

EU agreements with third countries must uphold human rights

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STATEMENT

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As the European Council is set to meet in Malta on Friday to address the Union's response to migration, one topic should be prominent on all points of its agenda: states' obligations to uphold the human rights of migrants.

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The urgency for this is clear. Since 2014 over 17,000 migrants have died in the Mediterranean, hundreds of thousands are locked up in often poor conditions across Europe and in third countries which are partners of the EU, while thousands of unaccompanied migrant minors are missing.

No doubt the movement of refugees, asylum-seekers, and other migrants has put considerable pressure on European states in recent years, straining their asylum systems and demanding scarce resources. However, many European countries have used this challenge as an excuse to trample on their obligations to protect those who flee wars and persecution. All too often we have seen laws, agreements and practices that have made it harder for people to cross borders and seek and enjoy asylum in Europe.

All this is more than a compelling reason for the European Council to prepare an ambitious plan able to ease the pressure on member states while upholding the human rights of migrants including asylum seekers.

This requires a paradigm shift of European immigration and asylum policies. On several occasions, I have stressed the need to establish a system based on the principles of inter-state solidarity and fair responsibility sharing; the need to increase the resources and tools available to member states and their local authorities to strengthen their capacity to receive and integrate refugees and migrants; and the need to accelerate the relocation of asylum seekers from Greece and Italy and empower registration centers in the main countries of arrival to effectively assess asylum claims and distribute them equitably across Europe.

All this remains to be addressed. At the same time, there is a need to avoid pursuing cooperation agreements with third countries without foreseeing necessary human rights safeguards. As the EU-Turkey agreement proved, this kind of pact may not only be unlawful, but also cause much harm to migrants including asylum seekers without stopping migratory flows. This is particularly true when cooperation agreements are signed with certain partner countries, like Libya, which have notorious human rights records and suffer from severe political instability.

To continue with these agreements a number of safeguards must be introduced to prevent EU decisions and money from contributing to violations of the human rights of migrants by third countries.

First, prior to entering into such agreements the European Commission should conduct a thorough assessment of the risks migrants face and make it public. If migrants' human rights are at risk, in particular their right to life, freedom from torture and full access to effective asylum procedures, then such agreements should not be made until tangible improvements occur in the third country concerned.

When an agreement is made, the European Union and member states must ensure constant, independent monitoring and reporting on the situation on the ground and establish mechanisms that can react promptly if threats to the human rights of migrants are reported. The whole process should be totally transparent and subject to public and democratic scrutiny, in particular by the European Parliament. The EU Ombudsman's recent recommendations on adequate human rights reporting on the EU-Turkey agreement should be taken to heart.

Another particularly important element is to ensure that such agreements do not lead to push-backs, an illegal practice under European human rights law that, regrettably, some European countries and partners still routinely engage in. Such a practice makes it impossible to assess notably the protection needs of migrants, thus undermining the fundamental human right of individuals to seek and enjoy asylum enshrined in the 1948 Universal Declaration of Human Rights. It also violates the [case-law of the European Court of Human Rights](#) - whose judgments bind all EU member states - which has consistently applied these standards, including as regards operations carried out by a state outside its national territory.

If such agreements can save migrant lives, they are of course welcome steps. However, they should in no circumstance forfeit the EU and member states' duty to ensure that partner countries uphold the human rights of migrants and refugees. Nor can they justify legislation or condone unlawful practices in Europe or elsewhere.

Respect and protection of human dignity and rights, including those of non-nationals, have been defining elements of European states' reconstruction after World War II. The upcoming European Council should show that that spirit remains at the heart of Europe's actions today.