

Notes on the EU Pact on Migration and Asylum

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- In spite of the Pact on Migration's good intentions and a few worthy policy innovations (e.g., more flexible burden sharing among the member states; screening procedures at the external borders) that are proposed, it does not address the main causes of Europe's lack of control over migration, nor will it be able to curb the deadly exodus of people across the Mediterranean;

- The Pact only addresses the question what should be done once irregular immigrants have set foot on European soil. It contains strong language on screening and return, but such statements are invariably followed by the qualifier “unless they apply for international protection”. Of course, this will have the predictable outcome (known from past experience) that virtually every irregular immigrant will apply for asylum protection. Similarly, the document talks confidently about security checks and establishing the identity of irregular immigrants, but they are followed by the qualification that if no documents are presented, the screening will be carried out on the basis of the identity revealed by the third-country national. Here too, we know from past experience what the consequence is: immigrants, especially those from countries of origin with a low recognition rate have a strong incentive to hide their true origin and identity and will make sure they discard identity documents;

- The real key issue, by contrast, that needs to be resolved is to prevent that irregular immigrants (have to) come to the EU in the first place. The current system forces asylum seekers to undertake an expensive, dangerous and often deadly journey in order to claim asylum. As a result, those who are young, male, single, healthy, and more affluent (people smugglers charge high fees) have much better chances to claim asylum whereas the system leaves children as well as those who are old, female, sick or handicapped, and the poorest behind. Without fundamental reform and a removal of the perverse incentive that only those who risk their lives are given a chance to claim asylum, the current European system will continue to claim hundreds to thousands of lives in the Mediterranean every year; will continue to leave behind those that need protection most; will continue to be used as an opportunity by many who have no valid grounds for asylum; and will, because of the continuation of all these problems remain highly contested among European electorates;

- The existing system therefore needs to be radically overhauled (if need be including amendments to the Geneva convention, the European Convention on Human Rights and/or other relevant international obligations) and replaced by a system in which resettlement quotas (to be set yearly EU-wide or by specific member states or coalitions of willing member states) becomes the norm and individual asylum the exception, rather than the other way around;

- In order to implement this, EU admission centres need to be set up in countries of first refuge (e.g., Turkey, Lebanon, Tunisia, eventually also Libya) where refugees can apply for resettlement. This should become the only way in which one can as a refugee enter the EU from a country of first refuge. Anyone who crosses the EU border without a resettlement

admission or another legal migration title should be immediately returned and should not have the opportunity to apply for asylum.

- Resettlement quotas can be specified in such a way that they prevent misuse and benefit those who really need protection most. Identities, origins and possible security risks will be assessed before entering Europe, rather than after entering or not at all. Quota can give special preference to vulnerable groups such as families with young children, the old and sick, members of persecuted ethnic and religious minorities, etc. This in contrast to the current system which strongly rewards those who are male, young, healthy and well-off enough to be able to afford the fees of smugglers.

- Existing opportunities for individual asylum should be limited to people arriving directly from the country of persecution by plane, and to people who seek refuge from persecution in countries that directly border the EU (e.g., Turkey, Ukraine, Russia). The reason is that for the latter group the EU is the country of first refuge.

- The burden of identity proof should be reversed. Persons whose identity and thereby also their country/region of origin and prior place of refuge is not established cannot apply for a resettlement quota. Persons arriving at the EU border or within the EU without identity documents and claiming asylum should be kept in (extra-territorial) detention centres until their identities have been established.