attention and support at EU level, within the framework of the European Semester and implementation of the Investing in Children recommendation, as well as otherwise. This issue should be taken up as a political priority by all EU institutions to help Greece develop a concrete plan of actions with EU support to invest in all children, regardless of status;
- The EU should prioritise funding of integration, protection, healthcare and social service provision to migrants over funding for border control and migration management. The Greek government is currently relying on non-governmental organisations to provide essential services to migrants in Greece. At the same time, many are meeting this urgent need with extremely limited or no funding. The EU should consider alternative ways of funding projects in Greece, including providing more direct support – financial and technical – to civil society organisations supporting migrants, thus ensuring that they receive the funds in time to implement their projects;
- Redress the imbalanced allocation of EU funds towards migration management measures in Greece and ensure adequate funding to support inclusive services, integration measures and access to justice for all migrants, irrespective of migration status;
- Promote the implementation of the EU Migration and Asylum Fund, as well as the European Social Fund, to ensure that services for all migrants, regardless of their residence status, are able to receive funding, and address the various legal, administrative and practical barriers to frontline organisations accessing the funds.

# 4. Stakeholder Consultation

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Recommendations to the European Union, including the Council of the European Union, the European Commission and the European Parliament and their relevant subsidiary departments, committees and working groups:

- Embed meaningful consultation with migrant communities and civil society organisations into decision-making processes;
- Ensure structured dialogue with stakeholders to concretely and regularly incorporate an increasing body of evidence gathered by practitioners, think tanks, human rights bodies and academics in policy-making, monitoring and evaluation;
- Ensure partnership for civil society organisations at EU level in setting the agenda for the European Integration (and Migration) Forum and in the programming and evaluation of the new Asylum, Migration and Integration Fund. The European Social Fund and the new Asylum, Migration and Integration Fund should be implemented in a way that include all migrants, in particular the most vulnerable migrants, irrespective of residence status.

