

DE-SECURITISING & DECRIMINALISING MIGRATION AND POVERTY

Advocating for a non-discriminatory approach in European policies

August 2024

SUMMARY

As it is turning away from its foundational values of solidarity and non-discrimination, rooted in international and regional frameworks on human rights, the **European Union has entered a crisis of democratic and moral legitimacy.**

An obvious symptom of this crisis is the development of an overly **securitised and criminalising approach in its public policies concerning people in vulnerable situations** (people on the move, racialised populations, homeless and people in poverty, etc.). This approach results in **discriminatory practices** which are not only contradictory with the values of the EU and its member states, but are also **ineffective and counter-productive** in addressing what are, in essence, social issues.

As a civil society organisation working at the international level, we believe there is an **urgent need to shift the narrative** in the European political space away from its current security obsession, and towards a **decriminalised and non-discriminatory approach, centred on human rights and social justice.**

European institutions and member states should stop considering poverty and migration as threats to national security or public order. Instead, they should consider them as social issues that can be resolved through public policies that address the root causes of people's vulnerabilities.

Civil society should unite in tackling these discriminatory and criminalising policies and in developing and promoting a counter-narrative through research, awareness-raising and advocacy.

The present document reflects the outcomes of a panel discussion held during the European Citizens' Summit¹, which took place in Brussels in March 2024, in which ASF, European Alternatives, FEANTSA and Prison Insider took part².

¹ See <https://www.cncd.be/2024-brussels-european-citizens-summit>

² See also ASF's [interview on the criminalisation of poverty and migration](#) published on Prison Insider's website.



Introduction

Instead of building a Europe of social rights, the EU is overly focused on maintaining the security of its borders and economies.

People experiencing poverty and homelessness are often targeted by laws and policies criminalising them for who they are, rather than for what they have done. They are **directly criminalised** by anti-begging policies³ and measures against sleeping on the street in European cities⁴. Additionally, people in vulnerable situations are **indirectly targeted** through the criminalisation of life sustaining activities (such as washing, eating, drinking and urinating in public spaces), informal work and squatting.

Under the argument of maintaining public order, security and public health, these laws seek to **invisibilise** homelessness and poverty in public spaces. This criminalisation is worsened by economic austerity policies, as well as rising costs and rents, which push more people into poverty and drive them to increasingly rely on the informal economy and on practices that constitute **petty offences**.

European migration policies have also become increasingly securitised. People on the move are targeted and viewed as a threat to national and European security, resulting in xenophobic, racist and discriminatory policies. This is illustrated by **externalisation policies** that prioritise border control and migrant returns in an ill-conceived effort to 'keep migrants out', as

³ Ban on begging in 253 cities in Belgium do not respect human rights (see "La réglementation de la mendicité sous l'angle des droits humains", [IFDH, avril 2023](#))

⁴ Street-based sleeping in so-called "intimidating camps" became illegal in Denmark by a [Public Order Regulation in 2017](#). In Hungary, the ban on sleeping rough is enshrined in the Constitution. (« Mean Streets. A report on the criminalisation of homelessness in Europe », [Housing Rights Watch, 2013](#))

well as **overly restrictive asylum policies and visa regulations**.



These policies have dramatic effects as they worsen the social issues they aim to address. While austerity measures exacerbate poverty and social inequalities, current migration policies maintain migrants, and especially undocumented migrants, into more precarious situations, often making them vulnerable to human trafficking, and leaving them with little to no hope of improving their situation.

1/ The human rights costs of securitisation and criminalisation

Policies which address poverty and migration through a securitised lens put human rights at risk. They foster a "fear of the other", supported by a narrative which views migrants and people in poverty as threats to security and public order, leading to their discrimination and criminalisation.

Human dignity, the right to adequate housing and other human rights are directly threatened in situations of homelessness⁵. The above-mentioned laws and policies further endanger the human

⁵ See the recent [report](#) of the UN Special Rapporteur on extreme poverty and human rights "Breaking the cycle: ending the criminalization of homelessness and poverty", 26 June 2024

rights of people in poverty and homeless people. The latter are treated as criminals for the very fact of living on the streets. They live under constant fear of **eviction** from their encampments and squats, with no access to housing alternatives. They suffer regular **harassment** by police forces⁶, and often receive **finances and administrative sanctions**⁷ for minor offences, which they are not able to pay, maintaining them in poverty and illegality.

They also face **major barriers in defending and accessing their rights**. This vicious circle results in people in poverty and homeless people being more likely to be targeted by the police and the judicial system, and more prone to incarceration. A majority of people imprisoned also experience poverty⁸. **Prison** also increases economic and social vulnerability: while 1 out of 5 detainees is homeless upon incarceration, 30% of people become homeless when released from prison⁹.



⁶ In Namur, Belgium, police officers reported a growing pressure to hunt the homeless ([RTBF article from 2 July 2024](#)).

⁷ « Sanctions administratives communales et transaction pénale : punition pour tous.tes ? », [research](#) by Diletta Tatti (GREPEC), June 2024

⁸ See report « [Au dernier barreau de l'échelle sociale : la Prison](#) » (Emmaüs France and Secours Catholique, October 2021)

⁹ See « [De la cellule à la rue. Crise carcérale, crise sociale, crise du logement](#) » (Prison Insider, 2024).

Over the past 25 years, harsher narratives on migrants, in particular the association of migration with crime, have led to rising racism and discrimination across society, notably to **racial profiling**.¹⁰

EU policies have led to **police brutality, forced returns, detention and illegal collective expulsions**. Recent measures (such as the newly adopted EU Migration Pact, the reform of the Schengen Borders Code, the Facilitation Directive, etc.) all run the risk of increasing discrimination based on nationality and racialisation, of creating unaccountable and opaque migration and asylum agencies, and furthering the criminalisation of solidarity. The increase in identity-focused politics and nationalist withdrawals also contribute to an increase in **racist and discriminatory offences against European citizens with an immigrant background**, particularly from Arab-Muslim and African descent.

2/ The societal costs of securitisation and criminalisation

These policies have an undeniable cost for people in vulnerable situations, as well as for society as a whole.

Policies that criminalise poverty create, maintain and increase **poverty, social inequalities, poor housing conditions and homelessness**. Furthermore, recent research shows that it is more costly, both socially and economically, to keep people in economic insecurity and homelessness than to create sustainable rehousing solutions for all rough sleepers¹¹. It would therefore be collectively beneficial to combat the structural causes of poverty, inadequate

¹⁰ 79% of border guards find ethnicity a useful indicator to decide who to stop, alongside behaviour, destination and nationality (see '[Fundamental rights at airports: border checks at five international airports in the European Union](#)', (FRA 2014)

¹¹ See report « [Le sans-chez-soirisme : suite ou fin ?](#) », Département d'économie Appliquée de l'ULB pour le Syndicat des Immenses, July 2022

housing and homelessness, rather than criminalizing people in vulnerable situations.

Current EU migration policies also come at a high human and social cost: instead of preventing departures, the strengthening of the EU's external borders – coupled with the criminalisation of Search and Rescue NGOs – have made **migration routes more and more dangerous**. The IOM's 'Missing Migrants' project documented close to 30,000 disappearances and/or deaths in the Mediterranean since 2014.¹² Likewise, externalisation policies feed the smuggling business and reinforce **situations of exploitation and violence towards people on the move**¹³. The generalisation of xenophobic discourses in Europe further invisibilises the violation of migrants' rights and exacerbate their socio-economic vulnerabilities. **Structural racism** is also reflected in the unequal and discriminatory conditions of access to housing, employment, education and health services, in the normalisation of hate speech and in racial profiling, all of which affect migrant people as well as racialised people who are perceived as such.¹⁴



¹² See "Missing Migrants" [project page](#).

¹³ See "[Road to nowhere: Why Europe's border externalization is a dead end](#)" (ECFR, 2023).

¹⁴ See report "[Being Black in the EU – Experiences of people of African descent](#)", FRA, October 2023.

This approach has also led to the **criminalisation of solidarity and activism** in Europe, directly undermining the rule of law, one of the foundational values on which the EU is built. CSOs play a crucial role in relaying the voice of marginalised people and ensuring their access to vital services in the absence of action by governments. This shrinking of civic space is characterised by administrative obstructions to the actions of civil society,¹⁵ restrictions on their access to funding, police limitations on their activities¹⁶, or deliberate attacks against the very existence of civil society¹⁷.

Activism, especially in the fight for climate justice and migration justice, is largely criminalized in Europe.¹⁸ The recent report by Michel Forst, UN Special Rapporteur on the situation of human rights defenders, clearly denounced European states' increased repression of climate activism and civil disobedience, and its dangerous consequences on human rights and the future of democracy in Europe¹⁹.

3/ Action steps for CSOs

We believe that the multifaceted and growing criminalisation of marginalised populations in the European political space unequivocally **threatens the functioning of our democracies and societies**. This calls for a collective mobilisation to produce

¹⁵ See this [open letter](#) co-signed by ASF, voicing CSOs' concern over new provisions in the Belgian criminal code aimed at criminalising civil disobedience.

¹⁶ In France, associations and individuals have been sanctioned for providing food on the street and camps, especially in [Calais](#), but also recently in Paris by the order of [9 October 2023](#)

¹⁷ [In Hungary](#), legal measures directly target CSOs and limit their activities.

¹⁸ See report '[Cases of criminalisation of migration and solidarity in the EU in 2023](#)', PICUM 2024.

¹⁹ See Position paper « [State repression of environmental protest and civil disobedience : a major threat to human rights and democracy](#) » (February 2024).

a counter-narrative and demonstrate that an approach based on social justice and non-discrimination is possible and highly desirable, and that this will be to the benefit of not only discriminated populations but European societies as a whole.

Civil society should continue to play a major role in advocating for effective and fair social policies. To this end, they can not only demonstrate the ineffectiveness of current policies, through **collecting evidence and producing analyses**, but also formulate policy recommendations to address structural inequalities. Above all, civil society has a key role to play in **redefining the narratives around poverty and migration**, by imposing terms and discourses that are consistent with the reality on the ground and highlight the structural causes of societal challenges. Civil society should also contribute to shifting public and political perceptions away from a security-based approach, towards one based on **anti-discrimination and access to justice**. To achieve this, it is essential for civil society organizations to structure themselves at different levels around common narratives, and to bring

forward common messages and recommendations not only at local and national levels, but also at the level of European and international institutions.

There is a need to structure the actions of European civil society on:

> **Information:** Collect robust data and stories to support evidence-based counter-narratives and policies;

> **Framing:** Choose appropriate wording to be convincing when sharing our messages and to raise awareness through the media (including social media);

> **Accountability:** Target and hold States and institutions accountable for their failure to respect human rights; emphasize the structural causes of societal challenges and the cost of inaction;

> **Coalition-building:** Build bridges and synergies between our approaches in order to advocate for a common narrative across all levels.

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ASF is engaged in two global campaigns related to these issues:

- The [Campaign to Decriminalise Poverty, Status and Activism](#), which aims to raise awareness on the human, social and economic costs of criminalising poverty, status and activism, and to create change on these issues through research, campaigning, strategic litigation, and direct advocacy.
- The [Pact for Equality](#) campaign, launched in the framework of [the TACKLE Project](#), which aims to promote the emergence of young activism against discrimination and structural racism in Europe.

