

A call to European solidarity associations, anti-racism networks, and humanitarian organizations

On September 23, the European Commission presented its “New European Pact on Migration and Asylum” as a radical reform of the existing system and a fresh start on migration in Europe. In reality, a reading of the proposals confirms that they do not go in the direction of innovative solutions, but on the contrary and except for a few minor novel aspects, the Pact reproduces the logic of the Dublin Regulation, hotspots, border closures, and externalization of responsibility to third countries regardless of their human rights record.

Among the critical areas highlighted by numerous analysts in diverse positions and roles, the following stand out:

- The European Union maintains, indeed reinforces, the principle of responsibility of the first country of entry to the detriment of countries on the EU’s external borders and to asylum seekers who often have no ties to the first country of entry. The “solidarity” mechanism does not provide for an obligation on Member States to relocate asylum seekers. Among the alternatives to relocation, they can choose “return sponsorship:” taking responsibility for the deportation from the first country of entry.
- According to the proposal, the determination of the right to international or subsidiary protection takes place in many cases in closed facilities near the border under a “border procedure” within 12 weeks, including time for a decision on appeal. The special procedure with few safeguards is applied automatically to all nationals of countries with a average EU recognition rate of less than 20% at first instance.
- During the procedure the asylum seeker is in a kind of limbo. The hotspot model is multiplied and extended.
- Without an efficient feedback mechanism, ensuring the monitoring of the whole process and the possibility to stop any abusive practice , this procedure risks producing serious human rights violations.
 - o First, it is explicitly stated that asylum seekers may not enter EU member states until the procedure is completed, and therefore must be detained, which reproduces the hotspot model implemented in Moria.
 - o Second, the need for “quick decisions on asylum or return” will mean that unaccompanied children and vulnerable groups, despite the exemptions in the proposal, will pay the highest price because it is precisely these groups who need more time to tell and reconstruct their stories, and for these to be adequately analyzed and evaluated.
 - o Third, the EU will pursue readmission agreements with countries of origin without taking into account the human rights situation in these countries or

transit countries, and without proposing “humanitarian channels” into Europe for those fleeing conflict or crisis.

While there are many negative aspects, the few positive points include:

- The affirmation of the principle of meaningful links of an asylum seeker with a particular country allowing that person to express a preference – albeit within well-defined limits and subject to agreement, on a case-by-case basis, of the country concerned – about where she or he should be relocated
- The affirmation that rescue at sea, including by NGOs, cannot be prosecuted or criminalized
- The importance afforded to monitoring various aspects of border governance including monitoring of respect for fundamental rights of migrants and asylum seekers.
- The reduction from 5 to 3 years of residence as a beneficiary of protection as a requisite for obtaining indefinite leave to remain with the right to free movement in the EU.

On the basis of this analysis, we propose to:

- A) Assert as a matter of non-negotiable principle our opposition to:
 - Detention as a default “first reception” of asylum seekers;
 - The underlying philosophy of the Pact of selecting those who may enter the EU and those rejected on any basis other than their individual characteristics and a case-by-case evaluation;
 - The default principle of responsibility of the first country of entry for the asylum procedure, which remains in place despite declarations.
- B) Work with countries on the EU’s external borders to ensure that delays in the asylum procedure, the refusal to relocate people, and even to repatriate migrants who have not reached their territory, as the Visegrad countries are insisting, do not translate into the creation on their territories of long-term situations such as in Moria.
- C) Propose that the human rights monitoring envisioned in the Pact be conducted by qualified representatives of human rights organizations, who can offer experienced researchers, data analysts, interpreters and mediators, rather than European or national institutions. In this way, while European and national authorities can monitor implementation of the Pact itself, organizations advocating on behalf of the rights of migrants and asylum seekers can monitor the delays, the lack of preparation, and the diverse and sometimes contrasting political will of EU countries do not

translate into human rights violations above all of those most vulnerable as has often been documented at EU land and sea borders.

This is the only way, to quote Home Affairs Commissioner Johansson, to find “not a perfect solution, but a solution acceptable to all,” which includes not only European institutions and member states, but also migrants themselves.

This is the only way to avoid that purported solidarity among member states with respect to migration management, with actions to contain people in new border free zones, becomes the updated version of the “hotspot approach” proposed by the European Commission in 2015 in its Agenda on Migration and which has proven disastrous for human rights.

This is the only way that the compromise Commission Vice President Margaritis Schinas admits had to be made can be shielded from attacks already being launched against the Pact by European governments whose only objective is to limit the number of beneficiaries of international protection on the continent.

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