

Tackling the coronavirus outbreak: Impact on asylum-seekers in the EU

SUMMARY

To curb the spread of coronavirus and to protect their populations, the EU and its Member States have restricted crossings of their external borders, and many internal EU borders, as well as restricted freedom of movement within their territory. These steps have also served to address the challenges the pandemic has posed to public order, public health and national security. However, the resulting restrictions on people's movement and access to EU territory could disproportionately affect the most vulnerable, among them asylum-seekers-already in the EU or trying to reach its territory to seek asylum.

The situation of asylum-seekers during the current pandemic is especially critical in the EU hotspots; Greece, for instance, whose reception capacity has been stretched to the limit, is struggling to ensure the safety of the most vulnerable asylum-seekers, especially unaccompanied minors. While the EU has been assisting Greece to protect stranded asylum-seekers, NGOs and international organisations as well as the European Parliament have called for greater efforts to improve their living conditions and ensure the preventive evacuation of those at high risk.

Several Member States have adopted emergency measures to deal with the pandemic. To protect public health, they have closed their external borders and ports to asylum-seekers, suspended asylum procedures and returns, and imposed mandatory confinement in asylum reception centres to restrict freedom of movement. All those measures risk having a negative impact on asylum-seekers' fundamental rights under EU and international law.



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Issue

To curb the spread of the viral disease Covid-19 caused by the new coronavirus – [declared](#) a global pandemic by the World Health Organization in early March – and to protect their populations, the EU and its Member States have taken steps to safeguard their borders and to restrict freedom of movement within their territory. These steps have also served to address the challenges posed by the pandemic to public order, public health, and national security. However, the resulting restrictions on people's movement and access to the EU's territory could disproportionately affect the most vulnerable, among them asylum-seekers already present in the EU or trying to reach its territory to apply for asylum.

While under both [international](#) and [European](#) law states have the right to protect their borders and safeguard public order and public health, they also have a duty to protect people's fundamental rights and to ensure that any travel bans and restrictions on freedom of movement they may impose are not discriminatory, do not deny people the right to seek asylum and do not force them to return ([principle of non-refoulement](#)) to a place where they would face persecution or torture.

Furthermore, international human rights law guarantees that everyone has the right to the [highest attainable standard of health](#) and furthermore obliges governments to adopt measures to provide medical care to those who need it without discrimination.

Vulnerability of asylum-seekers during pandemics

As stated by the United Nations Refugee Agency ([UNHCR](#)), the pandemic could disproportionately affect the most vulnerable, among them refugees, **asylum-seekers**, internally displaced persons and other forced migrants, who are already disadvantaged in many ways due to their displacement.

Experts list a set of [factors](#) that make these groups extremely vulnerable to the spread of the coronavirus:

- **population density**, which is a result of asylum-seekers living in cramped conditions, including formal camps, informal settlements or detention facilities, often in appalling conditions;
- **difficult access to basic services, especially healthcare, and, for patients with acute syndromes, limited or no availability of medical care, especially in camps.** In addition, those fleeing conflict, persecution or natural disasters often struggle with underlying health conditions, including malnutrition, psychosocial stress and infectious diseases such as tuberculosis;
- **misinformation, mistrust of authorities, the absence of communication networks, and language barriers, which can all prevent access to reliable information.** Without key information about coronavirus, displaced persons may not only risk spreading the virus but also find themselves in violation of new policies;
- **humanitarian workers may reduce or cut contact with displaced communities to help prevent the spread of the virus.** Not only do many humanitarian workers lack the training or resources to respond to such an unprecedented crisis but governments are also restricting the travel of international personnel and the movement of vital supplies;
- **the danger that funds needed to respond to ongoing humanitarian and displacement crises, which are already underfunded, will be cut even further** as governments, non-governmental organisations (NGOs) and international organisations redirect their attention and resources to combating the pandemic.

In its [guidelines](#) of 25 March 2020, the WHO cites additional factors that may put migrants, including asylum-seekers, in a particularly vulnerable position in relation to the measures taken to fight the pandemic. Besides enduring the effects of overcrowded living and working conditions, physical and

mental stress, and deprivation due to lack of housing, food and clean water, these people are also particularly exposed to the risk of stigmatisation and discrimination. At the same time WHO [evidence](#) shows that in general, refugees and migrants pose a very low risk of transmitting communicable diseases to host populations.

EU coronavirus-related measures affecting asylum-seekers

On 16 March 2020, the European Commission presented its [guidelines](#) on health-related border management measures in the context of the Covid-19 emergency, which the Member States endorsed the following day. However, some of the measures could also have an impact on asylum-seekers and refugees in EU countries that are along these borders. In one of them, Greece, the situation in hotspots is already critical due to overcrowding and the fragile situation at the country's [border with Turkey](#). The measures include:

- the implementation of entry and exit screening measures for persons arriving from and travelling to affected areas or countries;
- the provision of information to travellers at arrival and departure points;
- the possibility to refuse entry to non-resident third-country nationals who present relevant symptoms or have been particularly exposed to a risk of infection and could therefore jeopardise public health.

As pointed out by the [UNHCR](#), states have a legitimate right under international and EU law to manage their borders, including through measures aimed at curbing risks to public health in the context of the coronavirus pandemic. However, such measures may not prevent non-nationals from seeking protection from persecution or ill-treatment. EU Member States must therefore respect the right to asylum under [Article 18](#) of the Charter of Fundamental Rights of the EU and the principle of non-refoulement vis-à-vis persons who have arrived at their borders seeking international protection. They should also refrain from imposing unlimited and indefinite measures against the admission of any asylum-seekers, including those of a particular nationality.

On 27 March, the Council of Europe (CoE) and the European Union Agency for Fundamental Rights (FRA) published a [note](#) on the main fundamental rights safeguards applicable at the EU's and the Council of Europe countries' external borders. The aim is to provide guidance to EU and CoE countries when adopting protective measures to contain the coronavirus outbreak and to address related issues of public order, public health and national security. EU countries have to protect their external borders and to safeguard public order and public health ([Schengen Borders Code](#)), but they also have a duty to protect people's fundamental rights, stemming from EU law, including, among others, the [EU Charter of Fundamental Rights](#), and CoE instruments, such as the [European Convention on Human Rights](#).

Asylum-seekers in EU hotspots

According to European Asylum Support Office ([EASO](#)) estimates, at the end of December 2019, there were some 911 885 asylum cases in the EU+¹ pending at all instances, with slightly more than half of all cases pending with asylum authorities at first instance, and the remainder pending with judiciaries at second and higher instances. About 80 % of such applications were pending in just six countries, including Greece and Italy, where more than [110 000](#) and [44 000](#) asylum applications respectively were still under consideration by the competent authorities.

While migrant arrivals to [Greece](#) and [Italy](#) have been continually decreasing, a November 2019 European Court of Auditors' [report](#) suggests that while Italian hotspots are empty or nearly empty, as well as clean and well equipped, [Greek hotspots](#) are overflowing with people and the situation of unaccompanied minors in them is particularly critical. Furthermore, there is a lack of doctors and security is low; this is especially the case in [Moria](#) on the Aegean island of Lesbos, where some 20 000 people are stuck in a camp designed for 3 000.

In October 2019, CoE Commissioner for Human Rights, Dunja Mijatović, [urged](#) Greece to urgently transfer asylum-seekers from the Aegean islands and improve living conditions in reception facilities, citing lack of medical care and sanitation in the vastly overcrowded camps. With over 40 000 migrants, refugees and asylum-seekers inhabiting the camps or hotspots in these islands, [Médecins sans Frontières](#) described their squalid living conditions as the 'perfect storm' for a coronavirus outbreak among them.

Preventive steps against coronavirus in Greek camps

After the [first Covid-19 cases](#) were registered in Lesbos and Samos in March 2020, followed by more cases in migrant camps near Athens, Greece placed two migrant camps under [quarantine](#), separated newly arrived and existing asylum-seekers, and set up health and medical units to test the camps' inhabitants. However, the [Greek authorities](#) do not expect the situation to improve before the year end, given that the mainland camps intended to enable transfers of migrants from overcrowded facilities on the islands are still under construction.

Taking into account the fact that unaccompanied minors are the most vulnerable persons among asylum-seekers, on 4 March the Commission presented an [action plan](#) calling on Member States to show solidarity with Greece and to find solutions for at least 1 600 unaccompanied minors on the islands. Although by 15 April several Member States had made firm [commitments](#) to offer Greece relief in this regard, at the time of writing only [Germany and Luxembourg](#) had taken steps to relocate a total of some 60 unaccompanied children from overcrowded Greek migrant camps. This stalling of efforts prompted a group of NGOs to address an [open letter](#) to the EU governments concerned, urging them to immediately honour their commitments. Similarly, the [FRA](#) has called on Member States to agree as soon as possible on a procedure for the relocation of unaccompanied minors from Greece.

The Commission has proposed [further support measures](#) to help Greece cope with 'migratory pressures'. These range from in-kind assistance through the [EU Civil Protection Mechanism](#) to a €350 million increase in funding, bringing the figure to a total of €700 million, for the construction of five multi-purpose reception and identification centres on the Greek islands. The funding should also cover the provision of services and emergency items, additional medical teams, increased support to the Greek asylum system, and the deployment of border guards and police officers at Greece's external border of the EU.

European Parliament position

After the first Covid-19 case was confirmed on the island of Lesbos, on 23 March 2020 the European Parliament's Civil Liberties Committee (LIBE) [called](#) on the Commission to put in place preventive measures in order to protect everyone on the Greek islands, including asylum-seekers living in overcrowded camps. Members of the European Parliament (MEPs) demanded an action plan that should include:

- preventive evacuation of the population at high risk, including people older than 60 and people with respiratory conditions, diabetes or other diseases;
- increased cooperation amongst EU Member States' healthcare systems;
- additional financial resources for increased hospitalisation capacity and intensive care;
- relocation, in particular of children, which must not be put on hold due to the pandemic.

On 31 March 2020, in a [debate](#) on the situation at Greece's EU external borders, LIBE committee MEPs praised the commitment to relocate 1 600 unaccompanied minors from the Greek islands to other EU countries, yet reiterated the warning about the risk of coronavirus spreading across refugee camps.

In another development, on 25 March 2020, MEPs from the Socialists & Democrats, Greens/European Free Alliance and European United Left/Nordic Green Left groups in the Parliament wrote a [letter](#) to the Commission pointing out that the pandemic should not be used to justify denial of the right to seek international protection at the EU borders, detention of asylum-seekers, or forced returns of asylum-seekers to a situation in which they would face danger. The three political groups also expressed serious concern over the measures announced by Greek authorities to halt the coronavirus from spreading in the hotspots (including the decision to transform several hotspots into closed detention centres), pointing out that 'detention of people in situations where it is impossible to comply with minimum preventive and protective measures puts people at greater risk'.

Situation of asylum-seekers in other Member States

In recent years, following the unprecedented migrant influx to Europe in 2015, the majority of EU countries have shared the responsibility for handling asylum-seekers. With many of them still waiting to have their [asylum applications](#) processed, these people are particularly vulnerable in the context of the emergency measures Member States have introduced to deal with the pandemic and to protect public health.

On the one hand, national and regional authorities, civil society and international organisations based in some Member States have [reached out](#) to the local migrant communities, giving them information on how to protect themselves against coronavirus, ensuring their access to health care and other necessary services. Some Member States have even gone further and decided to temporarily treat asylum-seekers as citizens or to [release](#) from detention centres those whose asylum applications have been rejected.

On the other hand, some EU countries have closed their [borders](#) and [ports](#) to migrants, suspended asylum procedures and transfers under the [Dublin Regulation](#), suspended returns and introduced mandatory confinement in asylum reception centres to restrict freedom of movement, including social distancing and temporary banning or restriction of visitors.

On 16 April 2020, the Commission issued [guidance](#) on the implementation of relevant EU rules on asylum and return procedures, and on resettlement in the context of the coronavirus pandemic. The aim was to support Member States in ensuring continuity in the application of these procedures, while fully ensuring the protection of people's health and fundamental rights in line with the Charter of Fundamental Rights of the EU.

In response to the increasingly stringent measures that have been adopted around the world to safeguard public health, the UNHCR has issued [key protection measures](#) that governments should implement to ensure respect for the human rights of asylum-seekers, refugees and the internally displaced. States should therefore ensure access to asylum, continue receiving asylum-seekers and processing their applications, avoid systematic or arbitrary use of immigration detention when restricting the freedom of movement, and safeguard every individual's right to life and access to adequate health services.

Other [experts](#) have further analysed the potential implications that government-imposed restrictions in response to the coronavirus crisis have for the enjoyment of rights and freedoms under the [European Convention on Human Rights](#) (ECHR). Although Article 15 of the ECHR allows for a contracting party to derogate from its obligations under the convention in a time of public emergency threatening the life of the nation, some human rights (such as the freedom from torture in Article 3 of the ECHR) are absolute and allow for no limitations. The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has published a [statement of principles](#) reminding CoE member states that protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty, including in immigration detention centres.

Countries must therefore find a balance between protecting public health from the spread of coronavirus and safeguarding the rights of asylum-seekers based on international and European law.

ENDNOTE

¹ EU+ countries means the 27 Member States plus Norway, Switzerland and the United Kingdom.

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