

EPP Resolution: A window of opportunity: the new EU Pact on Migration and Asylum



Migration is an international phenomenon that cannot be managed by a single country. Conflicts, persecution, climate change and a lack of security and opportunity in countries of origin have contributed to a significant rise in migration during the past years. Refugees fleeing war and violence deserve our help – Europe has a responsibility to help those who qualify for international protection or are in need of humanitarian assistance. The EPP is proud that the EU is the world's largest provider of development assistance. In recent years most of the EU humanitarian budget (80% of 1.2 billion Euros in 2018 and of 1.6 billion Euros in 2019) was dedicated to projects helping the immediate needs of forcibly displaced refugees and their host communities to meet their basic needs in conflict, crisis and protracted displacement. However, the current system has also led to a number of people who are not in need of international protection to use the asylum process as a channel to seek a better life.

European law relating to asylum, borders and immigration is based on the Refugee Convention that was adopted in 1951. It was initially limited to protecting the millions of Europeans uprooted by the Second World War. However, later the Convention was opened up to all refugees with the 1967 Protocol. All European Union states are signatories of the Convention and Protocol: The Refugee Convention is binding. The Convention dictates that illegal border crossings cannot be penalised if the person is fleeing persecution. The host countries are bound by the principle of 'non-refoulement', according to which no human being may be returned to an area where the person in question would face the death penalty, torture, persecution or other inhumane or degrading treatment.

Over the past six decades the historical and political context has changed. The Refugee Convention is one of the UN's greatest success stories, however, its more recent interpretations have led to wrong incentives and even the abuse of asylum and social security systems. Under the current system, only those people who leave their country of origin can seek asylum. As a result, human trafficking and smuggling have evolved as business models in Africa and other parts of the world. Economic migrants and refugees from Africa, Asia and Latin America have reached Europe over the past years.

The Convention further obliges receiving countries to process asylum applications. Neither the Convention nor the Protocol take into account the number of people incentivized to abuse the system, which may cause a heavy burden on the receiving countries system and takes valuable time and resources away from assisting those in need of international protection.

Furthermore, the existing generous interpretations of the Convention and its Protocol do not take into account the EU's absorption capacity and the delicate situation in Europe's southern neighbourhood. Europe's societal and administrative structures cannot sustain an infinite number of people from third countries without risking its own social and political disruption. Furthermore, a thorough evaluation of the Convention's for the 21st century is necessary and can lead to a modernisation to ensure that it continues to offer a sustainable legal framework.

Existing European law relating to asylum, borders and migration has established a framework for the EU and its Member States. However, EU law dealing with asylum (in particular Directives 2011/95/EU and 2013/33/EU) reveal some concerns regarding the notion of "subsidiary protection status", where there are significant differences in the level of implementation between the Member States. The criteria according to which asylum can be granted are too loosely defined, which along with differing practices in the Member States does not serve the objectives of a common asylum policy. The EPP proposes a stronger harmonisation of asylum standards, including the concept of "subsidiary protection", so that they may in the future more adequately contribute towards a common European policy.

No Member State should find itself alone in an unreasonable situation due to the unexpected increase in the number of newcomers. Therefore, the EPP welcomes the recently proposed Pact on Migration and Asylum that tries to balance responsibility and flexible solidarity. EU Member States can choose whether to relocate accepted asylum seekers or to help return them to their countries of origin. Such Member States can also choose to provide financial assistance on the ground in first entry countries. Therefore, the EPP advocates the adoption of the Commission's legislative proposals and further recommends complementing it.

The EPP welcomes:

- The European Commission's legislative proposals to reform the Common European Asylum System that comprise efficient and fair border procedures and effective/flexible solidarity; the EU's aims to prevent abuse and help those in need;
- The EU's approach towards implementing the UN's 2030 Agenda for Sustainable Development together with its member countries;
- The EU funding for refugees and migration related issues outside the Union, amounting to over 9 billion Euros since 2015;
- The humanitarian evacuation of people from Libya to Emergency Transit Mechanisms in Niger and Rwanda for onward resettlement; this helped the most vulnerable to escape from desperate circumstances;
- The EU's long-term goal and the recent non-legislative proposal to eradicate the smuggling business by means of the upcoming 'Action plan against migrant smuggling'; an enforced Europol mandate could facilitate this process;
- The retained legislative proposal of the Blue Card System;
- The EU's efforts to cooperate with third countries and to implement readmission agreements regarding asylum seekers who were rejected in the EU and need to be taken back by their home countries;
- The EU to adopt a 'more for more' and 'less for less' principle, the more third countries do to facilitate the return of their own nationals, the more the EU can support these third countries through various cooperation projects and forms; the end goal must be return agreements with third countries;
- Greece's handling of its crisis situation earlier this year; migrants at the Greece's external borders with Turkey have been used as political weapons by President Erdogan; in such crisis situations it is legitimate to close the borders out of national security concerns;
- The support Frontex is offering to the EU Member States; the additional border guards will help to guard and control the EU's external borders and will help prevent entry pressures;
- The proposed border asylum procedure, intended for arrivals for countries with low recognition rates; it is important that the procedure should be as quick as possible, while respecting EU and international human rights law;
- The precautionary measures during this pandemic crisis; the external border controls have been maintained and complemented by additional health tests;
- The newly introduced pre-entry check in the current European Commission's proposal to determine immigrant's identities in Member States at the external borders;
- The EU's human approach, especially when it comes to putting families and unaccompanied minors

at the forefront; the proposed EU package includes special treatment at the border for unaccompanied minors;

- The European Commission's intention to curb secondary movements of asylum seekers, also called, 'asylum shopping', which has put a huge burden on the Member States' administrative systems;
- The Commission's legislative proposal for a new flexible solidarity mechanism, which provides each Member State with an alternative on how to contribute;
- The new legislative proposal by the Commission and its focus to increase effective returns of those persons who were not granted asylum; it is essential that these 'return criterias' are harmonised throughout the EU in order to prevent 'asylum shopping'. Return should be done with respect for people's human rights and dignity, and upon return counselling, accompanied by reintegration support;
- The Commission proposals on the integration of accepted asylum seekers, hereby supporting integration into local communities.

The EPP calls for:

- The EU to further deepen its relationship with the UN and work closer together with international organisations and institutions;
- The EU to advocate a holistic understanding of migration as a global phenomenon in the UN and other international organisations, with the objective of updating the Refugee Convention to meet current political and societal realities;
- An update of the 2011/95/EU and 2013/33/EU directives and a review of the notion of 'subsidiary protection';
- The EU to develop a clear strategy for addressing the root causes of migration which focuses at first on containing the "multipliers" of destabilization and emigration, namely demographic developments, environmental degradation and fighting corruption as well as on facilitating good governance;
- The Member States and the EU to increase coordination in the context of development policy in order to enhance its effectiveness and to adequately address the root causes of migration; the end goal of development policy should be development that leads to the redundancy of development aid;
- The EU to strive for mutually beneficial partnerships with key third countries of origin and transit;
- The EU to further deepen its relationship with third countries by means of development cooperation, trade policy and the EU's common foreign policy; and if necessary, use these policies as leverage in the negotiations for return agreements;
- The EU to further improve the EU-Africa partnership and to strengthen the foundations for sustainable economic development, as well as to focus in the long term on a free trade agreement with Africa;
- The EU to make sure international development banks work together to address the root causes;
- The EU to establish agreements like the EU-Turkey deal with transit countries and countries of origin, through which illegal migration can be prevented while many migrants can benefit from financial support in the countries of origin or transit;

- The EU to consider imposing sanctions on countries whose policies persecute different groups of people;
- Clear guidelines for when a negative decision is made to further enhance the EU's return policy; the EU needs to agree on a common list of safe third countries; this would facilitate the work for the first entry countries as people coming from safe countries could be directly declared inadmissible; as a consequence, citizens coming from safe third countries would be discouraged from entering EU territory;
- The EU to establish a provision that asylum applications cannot be made by persons who had arrived on the visa and stayed in the EU past its validity. These persons should be swiftly sent back to the country of origin or transit;
- The EU to seek ways to further enhance returns policy;
- The EU to therefore take on a central role in coordinating the return processes, mobilising all tools available;
- The EU to find a sustainable solution for responsibility shifting. There are flaws in the current Commission proposal, which is based on responsibility shifting of asylum claims if the applicant has some connections (such as family links) to another Member State. This can lead to concentrations of certain nationalities in certain parts of the EU. Member States who receive refugees through responsibility shifting are also not on the receiving end of the return sponsorship, which is primarily aimed at Member States at the external borders;
- The fact that Member States opting for "return sponsorship" can for example choose the nationalities to sponsor may lead to problems of disproportionality where only certain nationalities' returns are sponsored;
- It is imperative in the process of return sponsorship that failed asylum seekers are swiftly transferred back to the country of origin and transit without being moved around the EU which is costly and does not accelerate removal;
- EU Member States to continue working with UNHCR on resettlement since it is an effective way to help those most in need. It is important to develop resettlement capacities of refugees to third countries, especially those who have similar conditions – like Syrians could be resettled to all Arab countries. Solution for refugees outside the EU is relevant also because of associated costs;
- The definition of family reunification to be limited to spouse and dependent children. A broadening of the definition would lead to an uneven distribution of responsibility between Member States and act as a pull factor. Possibilities of further enlarged family reunification could be offered with resettlement to third countries outside the EU;
- The EU to further prioritise and strengthen resettlement policy, since it is an effective way of helping those most in need.



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**If you have any question you
would like to ask please contact us.**