

## European Union

The European Union and most member states espouse a commitment to human rights and democratic values, and on some occasions, such as the response to refugees coming from Ukraine, it lived up to those values in 2022. Too often, however, the policies and actions of the union and member states fell short, leaving the most marginalized and vulnerable exposed to abuse.

### *Migrants, Refugees and Asylum Seekers*

The positive response of the EU to the mass displacement of Ukrainians following Russia's invasion of Ukraine in February contrasted starkly with abusive treatment of migrants and asylum seekers from other regions of the world.

By September, more than 4 million refugees from Ukraine—approximately 90 percent of them women and children—had registered in EU countries following the unprecedented activation of the 2001 Temporary Protection Directive (TPD) in response to the war in Ukraine. There were concerns about the risk of trafficking, gender-based violence, and other forms of exploitation of people arriving from Ukraine, especially women and girls, arising from inadequate protection measures in countries like Poland.

Over one year after the Taliban takeover, Afghan asylum seekers faced pushbacks at EU borders and decreasing refugee recognition rates across the EU. EU countries largely stopped evacuating local staff and Afghans at risk from Afghanistan.

EU member states, including Bulgaria, Croatia, Cyprus, Greece, Poland, and Spain, continued to engage in unlawful pushbacks and violence at their borders.

In April, Fabrice Leggeri resigned as director of the EU border agency Frontex following investigations by the EU Anti-Fraud Office (OLAF) into numerous reports that Frontex was implicated in illegal pushbacks in the Aegean Sea. The OLAF report, leaked in October, provides evidence of Frontex complicity in Greek pushbacks.

In June, the EU Court of Justice found that automatic detention and denial of the right to seek asylum to people irregularly entering Lithuania via Belarus violates

EU law. Rights groups denounced pushbacks, abusive detention as well as racially motivated harassment in Lithuania and similar abuses against people entering Poland via Belarus. In August, Estonia authorized pushbacks at its borders.

According to the UN refugee agency UNHCR, more than 100,700 people arrived irregularly at the EU's southern borders by mid-September, most by sea, while at least 1,207 died or went missing in the Mediterranean Sea.

Reception conditions for asylum seekers remained substandard in several EU countries. Council of Europe Commissioner for Human Rights Dunja Mijatovic noted in August structural shortcomings, conditions in and around the Ter Apel center in the Netherlands, that posed a risk to the right to health, and “stark differences” between treatment of Ukrainians and people from other countries. The intervention followed the death of a baby in the center the same month.

The EU and its member states continued to provide support to Libya to facilitate interceptions of asylum seekers and migrants at sea and disembarkation in Libya, despite known risks of arbitrary detention, torture, and other abuses. UNHCR said at least 18,600 people were intercepted or rescued at sea and disembarked in Libya by the end of October.

The European Commission confirmed it was considering allocating €80 million (around US\$83 million) to Egypt in 2022 and 2023 to support land and sea “border management,” despite the country's abysmal human rights record. The EU and its member states also continued or increased funding, cooperation, and support to migration control in other African countries, such as Morocco, Mauritania, Senegal, and Niger, despite the negative repercussions for migrants and asylum seekers in the region—including reduced freedom of movement, arbitrary arrests and detention, physical abuse, extortion, and arbitrary expulsions.

In July, the Netherlands' Council of State ruled that Denmark could not be automatically assumed safe for Syrian asylum seekers for the purposes of “Dublin returns” because of the risk of forced return to Damascus and its environs. In September, Denmark and Rwanda announced a “common ambition” to create a mechanism to transfer asylum seekers from Denmark to Rwanda, despite serious concerns for their rights and safety.

Progress on EU asylum reforms remained mired in political divisions, particularly over improvements to responsibility-sharing among member states. In June, 18 EU members and 3 non-EU states agreed on a voluntary solidarity mechanism to share responsibility for some of the asylum seekers rescued at sea, with 112 people relocated from Italy by mid-October.

There was little movement towards creating independent border monitoring mechanisms in EU member states, while national efforts in Croatia and Greece fell short of standards needed to ensure effectiveness, despite European Commission involvement.

EU member states did agree on measures that would undermine fundamental rights, such as a proposed “instrumentalization” regulation that would allow states to derogate from key obligations, including ensuring the right to seek asylum at external borders, and amendments to the Schengen Borders Code that rights groups argue would exacerbate racial and ethnic profiling to facilitate border rejections and expand the use of surveillance technologies at internal borders.

### ***Discrimination and Intolerance***

Non-Ukrainians fleeing the conflict in Ukraine faced discrimination and unequal treatment at and inside EU borders. In a March resolution, the European Parliament called on EU countries to admit non-Ukrainian nationals fleeing the conflict, irrespective of nationalities. Roma refugees fleeing Ukraine also reportedly faced discrimination and prejudice in several EU countries.

In March, the council of the EU spoke out against the rise in racist and antisemitic incidents in EU countries and called on member states to develop action plans and strategies by the end of 2022 and to implement the 2020 EU anti-racism action plan and the 2021 EU strategy on combating antisemitism.

In response to increasing anti-Muslim racism and discrimination in many parts of Europe, including through hate speech and hate crimes, the European Commission against Racism and Intolerance (ECRI) issued a General Policy Recommendation in March calling on European countries including EU states to tackle the issue.

Racism in policing, particularly ethnic profiling in identity checks, the use of racist language and excessive use of force against individuals, continues to be an issue in European countries, according to ECRI’s annual report published in June. The report also noted that Covid-related restrictions imposed on schools negatively impacted those children who already faced the most difficulties, such as migrant children and Roma. The ECRI report does not mention specific states.

In its 2022 fundamental rights report published in June, the EU’s Fundamental Rights Agency (FRA) noted that the pandemic further fueled discrimination, hate crimes, and particularly online hate speech towards migrants and ethnic minorities, and called on EU countries to penalize hate crime, encourage reporting, and better support victims.

Several EU countries, including Hungary, Poland, Romania, and Italy saw strong political rhetoric against a purported “gender ideology,” which they amplified in the media and public discourse as well as through efforts to adopt laws specifically targeting LGBT people, and in case of Hungary women’s rights.

A Council of Europe (CoE) report published in July acknowledged advances in legislation, practices and public attitudes in guaranteeing legal recognition for trans and non-binary people in all areas of life but noted slow progress and an increase in discrimination experienced by transgender people over the last decade. According to the study, all EU countries except Hungary have some measures in place to recognize a change in gender, but 15 require a compulsory medical intervention and 7 compulsory sterilization.

The CoE’s Committee of Ministers issued a recommendation in May on protecting the rights of migrant, refugee, and asylum-seeking women and girls, calling on European countries including EU states to take measures to prevent discrimination against such women, including by promoting access to employment, sexual and reproductive health care, and facilitating access to services and justice for survivors of gender-based violence.

In June, the European Parliament passed a resolution calling on member states to decriminalize abortion and guarantee access to safe and legal abortion and other sexual and reproductive health care without discrimination. In July, MEPs called for an amendment to the EU Charter of Fundamental Rights to include the right to safe and legal abortion.

A July study by the European Institute of Gender Equality (EIGE) reported that one in two women in the EU have experienced psychological violence. The numbers were even higher for women who are seeking asylum or refugees, women of migrant background, women with disabilities or health conditions, women under age 30, and LGBTQ women. At time of writing, six member states and the EU itself had yet to ratify the CoE Istanbul Convention on combatting and preventing violence against women.

In its 2021 Conclusions published in March, CoE's European Committee of Social Rights (ECSR) found that discrimination based on age is not prohibited outside employment in certain EU states and that older persons lack adequate resources enabling them to lead a decent life and play an active role in the community in six EU member states (the Czech Republic, Denmark, Malta, the Netherlands, Slovakia, and Spain). The ECSR also noted the devastating effects of Covid-19 on older persons and emphasized the importance of moving away from institutionalization towards community-based care and independent living for older persons.

### ***Poverty and Inequality***

Rapidly increasing inflation during the year, particularly in relation to food and energy prices, and the long-term economic consequences of the Covid-19 pandemic impacted the rights of people living on low incomes or in poverty, including to an adequate standard of living, to food, to health, to housing, and to social security.

EU data from September 2022 showed that 95.4 million people (21.7 percent of the population) were at risk of poverty or social exclusion, with women at higher risk than men, and households (particularly those headed by a single parent) with dependent children also at elevated risk. Poverty rates in Romania and Bulgaria exceeded 30 percent. In June, member states presented national poverty reduction targets to the European Commission, committing to reduce by 15.6 million the number of people at risk of poverty or social exclusion by 2030.

In September, the European Commission issued guidelines to its member states, encouraging them to reform existing minimum income programs or establish new ones to ensure that their social security systems provide cash payments to

households who need support to live in dignity. Anti-poverty groups welcomed the proposal, and called on the commission to take a binding, rights-based approach in addition to these guidelines.

Official data in January showed that energy price inflation across the EU stood at 27 percent, with rates of over 40 percent in five countries, an upward trend exacerbated by the war in Ukraine and subsequent sanctions. Most EU governments adopted policies to regulate energy prices, including in many cases targeted support meeting energy costs for low-income households.

The Russian invasion of Ukraine in February exacerbated food supply problems, in particular staples such as wheat and sunflower oil. Although EU countries did not face food shortages, affordability remained a concern, particularly for households with low incomes, impacting the right to food. By September, bread prices had risen by a fifth across the region compared to the previous year.

The EU's REACT fund, part of a Covid-19 recovery package, disbursed significant additional focused funding to at least 18 member states to help address pandemic recovery or to support new arrivals displaced by the conflict in Ukraine. The European Social Fund also increased funding provided to member states to deal with the added costs and support for people displaced by the conflict in Ukraine.

In June, the EU Council unanimously approved the European Child Guarantee, requiring member states to ensure children receive one healthy school meal a day, access to learning material, transport to school, and access to decent housing. Children from deprived backgrounds face difficulties with these issues in many EU states, undermining their basic rights. Most member states failed to meet the commission's March deadline to submit national action plans to deliver these recommendations. At time of writing, only 15 states had done so. The deadline for implementing the recommendations is 2030.

In June, the European Parliament and EU member states reached agreement in principle on the EU Commission's proposed directive on adequate minimum wages, a key principle of the European Pillar of Social Rights and factor in determining the right to an adequate standard of living. The European Parliament approved legislation in September, giving member states two years to ensure that

their domestic national minimum wage legislation guarantees a decent standard of living.

A June report by the UN special rapporteur on extreme poverty highlighted gaps in social security systems in EU member states. The rapporteur found in most of the social assistance programs it examined that the take-up rate was lower than 60 percent, with illustrative examples from Slovakia, Czechia, Slovenia, Finland, and France suggesting that significant portions of the population were facing barriers accessing needed support.

### ***Rule of Law***

EU institutions maintained their scrutiny on rule of law concerns in several EU member states but failed to take decisive action.

A hearing at EU ministers' level under Article 7—the EU treaty procedure to scrutinize threats to rights and rule of law—took place on Hungary in May and November. A hearing was also held on Poland in February, with an update discussion in October. More than four years after the Article 7 procedure was initiated against Hungary (and five since it was initiated against Poland), EU member states continued to shy away from adopting rule of law recommendations or of voting to determine a risk of breach to the rule of law in either country.

In May, the European Parliament criticized the lack of progress by the Commission and Council on Article 7 proceedings on Hungary and Poland and urged the Council to adopt rule of law recommendations. In September, the European Parliament adopted an update to its September 2018 decision to activate article 7 over the situation in Hungary, pressing member states to take responsibility and concluding that Hungary is “no longer a democracy.”

The European Parliament monitoring group on the rule of law continued to scrutinize concerns in Bulgaria, Slovakia, Malta, and stepped up its activities on media freedom in Greece. In March, the European Parliament set up an inquiry committee on the use of surveillance spyware, including in Hungary, Poland, and Greece.

In February, the Court of the Justice of the EU dismissed the complaint filed by Hungary and Poland against the EU regulation that established a new rule of law

conditionality mechanism for access to EU funding. In March and May, the European Parliament criticized the Commission for dragging its feet in using this mechanism.

In September, the European Commission proposed for the very first time to the Council to suspend some EU funds to Hungary under the rule-of-law conditionality mechanism because of breaches to the rule of law in the country; member states were expected to take a decision on the commission's proposal in December.

Poland's economic plan under the Covid recovery funds was endorsed by the European Commission in June, but the commission continued to retain the actual funds at time of writing because of concerns about the rule of law. At time of writing, the commission had not yet endorsed Hungary's Covid recovery plan because of similar concerns.

The commission continued to use legal infringement procedures in response to the backsliding on the rule of law in Hungary and Poland but did not take new decisive action to address the lack of implementation of EU Court of Justice rulings by those two governments. In July, the commission addressed a formal request to the Polish government to comply with EU law in the case on the lack of independence and impartiality of the Constitutional Tribunal and its failure to apply EU law. It also transmitted to the EU Court of Justice cases against Hungary on the decision to take an independent radio station off air and on a June 2021 anti-LGBT law.

For the third year, the European Commission released its rule of law report, which included detailed chapters on all 27 members of the EU. It was the first time this report included recommendations to member states. Civil society observers criticized the recommendations as vague, unspecific, and failing to articulate policy consequences for non-implementation.

There remains little or no accountability for the killing of media professionals in EU countries. In July, one of the accused in the murder of journalist Daphne Caruana Galizia in Malta confessed his role in the killing; the court case against him and others accused is ongoing. In February, the Specialized Criminal Court opened the re-trial of those allegedly behind the 2018 assassination of journalist Ján Kuciak and his fiancée. The re-trial was ongoing at time of writing. There has

been no significant progress in the investigation into the April 2021 murder of journalist Giorgos Karaivaz in Athens. The trial of two men linked to organized crime and accused of the July 2021 murder of journalist Peter de Vries in Amsterdam was ongoing at time of writing.

In January, the European Commission announced plans for a European Media Freedom Act aimed at protecting media independence and pluralism in the EU. Following a request by the European Parliament, the commission opened in August a consultation on a new EU law on the rights of associations in the EU.

### ***Climate Change Policy and Impacts***

The 27 member states of the European Union are among the top 10 greenhouse gas emitters globally, making a major contribution to the climate crisis that is taking a mounting toll on human rights around the globe.

In May, the European Commission launched the REPower EU Plan, intended to reduce its reliance on fossil fuels following the Russia invasion of Ukraine. The plan increases the share of renewable energy but also includes a proposal for new investments in LNG and fossil gas infrastructure, undermining emission reduction efforts.

In July, the European Parliament backed a commission proposal to classify fossil gas and nuclear power as “sustainable” investments. In September, environmental groups launched a legal challenge against the European Commission over this decision, arguing that it undermines the EU’s emission reduction efforts and its obligations under the Paris Agreement.

Thousands of people have died as 21 countries across Europe endured unusually high temperatures amid an unprecedented and prolonged yet predictable heat-wave during summer months. Older people and those with underlying medical conditions, such as respiratory and cardiovascular diseases, were particularly affected. Data from Spain and Portugal show most people who died were over age 65.

### ***Foreign Policy***

Russia’s invasion of Ukraine and its effects on European security, economy, and stability dominated the EU’s diplomatic efforts in 2022. The EU and its member states put in place unprecedented and coordinated efforts to secure global support ahead of a series of UN votes condemning Russia’s aggression and to combat impunity for serious international crimes committed in the conflict.

At the same time, the need to secure energy supplies and markets alternative to Russia’s exacerbated pre-existing trends of strengthening ties with others authoritarian governments. In February, shortly before the conflict erupted, the EU hosted the EU-AU summit, welcoming abusive leaders such as Egypt’s Abdel Fattah al-Sisi to Brussels.

In June, EU member states approved the commission’s joint communication on a strategic partnership with the Gulf, nearly exclusively focused on laying out investment and cooperation opportunities, largely overlooking the Gulf countries’ grim human rights records. Similarly, the EU sealed energy deals with Israel, Egypt, and Azerbaijan, and relaunched negotiations for a free trade agreement with India, raising concerns that its already quiet or muted response to these governments’ abuses may persist.

In October, the EU resumed its Association Council meeting with Israel after a 10-year stalemate. Human rights groups and several members of the European Parliament harshly criticized the holding of the meeting amid escalating repression of Palestinian civil society by Israeli authorities and growing international consensus that Israeli authorities’ severe repression of Palestinians constitutes apartheid.

Also in October, leaders of 44 EU and neighboring countries, including abusive governments such as Turkey and Azerbaijan, gathered for the first meeting of the European Political Community. Discussions focused mainly on the conflict in Ukraine and the energy crisis.

Relations with China remained cold following tit-for-tat sanctions in 2020 and Beijing’s “pro-Russia neutrality” over the Ukraine conflict. While all EU member states unanimously supported the bloc’s damning statements on China’s

abuses at the UN Human Rights Council (HRC), Cyprus, Greece, Hungary, and Malta continued to refrain from signing cross-regional statements on Xinjiang.

Lack of unanimity also prevented the EU from supporting the adoption of a resolution to put China on the HRC agenda following the publication of the UN High Commissioner's report on Xinjiang. The EU's 2019 multifaceted strategy on China was confirmed by member states in October, although amid growing awareness that the "systemic rivalry" component is overshadowing its remaining pillars.

In October, the EU lifted targeted sanctions against some Burundian officials, despite acknowledging that "major [human rights] challenges remain unaddressed and unresolved." Strained relations between the EU and Mali over rights abuses and Mali's partnership with the Wagner Group led to a significant reduction in the EU Training Mission in Mali (EUTM) and the EU Capacity Building Mission (EUCAP).

In October, the European Union announced the deployment of up to 40 EU monitors along the Armenian side of the international border with Azerbaijan to "facilitate the restoration of peace and security ... the building of confidence and the delimitation of the international border between the two states."

High Representative Josep Borrell made a series of visits to Latin America, in preparation for a region-to-region summit expected to be held during the second half of 2023.

In February, the European Commission announced a long-awaited legislative proposal on a binding human rights and environmental due diligence mechanism for businesses throughout their value chains. In September, the commission also announced a legislative proposal to ban goods made through forced labor from entering the EU market. Both proposals, while welcome, carry significant weaknesses and need to be further amended to hold corporations accountable for human rights and environmental abuses.

In May, the European Parliament's Trade Committee proposed numerous amendments with the goal of strengthening the transparency, predictability, and ultimately influence the effectiveness of the EU's Generalised Scheme of Preferences (GSP), which grants preferential access to the EU market to low and middle-income countries against varying degrees of human rights conditionality. The new scheme would replace the existing one as of 2024. At time of writing,

the council had yet to reach a position on the reform. Current GSP beneficiaries include countries with abusive governments that have failed to meet their human rights obligations under the scheme, such as Pakistan, Sri Lanka, the Philippines, Bangladesh, Myanmar, Cambodia, Kyrgyzstan, and Uzbekistan.

The unanimity requirement remained a major obstacle for the swift adoption of principled EU foreign policy statements, decisions, and measures. The EU's global human rights sanctions regime remained largely underused, with attempts to adopt targeted sanctions against those responsible for atrocities related to the conflict in northern Ethiopia frustrated by the opposition of some member states. Hungary repeatedly blocked EU leadership for an initiative to create a UN HRC monitoring mechanism on the human rights situation in Russia, but a special rapporteur on Russia was eventually established in October through leadership by the other 26 EU member states.

Despite these limitations, the EU has played a leading role on UN General Assembly resolutions on human rights in North Korea and Myanmar, while supporting efforts in the assembly to pressure Syria and Iran over their human rights abuses. The EU has also backed multiple UN General Assembly condemnations of Russia over its invasion of Ukraine and atrocities against civilians there.

At the UN Human Rights Council, the EU played a leading role on important resolutions on Burundi, Belarus, Ethiopia, Eritrea, North Korea, Myanmar, and Afghanistan. However, it failed to support a resolution on racism, racial discrimination, and xenophobia, and continued to express concerns about the mandate of the Commission of Inquiry on the Occupied Palestinian territory, including East Jerusalem and Israel.