



PERCEPTIONS

Policy Brief

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European Union Asylum Policies: Lessons learned from front-line practitioners and asylum seekers

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● Executive Summary

Findings from the PERCEPTIONS Project revealed shortcomings in the European Union's asylum policy at the regional and national levels, shedding light on specific challenges in need of being addressed. Namely, the lack of safe migration routes, the inadequate application of the asylum determination process, an excessively restrictive asylum regime, and detrimental conditions endured by asylum seekers during the review of their asylum claim.

Interviewed asylum seekers have reported having used irregular migration routes due to lack of better options, exposing them to violence and abuse during their journey, as well as life-threatening physical conditions. Furthermore, the dependence of asylum seekers on irregular migratory routes to reach safety increases their dependence on human smugglers, strengthening networks involved in human trafficking and other criminal activities. Interviewees, including asylum seekers and front-line practitioners, have highlighted how unfavourable conditions faced once in Europe also lead to acute levels of vulnerability. Restrictions on their freedom of movement when in refugee camps, within a given country, and within EU States, as well as restrictions on their right to work, have proven to be detrimental to their physical and mental wellbeing. In addition, the lack of adequate subsidy and support when in need seriously infringe upon asylum seekers' ability to fulfil key social and economic rights such as education, healthcare, adequate housing, and decent living standards, with several reports of asylum seekers to having become destitute for given periods of time.



Lastly, professionals working in the area of asylum have reported to observe repeated instances where European Member States have denied international protection to victims of human trafficking. Asylum claim denials were also reported in cases of victims of other human rights abuses, such as torture, occurring within political conflicts that the EU has failed to recognise. Front-line practitioners have also shared critiques regarding the requirements for international protection contemplated in the Geneva Convention, which were deemed inadequate in guaranteeing human rights. These findings shed light on the urgent need to provide for international safe passageways and take action to review the asylum determination process in EU Member States, the broader international protection regime as well as local and national integration measures to ensure the guarantee of human rights.

● Introduction

The lack of sufficient safe passageways and regular migratory routes are resulting in tragic outcomes for people trying to reach Europe in search of safety. Since 2014, the International Organisation for Migration has recorded over 25,000 deaths and disappearances in the Mediterranean Sea, with over 2,000 having been recorded in 2022 alone¹. This tragic reality is exacerbated by the fact that the number of asylum seekers intending to migrate through irregular routes, including the Mediterranean Sea, are expected to increase in the upcoming years. As calculated by UNHCR, the number of forcibly displaced people in the World is estimated to be at 103 million and is expected to increase given the effects of climate change and ongoing developments of political and economic instability². To put the numbers in perspective, Europe currently hosts about 10% of the World's displaced population, despite being one of the World's wealthiest regions, with asylum seekers' constituting about 0.6% of the EU's total population³. These figures shed light on the EU's capacity to address any shortcomings in guaranteeing the right to asylum enshrined in the 1951 Geneva Convention and its Protocols.

Furthermore, critiques of the asylum regime point to the inadequacy of the 1951 Geneva Convention as an international legal instrument to guarantee human rights. The Convention, together with the 1967 Protocol, introduces the definition of refugee and the responsibilities of State signatories in relation to the right to asylum, requiring proof of "well-founded fear" of persecution that not all forcibly displaced people can provide. On the other hand, the requirements established by The Convention exclude cases where migration is due to general insecurity, dire poverty, or climate change, thus denying protection to significant numbers of people whose migration may very well be considered forced displacement (Carling, 2017). States may grant international protection for cases that do not fit the requirements enshrined in The

The 1951 Geneva Convention is an international legal instrument which introduces the definition of refugee and the responsibilities of State signatories in relation to the right to asylum.

- *Critiques of the asylum regime point to the inadequacy of the Geneva Convention as an international tool to guarantee human rights*

¹ <https://missingmigrants.iom.int/region/mediterranean>

² <https://www.unhcr.org/refugee-statistics/>

³ *Ibid*



Convention in the form of humanitarian international protection, as an optional exercise of State discretion, yet this falls short of guaranteeing international protection.

When advocating for the rights of asylum seekers who use irregular migration routes, civil society organisations and NGOs have advocated for the increase of safe corridors and passageways for which the application to seek asylum must be available in countries of origin and transit, as well as increased use of resettlement programs. While all these have great potential to save a significant number of lives, it is highly likely that people whose cases go unrecognised by current international legal instruments will continue to use dangerous irregular migratory routes.

Furthermore, asylum policy and migration policy in transit and destination countries, while distinct, are intimately related. This implies that for positive fulfilment of the right to asylum, inadequate international migration, border control and national integration policies must also be addressed.

Asylum seeker refers to every person intending to apply for international protection or that has applied for international protection in a given State, independently of whether their cases comply with the The 1951 Geneva Convention's requirements for asylum.

- *The majority of displaced people are hosted in developing countries*

● Research Findings

The results presented here are based on fieldwork carried out in ten EU countries⁴ conducted with asylum seekers, as well as front-line practitioners (FLPs), including support practitioners, policy makers, law enforcement agents, and representatives of civil society organisations and intergovernmental organisations. This policy brief presents their critiques and challenges related to the right to asylum in the European Union.

○ **Asylum seekers are pushed to use irregular border crossings to arrive to safety**

Interviewed asylum seekers facing dire conditions in their countries of origin have reported to have used irregular migration channels due to the lack of better alternatives (Bermejo et. al, 2021). This finding is sustained by other research where most border crossers migrating irregularly reported having done so because they could not “see any other option” (Horwood & Frouws, 2021, p. 98). Interviewees in the PERCEPTIONS research included asylum seekers who explained how, to arrive to Europe, their migration involved crossing the Mediterranean Sea or the Sahel desert where they faced life-threatening conditions. These routes entail other severe risks such as becoming victims of exploitation, abuse, torture, human trafficking and even

Key Findings:

- *Interviewees who used irregular migratory routes claimed to do so because they saw ‘no other option’*

⁴ Austria, Belgium, Bulgaria, Cyprus, France, Germany, Greece, Italy, Spain, and The Netherlands. Nonetheless, findings from fieldwork carried out in non-European Union Nation-States are contemplated here in recognition that bordering countries are often crossed by asylum seekers before arriving to the EU and that multiple EU external migration policies take place in third countries.



loss of life. Some interviewees have highlighted having used these routes, even when aware of the risks they involved. A Gambian asylum seeker in Italy who had crossed the Sahel and then the Mediterranean from Libya summarised it as follows:

There are some people from some countries who, in spite of everything, sometimes even prefer to die on the journey rather than stay in their own country. (Gambian male asylum seeker, Italy)

An interviewed asylum seeker from Syria explained how she once had refused to cross the Mediterranean to arrive to Europe, but how adversity in the United Arab Emirates led her to do so even though she knew she was risking her life.

Instead of going to Europe and die in the sea ... I thought, let's go back to Dubai. [...] Then in that summer, my father passed away all of a sudden. And my visa got rejected for the third time. ... OK, now this is a sign ... I will try and I will go to Europe, I will go by boat. (Syrian female asylum seeker, Belgium)

○ **The lack of safe routes increases asylum-seekers' dependence on human smugglers**

PERCEPTIONS findings have shown that when migrating through these routes such as the Western, Central or Eastern Mediterranean as well as the Balkans, asylum seekers often depend on a human smuggler to facilitate their migration. In line with this finding, a survey conducted in 2021 revealed that 100% of Afghans in Greece and 87% of West and Central Africans in Italy, reported having used a human smuggler to reach Europe (Horwood & Frows 2021, p. 102). Human smugglers facilitate irregular border crossings as well as other activities such as the provision of food and water, provision of documents and/or in country transportation (Jinkang, 2020; 2022). Our research has shown that human smugglers may also influence migratory decisions in terms of routes and destination, not so much as the initial decision to migrate (Bemerjo et.al., 2021). Their influence repeatedly appeared as secondary to that of other sources, mainly, family, friends and acquaintances in country of origin and in the diaspora (*Ibid.*). Interviewed participants referred to smugglers as 'advisors', 'intermediaries' and 'consultants', and depending on their experience, the smuggler was described as a 'criminal' or as a 'guide', someone who helped them and who they trusted. As related by an Iranian asylum seeker:

But there were some people who could help us to do this journey. It was their job. They got money to move us from

Key Findings:

- *The use of irregular migratory channels increases migrants' vulnerability to exploitation and abuse and even loss of life as they face dire conditions crossing the Mediterranean Sea, the Sahel desert, or the Eastern borders*
- *When migrating through irregular channels, asylum seekers often use the services of a human smuggler*



the border from one country to other country. They were my advisors. No one else. Because it was a kind of illegal... I couldn't exit from borders in my country, and it was an illegal journey. (Iranian male asylum seeker, United Kingdom)

In contrast, asylum seekers also shared multiple experiences of having been deceived, particularly interviewees in Cyprus, shared how they were misled or bluntly lied to concerning what awaited them in the destination country.

- **The use of irregular migratory routes increases asylum seekers' vulnerability to violence, exploitation, and abuse**

While human smugglers can perpetuate violence against migrants, and some do, other actors appear more likely to be the perpetrators of abuse suffered during an irregular migratory journey. The same study referred to before indicated that in 72% of the cases, the perpetrators of violence against migrants during their journey through irregular border crossings had been criminal gangs, followed by armed militia (47%), and human smugglers (46%) (Horwood & Frouws, 2021), revealing that in about half of the cases where migrants travelled through irregular migratory routes, they had not suffered violence from a human smuggler. Other actors that emerged as perpetrators of violence against migrants in this vulnerable situation were government officials (28%), military or police agents (27%), and border guards or immigration officials (22%).

Asylum seekers interviewed for the PERCEPTIONS project repeatedly reported being victims of violence from border guards and other law enforcement agents as is reflected by the account of this Syrian asylum seeker in Kosovo:

The problem with the police is that they do not know where the asylum-seekers are from [...] They did not have human respect. [...] (Syrian male asylum seeker, Kosovo)

Another interviewee reported his traumatic experience while intending to reach the Spanish coast through the Mediterranean onto the coast of Ceuta. The incident he refers to became well-known as the Tarajal tragedy that occurred in 2014, where 15 people lost their lives while trying to reach the coast of Ceuta, a Spanish enclave in the North of Africa (Gálvez, 2020). The interviewee described the violent collective push-back carried out in violation of the principle of non-refoulement, where States are obliged to grant access to asylum seekers to file their asylum claim.

In 2014 on February 6 at 6:00 a.m... This date I will never forget because, there, I lost almost 10 personal friends who died on the spot, killed by the Guardia Civil Española in Ceuta. They shot white bullets into the water, threw tear

Key Findings:

- Smugglers can be “angels and demons” with some interviewees having described them as their ‘guide’ or ‘helper’ and others stating that they were bluntly deceived
- Irregular migration entails risks such as becoming victim of torture and other forms of violence
- The perpetrators of violence include criminal gangs and militia, human smugglers, government officials, military or police agents, border guards and/or immigration officials



gas into the water.... They shot me with a white bullet [...] they neutralised me. And with this wound they took me out and brought me back to Morocco. (Ivorian male in Morocco)

The incident he describes is echoed by the more recent tragic instance of migrant deaths at the Melilla border between Spain and Morocco that took place on June 24th, 2022 (Human Rights Watch, 2022).

The levels of vulnerability of irregular border crossers also exposes them to the risk of becoming victims of human trafficking. Human smuggling and human trafficking are interrelated yet distinct phenomena that unfortunately are often confounded, and used interchangeably. Confounding these two misrepresents the nuanced reality regarding human smuggling, vilifying, and criminalising all human smugglers, and feeding into what has been termed the “war on smuggling” (MMC 2021). There are an increasing number of policies oriented at combating human smuggling, at times resulting in the criminalisation of international cooperation workers, NGOs and human rights defenders intending to protect the lives of migrants (Amnesty International, 2020).

Front-line practitioners interviewed for the PERCEPTIONS Project have deemed securitisation policies aimed at combatting human smuggling to be counterproductive, increasing the vulnerability of border crossers and strengthening human smuggling and human trafficking networks. Research has shown how increased surveillance and deterrence efforts aimed at border control, including those designed to combat human smuggling, render human smuggling more complex, profitable, and requiring of collaboration with corrupt state officials, all of which attract more professionalised international criminal networks (Tinti, P. & Reitano, T., 2018). In relation to this, law enforcement agents who participated in the PERCEPTIONS research described to be overwhelmed by the numbers of irregular border crossers and their role managing irregular migration, indicating that they were often made responsible for conducting duties of a humanitarian nature rather than focussing on criminal activity.

○ **Asylum processes undermine the right to asylum**

Professionals working with asylum seekers in destination countries such as Italy and Spain, have reported asylum claim denials to victims of human trafficking or torture, and to victims of other human rights abuses taking place within political conflicts that have not been recognised by European countries:

Key Findings:

- *Human smuggling and human trafficking are interrelated yet distinct phenomena, that unfortunately are often confounded, and used interchangeably. Human smuggling referring to obtaining a benefit for aiding an irregular border crossing, while human trafficking involves one or many forms of coercion.*
- *“the war on smuggling” has been deemed counterproductive, strengthening criminal networks who take advantage of the acute vulnerabilities found in irregular border crossers*



Whenever we talk about refugees, we think a lot about Syria, for example, but there are other conflicts that have not yet been recognized [...] For example, Mali, which is the most recent one, and others that have been ongoing for many years [...] in Guinea Conakry, [...] there are real violations of human rights [...] from the Rif area, for example, where there is a real discrimination of this group within Morocco, [...] This has more to do with the difficulties in obtaining international protection depending on the country of origin. (Female front-line practitioner, Spain)

Other asylum denials criticised by interviewed practitioners included asylum seekers from Colombia, together with other Latin American countries where generalised insecurity related to the presence of *guerrillas* and *maras* are generally not considered legitimate threats to grant international protection by Member States. Other cases that go unrecognised affect women in particular, such as “women who migrate with their daughters to prevent them from being subjected to these same practices” (Female front-line practitioner, Spain). The lack of recognition of victims of torture and/or human trafficking was also denounced repeatedly with one professional indicating she believed the problem to be systemic:

In many cases they have been tortured...we may receive cases that are much more difficult to identify, which I believe has more to do with the failures of the system around possible cases of trafficking. (Female front-line practitioner)

○ **Conditions of asylum seekers infringe upon their physical and mental health**

The long wait of the asylum determination process is often in itself traumatising, as people find themselves in limbo in fear of their claim being rejected and becoming undocumented, detained and/or deported (Bermejo et. al, 2021). Furthermore, asylum seekers often must stay for long periods of time in reception centres or refugee camps where conditions compromise their mental health and physical wellbeing, including lack of adequate hygiene, food, privacy, or personal security. International organisations have documented the unsanitary, dangerous and traumatising effects of living in refugee camps (Digidiki & Bhabha, 2020), with a recent analysis considering them to be ‘torturing environments’ (Pérez-Sales et. al, 2022). This Gambian male explains how he couldn’t believe a place such as the one he was taken to could exist in Europe, a place which he describes, as ‘not a place for human beings’:

Key Findings:

- *Participants in the research reiterated the existence of numerous cases where victims of human trafficking were denied international protection, often resulting in them becoming undocumented and facing the threat of deportation*
- *Victims of human rights abuses taking place in political conflicts that are not recognised by the EU are denied their asylum claim often resulting in them becoming undocumented and/or deported*



From there they took me to Piano Torre (camp/hotspot). That was where I said to myself, had I known I would not (have) come to Europe. Because that place was terrible. It was not good for human beings. It was not a place for human beings. I could say we were just abandoned there, we were abandoned, left on our own. So, I was so disappointed, I didn't think that a place like this could exist in Europe. (Gambian male, Italy)

Interviewed asylum seekers also shared how they struggled with the limitations on their freedom of movement within a given country and throughout different EU countries. The latter are related to the Dublin Regulation (2013) that requires every asylum seeker to file their asylum claim in the first country of entry, often not being able to move throughout the rest of the Union until and if their asylum claim has a positive resolution.

Asylum seekers and FLPs also denounced current limitations on asylum seekers' right to work. These are most prominent during the period of asylum claim examination, with the specific limitations varying among different EU countries. While in place, they often render asylum seekers dependent on subsidies that barely cover life expenses. Once granted the right to work, asylum seekers have reported on being relegated to what is known as 3D jobs, 'dirty, dangerous, and demeaning', with unstable, low-paid and hard to endure employment conditions. A key instrument sustaining the EU's segmented workforce is the highly limited recognition of non-nationals' academic titles and professional qualifications, which leads asylum seekers and other migrants to fulfil positions they are overqualified for.

Lastly, research participants have described how racism and discrimination together with policies that facilitate residential segregation infringe upon their ability to exercise social and economic rights including decent living standards, adequate housing and employment conditions, and access to healthcare and education.

Key Findings:

- Asylum seekers have shared traumatic experiences found in refugee camps, and have highlighted the multiplicity of barriers impeding them from achieving decent living standards



● Recommendations

1. Guarantee access to seek asylum in third countries by creating safe passageways and enabling the right to seek asylum in countries of origin and transit, increasing the use of resettlement programs.

2. End restrictive policies on the freedom of movement of asylum seekers, both in terms of secondary movements between different countries of the European Union and movements and settlement within a given country by abolishing the Dublin Regulation and changing national policies that restrict such freedom.

3. Increase financial support for asylum seekers in need, specifically, those with mental or physical health conditions that require treatment and repose, and other particularly vulnerable, such as children.

4. Protect the right to work, by removing restrictions on the labour activity of asylum seekers at the national level, including those related to participation in specific labour sectors and those associated to asylum claims under examination. Ensure equal access to the workforce and decent employment conditions and remuneration as established by the national law of the EU Member State is guaranteed for nationals to the same degree as non-nationals.

5. Review asylum determination process to guarantee international protection for victims of human trafficking, torture and other human rights abuses taking place within political conflicts and broaden the right to international protection to include cases where human rights are undermined due to general insecurity, dire poverty and/or climate change. Given that increased bureaucratisation of these processes may prove counterproductive, the right to international protection can be further promoted by easing the restrictions on international migration altogether.

6. Ease the restrictions on international migration to protect and guarantee the human rights of all migrants through a combination of policy changes involving: increased visa schemes for low-qualified workers and nationals from developing countries, facilitation of circular migration through increased flexibility of stay, work and residency permits, decreasing the level of complexity and bureaucratisation of migration-related administrative processes, ending detention and deportation processes associated to administrative procedures (non-criminal activities), decreasing the costs and requirements for recognition of non-national academic titles and professional qualifications, and lastly, ending securitisation policies and practices that put the lives of international migrants' in jeopardy.

Key recommendations:

- *Create safe passageways*
- *End restrictions on freedom of movement*
- *Increase financial support*
- *Protect the right to work by removing employment restrictions*
- *Review asylum determination process*
- *Ease the restrictions on international migration to protect and guarantee the human rights of all migrants*



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- **Websites**

www.perceptions.eu

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<https://missingmigrants.iom.int/>

<https://www.unhcr.org/refugee-statistics/>

- **Deliverables**

<https://project.perceptions.eu/about/deliverables/>

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