

Addressing the Vulnerabilities Linked to Migratory Routes to the European Union

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migration

Recommendations from the National Red Cross Societies in the European Union and the International Federation of Red Cross and Red Crescent Societies⁽¹⁾

The practical experience of Red Cross and Red Crescent National Societies in the field of migration and asylum shows that certain European Union (EU) migration policy choices expose migrants to great vulnerabilities along migratory routes to the EU and Schengen area. As Europe witnesses an increasing number of migrant arrivals, Red Cross and Red Crescent National Societies have scaled up their support to vulnerable people on the move; wherever they may be, and whatever their legal status. However, operational challenges go well beyond ensuring the timely delivery of first aid assistance on an unprecedented scale, as the needs and vulnerabilities of migrants require more than just emergency support.

This position paper proposes concrete steps that can be taken by the EU and its Member States to reduce risks along migratory routes and address some of the increasing vulnerabilities stemming from these perils. Some of the key dangers faced by migrants along migratory routes to Europe are analysed in the Red Cross EU Office (RCEU) publication *Perilous journeys*⁽²⁾. These include: limited access to rights and services; arbitrary arrests and detention; violence and human trafficking; family separation and the loss of family links; as well as increasingly dangerous journeys to reach and cross the EU's external borders.

These risks and vulnerabilities require decisive action. With this in mind, National Red Cross Societies in the EU make the following recommendations to the EU and its Member States:



A group of migrants walk the last leg of their journey, crossing from Greece to the Former Yugoslav Republic of Macedonia, 2015.

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1. Implement an effective framework for safe and legal migration to the EU.
2. Develop mechanisms for identifying and addressing the additional vulnerabilities of migrants linked to their migratory routes.
3. Respect and protect the rights of all migrants - irrespective of their legal status - in domestic and foreign policies.
4. Facilitate family reunification and address the legal, practical and/or administrative obstacles which limit or prevent family unity.
5. Uphold a victim-centered approach in all efforts to tackle human trafficking.
6. Set up dedicated search and rescue operations covering the entire Mediterranean Basin, and support assistance to migrants in distress.
7. Uphold the right of migrants and their families to know about the fate of their loved ones.

1. Including the Norwegian Red Cross as a member of the Red Cross EU Office.

2. RCEU, *Perilous journeys* - Vulnerabilities along migratory routes to the EU, December 2015.

Position paper

Addressing the
Vulnerabilities Linked to
Migratory Routes to the
European Union

Resolution 3

By signing the Resolution, States agreed to ensuring adequate safeguards, within the framework of applicable international law, to guarantee the dignity and safety of all migrants in their national procedures at international borders, especially those that might result in deportation, interdiction of persons, or denial of access to international protection.



Each year, thousands of migrants pass through Niger. Many of the people travelling this route are in dire need of assistance. In Agadez, the Red Cross Society of Niger with the support of the ICRC, provides aid to the most vulnerable among them, 2014.

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While these recommendations do not pretend to alleviate all the suffering and vulnerabilities stemming from migratory routes to the EU, they highlight concrete steps which should be implemented as a matter of priority.

Background

The Red Cross Red Crescent Movement is guided by respect for the dignity and rights of vulnerable people as established by international humanitarian, human rights and refugee law. The Movement's components focus on reducing human suffering and promoting human dignity. Our interventions aim to address the needs of the most vulnerable without discrimination as to nationality, race, religious belief, class, political opinion or legal status⁽³⁾. We approach migrants' vulnerabilities from a holistic point of view, and contribute to providing assistance and protection by both addressing their immediate needs, and seeking to offer them a sustainable future.

The operational experience of Red Cross and Red Crescent National Societies leads us to conclude that limited opportunities for safe and legal migration to the EU drive migrants, asylum seekers and refugees to resort to the services of smugglers, and to embark on dangerous sea or land voyages⁽⁴⁾. This exposes them to severe risks that increase vulnerability and cause physical and psychological trauma. In a growing number of cases, the distress experienced on route is exacerbated by previous trauma suffered in countries of origin and transit due to poverty, neglect, conflict, persecution, and physical or sexual violence. The number of migrants who have died in their attempts to reach European countries amounts to a human tragedy affecting thousands of people, including those fleeing armed conflicts, severe human rights violations, extreme poverty, natural disasters, and other catastrophes in their countries of origin or residence. The majority of those that have died remain unidentified and are therefore *missing persons*⁽⁵⁾. Their families are thus deprived of the right to know their fate, and to mourn and honour their remains.

Resolution 3 adopted at the 31st International Conference of the Red Cross and Red Crescent in November 2011⁽⁶⁾ acknowledged the alarming humanitarian plight of migrants in situations of distress and vulnerability at all stages of their journeys. This includes the ongoing risks that migrants face in regards to their dignity, safety, and access to international protection. By signing the Resolution, States agreed to ensuring adequate safeguards, within the framework of applicable international law, to guarantee the dignity and safety of all migrants in their national procedures at international borders, especially those that might result in

3. The Movement's approach to migration is strictly humanitarian and based on the recognition of each migrant's individuality and aspirations. It focuses on the needs, vulnerabilities and potential of migrants, irrespective of their legal status, type, or category. 10 policy principles guide the Red Cross Red Crescent approach to migration. These are set out in the IFRC Policy on Migration adopted in 2009.

4. RCEU, Shifting Borders. Externalising migrant vulnerabilities and rights?, 2013 and RCEU, Position Paper on Access to International Protection, November 2011.

5. *The Missing* include all persons whose families don't have news from them, or who have reliably been reported unaccounted for, owing to armed conflict or some other situation of violence. The fate of the Missing is, by definition, unknown; whether they are alive or dead is unconfirmed.

6. 31st International Conference of the Red Cross and Red Crescent, Resolution 3 – Migration: Ensuring Access, Dignity, Respect for Diversity and Social Inclusion, November 2011.

Position paper

Addressing the
Vulnerabilities Linked to
Migratory Routes to the
European Union



Migrants face many challenges en route, not least due the lack of food and water, basic first aid and medical care and other relief items and information, 2015.

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deportation, interdiction of persons, or denial of access to international protection.

The European Commission's 2015 *European Agenda on Migration*⁽⁷⁾ proposes a number of short and long term measures for the EU to respond to the unfolding challenges it has identified. The Agenda approaches migration in a comprehensive way, considering measures in countries of origin, transit and destination. In addition, the European Parliament's *Strategic own-initiative report on the situation in the Mediterranean and the need for a holistic EU approach to migration* also points to ways of identifying medium and long-term measures which could contribute to relieving the suffering of migrants on their way to the EU⁽⁸⁾.

The Valletta summit on migration on 11 and 12 of November brought together European and African Heads of State and Government in an effort to strengthen cooperation and address the current challenges but also the opportunities of migration. Leaders recognised that migration is the shared responsibility of countries of origin, transit and destination, and agreed on a list of 16 concrete actions to be implemented by the end of 2016⁽⁹⁾. Yet we, National Red Cross Societies in the EU, believe that these recent policy initiatives overlook some of the very specific, and often invisible, difficulties that migrants face on their way to the EU. Therefore, this position paper proposes policy recommendations to address some of these challenges.

Our Recommendations

The recent increase in migrant deaths in the Mediterranean⁽¹⁰⁾ is just one of several dramatic consequences of current trends in migration towards the EU, as people are forced to use ever more dangerous routes in search of a safer place. We, National Red Cross Societies in the EU, believe that EU migration, asylum and border policies should prioritise reducing the vulnerabilities of all migrants. We therefore call on EU and national decision makers to implement the following recommendations:

1. Implement an effective framework for safe and legal migration to the EU.

Legal avenues to the EU must be further developed in order to reduce the demand for smuggling. Additional opportunities and more effective frame-

Our call

The EU and its Member States should reduce risks along migratory routes and address the increasing vulnerabilities stemming from these perils.

7. European Commission, A European agenda on migration COM (2015) 240, 13.5.2015.

8. European Parliament, Situation in the Mediterranean and the need for a holistic EU approach to migration, 2015/2095 (INI) - not yet adopted at the time of publication of this position paper.

9. Valletta Summit on migration, Political declaration and action plan, 11-12 November 2015.

10. IOM, Mediterranean Update, Missing Migrants Project, 24 August 2015.

Position paper

Addressing the
Vulnerabilities Linked to
Migratory Routes to the
European Union

works for dignified, safe and legal migration should be implemented, be it for employment and educational purposes, or for family reunification⁽¹¹⁾. Legal avenues to access international protection within the EU must be put in place⁽¹²⁾.

The EU and its Member States should facilitate the movement of vulnerable migrants through their consular presence, simplified procedures, and effective access to embassies in third countries. Visa acquisition for people in need of protection should be facilitated, including through humanitarian visas and simplified procedures which take into account the particular situation of the applicant. Visa exemption for certain vulnerable groups and nationalities must be considered, particularly for nationals with high average recognition rates for international protection across the EU.

2. Develop mechanisms for identifying and addressing the additional vulnerabilities of migrants linked to their migratory routes.

Migrants are increasingly exposed to a variety of risks along migratory routes, leading to multiple vulnerabilities. The EU and its Member States should enhance understanding of the dynamics that render some migrant groups more vulnerable, and of the particular risks that these groups face, adapting their policies and procedures accordingly. This requires limiting the use of accelerated procedures at borders to ensure that all migrants benefit from a humane, individualised treatment which allows for a comprehensive assessment of their vulnerabilities and needs, as soon as they reach the EU.

Early identification and referral systems should be put in place for the most vulnerable migrants. Adequate reception capacities and conditions must be upheld and supported. In addition, factors such as gender, age, and disability, as well as torture, rape, and other forms of psychological and physical violence linked to the migratory route must be considered when assessing the protection needs of asylum seekers.

Bearing in mind the aggravating nature of detention on migrants' vulnerabilities, it should only be used as a measure of last resort, and when other alternative measures have been duly considered.

3. Respect and protect the rights of all migrants - irrespective of their legal status - in domestic and foreign policies.

The human rights of all migrants should be the cornerstone of all EU migration policies, including any efforts to counter irregular migration and smuggling. Current legislation that complicates or criminalises the provision of humanitarian assistance to migrants in an irregular situation should be revised.

11. RCEU, Contribution to the European Commission's consultation on the post-Stockholm agenda, 21 January 2014.

12. RCEU, Position Paper on Legal Avenues to Access International Protection in the EU, 27 February 2013.

Position paper

Addressing the Vulnerabilities Linked to Migratory Routes to the European Union



In the Gevgelija transit camp in FYR Macedonia, the Red Cross provides tracing services for people who have lost a someone close, as well as free internet access to connect with family members, 2015.

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Humanitarian organisations should be given the means to access all migrants in need, especially in detention and at border crossing points, in order to provide them with humanitarian assistance, including tracing services.

The external dimension of EU asylum and migration policies should address the needs and rights of migrants in countries of origin and transit, and be rooted in the principles of solidarity and the protection of fundamental rights. Cooperation agreements with third countries should only be signed and implemented if they strictly comply with fundamental rights, including the right to leave one's country and the right to seek asylum.

4. Facilitate family reunification and address the legal, practical and/or administrative obstacles which limit or prevent family unity.

A protection-oriented approach to family reunification procedures should be applied in order for the right to family reunification to be truly effective.¹³ This includes systematically considering the reunification of family members beyond the nuclear family, particularly if they are dependants.

We call for all rescue operations to guarantee family unity. If rescue operations are made by more than one ship, all survivors should be transferred to the same location to avoid family separation. To speed up family reunification procedures, we recommend that effective communication is established between the different stakeholders, especially if several Member States are involved.

5. Uphold a victim-centred approach in all efforts to tackle human trafficking.

Policy discussions on migrant smuggling should be dissociated from those on human trafficking. Victims of human trafficking must be recognised as such, and provided with appropriate support and protection. This recognition should be unconditional and irrespective of any cooperation in criminal proceedings. Recognition of the victim's status should be the overarching consideration to prevent heightened vulnerability, including by ensuring access to asylum procedures, or other relevant protection measures.

All victims of trafficking should be protected from prosecution or punishment for any criminal activities they have been compelled to commit as a direct consequence of being subject to trafficking, such as the use of false documents, or offences under legislation on prostitution or immigration. EU Member States should neither prosecute nor punish victims of human trafficking for their irregular entry or residence.

13. RCEU and ECRE, Disrupted Flight - The Realities of Separated Refugee Families in the EU, 2014.

Position paper

Addressing the
Vulnerabilities Linked to
Migratory Routes to the
European Union

6. Set up dedicated search and rescue operations covering the entire Mediterranean Basin, and support assistance to migrants in distress.

We urge the EU and its Member States to promote the establishment, operation and maintenance of adequate and effective search and rescue operations covering the entire Mediterranean Basin⁽¹⁴⁾. Individuals, companies and organisations which provide support or assistance to migrants in distress must not be penalised.

In cases of interception or rescue at sea, final disembarkation should occur at a place of safety with adequate reception services and procedures. When determining the 'place of safety' or 'safe port', respect for the rights, dignity and integrity of migrants should be the primary consideration. The closest port should not be the preferred option if there are risks of persecution and inhumane or degrading treatment.



On shores of Lesbos a Hellenic Red Cross rescue team of volunteers helps migrants to get out boat, gives survival blankets and provides first aid, 2015.

© Charlotte Hyst / IFRC / Belgian Red Cross.

7. Uphold the rights of all migrants and their families to know about the fate of their loved ones.

We recall the right of all families to know what became of their loved ones. In order to implement this right, Member States should set up or improve existing mechanisms to identify the deaths of migrants that occur along migratory routes. This should include supporting and implementing common forensic protocols and standards of post-mortem data collection. Cooperation between medicolegal institutes and forensic laboratories should be promoted, and tailored training ought to be provided to coast guards, forensic practitioners and other stakeholders that engage in the collection and management of unidentified dead bodies. The EU should consider establishing a special fund for the identification of bodies, post mortem data collection, dignified burial of the deceased, and repatriation of the corpse if appropriate.

We urge the EU and its Member States to support and facilitate the unique role and work of the Red Cross and Red Crescent Movement in the field of tracing and Restoring Family Links. No restrictions should be imposed on the Movement components in the collection, management and transfer of personal data for tracing missing persons and Restoring Family Links. In line with their data protection policies, Member States should inform migrants of the existence of Restoring Family Links services upon arrival, as well as facilitating their access to such services, including from detention facilities. Detained migrants must be given access to means of communication and to consular services if requested.

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14. In accordance with the 1974 International Convention for the Safety of Life at Sea (SOLAS) and the 1982 Montego Bay Convention.