Ending Fortress Europe

Recommendations for a racial justice approach to EU migration policy



EQUINOX
INITIATIVE FOR RACIAL JUSTICE

The Equinox Initiative for Racial Justice is a people of colour-led advocacy project with solidarity and empowerment at its heart. Equinox is a coalition of racial and social justice leaders, activists and organisers from across Europe working in solidarity to influence European Union law and policy.

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Equinox's approach

At Equinox, we look beyond fixed or objective notions of race or ethnicity and focus on power, the process of racialisation, and the factors that created these power dynamics.

Equinox uses **"racialised people"** expansively to include all those who have been subjected to different processes of racialisation. We include, but do not limit this to, people of African, Arabic, Asian, and Latin-American descent, Roma and Sinti people, Sámi people, and those that are racialised as a result of their perceived membership to Muslim, Jewish and other religious communities. We also include those who self-define with terms such as 'Black' and 'people of colour'.

Racialisation is highly contextual. We note that the specificities and complexities of processes of racialisation challenge clear-cut definitions.

Concepts

Asylum-seeker
An asylum-seeker is an individual who has crossed an international border and is seeking international protection.

Fortress Europe
The term 'fortress Europe' is often used to refer to the way Europe and specifically EU institutions controls and militarises its borders to prevent, control and criminalise movements across and between them. As outlined by the Abolish Frontex campaign, the policies of Fortress Europe have deadly effects, they have 'killed over 40,555 people since 1993. Drowned in the Mediterranean; shot at borders; died by suicide at detention centers, tortured and killed after being deported – the EU has blood on its hands.'[1]

Illegal migrant/ migration
The term illegal migration reinforces racism, xenophobia, and the criminalisation of individuals racially perceived as others. This study uses the terms undocumented or irregular, more objective terms to avoid associations of criminality and negative moral connotations.[2]

Migrant
This means people moving from one state to another, specifically movement across or within borders. The increasingly negative usage of the term to describe people who do not fit into the asylum criteria not only is faulty but reenforces a racist and xenophobic agenda, emphasised by the racialised distinctions between the use of the terms 'migrant' for some and 'expatriate' for others.

People on the move
This term seeks to reaffirm the humanity of people engaged in migratory processes, in direct response to increasing political attempts to associate migrants with criminality and general negative connotations. However, for some the transience of the term can mask the realities of people residing or settled in a country, and the difficulties that can stem from being a migrant even in a fixed space.

Racialised people/ communities
Individuals and groups who have been subject to a process of racialisation and been ascribed a particular racial category. In European societies, all people are racialised; however, we use the term to refer to those that have been negatively racialised or categorised as "other" by the state, institutions and other states of authority.

1. https://abolishfrontex.org/frontex/
2. or more detail on the why we should not use the term 'illegal migrant', see PICUM's 'Word's Matter Initiative' https://picum.org/words-matter/

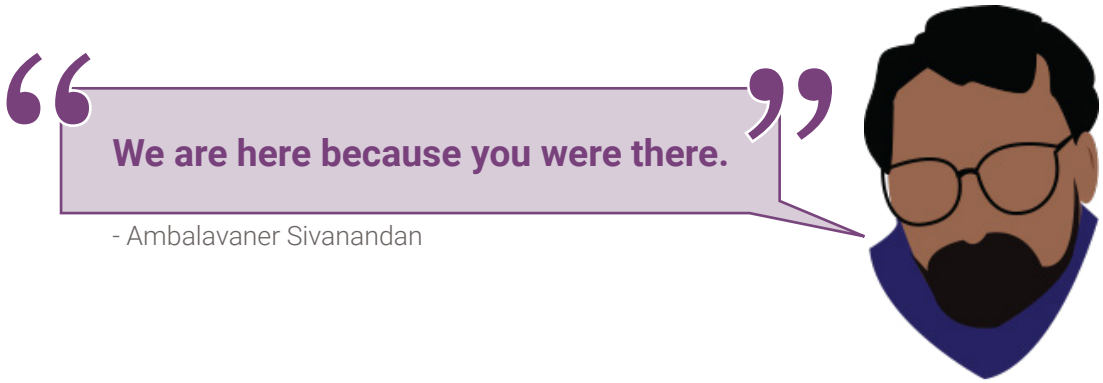
Refugee
A term defining the legal status attributed to those who meet the criteria set out in international or regional agreements, most commonly the International Convention Relating to the Status of Refugees (1951) and the Additional Protocol Relating to the Status of Refugees (1967).

A refugee is a person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

Structural Racism
The structures that create and maintain vulnerability, harm and precarity aligned to racial difference. Structural racism is the intertwined relationship between historical injustices, epistemic (knowledge) erasure, laws, institutions, policies, practices, and social, political and economic disparities. The effect of these factors is to further marginalise and impose violence on racialised people.

Undocumented migrant
An undocumented migrant is a person who, for a number of reasons, (including irregular border crossing into a country, denial of asylum claim, expiration or withdrawal of residece or work permits or documents) does not have official residence status in country they are in.

Summary of Recommendations



This report explores the relationship between migration, policy and structural racism in the European Union (EU). For many, in particular racialised migrants and their descendants in Europe, it is evident that racism and migration are inherently interlinked, and in fact, racism is rooted deeply in Europe's history of colonialism, enslavement and extraction from much of the global south. Yet, EU policy on migration is notably silent on the issue of racism, and EU anti-racism policy largely overlooks the structural racism underpinning EU migration policy.

To navigate this dilemma, this report analyses EU migration and anti-racism policy, taking these interconnections as a starting point. From a racial justice perspective, the report discusses EU legislative developments and policies, highlighting how EU migration policies reinforce structural racism and how, for the most part, EU equality and non-discrimination policy remains silent on the violence against and exclusion of migrants at and within Europe's borders.

The report finds that there are a number of shifts occurring in EU migration policy, in particular towards increased criminalisation and exclusion of people on the move, with the ultimate goal of more 'returns' (deportations), reinforced borders and stricter migration laws. Further, more and more resources are deployed, in new and myriad ways, into this enterprise.

These trends require the continuous dehumanisation of migrants in the public imagination, the reification of the frame of threats to security and "illegality", and the (mostly) implicit logic that people on the move are racially different, inferior, and a threat to the European project. In combination, these powerful ideological tools are used to justify the overwhelming violence, harm, human rights violations, racial discrimination and suffering faced by people on the move today. As such, structural racism and exclusion is not only a result of EU migration policy, but it is the underlying logic of this structure. Racialised people bear the brunt of this project.

To address this, this report proposes a systematic shift in EU policy on structural racism and migration. Our recommendations fall under three main headings, and are detailed further in Section IV:

(A) A policy shift from racialised criminalisation toward safety, protection and justice

A racial justice approach requires a wholesale reversal of the underlying priorities of EU migration policy. Instead of the current central pillars of criminalisation, discrimination and racialised suspicion, EU migration policy must be re-oriented around principles of safety, protection and justice for people on the move.

1: Conduct an intersectional review of all EU migration policies to address discrimination in the migration context and the intersections between structural racism and migration.

2: Take concrete steps to dismantle legislation and policy areas using criminal law in response to migration.

3: Reverse legislation expanding the role of detention and deportation in migration procedures, such as the Amended Asylum Procedure Regulation (APR) and the EU Return Directive.

4: Implement a prima facie presumption that people entering Europe do have protection needs, reversing the role of profiling and racialised suspicion in EU policy.

5: Ensure all international protection mechanisms apply neutrally to persons regardless of nationality, including the Temporary Protection Directive.

6: Cease the development, testing and deployment of surveillance, biometric identification and risk assessment technologies on people on the move.

(B) Ensure full legal protection against discrimination for migrants

Discrimination cannot be justified by a lack of documents or migration status. The EU must offer full protection to people on the move regardless of race, ethnicity, nationality or migration status.

7: Extend existing prohibitions on discrimination to include nationality to ensure a comprehensive legal protection to people on the move, regardless of migration status, in all areas of public life.

8: Introduce a new EU directive to prohibit discrimination and violence in the field of law enforcement, immigration and border control and extend legal protection to those discriminated against by law enforcement, immigration and border agents.

9: Reverse discriminatory legislaton in the field of migration, including aspects of the amended Asylum Procedures Regulation implementing presumptions on international protection needs on the basis of nationality.

10: Implement processes of accountability for EU institutions engaged in structural discrimination and violence against people on the move.

(C) Alternative visions: De-fund structural violence and reallocate resources to meet the needs of people on the move

Imagining a migration response without racism requires shifting resources away from punishment, surveillance, control and criminalisation toward safety, protection, needs and justice.

11: Conduct a comprehensive review of funding spent in migration management and border control against a model of safety, protection and need for people on the move.

12: Develop a systematic, long term consultative forum with racialised people on the move, composed of people with a variety of migration statuses, with a concrete role in EU migration policymaking.

13: Develop a 10- year strategy for the reduction and reallocation of funding in the areas of border security and surveillance, externalisation and punitive migration management toward meeting safety and protection needs of people entering Europe.

I. Introduction

> **Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law.**

- EU Charter of Fundamental Rights and Freedoms, Preamble.

Throughout histories of European colonialism, enslavement, and the more recent past, migration – forced, voluntary and various shades in between – has been a fact of European life. Constructed (false) logics of racial difference have been shaped by and attendant to these histories of movement.

When anti-racist activist and scholar Sivanandan wrote **'we are here because you were there'** he spoke directly to the connected nature of racism, European colonialism, extraction and the trends of movement that stemmed from these histories.

Yet, most analyses of EU migration policy evade this long connected history and instead skip directly to 2015, in the 'summer of migration', also known as Europe's "refugee crisis". This political moment was seized by Europe's far-right and centrist politicians to redirect political debates from a range of structural and societal problems (economic decline, austerity, inequality) to a singular one: migration.

Within this social and political environment, harsher migration policies were implemented and legitimised, reinforcing foundations of nationalism, colonialism and racism, and (re) building Fortress Europe.

Today, we are seeing a continued shift toward EU migration policies characterised by increasing criminalisation of people on the move, a greater emphasis than ever before on building a regime of external barriers, deterrence and deportation, and heightened instances of violence against people seeking to enter Europe. Worryingly more and more resources are deployed to these ends. Vast and grave human rights abuses are consistently documented at Europe's borders, and structural discrimination against migrants is rife within those borders.



> **These are racial borders; borders that seem neutral on their face, but that systematically exclude and constrain people on racial basis.**
>
> - Professor E. Tendayi Achiume - UN Special Rapporteur on Racism, Racial Discrimination, Xenophobia and Related Intolerance

The international response to Russia's invasion of Ukraine in February 2022 highlighted the immense potential for a major re-shift in migration policy away from criminalisation, punishment and control toward a politics of protection and needs. Yet, despite this positive shift, the response highlighted the structural racism in migration policy in practice, with striking contradictions in the response to Ukraine vis-a-vis other conflicts and refugee situations. Further, the racial profiling, discrimination and exclusion experienced by racialised people fleeing the Ukraine is a case in point about the severe levels of racism underpinning European migration policies (see page 28).

Whilst those impacted by these trends are primarily black and brown people from countries in the global South - racialised people - most EU policy on anti-racism is silent on the interrelationship between migration policy and structural racism, with vital threads missing from the legal and policy conversation. Little attention is paid to the historical, causative connections between European colonialism and current migration. Further, very little is said about the extent to which the racialised, classed and gendered dynamics impacting why people move and how they are treated, as well as how racial ideologies have justified and politically legitimised the violence and human rights abuses now characteristic of Fortress Europe.

Structure

This report looks at EU policy on migration from a racial justice perspective. This analysis does not propose to be comprehensive, rather aiming at advancing the discourse on structural racism and specifically on the focus of migration policies, to influence the responsible EU institutions and mechanisms.

The report is structured as follows: **Section II analyses the connected nature of structural racism and migration in EU policy,** detailing first how policies perpetuate structural racism and violence against racialised people. Further, the analysis explores how resources are attributed in EU migration policy, querying to what extent funds are attributed to human rights protection or to punitive and exclusionary approaches. It explores to what extent recent anti-racism policy acknowledges the link between structural racism and the EU's own migration policy.

Section III outlines what is happening on the ground, specifically how EU migration policies have contributed to the process of racialisation and affected people on the move.

Lastly, **Section IV proposes an alternative way to address the structural issue of racism in EU migration policies**, outlining key recommendations for EU policymakers to ensure full protection, justice and accountability for racialised people on the move.

Methodology

Often in analysing policy, there is a tendency to abstract from the day-to-day violence and struggles people on the move face, to take a dispassionate approach. In purporting to be objective "we become dangerous, to ourselves first, and then to people around us", says Eber Hampton, a Native American scholar.[3] Instead of neutrally analysing the technocratic approach by which migration policies are framed, this report proposes to explore, in as far as possible, those policies centering notions of safety, justice, equality and access to resources for those directly affected.

The paper is based on open source desk research, which looked at the maze of the EU institutions and available online documents. It builds up arguments based on subjective stories, active observations, accounts and lives of racialised people.

3. Eber Hampton, 'Memory Comes before Knowledge: Research May Improve If Researchers Remember Their Motives', Canadian Journal of Native Education 21 (1995): 52.

II. The EU policy framework, migration and structural racism

This section interrogates EU migration policy and EU-anti-racism policy from a racial justice perspective, with specific attention to (a) their impact on racialised people on the move, and (b) how far they address processes of violence, racialisation and exclusion.

Looking first at the most recent trends in EU migration policy, then the allocation of resources for migration management, followed by a short analysis of EU-anti-racism policy, this section concludes with a brief outline of the main shortcomings, gaps and missing perspectives in EU policy.

(A) Current trends in EU migration policy: A Racial Justice Perspective

Within days of announcing its new 'Anti-Racism Action Plan'[4] in September 2020, the European Commission released a 'New Pact on Migration and Asylum' (hereinafter the 'EU Migration Pact').[5] Although lauded as a 'fresh start on migration in Europe', in practice this package of legislative proposals reinforces and exacerbates the same containment policies and deterrence practices of past decades. From its central focus on restricting access to Europe and deportations, harsher detention measures, the strategy of encampment (hotspots), and the increased resort to data processing and digital technologies, the New Pact on Migration and Asylum presents particular concerns of criminalisation, targeting, discrimination and the enabling of violence against racialised people on the move.

4. European Commission (2020). 'EU Anti-Racism Action Plan 2020-2025: The Commission's plan to step up action against racism and achieve a Union of Equality', available: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/racism-and-xenophobia/eu-anti-racism-action-plan-2020-2025_en
5. European Commission (2020). 'New Pact on Migration and Asylum: A fresh start on migration in Europe', available: https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/new-pact-migration-and-asylum_en

New Pact on Migration and Asylum

EU New Pact on Migration and Asylum: What is it?

The Pact proposes five new proposals[6]:

1. **Asylum and Migration Management Regulation (RAMM)** – setting out a common framework for the management of asylum and migration between Member States, including a 'solidarity mechanism' to facilitate deportations; **Crisis and Force Majeure Regulation** – outlining exemptions from migration timelines in situations of crisis;
2. **Amended Asylum Procedure Regulation (APR)** – outlining new mandatory asylum procedures at borders, linked with deportation procedures;
3. **Screening regulation** – setting up a pre-entry process identifying irregular crossings of external borders; and
4. **an Amended Eurodac Regulation** – proposing a wide extension of the EURODAC database, including extension of categories of people included in the database, more data, including facial images, and facilitating greater law enforcement access.[7]

The proposals in the Migration Pact present a number of concerning issues from a human rights and racial justice perspective.

Racialised regime of control and punishment

Firstly, **the centrality of deportation and detention to the Migration Pact expands a highly racialised regime of control and punishment** of people on the move. As highlighted by a number of migrants' rights organisations, the Migration Pact proposes to massively expand the resort to detention and deportation of people on the move.[8] As pointed out by ECRE, the amended border procedures work on the flawed assumption that 'the majority of people arriving in Europe do not have protection needs.'[9] As such, the proposals contradict the principle of non-refoulement and greatly increase the numbers of people returned to regimes in which their lives are in danger.

The proposal on returns and deportations links negative asylum decisions with returns,

6. For a clear summary of the Migration Pact, see PICUM (2021). The EU Migration Pact: Questions and Answers. Available: https://picum.org/eu-migration-pact-questions-answers/
7. For a detailed analysis of the EURODAC proposal, see ECRE working paper 13 (2020). 'Transforming Eurodac from 2016 to the New Pact: From the Dublin System's Sidekick to a Database in Support of EU Policies on Asylum, Resettlement and Irregular Migration', authored by Dr Niovi Vavoula, available: https://ecre.org/wp-content/uploads/2021/01/ECRE-Working-Paper-Transforming-Eurodac-from-2016-to-the-New-Pact-January-2021.pdf
8. See PICUM (2021). Immigration Detention and Returns in the EU Migration Pact: How we can correct course, available at: https://picum.org/immigration-detention-and-returns-in-the-eu-migration-pact-how-we-can-correct-course/; ECRE (2020). Joint Statement: The Pact on Migration and Asylum: to provide a fresh start and avoid past mistakes, risky elements need to be addressed and positive aspects need to be expanded, available: https://ecre.org/the-pact-on-migration-and-asylum-to-provide-a-fresh-start-and-avoid-past-mistakes-risky-elements-need-to-be-addressed-and-positive-aspects-need-to-be-expanded/
9. ECRE (2020), Ibid.

leading to increased risk of refoulement and other violations such as arbitrary and prolonged detention, with lack of effective safeguards for vulnerable categories of people. This proposal makes voluntary return the only available "mandatory" option. Further, it does not offer alternatives to detention for vulnerable people, and detention of children is still allowed by the EU Return Directive.[10]

In particular, the normalisation of the regime of migration detention as standard practice in EU migration procedure is a form of population control rooted in the racialised governance of 'illegality'. The vast majority of people subjected to detention are racialised people, and their detention is implicitly justified by this process of racialisation. The application of quasi-criminal law measures, such as deprivation of liberty, to people simply seeking to migrate (and often who have not been proven to commit criminal offences) is only possible with a political process of racialised criminalisation and suspicion of people on the move. In addition, we are seeing the increased creation of criminal offences and penalties by EU Member States[11] for irregular movement (entry and stay) as well as the facilitation of such movement. As such we see the expansion of the criminal justice sphere to increasingly target and capture people of the move, often described as the growing 'crimmigration'[12] regime. This regime is fundamentally linked to racialised criminalisation, control and over-surveillance of people on the move.

Discrimination on the ground of nationality

Secondly, aspects of the proposals amount to **explicit discrimination on the grounds of nationality,** part and parcel of a broader normalisation of distinctions in treatment of third country nationals on the basis of assumptions related to nationality. Within the amended Asylum Procedures Regulation,[13] the new procedures would apply in a number of scenarios, including when the applicant is of a nationality where the proportion of cases of international protection granted is lower than 20%. This change proposes to introduce a presumption of un-trustworthiness to asylum applicants solely on the basis of their nationality, without regard to an individual's specific circumstances. Nationality is highly interconnected with conceptions of race and in many cases can constitute a proxy for race.

This approach reinforces increasing trends in global migration policy towards a false binary between 'refugee producing countries'[14] and those that are not, or in other words, the classification of people by nationality, with consequences for the credibility of asylum

10. Moreno-Lax and Allsopp, 'The EU Approach on Migration in the Mediterranean', 52.
11. https://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants-annex_en.pdf
12. Stumpf, Juliet P., The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power (2006). American University Law Review, Vol. 56, p. 367, 2006, Lewis & Clark Law School Legal Studies Research Paper No. 2007-2, Available at SSRN: https://ssrn.com/abstract=935547
13. See Article 41(3), Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU - COM/2020/611 final.
14. UNHCR Special Envoy, Vincent Cochetel visited Lampedusa in 2021 and tweeted that people arriving were mostly economic migrants. Sadly, Cochetel replied to accusations of promoting "blanket deportation" re-tweeting, that according to the UNDHR principles only people fleeing from persecution are granted asylum and, "those who arrived last night are coming from countries who are not 'refugee producing countries'" - Vincent Cochetel, 'Arrivals in Lampedusa 2/2 the Majority of Those Who Arrived Last Night Are Coming from Countries Who Are Not "Refugee Producing Countries". Art. 14 UDHR: Everyone Has the Right to Seek and to Enjoy in Other Countries Asylum from PERSECUTION.', Tweet, @cochetel (blog), 28 September 2021, https://twitter.com/cochetel/status/1442843240248614918.

claims. Indeed, such trends erode further the principle of individual assessment of each claim according to the Geneva Convention, and denies the intersectional factors that can contribute to an individual's experience of discrimination and harm.

Climate of racialised suspicion

Third, the Pact as a whole **legitimises a broader political climate of racialised suspicion**, further reinforcing narratives that people on the move are untrustworthy, dangerous and therefore must be subject to criminalising procedures. This is evident from the increased reliance on notions of 'risk' profiling in EU migration policy, embedding in legal procedures the notion that people on the move should be systematically assessed for risk to national security and/ or public order.

Many of the proposals in the Pact are likely to **exacerbate racial profiling at borders and within Member States.** For example, the Screening Regulation introduces mandatory border procedures for all third-country nationals, including those disembarked from search and rescue, crossing points and transit zones. The regulation also applies to those apprehended within Member States 'where there is no indication that third-country nationals have been subject to controls at external borders'.[15]

As PICUM highlights, this poses a risk to undocumented people already within Europe, providing grounds for apprehension and possible detention.[16] This aspect of the Screening Regulation provides an extremely wide basis for racial profiling and discriminatory policing practices in general, as whether or not there is an indication of there having been an external control is highly vague and will be applied discretionarily. Considering the widepread practice of racial profiling throughout Europe, racial factors will likely influence how screening processes are applied.

Structural violence against people on the move

Fourth, **the Pact authorises a greater regime of structural violence against racialised people on the move**, including the creation of ever more dangerous migratory routes, reduced scope of legal residence procedures,[17] and increased conditions of 'illegality', specifically justifying increased criminalisation of irregular entry/stay, and specific enforcement responses by authorities. All of this results and reinforces the stigmatisation and dehumanisation of people on the move.

15. Article 1, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817.
16. PICUM (2021). The EU's Migration and Anti-Racism Policies: Are we ready for a racism-free Europe? Available: https://picum.org/migration-anti-racism-policies-are-we-ready-for-racism-free-europe/
17. PICUM (2021). Between Asylum and Return, Space is Closing for Residence Permits for Undocumented Migrants: https://picum.org/space-is-closing-for-residence-permits-for-undocumented-migrants/

Contributing to these conditions of structural violence are the **highly colonial dynamics of the 'external partnerships' for migration management with third countries,** tying

agreements on visas and trade with the creation of border externalisation practices and enforced cooperation on control, surveillance and deporations. In combination with the Regulation on Crisis and force majeure which further legitimises the lack of accountability witnessed at border areas, these trends in EU migration policy wilfully foresee even more deadly conditions for people on the move.

As outlined further in section III, these deadly conditions for movement are exacerbated by the EU's policy of externalisation of borders, either funding counties such as Turkey at the Eastern doors of Europe to stop migration, aware of the lack of guarantees and respect for human rights or, putting the burden of migration control in Northern African countries. European countries have signed deportation agreements with African countries complicit in consolidating punitive migration regimes that violate the rights to protection that forced migrants have under international human rights law. Those agreements have become the justification of the illegal practice of push backs at land borders returning asylum seekers without assessing their claims after detention, degradation and ill-treatment. There is a real risk that the Regulation on Crisis and force majeure legitimises such practices.

> **The treatment of Black and Brown people at borders is a reflection of the dehumanisation engrained in a system of structural racism where white supremacy as an ideology established our value.**
>
> - Esther Mamadou, Coordinator at the Movimiento Por La Paz and Equinox Steering Group member.



All of these concerns, in addition to a range of critiques of the Migration Pact outlined elsewhere with respect to the complexity of the bureaucratic procedure and the impact on the rights of the child,[18] demonstrate how **EU migration policy is increasingly maintaining a system of racialised criminalisation of migrants and people on the move.** Rather than centring migration policy in a politics of care, need and human rights protection of people on the move, it favours a punitive approach with the ultimate goal of deterrence, suspicion, exclusion and removal.

18. PICUM (2021). PICUM Recommendations on Safeguarding children's rights in the Migration and Asylum Pact Proposals: https://picum.org/wp-content/uploads/2021/06/Child-rights-in-the-Asylum-and-Migration-Pact_final.pdf

Anti-trafficking Legislation

As outlined by the European Sex Worker's Rights Alliance (ESWA),[19] the EU's approach to sex work has also centred criminalisation as a policy response. On February 2014, the European Parliament voted in favour of a non-binding resolution on prostitution and sexual exploitation encouraging Member States to adopt laws criminalizing the purchase of sexual services. This model is generally known as the 'Nordic model' the purported aim of which is to halt trafficking through the criminalisation of clients of sex work.

Sex Work and Racism: An Overview of Racism in Anti-Sex Work, Anti-Trafficking and Anti-Immigration Legislation in Europe

When looking at the impact of migration policy on racialised people on the move, specific attention must be paid to sex workers and those who bear the brunt of anti-sex work and trafficking law and policy.[20]

As outlined by the European Sex Worker's Rights Alliance (ESWA) in ***Sex Work and Racism: An Overview of Racism in Anti-Sex Work, Anti-Trafficking and Anti-Immigration Legislation in Europe***[21] many racialised sex workers are (undocumented) migrants. The racism and discrimination they experience is structurally rooted in a socio-political landscape that includes anti-sex work, anti-trafficking, and anti-immigration (hereafter, ASWTI) laws and policies. These exclusionary policies and practices have their roots in histories of sexualised racialisation, including enslavement, colonialism and militarised prostitution.

Criminalisation approaches to sex work uncriticaly align with carceral feminism, which advocates for increased policng and punishment as the solution to violence against women. This approach ignores the ways that intersectional form of oppression like racism, classism, sexism, whorephobia, transphobia, and xenophobia make racialised sex workers more vulnerable to criminalisation and violence. Such approaches ignore the structural conditions that lead to the inequality that labour exploitation thrives on, and in particular how migrant and racialised people are exploited in precarious work more generally.

19. ESWA (2022). Sex Work and Racism: An Overview of Racism in Anti-Sex Work, Anti-Trafficking and Anti-Immigration Legislation in Europe, available at: https://www.eswalliance.org/sex_work_racism_first_community_report
20. PICUM (2019). Safeguardiing the human rights and dignity of undocumented migrant sex workers: https://picum.org/safeguarding-the-human-rights-and-dignity-of-undocumented-migrant-sex-workers/
21. ESWA (2022). Sex Work and Racism: An Overview of Racism in Anti-Sex Work, Anti-Trafficking and Anti-Immigration Legislation in Europe, available at: https://www.eswalliance.org/sex_work_racism_first_community_report

(B) Resources: How much will it cost to govern migration?

In 2021, the European Council adopted two main financial instruments to support the Union's long-term priorities: the new multiannual financial framework (MFF – 1,074 billion) for the years 2021 to 2027 and the Next Generation EU recovery instrument (750 billion) for a total of 1.8 trillion euros. Under the MFF, the EU committed 22.7 billion euros for migration and border management, respectively 9.8 and 12.7 billion.[22]

The MFF includes, under its Migration heading, the Asylum, Migration Integration Fund (AMIF – 8.7 billion) and budgets for the "decentralised agencies" among which FRONTEX, EUAA (former EASO) and eu-LISA (1.1 billion). Under the Border Management heading are the Integrated Border Management Fund (IBMF – 6.5 billion) and other activities of the decentralised agencies (7.2 billion).[23]

Funds related to migration are also included in the Security and Defence heading (13.1 billions), as well as in the Neighbourhood and the World's Fund (98.4 billion).[24] The last, currently still under discussion, includes a migration spending target of 10%, for unexpected events or "migratory pressure" at the "Union's or its neighbour's borders".[25]

In comparison to the MFF of the previous period and despite the cuts of the Council on the Commission's original proposal, 'border management' has higher allocations than 'migration'.[26] The attention to securitisation at the expense of reception and regular migration channels is even clearer looking at the sharp increase of Frontex's budget.

In 2019, FRONTEX was the EU's third-highest funded agenda.[27] However, in October 2021, the EU Parliament voted to partially freeze Frontex's budget until the required fundamental rights monitoring mechanism is in place.[28] In the MFF, Frontex (in the budget, EBCGA) is funded for 5.1 billion.[29] This is a significant growth considering that in 2015 during the so-

22. The European Commission proposed an initial budget of 30.8 billion that the European Council reduced. Alessandro D'Alfonso, 'Migration and Border Management - Heading 4 of the 2021-2027 MFF (JAN2020)', n.d., 12; Alessandro D'Alfonso, 'Migration and Border Management: Heading 4 of the 2021-2027 MFF (APR 2021)', n.d., 15.
23. D'Alfonso, 'Migration and Border Management: Heading 4 of the 2021-2027 MFF (APR 2021)', 14.
24. European Council, 'Special Meeting of the European Council (17, 18, 19, 20 and 21 July 2020)', 21 July 2020, https://www.consilium.europa.eu/media/45109/210720-euco-final-conclusions-en.pdf.
25. This includes the following regions such as: European Neighbourhood (Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestine, Syria, Tunisia, and Ukraine); sub-Saharan Africa; Asia and the Pacific; and the Americas and the Caribbean. IMMENKAMP Beatrix, 'A New Neighbourhood, Development and International Cooperation Instrument', n.d., 6,9
26. D'Alfonso, 'Migration and Border Management - Heading 4 of the 2021-2027 MFF (JAN 2020)', 9.
27. European Court of Auditors (2020) 'Annual report on EU agencies for the financial year 2019' Available at: https://www.eca.europa.eu/Lists/ECADocuments/AGENCIES_2019/agencies_2019_EN.pdf
28. EP asks for part of Frontex budget to be frozen until key improvements are made | Atualidade | Parlamento Europeu', 21 October 2021, https://www.europarl.europa.eu/news/pt/press-room/20211014IPR14931/ep-asks-for-part-of-frontex-budget-to-be-frozen-until-key-improvements-are-made.
29. European Parliamentary Research Service, 'The European Commission's New Pact on Migration and Asylum. Horizontal Substitute Impact Assessment.', 147.

called "migration crisis" its budget was 137 million.[30] The legitimacy of Frontex as an agency is now increasingly called into question by various efforts of the European Parliament, calling for greater accountability and oversight.[31]

According to the European Court of Auditors (ECA), Frontex's budget should reach 11 billion during the period 2021 – 2027. During this period, for the first time in the Union history, 10,000 Frontex officers will be hired and deployed at EU external borders. However, the recent refusal of the Polish government to get Frontex support offered by the Commission poses doubts on the implementation of such a plan.

Funding Fortress Europe: Major EU migration funds

The Migration Fund

The Asylum Migration and Integration Fund (AMIF) (8.7 billion) has the stated objectives of strengthening a common asylum policy, supporting legal migration and integration, and "fighting against" irregular migration. The fund management is divided as follows: 63.5% is co-managed by the EU and Member States, according to the number of third country nationals, asylum claims, returns (decisions and those actually carried out) and other factors. The rest (36.5%) is directly managed by the EU institutions for emergency assistance in case of resettlements or humanitarian admissions, relocations between member states and sponsored deportations (as introduced by the New Pact). The mechanism of sponsored resettlement and relocation is new, previously unseenin the past 6 years MFF. The financial support is set to 10.000 euros per person for resettlement and relocation to each member state.[32]

The Border Management Fund

The Integrated Border Management Fund (IBMF) (6.5 billion) is slightly more opaque and more complicated to obtain precise information as to funding allocations. The fund is composed of the Border Management and Visa Instrument (BMVI, approx. 5.5 billion) and the Custom Control Equipment Instrument (CCEI, approx. 1 billion). Its objective is to support both border control operations of FRONTEX and national authorities as well as financing a common visa policy.[33]

Despite the fact that under the IBMF the EU acknowledged the need to facilitate "legitimate" travels and strengthen respect of fundamental rights, in the past years these budget headings included border control equipment, e.g. currently used to push back people at borders, while providing a lucrative profit for several European security companies, e.g. the

30. European Court of Auditors, 'Audit Preview. FRONTEX', January 2020, 10, https://www.eca.europa.eu/Lists/ECA-Documents/AP20_02/AP_Frontex_EN.pdf.
31. European Parliament, (2022) 'MEPs delay signing off on accounts of EU border control agency Frontex' https://www.europarl.europa.eu/news/en/press-room/20220429IPR28235/discharge-meps-delay-signing-off-on-accounts-of-frontex
32. European Commission, 'Proposal For a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Asylum and Migration Management and Amending Council Directive (EC) 2003/109 and the Proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund]', 23 September 2020, 92–94, https://ec.europa.eu/info/sites/default/files/proposal-regulation-asylum-migration_en-1.pdf.
33. D'Alfonso, 'Migration and Border Management: Heading 4 of the 2021-2027 MFF (APR 2021)', 6.

Italian Cantiere providing to Greece, Italy and Malta 122.7 million in patrolling vessels.[34]

Predecessors of the IBMF were the External Borders Fund (EBF, 2007-2013) and the Internal Security Fund – Borders (ISF, 2014-2020). From 2014 to 21 September 2021 the ISF paid 1.9 billion for Border & Visa and 555.6 million for police equipment and other expenses.[35]

The IBMF also supports the new Screening Regulation, however this proposal is subsequent to the original MFF (drafted in 2018), therefore it is expected that for the new screening infrastructures, as well as hiring of additional staff, the fund total budget might increase in the coming years.[36]

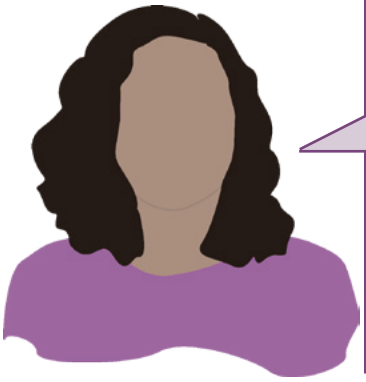
Funds for AI in Migration and Border Control

In the previous 2014–2020 MFF, other security-related projects were included in other headings. Two projects are particularly notable. The first, RoBORDER, was financed for 8 million by the EU Horizon 2020 Research programme budget.[37] This project, ending in 2021, is led by a non-profit research institute based in Thessaloniki,[38] in partnership with twelve other countries (Portugal, United Kingdom, Romania, Germany, Italy, Switzerland, Bulgaria, Spain, Hungary, Belgium, Finland, and Estonia).[39]

Secondly, iBorderCtrl, also financed under Horizon 2020 for 4.5 million euros, piloted emotional recognition tools (in Greece, Hungary and Latvia), aiming at "developing a decision support system for border checks".[40] Despite the fact that the Commission has classified many AI systems used in migration, asylum and border control as "high-risk" under its recently proposed Artificial Intelligence Act'[41] several funding instruments and investments promote the use of AI and other automated systems, especially for border security and control.[42] Such systems have vast human rights implications for people on the move and pose a particular concern from a racial justice perspective, in particular as they contribute to an increasingly racialised regime of surveillance of people on the move, often exacerbating violent and punitive border practices.[43]

34. 'European Parliament Votes on Integrated Border Management Fund', accessed 17 November 2021, https://abolishfrontex.org/blog/2021/07/03/european-parliament-votes-on-integrated-border-management-fund/.
35. European Commission, 'Summary Allocation Member State AMIF -ISF (Border-Visa and Police)', 21 September 2021, https://ec.europa.eu/home-affairs/system/files/2021-09/summary-allocation-member-state-amif-isf-border-visa-and-police_en.pdf.
36. 'Financial Implications of the New Pact on Migration and Asylum: Will the Next MFF Cover the Costs? – EU Immigration and Asylum Law and Policy', accessed 17 November 2021, https://eumigrationlawblog.eu/financial-implications-of-the-new-pact-on-migration-and-asylum-will-the-next-mff-cover-the-costs/.
37. 'Autonomous Swarm of Heterogeneous RObots for BORDER Surveillance | ROBORDER Project | Fact Sheet | H2020 | CORDIS | European Commission', accessed 20 November 2021, https://cordis.europa.eu/project/id/740593.
38. 'ETHNIKO KENTRO EREVNAS KAI TECHNOLOGIKIS ANAPTYXIS | Mathisis', accessed 20 November 2021, http://www.mathisis-project.eu/en/content/ethniko-kentro-erevnas-kai-technologikis-anaptyxis.
39. Homo Digitalis, 'Homo Digitalis' Input to the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Ms. E. Tendayi Achiume, for Her 2020 Thematic Report to the General Assembly Related to Race, Borders, and Digital Technologies', 2.
40. European Parliament. Directorate General for Internal Policies of the Union., Artificial Intelligence at EU Borders, 4.
41. Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN HARMONISED RULES ON ARTIFICIAL INTELLIGENCE (ARTIFICIAL INTELLIGENCE ACT) AND AMENDING CERTAIN UNION LEGISLATIVE ACTS COM/2021/206 final
42. European Parliament. Directorate General for Internal Policies of the Union., Artificial Intelligence at EU Borders, 10.
43. EDRi (2020). Technological Testing Grounds: Migration Management Experiments and Reflections from the Ground Up, authored by Petra Molnar, available: https://edri.org/wp-content/uploads/2020/11/Technological-Testing-Grounds.pdf

It is clear therefore that vast sums are deployed at the EU level to facilitate and manage a highly racialised regime of violence, control and surveillance of people on the move. Moving beyond (albeit important) demands of greater transparency and accountability for how these funds are spent, there must also be a deeper appraisal of why such funds are mobilised in the first place. The vast infrastructure and spending on the highly securitised border regimes rests on a racist logic that migration and migrants are a 'threat' to Europe's security, and therefore, by definition, must be halted and controlled through vast means. Similar logic is not used when the migrants are white. Racialised framings of suspicion, danger and threats justify significant levels of violence, discrmination and resources being spent; funds which could be much better deployed toward adequate protection and meeting the needs of people on the move.



"The EU is spending billions every year to "manage" migration flows that its colonial past contributed to. Climate breakdown caused by the global north has already made many people's homes unlivable and forced them to move. It will only get worse. The EU needs to take responsibility for its actions and environmental organisations have a duty to fight eco-fascist narrative that climate action is needed because it would increase migration."

- Myriam Douo - social and climate justice activist and Equinox Steering Group member

Further, these vast sums have a significant impact on the climate. As outlined by the Transnational Institute, wealthier nations, (including specifically within the EU) are focusing on borders and security mechanisms, spending collectively at least twice as much on immigration and border enforcement than climate finance.[44] The focus on the militarised response to migration, expanding border and surveillance infrastructure provides 'booming profits for a border security industry but untold suffering for refugees and migrants who make increasingly dangerous - and frequently deadly - journeys to seek safety in a climate-changed world.' Significantly, the report points to a 'nexus of power, wealth and collusion' between the border security industry, fossil fuel firms, and EU policymakers who unite on a common agenda on increasing border securitisation, militarisation and externalisation.[45] These dynamics are even more striking within a historical context of colonialism and climate change, in which wealthy countries have contributed most to changing climate and environmental factors, a major cause of displacement and movement. Rather than account through reparation and providing safe routes, the EU has implemented a punitive response to migration steeped in violence, securitisation, detention and deportation.

44. Transnational Institute. (2021). 'Global Climate Wall: How the world's wealthiest nations prioritise borders over climate action': available: https://www.tni.org/files/publication-downloads/global-climate-wall-report-tni-web-resolution.pdf
45. Ibid, pp 3, 6,

(C) EU Anti-Racism Policies – The Anti-Racism Action Plan

In June 2020, European Commission President Ursula von der Leyen denounced racism within the Union.[46] In September 2020, The Commission announced the first-ever EU Anti-Racism Action Plan,[47] which acknowledges European colonialism and slavery as foundations of structural racism in the EU today.

To what extent does the Action Plan address the interconnections between EU migration policy and structural racism in the EU?

Unfortunately, the Action Plan fails to meaningfully engage with the racial discrimination, violence and exclusion maintained by EU migration policy. The Action Plan contains no specific section dedicated to the appraisal of EU migration policy and its impact on the safety of racialised people. Nor does the document explore the issue of border violence, or how EU migration policies contribute to discrimination against migrants in Europe. Whilst there is a passing reference findings from the EU Fundamental Rights Agency demonstrating that immigrant background is a factor contributing to racial profiling[48] and some acknowledgement of the labour market discrimination faced by 'migrant youth',[49] the Action Plan neglects to explore the relationship between EU policies and experiences of disproportionate targeting and or discrimination.

The Action Plan recognises to some extent that new technologies such as Artificial Intelligence (AI) could reinforce racial biases, especially if used for asylum procedures and border security. However, it does not go so far as to condemn such uses, despite the broad range of fundamental rights issues related to those uses, including the extraction and testing of data processing practices against people in vulnerable situations, the extent to which those systems amount to mass surveillance or use pseudo-science, or that such systems often promote discriminatory profiling practices. According to the Plan, newly proposed legislative frameworks will protect from clearly identified risks of using AI, especially on racialised people. However, some of these technologies are already part of pilot projects like RoBORDER[50] and iBorderCtrl,[51] where, in the latter case AI was used for lie detection using emotion recognition technologies.[52]

46. European Commisson, (2020). 'We need to talk about racism' Speech from President Ursula von der Leyen, 17 June 2020. Available: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/racism-and-xenophobia/eu-anti-racism-action-plan-2020-2025_en
47. European Commission (2020). 'A Union of equality: EU anti-racism action plan 2020-2025' Available: https://ec.europa.eu/info/sites/default/files/a_union_of_equality_eu_action_plan_against_racism_2020_-2025_en.pdf
48. Ibid. p3.
49. Ibid. p11.
50. 'Aims & Objectives – Roborder', accessed 20 November 2021, https://roborder.eu/the-project/aims-objectives/.
51. 'Intelligent Portable Border Control System | IBorderCtrl Project | Fact Sheet | H2020 | CORDIS | European Commission', accessed 20 November 2021, https://cordis.europa.eu/project/id/700626.
52. Homo Digitalis, 'Homo Digitalis' Input to the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Ms. E. Tendayi Achiume, for Her 2020 Thematic Report to the General Assembly Related to Race, Borders, and Digital Technologies', 13 May 2020, https://www.ohchr.org/Documents/Issues/Racism/SR/RaceBordersDigitalTechnologies/Homo_Digitalis.pdf; European Parliament. Directorate General for Internal Policies of the Union., Artificial Intelligence at EU Borders: Overview of Applications and Key Issues. (LU: Publications Office, 2021), 17, https://data.europa.eu/doi/10.2861/91831.

The Plan, additionally, aims at fighting racism and discrimination as a "fundamental objective of the EU's human rights agenda in external relations and as such reflected in relevant EU's international agreements and external action policy documents".[53] However, agreements with Libya, Niger, Senegal, Turkey and many other agreements and external activities in which the EU is involved directly or indirectly violate the same fundamental rights agenda the Plan wants to promote.

Unfortunately, in the Action Plan, the European Commission does not address the root causes of these issues, and they remain to some extent an abstract phenomenon. The majority of the Action Plan addresses how to combat examples of racism between individuals, hate crime, online hate speech, stereotypes, among others. Whereas the section 'countering discrimination by law enforcement authorities' presented some promise of addressing the structural nature of racism, this section unfortunately did not make the link between discrimination and violence committed by law enforcement and related behaviour by immigration and border agents against people on the move.

These oversights are characteristic of a failure to reckon with the structural nature of racism in the EU. Overlooking the role of EU migration policy in perpetuating racial discrimation is a prime example of this shortcoming. A fundamental shortcoming of the Action Plan is that is does not outline any explicit steps the EU institutions will take toward reviewing migration policy from a perspective of equality or non-discrimination, nor any analysis as to how such policies impact the safety and dignity of racialised people.

By omitting issues of criminalisation, violence, and discrimination against racialised people, the Action Plan neglects not just issues of racial justice but an intersectional understanding of inter-connected racialised, classed and gendered oppression in the migration context. Specifically, we see how EU and Member State policies make distinctions about the legitimacy of movement based on a number of factors, with potential discrimination on the basis of race, ethnicity and nationality as outlined above, but also class and sociol-economic situation, determined by migration categories based on skills and labour market requirements.[54] Further, the highly gendered nature of migration precarity is often addressed with resort to increased frameworks of criminalisation, rather than the need for greater support. From an intersectional perspective, these are the forms of precarity, discrimination and violence that must be addressed by anti-racism, gender and migration policy.

53. European Commission, 'A Union of Equality EU Action Plan Against Racism 2020-2025', 20.
54. PICUM (2021). 'Labour migration policies in Europe: challenges and ways forward' available at: https://picum.org/labour-migration-policies-in-europe-challenges-and-ways-forward/

III. What's happening on the ground?

The impact of EU migration policy on racialised people on the move

As highlighted in section II, EU migration policy is increasingly shifting toward a practice of criminalisation, exclusion and violence against people on the move. With the increased resort to discriminatory profiling, detention and deportation, with ever more resources dedicated to these ends, the situation for people on the move will continue to worsen.

This set of renewed deterrence policies facilitates the deaths of thousands of people every year, the majority of them racialised. The lack of adequate visa policies, travel permits and any forms of safe passage push many people towards increasingly dangerous routes.

Anti-racist organisation 'UNITED for Intercultural Action' documented, between 1993 and 2021, at least 44,764 migrant deaths.[55] This number is astounding. Yet, as the previous section argues there is a systematic lack of engagement with how far EU policies (such as the hotspot approach and commitments within financial instruments, such as the 22 billion euros planned for migration and border management within the Multiannual Financial Framework) have contributed to the situation on the ground. Even less acknowledged is the connection between these deaths and the broader European history of violence, enslavement, colonisation and exploitation of the peoples and countries from which many people concerned originate.

The aforementioned trends, including violence, discrimination and profiling at the borders, precarity and exclusion in access to services, and explicitly racialised and discriminatory political rhetoric were present in the international response to the Ukraine crisis.

55. UNITED for Intercultural Action, (2021). 'Fatal Policies of Fortress Europe', Fatal Policies of Fortress Europe, accessed 21 February 2022, http://unitedagainstrefugeedeaths.eu/.

Case Study: Racial discrimination in protection responses to Ukraine

The European protection response following Ukraine has demonstrated the ability of States to show solidarity and reorient resources toward those in need, with the swift adoption and implementation of the EU Temporary Protection Directive[56] to ensure protection of people fleeing Ukraine. However, we also saw the limits of this solidarity through the racialised lens. In March 2022, a number of reports documented racial discrimination against black and brown people seeking to flee the Ukraine. Those reports included cases of discrimination and profiling at the borders of numerous EU countries,[57] particularly from people of African, Asian and Middle-Eastern descent, as well as discrimination against queer and trans people of varied origins.[58] In some Member States, there were reports of third-country nationals (mainly racialised people) ilegally detained after fleeing Ukraine, often after enduring harsh weather conditions and instances of violence and discriminatory practices from border guards. In some examples, students were required to sign documents in languages they did not understand. Many people were denied access to proper healthcare and accomodation.

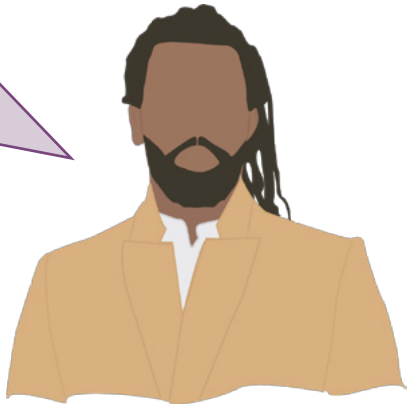
The introduction of the Temporary Protection Directive (TPD) was a promising signal that EU MS intended to organise resources according to protection needs. However, there were major concerns that the implementation of the TPD would be limited to those who could demonstrate Ukrainian nationality or legal residence, thus leading to the exclusion of racialised people from the rights and access to services the TPD would offer. Despite some positive steps taken by some Member States (such as Spain and Finland) to implement the TPD in an inclusive way, there were reports of discrimination in treatment even in those states, including a difference in procedures and processing times, with faster tmes for those presumed to be white Ukranians.

More generally, it is striking in itself that this was the first time the TPD was activated. It was not activated for people fleeing other conflicts and crises, demonstrating differential treatment on the basis of race, ethnicity and nationality. The sentiment of increased empathy for white victims of war was clearly demonstrated in an interview given by Ukraine's Deputy Chief Prosecutor, David Sakvarelidze:

'Look Ukrainians are like us, they have blonde hair, blue eyes, they drive the same car as we do, they are educated.'

56. Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.
57. New York Times, 'Africans say Ukrainian Authorities Hindered them From Fleeing' https://www.nytimes.com/2022/03/01/world/europe/ukraine-refugee-discrimination.html; Independent, 'UkraineL Concerns mount as Black people report racism while fleeing war zone: 'https://www.independent.co.uk/news/world/europe/ukraine-refugees-racism-russia-invasion-b2024175.html ; Baaz News Org: https://twitter.com/BaazNewsOrg/status/1497942177720193024
58. Reliefweb 'Protection of LGBTIQ+ people in the context of the response in Ukraine': https://reliefweb.int/report/ukraine/protection-lgbtiq-people-context-response-ukraine

If any lesson is to be learned from the EU's response to refugees fleeing the Ukraine is that it knows how to treat refugees humanely. The EU knows that refugees need support in order to rebuild their lives. They don't need drones and new technologies to prevent them from reaching safety. We can only hope that the consensus in decision-making on how the EU should respond to people fleeing war in Ukraine will be maintained and extended to Middle Eastern, Asian and African people seeking safety.



- Bulelani Mfaco, Movement of Asylum-seekers in Ireland and Equinox Steering Group member

The experience of racialised people entering Europe is almost completely absent in EU policymaking conversations. Rarely in the assessment of EU policies do we hear from people directly affected by these policies, and rarely is policy made centering those needs and experiences.

This section, drawing from a combination of interviews with people on the move, efforts of civil society and desk research of reporting and investigation into the impact of EU migration policy, attempts to highlight, and takes steps toward centering those perspectives. The section is structured in a series of questions designed to speak to questions of safety of people on the move.

(A) Am I safe entering the EU?

Safety in countries of origin

Crucial to the question of safety of people reaching EU borders is, who determines what is safe? Unfortunately, for many, this question becomes less about their personal situation and experiences, but rather a process of top-down determination of 'safe countries of origin.'

From the end of the 1990s, the EU has spent increasing resources to set the agenda on such classifications. More recently, this has seen the failure of the Khartoum process and the following Valletta talks, under which EU member states tried to redefine the common agenda on labelling safe countries and increasing deportations. A recent case in point is the classification of Afghanistan. Until a few weeks before the US and allied armies left the country, several EU Member States, including different European politicians, addressed a letter to the Commission wanting to continue the deportation of Afghani nationals back to Afghanistan.[59]

59. Deutsche Welle, 'Six Countries Urge EU to Continue Afghan Deportations | DW | 10.08.2021', DW.COM, accessed 18 November 2021, https://www.dw.com/en/six-countries-urge-eu-to-continue-afghan-deportations/a-58817822.

When exploring the question of safety in countries of origin, it is also crucial to explore the impact of externalisation policies. The process of externalisation has affected national economies and livelihoods, with direct impacts on people's lives.[60] Agreements with several sub-Saharan countries are having direct consequences on the political, social, economic and legal aspects of different communities along migration routes.[61]

This is the case, for example, of Niger and Senegal. Both countries have seen a reshaping of their internal borders with increasing checkpoints controlling south to north movements.[62]From the beginning of 2000s the EU has allocated vast sums to the governance and control of the sub-Saharan borders.

For example, the Aeneas programme from 2007 to 2013 (380 million euros) had the ambition of ensuring the management of migratory routes and tackling irregular migration. In Niger, under this programme, French policemen equipped Nigerian border posts with "jeeps, night radar, computers, machines to detect fake identity papers and to take biometric fingerprints, and internet access to retrieve Interpol files" even though in some posts there was no running water or 24hr electricity.[63]

In Senegal this process of externalisation took a more neo-colonial transactional approach. The EU-Senegal agreement, signed in 2019 for 1.7 million, defines the usage of Senegalese ocean waters. This political and economic contract gives the right to EU vessels (mainly Spain, Portugal and France) to fish 10,000 tonnes of tuna per year.[64] The agreement allocates 900,000 euros in support of the Senegalese fishery sector. However, people arriving from Senegal to Europe tell a different story. They are forced to leave since local fishermen cannot compete with the European boats.[65] This is but one of numerous examples where EU migration policy shapes the pre-conditions of the journey to Europe.

The Journey

The violence experienced by people on the move when travelling to Europe is a fundamental example of structural racism in practice, and the connections between this experience and EU policy and practice that must be made.

So far the EU has allocated around 455 million euros for the 'protection' of people migrating, refugees and internally displaced under the EU Emergency Trust Fund for Africa (EUTFA).

Libya has been one of the main recipients.[66] This includes, among others, the financial support

60. Greenpeace, 'Europe Wants Senegal's Fish but Rejects Its Migrants', Greenpeace Africa, accessed 19 October 2021, https://www.greenpeace.org/africa/en/press/12666/europe-wants-senegals-fish-but-rejects-its-migrants/.
61. Julien Brachet, 'Manufacturing Smugglers: From Irregular to Clandestine Mobility in the Sahara', The ANNALS of the American Academy of Political and Social Science 676, no. 1 (March 2018): 16–35, https://doi.org/10.1177/0002716217744529.
62. Associazione per gli studi Giuridici sull'immigrazione (ASGI), 'FOCUS NIGER', Sciabaca & Oruka (blog), 6 August 2021, https://sciabacaoruka.asgi.it/en/focus-niger/; claudiofeliziani, Entretien Avec Mamadou GoïTa - People Global Action Berlin -
63. Brachet, 'Manufacturing Smugglers', 22–23.
64. POPESCU Irina, 'EU Fisheries Agreement with Senegal', n.d., 1.
65. '"Fish Are Vanishing" - Senegal's Devastated Coastline', BBC News, 1 November 2018, sec. Africa, https://www.bbc.com/news/world-africa-46017359.
66. 'EU-Libya Relations', Text, EEAS - European External Action Service - European Commission, accessed 19 October

to the Libyan Coast Guard, which is appointed to cover border management and the search and rescue (SAR) in the Central Mediterranean. In addition there are bilateral agreements between Member States and Libya. The MOU signed in 2017 with Italy, for example, includes funds for detention centres and equipment for the Coast Guard.[67]

Despite these agreements, in Libya thousands of people continue to escape from horrendous detention centres, in which they are subjected to severe forms of violence including sexual abuse, kidnapping, torture, trafficking, enslavement and killing.[68] The lack of any safe passage to exit Libya leaves many persons with the only option of risking their lives across the sea.

Nonetheless, the EU established in November 2017 an Emergency Transfer Mechanism (ETM) from Libya to Niger to address this, primarily framed as a 'migration management' and 'security' issue.[69] 45 million euros via the EUTFA were given to UNHCR to run the ETM.

In almost four years (until June 2021) only 3,361 persons were evacuated from Libya.[70] Many continue to attempt to cross the Mediterranean Sea. IOM data shows that since 2014, 24,144[71] people were reported dead or missing in the Mediterranean, making it the world's deadliest migration route. It cannot be ignored that these people are racialised and non-European, and that these features necessarily play a role in justifying the level of structural violence enacted on them.

Systematic Push-Backs and the Normalisation of Violence

In February 2020 the ECtHR ruled against applicants from Mali and the Ivory Coast who brought a case challenging push-backs at a border fence in Melilla fence. According to the Court their push-back did not violate the European Convention on Human Rights.[72] The two Spanish enclaves in Morocco of Ceuta and Melilla are not only a reminder of Europe's colonial heritage but also represent the many zones of exception in which the fundamental rights of racialised people can be easily sidestepped for political reasons. Unfortunately, the Court's reasoning justified the conduct of the border guards, and in doing so reinforced racist notions of 'threat' and risks posed by(racialised) migrants. From then the ECtHR ruling has been often used to justify pushbacks.

In the past years NGOs have systematically documented push-backs and violence at the border.[73] Recent footage by the Lighthouse Reporting shows for the first time on camera

2021, https://eeas.europa.eu/headquarters/headquarters-homepage/19163/eu-libya-relations_en.

67. Violeta Moreno-Lax and Jennifer Allsopp, 'The EU Approach on Migration in the Mediterranean', n.d., 133.

68. OHCHR, '"Lethal Disregard" Search and Rescue and the Protection of Migrants in the Central Mediterranean Sea', May 2021, https://www.ohchr.org/Documents/Issues/Migration/OHCHR-thematic-report-SAR-protection-at-sea.pdf.

69. Until August 2021 only 133 were evacuated from Libya. UNHCR, 'Resettlement and Other Solutions for Refugees in Libya, Niger and Rwanda' (United Nation High Commission for Refugees, August 2021).

70. Moreno-Lax and Allsopp, 'The EU Approach on Migration in the Mediterranean', 136.

71. According to the Missing Migrant Project, International Organisation for Migration: https://missingmigrants.iom.int/

72. 'Grand Chamber Judgement N.D. and N.T. v. Spain - Immediate Return of Migrants after Unauthorised Scaling of Melilla Enclave Fences: No Violation of the Convention', accessed 21 October 2021, https://hudoc.echr.coe.int/eng-press#{%22itemid%22:[%22003-6638738-8816756%22]}; 'Pushbacks In Melilla: Nd And Nt V. Spain Forensic Architecture', accessed 21 October 2021, https://forensic-architecture.org/investigation/pushbacks-in-melilla-nd-and-nt-vs-spain.

73. Médecins Sans Frontières, 'Games of Violence', 2017; Amnesty International, 'Europe's BorderlandsViolations against Refugees and Migrants in Macedonia, Serbia and Hungary', 2015, https://www.amnestyusa.org/wp-content/

physical violence perpetrated by the Croatian border forces.[74] The latest ECtHR ruling provides faint hope for accountability for pushbacks. The judgement found Croatian authorities responsible in the Medina case, where a 5 year old child was killed by a train after she, her mother and 5 siblings were pushed back along active train tracks by the Croatian border guards.[75]

Case Study: Greece-Turkey Militarised border enforcement and the consequences of EU politics

In Greece, from March 2020, the beginning of the Covid-19 pandemic, the government suspended the right to claim asylum. Everyone crossing the Greek border was arrested and detained and denied the ability to claim their rights under international law; and many who attempted to cross the Greek-Turkish border were pushed back, often abducted near the Evros border or on the islands and left adrift in orange rafts purchased with EU money.[76]

On 27 February 2020, the Turkish government opened its borders with Greece in the midst of failing talks in the EU-Turkey deal, in an attempt to exert political pressure on the EU over Syria. Thousands of people were able to cross into the EU through a single point (the fence near Kastanies/Pazarkule) on the land border, with the promise of an open route to Europe.

The Greek government responded by deploying its police and military to the region. It warned migrants not to cross, and suspended its asylum system. After several days of tension, on 3 March, a committee of EU officials, including the Greek Prime Minister, Kyriakos Mitsotakis, and the European commission president, Ursula von der Leyen, visited the region. They gave a joint statement, where der Leyen praised Greece as the 'shield' of Europe.

In the following days, violence escalated at the border. A person trying to cross into Greece, Muhammad Gulzar, was shot dead, allegedly by a Greek border guard. Despite an accurate reconstruction of the incident by Forensic Architecture, no one has been found responsible so far by officials; on the contrary in Greece xenophobic and racist sentiments against racialised people have increasingly been normalised.[77]

Contrary to Greece, Poland did not accept FRONTEX support, but built a new fence and deployed approximately 12,000 soldiers at the Belarusian border to counter thousands of people.

uploads/2017/04/ser-mac_migration_report_final.compressed.pdf.

74. 'Unmasking Europe's Shadow Armies', Lighthouse Reports (blog), accessed 21 October 2021, https://www.lighthousereports.nl/investigation/unmasking-europes-shadow-armies/.

75. 'Judgement M.H. and Others v. Croatia - Multiple Violations Concerning Afghan Family Whose Daughter Died at Croatian Border', accessed 21 November 2021, https://hudoc.echr.coe.int/eng-press#{%22itemid%22:[%22003-7183946-9752781%22]}.

76. 'Aegean Regional Analysis', Alarm Phone (blog), 14 October 2020, https://alarmphone.org/en/2020/10/14/aegean-regional-analysis-28-february-30-september-2020/.

77. 'The Killing Of Muhammad Gulzar Forensic Architecture', accessed 21 October 2021, https://forensic-architecture.org/investigation/the-killing-of-muhammad-gulzar.

The direct actions of political leaders also have direct consequences for the safety of people on the move, especially in a climate of increasing anti-migrant sentiments.

In Hungary, the Prime Minister has systematically sought to define his country as a defender of the European Christian democracy from "incoming Muslim communities".[78] From 2015, Hungarian organised groups erected two fences, one electrified, to block the Serbian border. A neo-Nazi paramilitary group was enrolled in the border guards and, in the past decade, several racist media campaigns have flourished denigrating migrants, LGBTQI+ and other marginalised communities in the country.

With the complicity of different authorities, between 2016 and 2018, Hungary has also implemented an unofficial system of lists divided by nationalities and languages, mainly Arabic speakers (which will include Kurdish and Yazidi speakers) and Farsi speakers (including Urdu and Pashto speakers). The two lists divided the transit zones of Röszke and Tompa at the border with Serbia. Such transit zones are now closed after the European Court of Justice ruling declaring inhumane the prolonged detention in such structures.[79]

(B) Where am I going to stay?

Detention and the 'Hotspot' approach

Following the precarity and violence of migratory routes, including in some cases periods in camps and detention facilities, people entering the EU territory are screened and identified in reception facilities. In Italy and Greece these structures are part of a strategy named the hotspot approach.[80] Introduced in 2015 as response to the failure of the Dublin system,[81] in the past six years of implementation, the hotspot approach showed how people contained in those facilities are subjected to torture, rape and other serious forms of violence, living in inhumane conditions. The lack of political interest in providing adequate capacities to manage such infrastructures, or in imagining a different reception system, enables these extreme and violent conditions.

In September 2020, when a fire destroyed the hotspot of Moria, more than 13,000 people were in and around facilities with a nominal capacity of less than 3,000 (in the winter of 2019/2020 up to 20,000 people lived in Moria). From 2016 at least 21 persons died (although we do not know how many died after for the consequences of living in such conditions) and in Samos and Lesvos alone there were a total of 12 fires.[82] Despite the fact that after Moria's fire the Commissioner Y. Johansson announced "no more Morias", in March 2020 the Commission renewed the hotspot approach by providing Greece with more than 250 million euros for the construction of the 5 new hotspots on the Aegean islands.[83]

78. POSTS, 'Full Speech of V. Orbán'.
79. Balkan Insight (blog) (2021). 'Hungary to Close Transit Zones After European Court Ruling', 21 May 2020, https://balkaninsight.com/2020/05/21/hungary-to-close-transit-zones-after-european-court-ruling/.
80. 'Hotspot Approach', accessed 19 October 2021, https://ec.europa.eu/home-affairs/pages/glossary/hotspot-approach_en.
81. Melina Antonakaki, Bernd Kasparek, and Georgios Maniatis, 'Counting Heads and Channelling Bodies. The Hotspot Centre Vial in Chios, Greece', n.d., 17.
82. Médecins Sans Frontières, (2021) 'Constructing Crisis at Europe's Borders', June 2021, 4.
83. European Council on Refugees and Exiles (ECRE) (2021) 'Greece: Millions of EU Euros for Fenced Structures in the Aegean, Preventable Deaths in Detention, and Pushbacks Dismissed as "Fake News" by Greece | accessed 19 No-

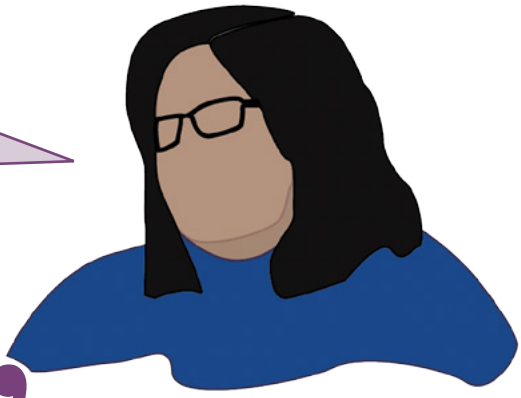
Currently there are nine hotspot facilities in the EU: four in Italy and five in Greece.[84] These facilities continue to be praised as a European 'solution'. At the beginning of November 2021, the Greek Prime Minister K. Mitsotakis celebrated how the new Samos centre is "impeccable" and includes "playgrounds" for children,[85] omitting that playgrounds are fenced with barbed wires in a remote area in the middle of the island. This new facility hosts one of the biggest detention centres (officially named Pre-Departure Centre (PDC) according to the EU–Turkey agreement) with up to 900 places, alongside the centre within the hotspot on the island of Kos. Just a few days after the Prime Minister's speech, people with an unsuccessful asylum case were no longer entitled to exit the centre. In both centres, many await deportation to Turkey as per the EU–Turkey statement (which from March 2020 is not active).[86]

Deportations

EU migration policies have vastly extended the resort to deportations, such that it is a central feature of the EU's approach to migration. For many, living in threat of deportation has become a permanent condition. Whilst the EU policy agenda has consistently sought to legitimise deportation and detention as valid tools to manage irregular migration, the conditions of detention and expulsion centres across Europe remain rife with human rights abuses, poor conditions and sites of chronic uncertainty.

The risk of being deported whether to the neighbouring countries or the country of origin has serious impacts on a person's everyday life. Deportations are used as deterrence[87] for others. However, looking at the people arriving in Europe, this strategy of deterrence does not seem to work' rather it serves only to exacerbate trauma and pain, posing several worries on how the future European society will look like.

> **People are on the move for different reasons, economic, educational, some even put their lives in danger in order to escape from war. Even though people continue to die on their way to Europe, the EU is criminalising help, builds walls and increases surveillance.**
>
> - Adla Shashati - Director of the Greek Forum of Migrant's office and Equinox Steering Group member



vember 2021, https://ecre.org/greece-millions-of-eu-euros-for-fenced-structures-in-the-aegean-preventable-deaths-in-detention-and-pushbacks-dismissed-as-fake-news-by-greece/.

84. 'Hotspots at EU External Borders', n.d., 10.

85. Ο Πρωθυπουργός, Κοινή Συνέντευξη Τύπου Του Πρωθυπουργού Κ. Μητσοτάκη Με Τον Πρωθυπουργό Της Ολλανδίας Μ. Rutte, accessed 10 November 2021, https://www.youtube.com/watch?v=FvL6GvnygyU.

86. Prosfygiko, 'Αποτύπωση της εθνικής εικόνας κατάστασης για το προσφυγικό/μεταναστευτικό ζήτημα την 5/8/2021', Ειδική Γραμματεία Επικοινωνιακής Διαχείρισης Κρίσεων (blog), 7 August 2021, https://infocrisis.gov.gr/14205/apotyposi-tis-ethnikis-eikonas-katastasis-gia-to-prosfygiko-metanasteftiko-zitima-tin-5-8-2021/.

87. Michel Foucault, Discipline and Punish: The Birth of the Prison, 1st American ed (New York: Pantheon Books, 1977).

Criminalisation and carcerality

No one is illegal – say the slogans of thousands of people who gathered in cities all over Europe. Yet, the harshening of immigration policies in the past decades have re-focused the concept of illegality directly onto the individual, with highly racialised conceptions of suspicion aiding this process.

In the early 2000s Abdelmalek Sayad wrote that any migrant has to deal with the idea of being subjected to a double punishment: It is not enough for a migrant to be innocent of a certain crime because "any trial involving a delinquent immigrant puts the very process of immigration on trial, first as a form of delinquency itself and second as a source of delinquency."[88]

This highly racialised form of "criminality" manifests in a number of ways: increased use of prison like infrastructures such a detention centres, increasingly legitimised forms of racial profiling (as part of converging law enforcement and immigration enforcement), the systematic exclusion and barriers to access to public services due to irregular migration status,[89] formal limitations on the right to work for the undocumented and of regular pathways to work for different kinds of work and levels of skills, and the co-optation of new aspects of public life (education, healthcare) to enforce these exclusionary laws. In essence, increasingly it is the policy of the EU and its Member States to address immigration through criminal law mechanisms (as Juliet Stumpf coined, 'crimmigration'[90]) regardless of the impact on human rights and basic dignity. These processes reinforce each other, vastly increasing the development of a criminal law, infrastructures of control over people in the migration context. A heightened climate of racialised suspicion of people on the basis that they are undocumented feeds this carceral infrastructure.

Criminalising solidarity

This process of criminalisation has been extended to those assisting people on the move. In the past decades chasing the xenophobic rhetoric, several EU countries have revised their legal frameworks criminalising individuals and associations rescuing people migrating, often causing deadly incidents. According to these laws, boat captains are accused of rescuing people at high sea, mountain guides of bringing people to a safe refuge across the Alps. A recent report on the criminalisation of boat-drivers shows how these policies have created the conditions for the worst incidents in the Mediterranean.[91] There are further racial impacts of the increased criminalisation of assistance; including a significant danger that these mechanisms too will disproportionately target racialised communities and activists.[92]

88. Abdelmalek Sayad and Pierre Bourdieu, The Suffering of the Immigrant, trans. David Macey, 1st edition (Cambridge, UK ; Malden, MA, USA: Polity, 2004), 282–83.

89. PICUM, "Why a Firewall?" available: https://picum.org/firewall-3/

90. Stumpf,J.(2013) The process is the punishment in crimmigration law. In: Aas,K.F.and Bosworth,M.(eds) TheBorders of Punishment: Migration, Citizenship, and Social Exclusion. Oxford: Oxford University Press:.58-75.

91. 'From Sea To Prison. Criminalisatio of Boat Drivers in Italy', From Sea To Prison (blog), 5 October 2021, https://fromseatoprison.info/introduction/.

92. Patane, F., Bolhuis, M., van Wijk , J., & Kreiensiek, H. (2020). Asylum-Seekers Prosecuted for Human Smuggling: A Case Study of Scafisti in Italy. Refugee Survey Quarterly, 39(2), 123-152. https://doi.org/10.1093/rsq/hdaa008

The Racialised criminalisation of solidarity and Justice for Mawda

One striking example of the highly racialised nature of persecuting solidarity is the prosecution of the driver at the wheel of the vehicle when Belgian police killed 2-year old Kurdish girl Mawda during a chase in 2018. Belgian authorities, alongside trying the policeman for manslaughter, opted to aslo prosecute the driver of the van, which was carrying 20 Kurdish migrants. Whilst on appeal the policeman responsible for killing Mawda received a sentence of a 10 month suspended prison sentence, the driver was sentenced to 4 years in prison, with an additional 1 year in prison for 'trafficking in human beings', in addition to a fine for 208,000 Euros.[93]

In 2020, in Samos for the we witnessed a bitter step forward in the criminalisation agenda. The father of a five years old boy who drowned during a shipwreck at arrival was charged with having put at risk the life of his son. This new development of criminalising irregular border crossings not only degrades the body of the immigrant as not being worth protection by European laws,[94] but, become an additional reason to be punished. The double punishment mentioned by A. Sayad also applies to the dead, where victims become perpetrators.

(C) Am I going to find a job in Europe?

Racialising the labour force

There is a direct connection between the hotspots approach, the rising walls at the EU's internal and external borders and the agricultural production areas of southern Europe. Just as we must explore forms of racialised surveillance, violence and criminalisation, we must also explore racialied forms of economic extraction. These processes are interconnected.

In the so-called special economic zones of Europe, the interest of governing a racialised and destitute workforce has been redefined by revised legal frameworks, which prioritise multinational interests and production efficiency. But migration cannot be reduced to a mere economic issue; it also includes autonomous struggles, resistance and multiple concepts of citizenship.[95]

93. La Libre 'Affaire Mawda: toute l'actu du proces, le judgement, le peines l'histoire' https://www.lalibre.be/actualite/concept/affaire-mawda/
94. Maurice Stierl and Deanna Dadusc, 'The "Covid Excuse": EUropean Border Violence in the Mediterranean Sea', Ethnic and Racial Studies 0, no. 0 (6 October 2021): 1–22, https://doi.org/10.1080/01419870.2021.1977367.
95. SANDRO MEZZADRA (TRANSLATED BY RODRIGO NUNES), 'The Gaze of Autonomy: Capitalism, Migration and Social Struggles', in The Contested Politics of Mobility (Routledge, 2010).

Exploitation and the Manolada case

In 2013, in Neo Manolada (Peloponnese Greece), 150 workers[96] (mostly Bangladeshi nationals) were shot at while striking for not receiving their salaries for months. As irregular immigrants not having their labour recognised, the case was won invoking anti-trafficking laws. 42 of those workers filed a case with the European Court of Human Rights in 2017, which found Greece in violation of the prohibition of forced labour. The Court called on the State to address legally the issue of labour exploitation in agriculture and to prevent human trafficking. In 2020, the Committee of Ministers decided to end its scrutiny of this case.[97]

However, in the Greek agricultural sector little has changed. Apart from the 12,000 to 16,000 euros each worker in that case received from the EU in damages, thousands of people are still exploited every year in the strawberry fields. It is reported that in the area around Manolada alone more than six thousand people work every year to produce tons of strawberries mostly for the Russian and northern European markets.

Claiming to address some of these exploitative conditions, in 2017 the left Syriza government issued a new regulation, addressing the demands for regular work permits of thousands of migrant workers. The regulation named 13A provides a work permit linked to the land of the property owners. However, it does not guarantee the right to stay in Greece.

The progressive racialization of the labour market in various sectors is directly linked to the suspension of legal pathways for non-EU-nationals to access the European job market. For many, seeking asylum is the last option left to obtain a residence permit. However, with the erosion of legal pathways and increasing presumptions applied to limit access to the asylum procedure, this is often not a suitable route.

Several studies have analysed how in the past decades European job markets have gone through processes of racialisation and, if before people could come legally to work into the EU, today they are criminalised and discriminated against.[98] Such a process of reframing access to legal identities does not only mean exclusion, marginalisation and ultimately deportations of whomever cannot access the asylum pathway, but also is based on the normalisation of institutional violence.

One of the EU's responses to renew access to the job market for non-EU nationals was to reform the Blue Card scheme. In October 2021, under the Slovenian Presidency of the Council of the European Union, Aleš Hojs, Slovenian Minister of Interior stated, "to stimulate our economic growth and make the most of our green and digital transformation we need to be able to attract the best talent".[99] Despite the announcement, legal avenues to work in the

96. ECtHR - Chowdury and Others v Greece, Application No. 21884/15, 30 March 2017.
97. Resolution CM/ResDH(2020)179 Execution of the judgement of the European Court of Human Rights, Chowdury and Others against Greece, (Adopted by the Committee of Ministers on 3 September 2020
98. Soumahoro, Umanita in rivolta.
99. Council of the European Union, 'Legal Migration: Council Adopts Blue Card Directive to Attract Highly-Qualified Workers', 7 October 2021, https://www.consilium.europa.eu/en/press/press-releases/2021/10/07/legal-migration-council-adopts-blue-card-directive-to-attract-highly-qualified-workers/.

EU continue to be extremely few. The Blue Card targets specifically mid to high income jobs that often people coming from the global south cannot access, and not only because of the associated education level, but mostly because their degrees are not recognised.

The Blue Card and the New Pact for Migration and Asylum have been two chances for the EU to enlarge the narrow and eroded options for regular migration beyond asylum. As the LIBE Committee put it in brief to the Parliament back in May 2021, "the New Pact on Migration and Asylum does not include any specific proposals on legal labour migration, despite legal labour migration being indispensable for a comprehensive migration and asylum policy".[100]

Nonetheless, the EU job profiles continue to shift towards a racialised job market, especially for low-income jobs. According to a recent study "more than a third of cleaners and helpers, more than a quarter of labourers in mining and construction sectors, stationary plant and machine operators and one in five workers in food processing are migrants".[101] Many of these workers are at high risk of exploitation at their workplace because not all Member States strictly implement the Employer's Sanctions Directive,[102] which is supposed to regulate measures against employers especially for people without documents or with an irregular status.

According to the current policy, only the Blue Card scheme protects workers from unemployment with the possibility to find other job alternatives. In all other cases (Single Permit, Seasonal Worker and other work related directives),[103] the work permit is linked and dependent on the employer. No matter whether the European Labour Authority has the mandate to inspect undeclared work also for non-EU nationals, this does not include workers' social rights. In the case of irregular non-EU nationals, the situation can be even worse, since "several Member States do not actually issue work permits to migrants who file a complaint against an exploitative employer".[104] In many cases workers are left alone and, if they do not have a legal identity in the country, it may also be difficult to approach the limited functioning worker unions.

(D) Will I have access to the things I need to survive? How will my children be treated?

Experiences of people on the move and their descendents in Europe are often discussed as the process of 'integration' or 'inclusion'. In November 2020 the European Commission launched its Action Plan on Integration and Inclusion.[105] Just a year after the 2005 Paris protests,

100. LIBE, 'Follow up to the European Parliament Non-Legislative Resolution on New Avenues for Legal Labour Migration', 20 May 2021.
101. Francesco Fasani and Jacopo Mazza, 'Immigrant Key Workers: Their Contribution to Europe's COVID-19 Response', no. 155 (2020): 8.
102. Directive 2009/52/EC of the European Parliament and of the Council of 18 June 200.
103. Cecilia Navarra, Meenakshi Fernandes, and European Added Value Unit, 'Legal Migration Policy and Law. European Added Value Assessment', September 2021, 1, https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694211/EPRS_STU(2021)694211_EN.pdf.
104. Navarra, Fernandes, and European Added Value Unit, 16.
105. European Commission (2020). Action Pan on Integration and Inclusion, available: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2178

A. Djouder took a snapshot of the second generation migrants living in the marginalised French banlieues, when thousands of young people demonstrated against institutional violence, discriminating their families in a normalised and chronic spatial confinement.[106]

For the newly arrived migrants, the EU does not offer very many opportunities. The recent case of Greece is an example of how the concept of integration is actually used on the one hand to cash out European money and on the other hand for widening the gap between nationals and non-EU nationals, fostering a xenophobic agenda.

Since 2019, IOM is responsible for the Hellenic Integration Support for Beneficiaries of International Protection (HELIOS) programme in Greece. This programme is supposed to provide support for the integration of beneficiaries of international protection in the country. According to the programme, beneficiaries are requested to rent apartments in their own names in order to get the accommodation subsidies. After being held (sometimes for years) in camps, often in remote rural areas or on islands, people with different international protection statuses are suddenly asked to navigate the complex Greek bureaucratic system of housing, work and social welfare with little or very limited support by IOM, and to attend the compulsory so-called integration courses, 3 hours per day, 5 days a week, just to be able to get subsidies for the next 6 months (renewable just once) before being at risk of homelessness.[107]

IOM became the recipient of EC- DG HOME funds for integration, taking the responsibility away from the Greek authorities and, on the other hand. Treating as an emergency the lack of an effective country-wide policy of integration[108] fosters hate and xenophobia among the already depleted Greek communities surviving more than a decade of chronic economic crisis.

In practice according to the HELIOS programme only those individuals and families already integrated can actually benefit from such scheme. This is nothing new. Almost 20 years ago A. Sayad was talking about the case of Algerian immigrants in France writes: "the discourse on integration is audible and acceptable only to those members of its audience – the public that is the object of integration – who are already the most integrated".[109]

(E) Will I be treated equally in healthcare?

The Covid-19 pandemic made even more visible the existing inequalities in terms of race, gender and class. Pre-existing boundaries dividing the social strata became visible. Not everyone had the luxury of complaining about sitting and watching Netflix on the sofa for days; on the contrary, with the excuse of a public health emergency, several categories of

106. Ahmed Djouder, Désintégration (Paris: Stock, 2006), 80.
107. IOM, 'Project Regulations Handbook', 5, accessed 16 November 2021, https://greece.iom.int/sites/greece/files/Project%20Regulations%20Handbook_ENGLISH_Sept_updated_0.pdf.
108. Greece has a national integration strategy, the latest in 2019. Prosfygiko, '"National Integration Strategy" Presentation- 18 January 2019', SECRETARIAT FOR CRISIS MANAGEMENT COMMUNICATION (blog), 18 January 2019, https://infocrisis.gov.gr/2952/national-integration-strategy-presentation-18-january-2019/?lang=en.
109. Sayad and Bourdieu, The Suffering of the Immigrant, 222.

people had to pay the price of being criminalised just because they did not belong to "our European way of life".[110]

The extensive use of police and military forces and the implementation of special laws gave an excuse to punish racialised people as well as homeless and other minorities without a safe place to stay or a regularised working environment during a global pandemic.[111] Similarly for people crossing borders, in addition to being perceived as a racial threat they become a health threat giving the justification for excessive border security.[112]

The impact of Covid-19 measures on racialised migrants has been devastating.[113] For example, in Greece thousands of asylum seekers have been in detention-like camps due to the impossibility of leaving the centres, which often did not offer even the minimum humanitarian standards. Similarly in Italy, people arriving by sea were forcibly quarantined on ships and left for prolonged periods.[114] This was partially also done by Greece in Lesvos after March 2020 and Malta where people were left on boats, "imprisoned for prolonged periods in highly precarious, incommunicado conditions and without judicial oversight".[115]

In March 2020 at the height of the pandemic the European Agency for Fundamental Rights (FRA) several times alerted the Commission to the violations in Greece, especially underlining the risky mix between substandard health conditions and restrictive measures.[116]

From the introduction of the Covid-19 public health measures, different regulations applied to people in camps and to the general public,[117] but more concerning were the practices implemented by hospitals, supermarkets, restaurants and other public spaces. On the island of Samos, for example, the queue at Lidl supermarket was divided between white-locals and racialised asylum seekers.[118] The state has taken no measures to avoid such practices in the future; instead the political rhetoric continues to empower a wide spread xenophobic sentiments.

110. The Von der Leyen Commission began with significant controversy over the creation of a Vice President for "Protecting Our European Way of Life" (VP/PEWL) with a remit on migration, security, equality, interreligious dialogue, anti-Semitism and sport. After significant criticism from civil society and media, the European Commission changed this post to 'Promoting our European way of life.'
111. Fair Trials (2022) The UK must end COVID-related prosecutions: https://www.fairtrials.org/articles/news/the-uk-must-end-covid-related-prosecutions/
112. Stierl and Dadusc, 'The "Covid Excuse"'.
113. 'How COVID-19 Is Being Exploited to Harden Migration Policies', The New Humanitarian, 17 April 2020, https://www.thenewhumanitarian.org/analysis/2020/04/17/coronavirus-global-migration-policies-exploited.
114. Moreno-Lax and Allsopp, 'The EU Approach on Migration in the Mediterranean', 59.
115. Moreno-Lax and Allsopp, 86.
116. European Union Agency for Fundamental Rights., Coronavirus Pandemic in the EU :Fundamental Rights Implications. Bulletin #1, 1 February - 20 March 2020. (LU: Publications Office, 2020), 29, https://data.europa.eu/doi/10.2811/924028.
117. Elias Kondilis et al., 'The Impact of the COVID-19 Pandemic on Refugees and Asylum Seekers in Greece: A Retrospective Analysis of National Surveillance Data from 2020', EClinicalMedicine 37 (1 July 2021), https://doi.org/10.1016/j.eclinm.2021.100958.
118. José Cortez, 'Today, the Lidl Here in Samos Implemented Two Different Queues: One for Refugees and Another for "Everyone Else". Refugees Could Only Get in If There Was No One in the Other Queue. @Lidl_Hellas_ What the Hell Is This? Are You Ok with These Racist Policies? Https://T.Co/ZkgnOArIPl', accessed 22 October 2021, https://twitter.com/zouzoucortez/status/1258825556570910720.

IV. Recommendations: Towards a migration policy rooted in racial justice

This report has emphasised the urgent need to assess migration policy within the frame of structural racism, and to connect the oft-divorced areas of EU migration policy with equality and non-discrimination. EU migration policy has determinative consequences for the safety and dignity of racialised people on the move. **Therefore addressing the harms of EU migration policy is an urgent issue of racial justice. Policy conversations about racism cannot and must not happen without a critical assessment of EU migration policy.**

Yet, as set out in section II, EU migration policy is increasingly shifting toward a practice of increased criminalisation, exclusion and violence against people on the move. These practices are specifically tailored to the constructed 'threat' posed by people on the move, highly imbued in a culture of racialised suspicion against black and brown people seeking to come to Europe.

In this context, it is difficult to see how to reconcile current EU policy with a genuine framework prioritising the safety, dignity and access to justice for people on the move. **As such a radical change in perspective is required at a political, legal and policy level if EU institutions are to truly centre dignity, fundamental rights and racial justice.** To reach this, there must be:

1. **Safety and justice:** A policy shift away from criminalisation and suspicion toward one of needs and protection

2. **Protection:** Create a framework of legal protection against discrimination for migrants

3. **Alternative visions:** Reallocation of resources to meet the needs of people on the move

Abolish Frontex: What we're calling for

In 2021, the group Abolish Frontex developed a campaign to call for the end of Frontex within a wider framework of ending the EU border regime.

The campaign (of which Equinox is a member) argued that:



> **[t]he EU's border policies are inherently racist and reinforce colonial and capitalist power structures. It's time to abolish Frontex and the system it represents.**

The main demands of the Abolish Frontex campaign are:

1. Abolish Frontex
2. Regularise migrants
3. Stop all deportations
4. End detention
5. Stop the militarisation of borders (and the military industrial complex)
6. Stop the surveillance of people on the move
7. Empower solidarity
8. Stop the EU's role in forcing people to move
9. Freedom of movement for all
10. End the EU border regime

The following recommendations outline how EU institutions can create a meaningful shift in EU migration policy toward safety, protection and justice for racialised people:

(A) A policy shift from racialised criminalisation toward safety, protection and justice

A racial justice approach requires a wholesale reversal of the underlying priorities of EU migration policy. Instead of the current central pillars of criminalisation, discrimination and racialised suspicion, EU migration policy must be re-oriented around principles of safety, protection and justice for people on the move.

1: Conduct an intersectional review of all EU migration policies to address discrimination in the migration context and the intersections between structural racism and migration. In

particular, analyse the New Pact on Migration and Asylum in light of the commitments in the Anti-Racism, Gender Equality and LGBTI Action Plans, as well as the Strategy for the Rights of Persons with Disabilities.

2: Take concrete steps to dismantle legislation and policy areas using criminal law in response to migration. EU institutions must reassess the role of criminalisation with respect to institutional and structural discrimination, and conduct introductory research into decriminalisation as a policy response to migration and movement.

3: Reverse legislation expanding the role of detention and deportation in migration procedures, such as the Amended Asylum Procedure Regulation (APR) and the EU Return Directive. Detention and deportation are criminal law procedures which should not be applied to people on the move. These practices implement a racialised framework of population management and should be dismantled.

4: Implement a prima facie presumption that people entering Europe do have protection needs, reversing the role of profiling and racialised suspicion in EU policy questioning the credibility and lawfulness of people travelling to Europe to seek asylum, such as in the Screening Regulation and the amended Schengen Borders Code.

5: Ensure all international protection mechanisms apply neutrally to persons regardless of nationality, including the Temporary Protection Directive. People fleeing conflict cannot be differentially treated on the basis of nationality.

6: Cease the development, testing and deployment of surveillance, biometric identification and risk assessment technologies on people on the move, whether it be at the border or within migration, asylum and international protection procedures. The use of such systems must be prohibited or restricted with safeguards under the EU Artificial Intelligence Act.

(B) Ensure full legal protection against discrimination for migrants

Discrimination cannot be justified by a lack of documents or migration status. The EU must offer full protection to people on the move regardless of race, ethnicity, nationality or migration status.

7: Extend existing prohibitions on discrimination to include nationality to ensure a comprehensive legal protection to people on the move, regardless of migration status, in all areas of public life.

8: Introduce a new EU directive to prohibit discrimination and violence in the field of law enforcement, immigration and border control and extend legal protection to those discriminated against by law enforcement, immigration and border agents. This must include a comprehensive system of monitoring, access to justice and redress for people crossing

borders and subject to migration procedures.

9: Reverse discriminatory legislaton in the field of migration, including aspects of the amended Asylum Procedures Regulation implementing presumptions on international protection needs on the basis of nationality.

10: Implement processes of accountability for EU institutions engaged in structural discrimination and violence against people on the move. This includes structural accountability measures for States, institutions and agencies facilitating violence and discrimination against people on the move. The recent example of FRONTEX scrutiny on violations of fundamental rights poses several questions to what actual changes can be achieved with the current decision makers.

(C) Alternative visions: De-fund structural violence and reallocate resources to meet the needs of people on the move

Imagining a migration response without racism requires shifting resources away from punishment, surveillance, control and criminalisation toward safety, protection, needs and justice. As budgets for punitive migration management grow, the EU must re-orient its funding priorities to these principles.

11: Conduct a comprehensive review of funding spent in migration management and border control against a model of safety, protection and need for people on the move.

12: Develop a systematic, long term consultative forum with racialised people on the move, composed of people with a variety of migration statuses, with a concrete role in EU migration policymaking. Conduct research on their experiences with EU migration policy, committing resources to addressing the concerns they raise.

13: Develop a 10- year strategy for the reduction and reallocation of funding in the areas of border security and surveillance, externalisation and punitive migration management toward meeting safety and protection needs of people entering Europe.

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