

Open letter:

Five years after the EU-Turkey Statement, European Civil Society demands an end to containment and deterrence at the EU's External Borders

The 18th of March 2021 will mark five years since the announcement of the “EU-Turkey Statement”, under which EU and Turkish leaders agreed, among other things, that asylum seekers crossing from Turkey into Greek islands will be returned to Turkey.ⁱ The statement led Greece to implement an array of laws and policies, designed to restrict the movement of asylum seekers, keep them in the designated “hotspots” on the islands (later named ‘Reception and Identification Centres’), and facilitate their readmission to Turkey.

The policy of containment at borders is central to the new European Pact on Migration and Asylum, which introduces a “pre-entry phase consisting of screening and border procedures for asylum and return”.ⁱⁱ According to the proposal, in this phase asylum seekers “shall not be authorised to enter the territory of the Member State”.ⁱⁱⁱ

Negotiations on these plans press on, irrespective of mounting evidence of the serious human rights consequences of this approach, including appalling reception conditions, containment, and violent border control practices. In Greece, resulting bottlenecks led to severe overcrowding, substandard reception conditions and delayed asylum procedures. Meanwhile, local communities who were initially welcoming are increasingly frustrated with the deteriorating situation and lack of EU solidarity.

The harmful effects of the containment policy have been documented repeatedly by the undersigned organisations. Nearly half of the asylum seekers surveyed in these containment sites on the Greek islands have reported symptoms of PTSD, while 35% reported suicidal thoughts, and 18% reported having made attempts to take their own lives.^{iv} Women and girls in particular are exposed to the risk of sexual and gender-based violence, and report being scared to leave their tents at night.^v The Director of the EU's Fundamental Rights Agency, Michael O'Flaherty, described the EU Hotspot Moria in Lesbos as “the single most worrying fundamental rights issue that we are confronting anywhere in the European Union”.^{vi}

The undersigned organisations therefore urge the European Commission, Members of the European Parliament, and representatives of EU Member States to adopt the following principles:

- 1. Reception centres in Greece and beyond must be designed and operated as open facilities not unduly limiting freedom of movement of residents. After a short process of identification and medical checks, all asylum seekers should be transferred to appropriate accommodation.**

Reception centres at external borders do not allow sufficient access to the necessary infrastructure and services that people require, particularly refugees and other migrants who are often in an extremely vulnerable situation. The experience of the past has shown that remote sites are likely to suffer from understaffing which results in bottlenecks and delays. As long as the full screening and asylum processes are expected to take place in remote sites, they are likely to be conducted in unfit conditions. Furthermore, individuals with specific vulnerabilities, such as people with disabilities or those experiencing trauma, may need adjustments or special assistance. Women and girls require access to specific services and safe spaces, and children need individual measures of protection.

Detention-like conditions cannot provide a safe environment and restricting access to services will only exacerbate existing vulnerabilities, with long-term consequences for refugees' integration in local communities.

2. All people arriving in the EU should be treated fairly and with dignity. Asylum seekers should be able to enjoy material reception conditions from the moment they express the wish to seek international protection.

All people arriving in the EU should be granted dignified conditions, and their fundamental rights must be guaranteed. Despite a margin of discretion for Member States to choose how to provide adequate conditions, ensuring the protection of human dignity in accordance with the Charter of Fundamental Rights is non-negotiable.

In particular, access to asylum procedures and reception conditions cannot be delayed or denied until the end of the newly proposed "screening phase" through the invention of legal fictions, such as "pre-entry". The European Commission has the responsibility to ensure the correct implementation of EU law, including by clarifying that anyone who expresses the wish to seek international protection when physically present on EU Member States' territory, has, in fact, entered EU territory and is protected by EU and national law, without exception.

3. Safeguards must be in place to ensure fair asylum procedures.

Asylum procedures are often complicated processes which require expertise and support. Asylum seekers' access to legal assistance as well as support provided by UNHCR and civil society organisations are fundamental to ensuring a fair and effective process. Attempts at accelerated 'border procedures' with fewer due process guarantees – especially if they are conducted in detention-like conditions – complicate this process further and obstruct asylum applicants' legal right to seek asylum in line with EU and international procedural safeguards.

It is necessary to ensure each asylum seeker can have access to legal services free of charge, from the moment of their arrival in the EU. Each person should also be able to undergo medical checks and vulnerability assessments, to identify any condition or health concern that may impact the asylum process or could require individual adjustments and support.

4. Reception centres must be subject to effective independent oversight and arrangements must be in place to ensure accountability. Where the European Commission is involved in design, management or funding for centres, accountability must include MEPs and EU watchdogs.

The treatment of asylum seekers must always be subject to review and scrutiny, including monitoring and complaints mechanisms as well as independent review. Non-governmental organisations, MEPs and members of national parliaments must have unrestricted access and monitoring capabilities within reception centres and be able to publicly report their findings. The European Commission should also regularly report on and address any allegations that EU law or fundamental rights have been violated.

When the European Commission or European agencies are supporting national authorities, their role must be clarified and monitored, including by the European Parliament and the European Ombudsperson. No agency can hide behind the mandate or competency of national authorities, to avoid accountability for its actions.^{vii} Where shortcomings are identified – in relation to fundamental rights, the use of EU funds and resources, or the management of sites –

the European Commission must develop a clear follow-up procedure for remedial action, with accountability to the European Parliament.

After five years of sustained human rights violations, it is time to guarantee that the management and governance of EU-designed, funded and co-piloted sites are in line with fundamental rights and democratic accountability according to EU standards. We urge the EU co-legislators to ensure that future legislation is fail-proof and ensures the fundamental rights of refugees and others by following the recommendations above.

Moreover, in connection with the construction of new ‘Multipurpose Reception and Identification Centres’ commissioned on the Aegean islands, we urge the Greek authorities and the European Commission’s Task Force to immediately establish an independent and transparent monitoring and evaluation mechanism with the involvement of Greek, EU and UN bodies or agencies, to ensure human rights compliance of all operations in the centres and at the EU’s external borders. We request that such a mechanism is put in place before September 2021, when the ‘Multipurpose Reception and Identification Centres’ are to be operational, and that the reporting on them is made public.^{viii}

After five years of managing asylum and migration in the shadow of the EU-Turkey Statement, it is time for the EU to acknowledge past failures and ensure they are not repeated.

Sincerely,



Amnesty International



Caritas Europa



Danish Refugee Council



Greek Council for Refugees



HRW.org

Human Rights Watch



International Rescue Committee



Oxfam



Refugee Rights Europe

ⁱ European Council, EU-Turkey statement, 18 March 2016.

ⁱⁱ Recital 4 of Amended proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (23 September 2020)

ⁱⁱⁱ Proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders (23 September 2020)

^{iv} The International Rescue Committee, “The Cruelty of Containment: The Mental Health Toll of the EU’s ‘Hotspot’ Approach on the Greek Islands” (December 2020)

^v Oxfam and the Greek Council for Refugees, “Lesbos Bulletin” (February 2021)

^{vi} EU Observer, “Greek migrant hotspot now EU's 'worst rights issue'” (7 November 2019)

^{vii} European Ombudsman, Decision in case 735/2017/MDC on the European Asylum Support Office’s’ (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews.

^{viii} For more details on monitoring at external borders see: Joint CSO statement, “Turning rhetoric into reality: New monitoring mechanism at European borders should ensure fundamental rights and accountability” 10 November 2020. Available at: <https://tinyurl.com/325nr6jm>