

# Ensuring fair implementation of the EU Pact to protect rights for refugees and migrants

Five  
recommendations  
to the European  
Commission and  
European  
Parliament

**Policy  
Recommendations**

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The **EU Pact on Migration and Asylum** (the EU Pact) entered into force in June 2024 and should be operationalized by the EU Member States from June 2026. With the **Common Implementation Plan**, the European Commission **required** that the Member States prepare national implementation plans by December 2024.

The EU Pact constitutes a comprehensive reform of the Common European Asylum System (CEAS). Both the introduction of a screening procedure and the increased use of border procedures, which might take place during detention, can risk hindering access to rights for asylum seekers.

The reformed responsibility rules, which are part of the Asylum and Migration Management Regulation (AMMR), aim to address onward movement by limiting asylum seekers' right to complain during the procedure and allowing for punitive measures. However, drivers for onward movement within the EU caused by gaps in the implementation of the current asylum law are seemingly not addressed.

**DRC has provided legal aid to asylum seekers** for many years, including representation in the Dublin procedure. Our experience is that the Member States' implementation of the current rules does not adequately consider the individual situation of an asylum seeker, thereby risking violation of rights.

We often meet people **who have difficulties being reunited with their family members** during the asylum procedure even though they were split up during the flight. We also meet asylum seekers who are being transferred to EU Member States where they do not get access to adequate reception conditions, but live in destitution, also limiting their possibility to meaningfully engage in the asylum procedure.

To safeguard the rights of refugees and migrants and ensure a well-functioning asylum system, implementation of the EU Pact must address the current gaps and be in line with fundamental rights and international law.

## **Danish Refugee Council's five recommendations for attention and action by the European Commission and European Parliament related to the implementation of the EU Pact on Migration and Asylum**

# 1

**ACCOUNTABILITY.** Ensure that the planning and implementation of the EU Pact safeguards the rights of refugees and migrants. To safeguard the fundamental rights of refugees and migrants asking for international protection in the EU, the Members of the European Parliament have an important role in monitoring both the planning phase of the Pact implementation as well as the operationalization.

# 2

**THE RIGHT TO ASYLUM.** Ensure access to fair and effective asylum procedures. The EU Pact introduces both new and often complicated procedures while also limiting the right to appeal, which will be challenging for asylum seekers to navigate. The increased use of border and admissibility procedures, most likely during detention, can have a negative impact on a person's ability to meaningfully engage in the asylum procedure, thereby risking refoulement. It is paramount that asylum systems have the necessary capacity to ensure that asylum seekers get access to high-quality and independent legal aid throughout the procedure and that they have access to effective remedies.

# 3

**ADEQUATE RECEPTION.** Ensure access to adequate reception conditions - not detention. With the Pact, refugees and migrants are not perceived as having entered EU territory until the authorities have allowed them to enter, the so-called fiction of non-entry. Asylum seekers are also required to remain at specific locations during the initial part of the screening and border procedures. This new framework might lead to asylum seekers being imprisoned upon arrival to the EU. Asylum seekers should not be detained for claiming asylum, especially not children and families. Detention should only be used based on justifiable reasons and as a last resort as the deprivation of liberty limits access to legal aid and the judicial system, thereby hindering access to fair and efficient asylum procedures.

# 4

## **ADDRESS THE REASONS FOR ONWARD MOVEMENT.**

**Rather than sanctioning asylum seekers for moving within the EU, the drivers for onward movement should be addressed.** Article 43 of the AMMR limits the right to appeal although the Pact has not addressed the current reasons that people move within the EU. Drivers behind onward movement in the EU are often the wish to reunite with family or having experienced pushbacks or undignified living conditions in the first EU Member State of arrival. When applying the responsibility rules of the AMMR, the EU Member States must ensure that the individual situation of an asylum seeker is adequately considered, including rights of families and children.

# 5

## **SOLIDARITY. Ensure a well-functioning solidarity mechanism.**

The EU Pact aims to counter the additional responsibility of increased use of border procedures through the new solidarity mechanism, introduced with the AMMR. To ensure that the Member States at the EU's external borders receive the necessary support from the other EU Member States, pledges should focus on expanding capacity of the national asylum and reception systems to ensure that implementation gaps does not violate rights of asylum seekers.