



3 March 2016

To European Leaders:

**As national and international organizations working along the Western Balkan migration route in Greece, the Former Yugoslav Republic of Macedonia, Serbia, and Croatia, we strongly condemn the latest discriminatory and dangerous measures adopted by European countries as part of a broader package of deterrence policies intended to stem the flow of vulnerable people seeking safety.**

On 21 February 2016, several countries in Europe closed their borders to Afghans resulting in a build-up of refugees in Greece and frantic scenes of chaos and confusion in the Western Balkans countries. Border restrictions on the basis of nationality deny each person’s right to an individual assessment of their international protection needs – which runs counter to international and European refugee and human rights law. These latest measures represent a further narrowing of a selective and arbitrary admissions policy which was already in place from late last year, when Europe shut its borders to all but those from the ‘war-torn’ countries of Syria, Iraq or Afghanistan.

This new policy is part of a package of restrictive measures that impact on the safety, well-being and rights of people on the move in Europe. At a meeting on 18 February 2016, the Heads of Police Services of the Republics of Austria, Slovenia, Croatia, Serbia and the Former Yugoslav Republic of Macedonia, issued a statement introducing new identification and registration measures that could amount to arbitrary and illegal restrictions on a person’s right to seek international protection.

For example, entry into these countries on humanitarian grounds will only be authorized to those fleeing “war-torn areas” that “are in need of international protection” on the basis of proven nationality. Such a policy involves a potential violation of the right to claim asylum<sup>1</sup>, and the obligation of Council of Europe member states to non-discrimination in immigration controls, including on the basis of national or social origin.<sup>2</sup> Likewise, the Police Statement allows for other limitations taking into account ‘any other restrictions of destination countries’, such as the daily quotas Austria introduced on 20 February, which the European Commission has stated is clearly incompatible with European and international law.<sup>3</sup> Family reunification is also among the reasons why a person might be refused entry, despite the right to family unity being a core tenet of

<sup>1</sup> Including on grounds of a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion, according to the 1951 Geneva Convention relating to the Status of Refugees.

<sup>2</sup> See e.g. East African Asians v. the United Kingdom (Eur. Comm, 1973); Abdulaziz, Cabales and Balkandali v. the United Kingdom; Cyprus v. Turkey as well as Kiyutin v. Russia

<sup>3</sup> Inter alia : Bruxelles demande l’Autriche de revenir sur son quota de demandeurs d’asile » Le Monde, Feb.2016, « Austrian cap on asylum seekers infuriates Commission » Euractiv, 19 February 2016

international law, with States encouraged to facilitate the reunification of refugee families.

An announcement made on 20 February at a meeting of the Directors of the Police of Serbia and Bulgaria, stated that refugees would only be allowed to enter Serbia through Preševo (via the Former Yugoslav Republic of Macedonia) and that Serbia and Bulgaria would take joint measures to prevent the movement of people from Bulgaria to Serbia. Given Serbia's obligation to allow refugees access to its territory at any border crossing,<sup>4</sup> and given the reports of abuse and unlawful treatment of refugees in Bulgaria<sup>5</sup>, this development is particularly concerning.

**Not only are these procedures out of line with existing international and European law to protect and uphold the rights of persons to seek asylum, they have also served to further exacerbate the level of human suffering on the ground and perpetuate the humanitarian crisis.** Sudden border closures or restrictions can leave people stranded in inadequate and inhumane conditions, as border areas often have insufficient reception capacity to host large numbers of people. Since the borders were closed to Afghans and new screening procedures introduced, thousands of people who had already exhausted their financial resources to make the costly journey into Europe were left stranded, often sleeping outdoors without access to even basic services. Returning home is not an option for many of them, who may instead turn to smugglers and traffickers to facilitate their onward journey – exposing already vulnerable people to increased risks of abuse, violence and exploitation. We are particularly concerned for vulnerable families, women and unaccompanied children travelling through Europe, many of whom are from Afghanistan, as the new measures will only push them further underground and further out of reach of humanitarian actors.

**To that end, we call on European governments to take action in order to ensure that the immediate humanitarian needs of people on the move are met, and to live up to their obligations under international law.** In particular, we are calling on European states to:

- **Put an end to the selective admission policy currently in place and fulfill legal obligations to ensure fair and thorough refugee status determination procedures for all nationalities.** In addition, children seeking asylum have the right to a 'best interest assessment' and an individual screening for their specific protection needs.
- **Make immediate provisions to meet the needs of people no longer able to continue their journey, including urgently scaling up reception and support services which respect people's dignity and human rights.** Provisions should be made to find emergency accommodation for children and their families who are especially vulnerable.
- **Stop forceful and involuntary push-backs which deny individual rights to apply for asylum, particularly to countries where people might face persecution, and for those who are found not to be eligible for international protection, ensure the returns process respects their basic human rights.**
- **Work together to ensure a co-ordinated approach to deal with the crisis based on information-sharing and collaboration, and avoid unilateral moves which can create dangerous 'domino-effects' that impact on vulnerable people.** A collective response is needed immediately to ensure that affected states, particularly Greece, have adequate resources and funding to provide support and protection to people in their borders.

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<sup>4</sup> Article 22 of the Law on Asylum that says "An alien may, verbally or in writing, express his/her intention to seek asylum to an authorized police officer of the Ministry of the Interior, during a border check in the course of entering the Republic of Serbia, or inside its territory."

<sup>5</sup> Belgrade Centre for Human Rights, 'Safe Passage' Testimony of people arriving in Dimitrovgrad, Serbia, 20-22 October 2015,

- **Create safe and legal routes into Europe for people seeking asylum, to avoid the loss of life on dangerous journeys and decrease the demand for irregular smuggling and trafficking networks.** It is clear that deterrence policies based on razor-wire fences, intimidating police forces, and closed borders, will do little to stop desperate people searching for safety.

European states have a responsibility to protect the vulnerable and respect the rights and human dignity of all people arriving at their borders. Instead, the latest measures reveal the dangerous trajectory that Europe is following towards undermining the foundations of European and international refugee and human rights law. It is not too late for Europe to correct course and enact proper procedures outlined in existing law and take immediate action to protect vulnerable people in its territory.

**ActionAid**  
**Albanian Helsinki Committee**  
**Belgrade Center for Human Rights**  
**Civic Initiatives Belgrade**  
**Civil Rights Program Kosovo**  
**Doctors of the World Greece**  
**European Council on Refugees and Exiles**  
**Humanitarni centar za integraciju i toleranciju (HCIT)**  
**Helsinki Committee for Human Rights in Serbia**  
**Građanske inicijative – Civic Initiative**  
**Greek Council of Refugees**  
**Greek Forum of Refugees**  
**Grupa 484**  
**Hrvatski pravni centar**  
**International Rescue Committee**  
**Lawyers Committee for Human Rights**  
**Macedonian Young Lawyers Association**  
**Norwegian Refugee Council**  
**Open Gate - La Strada**  
**Oxfam**  
**Practical Policy Centre Serbia**  
**Praksis**  
**Praxis Serbia**  
**Save the Children**  
**Solidarity Now**  
**VluchtelingenWerk Nederland**