

Abuses at Europe's borders

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Refugees and migrants have been regularly subjected to widespread rights violations by officials at some European borders. The EU needs to allow more legal avenues for people seeking protection to reach Europe safely.

In the absence of a consistent policy response implemented across all European Union (EU) Member States, the burden has largely fallen on states at Europe's external borders to receive, screen and process the thousands of people arriving as well as to reduce irregular migration. In response, some Member States at those borders have developed a series of measures to try to reduce the numbers crossing irregularly. These measures range from the formal – such as the construction of fences and deployment of additional police along the borders – to the informal – including the use of violence and push-backs into neighbouring states. Despite ample evidence of these abuses taking place at various points over at least the past three years, few concrete steps have been taken by the European Commission to hold EU Member States accountable. In spite of calls for investigations by the United Nations High Commissioner for Refugees (UNHCR), human rights groups and Council of Europe Human Rights Commissioner Nils Muižnieks, these practices have continued largely unabated, in violation of international and European law.

Push-backs

Push-backs constitute irregular returns of refugees or migrants to neighbouring states from within a state's territory without any form of individual screening, or rejection at the border of people seeking international protection. In addition to potentially resulting in direct or indirect *refoulement*, push-backs also violate the European Convention on Human Rights' prohibition on collective expulsions of non-nationals. In a consistent pattern,¹ from October 2012 onwards refugees and migrants attempting to cross from Turkey to Greek islands reported that their boats were intercepted and disabled by boats carrying Greek officials, and were towed back

to Turkish waters. Some say they were beaten and robbed by men in masks during these interceptions, while others were removed from the Greek island they had managed to reach and were taken back and left in Turkish waters. At the land border, people frequently reported being taken by Greek police back to Turkey across the Evros River after having earlier crossed the river in small boats. In 2014, UNHCR's Greek office reported that it had documented credible allegations of 152 separate push-backs in 2013 and 2014. In the same period, UNHCR made nine written representations to Greek authorities on the subject but only received one response, which simply denied the allegations.² Reports of push-backs at sea appeared to stop for several months in 2015 but have again resumed since late July, while push-backs at the land border continued to be reported in 2015.³

In Bulgaria, following a rise in numbers of people crossing irregularly in September and October 2013, multiple push-backs by Bulgarian authorities at the border with Turkey were documented.⁴ Some of those who were forcibly returned to Turkey alleged that they were beaten and that their money and phones were stolen. In March 2015, UNHCR called for an investigation after two Iraqi men died following an alleged push-back from Bulgaria.

In Spain, NGOs have filmed Spanish officials beating people off the fence at Melilla and subsequently pushing them back to Morocco. In October 2014, Spanish officials were filmed beating and pulling a Cameroonian national to the ground from the fence.⁵ The apparently unconscious man was then carried back to Moroccan territory through a gate in the fence and left there. In August 2015, a Spanish court dropped charges against the eight policemen involved, citing lack of evidence. Spanish authorities were

also accused of contributing to the deaths of at least 13 people in February 2014 by firing rubber bullets and tear gas at them as they swam from a Moroccan beach to Ceuta.

As people move onwards from Greece to other EU destinations, human rights groups have also documented push-backs from the Former Yugoslav Republic (FYR) of Macedonia to Greece and from Serbia to FYR Macedonia.⁶ In July and again in August 2015, FYR Macedonia temporarily sealed its border with Greece. In August 2015, as numbers at the border swelled to around 3,000 people, authorities there tried to disperse them by firing stun grenades and tear gas into the group, which included many small children, injuring several. Police and military were also filmed lashing out at refugees with batons. In September, similar scenes were repeated as Hungarian police clashed with refugees and migrants after Hungary closed its border with Serbia.

In addition to restrictions at European borders, EU Member States have also put in place other measures such as agreements with countries of origin and transit to prevent departures, the use of detention as a deterrent, and readmission agreements to facilitate returns of irregular migrants to neighbouring countries. However, despite efforts to restrict entries at particular points, people continue to try to enter Europe and routes simply shift accordingly, sometimes to other EU states. For example, following measures to restrict entries at the Turkey-Greece land border in August 2012, more people began to cross to Greece by sea and rising numbers began to enter Bulgaria; and following Hungary's closure of its border with Serbia, people diverted to Croatia.

Legal access

Despite widespread evidence of violations at these borders, EU institutions and Member States have not taken effective steps to halt the abuses. At the same time, the countries concerned continue to receive annual allocations of millions of Euros from the Internal Security Fund Borders and Visa instrument to strengthen border control without any conditional requirement to

develop accountability mechanisms to address abuses at borders. Instead, redress has been sought through the European Court of Human Rights, which has proved an effective but belated mechanism to bring an end to push-back policies.

From a refugee protection perspective, greater access to ways to legally enter Europe would prevent people who have fled persecution and conflict from undertaking risky journeys, enduring abuses by smugglers en route and by government officials at borders, and would significantly reduce the loss of life each year. Creating more legal entry channels including for Syrians – currently the majority of those entering Europe and a group widely recognised in Europe as refugees – could alleviate much of the current crisis. It could also enable better management of entry and movement and could serve as a pilot for other nationalities.

This can be done in multiple ways, including by ensuring that protection-sensitive entry systems are in place – measures whereby officials protecting EU borders are able to identify people who may be in need of international protection and grant them entry in order to access the asylum system. Greater use could also be made of embassy processing in countries such as Turkey, Lebanon and Jordan to issue humanitarian visas or visas for family reunification to permit Syrians to travel to specific EU countries and seek protection there (although embassies would require extra capacity to process larger numbers).

Precedents for both exist. For example, both Ireland and Switzerland launched family reunification programmes for Syrians in 2013 with Ireland's short-term programme granting visas to 111 people, while the Swiss programme has granted nearly 4,700 visas as of November 2015. Improved access to family reunification mechanisms for other nationalities is also needed. Precedents also exist for the granting of humanitarian visas in 15 other EU states, including in France, which has granted 1,880 asylum visas for Syrians since 2012. Germany has also pledged 18,500 places through an individual

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sponsorship programme in addition to 20,000 humanitarian admission places.

Other proposals to enable greater legal access to protection in Europe for those seeking asylum include the removal of mandatory visa (and transit visa) requirements for Syrian nationals (as was previously done by some EU states for refugees fleeing war in the former Yugoslavia), medical evacuations and academic scholarships, and increased use of humanitarian admission and resettlement in which UNHCR – rather than an embassy – is responsible for the initial processing. The EU could also implement its Temporary Protection Directive for the first time, especially when the numbers arriving are overwhelming the capacity to process asylum applications in a reasonable timeframe.

At the same time, it is critical that the capacity of Member States at the EU's external borders is boosted to enable them to provide adequate reception, undertake appropriate asylum procedures, and develop a realistic

possibility of integration for refugees. Better funding support for asylum systems will reduce states' incentive to resort to irregular and illegal practices at borders to keep asylum seekers out. What is perhaps missing most is political leadership and frank dialogue among European leaders about how best to respond to the needs of desperate people who will not be deterred by more fences or abuses at borders.

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1. Documented by Pro Asyl and Amnesty International <http://tinyurl.com/ProAsyl-PushedBack> and www.amnesty.org/en/documents/EUR25/004/2014/en/.
2. www.refworld.org/docid/54cb3af34.html
3. www.hrw.org/news/2015/10/22/greece-attacks-boats-risk-migrant-lives and www.amnesty.org/download/Documents/EUR0325442015ENGLISH.PDF
4. <http://tinyurl.com/HRW-ContainmentPlan>
5. <https://vimeo.com/109091397>
6. www.amnesty.eu/content/assets/Reports/Europes_Borderlands_Balkans.pdf and www.hrw.org/news/2015/04/15/serbia-police-abusing-migrants-asylum-seekers