

Restrictions on defenders of migrants' rights should stop

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- A man protests the law, which prohibits to provide aid to illegal immigrants on April 8, 2009 at Place St. Michel in Paris, France. The poster says 'Arrest me, otherwise I do it again' [Olga Besnard / Shutterstock.com](#)

Defamation, threats, verbal and physical attacks, administrative sanctions and judicial harassment are used to deter human rights defenders from working with migrants and from combating the rising xenophobia and racism in Europe. Perpetrators can be both state and non-state actors.

It is not acceptable to intimidate and attack defenders of migrants' rights

In several European countries, the rise of xenophobic and anti-migrant discourse has negatively impacted on the work of human rights defenders who protect and promote the rights of migrants. Human rights defenders are even increasingly labelled as traitors who are threatening national identity and security. They are often exposed to intimidation and abuse.

The situation in Greece is particularly worrisome as migrants have become targets of unacceptable, extreme violence notably by members, including MPs, of the far right political party of Golden Dawn. Human rights defenders defending migrants are under threat. There have been several instances of lawyers being threatened and physically attacked in Athens as they were assisting migrants in the course of asylum and other legal procedures.

In some Council of Europe countries the work of defenders working with migrants and their rights is being criminalised. In France, legal provisions corresponding to the so-called *délit de solidarité* (the offence of solidarity) concretely result in law enforcement bodies pressuring and punishing human rights defenders providing assistance to irregular migrants. Persons standing up for the rights of migrants have been detained, prosecuted and/or fined. In Belgium, similar tendencies have been identified and persons who have been demonstrating in favour of the rights of migrants have been arrested.

Access to migrants in detention and provision of assistance should be guaranteed

Thousands of migrants are kept in detention in Europe. This contributes to stereotyping migrants as criminals. Far too often the conditions and grounds under which they are held breach human rights standards, and can even amount to torture and other forms of ill-treatment.

This is why it is of utmost importance that human rights defenders have unimpeded access to places where migrants are detained in order to assist persons in need and to submit recommendations to national authorities for improving the situation of migrants.

In some instances, defenders, lawyers and national human rights structures such as Ombudspersons are denied the possibility to visit migrant detention facilities. This, in combination with the lack of adequate interpretation and the complexities of asylum and legal procedures, makes it difficult for migrants to challenge detention and human rights abuses. In some countries legal aid to migrants is not provided for by law or it is not effective. This adversely affects migrants' right to a fair trial and to a legal remedy.

Ways to improve the situation

I encourage all Council of Europe member states to go back to the letter and spirit of the [1998 UN Declaration on human rights defenders](#) which states that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms. The Declaration also states that everyone has the right to complain about the policies and actions of individual officials and governmental bodies with regard to violations of

human rights and fundamental freedoms, as well as to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defence of human rights.

The awareness of the human rights dimension of migration should be increased. The public and national authorities need to become aware of the vulnerability of migrants and the harsh reality they face, the shortcomings of national migration systems and the necessity to provide better protection of the human rights of migrants. Media can play a key role in this necessary public awareness process.

National human rights structures such as Ombudspersons can be more supportive of the work of defenders protecting migrants' rights. A closer, systematic co-operation could serve to mutually reinforce and increase the impact of their work.

National authorities should no longer tolerate threats and attacks on defenders protecting migrants. They should put a stop to impunity by carrying out effective investigations into all incidents involving physical or other violence against migrants and defenders, and by prosecuting and imposing adequate punishment on the offenders.

It is high time to abolish the provisions establishing the *délit de solidarité*. I encourage the French authorities to take decisive measures in that direction.

More needs to be done also by the EU – this year's recipient of the Nobel Peace Prize – to address the difficulties that human rights defenders and organisations working in the area of migration and anti-discrimination face in EU member states. The essential work carried out by human rights defenders should be recognised and supported, including by national authorities, in particular when this work is at risk.

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