



# New pact, new direction?

DRC's recommendations on the new pact  
on migration and asylum

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## A BALANCED APPROACH TO MIGRATION AND ASYLUM WITH RIGHTS AND SOLUTIONS AT THE CORE

The global challenge of displacement and migration calls for a unified, comprehensive and long-term response. DRC generally welcomes the attention and resources that the EU continue to dedicate to *strengthening the Common European Asylum System and to contribute to global solutions to forced displacement and irregular migration*.

The pending New Pact on Migration and Asylum is an *opportunity to bring back rights to the center of the EU's approach* with the aim of providing solutions for people fleeing persecution, conflict or violence. The Pact should be based on facts and lessons learned from the implementation of new measures and models in the past years.

DRC strongly believes that while the scale of global displacement is high and the challenges related to irregular migration are real in Europe and beyond, *the situation remains manageable* – if the political will is there.

The multiple migration policy initiatives and partnership agreements launched by the EU over the past years have been developed in a context of strong narratives of unmanageable movements and unprecedented crisis. This 'crisis narrative' warrants the use of short-term temporary measures, which have legitimized the undermining of rights for refugees and migrants, and to those who support and assist them. It also contributes to instilling unnecessary fear and insecurity in the European public. Framing asylum seekers as illegal and movements as overwhelming is counterproductive and detracts from efforts to address the root causes of forced displacement and to find solutions.

DRC welcomes positive indications from the new European Commission of a shift away from a crisis-narrative and hopes that this will translate into a more balanced approach with *rights and solutions at the core*.

To ensure that the New Pact bases its response on the full expertise and lessons learned by all involved actors, DRC supported the joint NGO call (January 2020) for a *formal consultation process* that involves NGOs and other actors. DRC also supports the [ECRE-led joint statement on the New Pact on Asylum and Migration](#).

## DRC'S RECOMMENDATIONS ON THE NEW PACT ON MIGRATION AND ASYLUM

**#1: Focus on compliance with the EU asylum law rather than legislative reform.** Except for a needed reform of the Dublin III Regulation (see below), a New Pact on Migration and Asylum should as a key priority ensure that Member States comply with existing EU asylum acquis (see [ECRE policy note](#)). There continues to exist severe gaps in the implementation of the EU asylum acquis, e.g. in relation to dignified reception conditions, registration of asylum applications, procedural safeguards in the asylum procedure as well as large variations in recognition rates. The role of the European Commission in monitoring and enforcing the implementation and compliance with the EU asylum acquis is key in this regard.

**#2: Ensure effective access to the asylum procedure for all.** Access to the asylum procedure for all asylum seekers and the principle of non-refoulement are and must continue to be the corner stone of a fair and efficient asylum system in the EU. While ensuring fast procedures and effective returns are legitimate issues of attention of the European Commission and EU Member States, DRC is concerned that a predominant and narrow focus on these aspects of the asylum system are likely to violate the right to seek asylum. Indications of developments towards accelerated border procedures, including the application of vast restrictions of freedom of movement, should be rejected, because they put rights at risk including the right to effective remedy and ultimately, the principle of non-refoulement.

Research and studies, including DRC's [Rights at Risk](#), of implications of the current fast-track procedures and detention practices in the hotspots in Italy and on the Greek Aegean Islands point to critical impediments regarding asylum seekers' effective access to the asylum procedure and a lack of access to legal assistance and effective remedies. It is essential that the EU learn from these experiences.

**#3: Supporting integration of refugees with a view to long-term solutions.** Refugees in the EU, including refugees with temporary protection, must be guaranteed equal rights and opportunities, including equal access to services and benefits. The principle of equal treatment must be applied in relation to employment, education, access to health services – including free interpretation services – and family reunification. Research demonstrate not only the social but also the economic benefit that refugees bring when received in a manner that facilitates the right to family life and to work. The engagement of civil society, local communities

and the volunteer sector should be supported, as they are key actors for facilitating inclusion as well as a sense of belonging and cohesion.

The review of the EU Action Plan on the inclusion of third country nationals is an opportunity to ensure a comprehensive approach, including the right to work, to freedom of movement and adequate housing and healthcare. Integration must acknowledge – and take as a point of departure – refugees' own resources, the diversity of persons with refugee backgrounds, and the need to secure long-term solutions for the individual. This would include better access to permanent residence and citizenship for some. Good integration enables refugees to live life in dignity not only in host countries, but also if they return to their country of origin one day.

**#4: Share responsibility for providing protection – in the EU and beyond.** Solidarity and responsibility-sharing must be corner stones in any response to refugee situations and are embedded principles in the EU Treaty (TFEU) and in the recent Global Compact on Refugees respectively. All countries should assume a responsibility to protect and assist forcibly displaced people in proportion to a given country's resources and capacities. When responsibility-sharing fails, and a limited number of countries carry the responsibility alone, displaced people are not assisted and protected as they need and are entitled to be, and we all fail in our binding obligation to do so.

A reform of the Dublin III Regulation is needed to establish functioning solidarity measures that ensure responsibility-sharing among EU Member States and respect the human rights of asylum seekers, including the [right to family life](#). Pending a reform of Dublin, Member States should be encouraged to contribute to interim solidarity measures – beyond financial and technical assistance to Member States at the EU's external borders. Externally, the EU must actively contribute to improving refugee protection and asylum capacity in regions of origin, without undermining the right to seek asylum in Europe, and expand legal pathways including through resettlement, humanitarian admission, and other safe admission schemes. Furthermore, the EU must develop and expand complementary pathways for protection, including upholding the right to family life through family reunification, facilitating labour mobility, optimizing education opportunities, and providing safe alternatives for vulnerable migrants caught in crisis. The guiding principles and objectives of the Global compact on Safe and Regular Migration provides a good reference for the development of the Pact in this regard.

**#5: Promote rights-based and conflict-sensitive migration cooperation and responses.** DRC is generally concerned with the increasing securitization of borders and the shifting of protection responsibilities to third countries. The objective of reducing arrivals to the EU must never be at the expense of ensuring access to protection for those in need. To outsource search and rescue operations to unsafe countries outside the EU is an unacceptable way of shying away from responsibility, and it puts lives at risk. The principle of non-refoulement applies to everyone regardless of their migratory status. No one should be sent back to a place where their life is in danger. DRC is critical towards the EU's and Member States' expanded use of the safe country concept and the further expansion of the use of readmission agreements, which increases the risk of readmission to third countries that are not able to ensure protection for refugees as some of these third countries are not bound by international public law, such as the Refugee Convention. The EU must uphold and safeguard the right to seek asylum with the focus and ensure dignified return for those not in need of international protection.

While DRC acknowledges challenges in terms of return of rejected asylum seekers, partnerships with third countries or the allocation of humanitarian or development aid should not be based on the condition that states prevent onwards movement or facilitate returns or readmissions.

Development assistance to conflict-affected areas should be measured by its ability to increase protection and access to rights, and should target those areas where humanitarian needs, fragility, rights violations and poverty are greatest. All funding must adopt a do no harm approach to ensure that humanitarian and development assistance do not negatively impact the context and affected populations. When short-term European domestic policy objectives of securing return and readmission arrangements with third countries and stemming migration towards the EU take priority, they risk undermining necessary long-term work towards resilience, stability, and economic development, and to unintendedly contribute to the very instability that leads to displacement.

The EU should support long-term solutions, identify opportunities to strengthen peacebuilding capacities and good governance and take the lead in pursuing political solutions to displacement, address root causes of displacement, strengthen access to and quality of asylum internally and worldwide, promote durable solutions, and lead by example in shouldering its share of global responsibility sharing efforts. Current policies of deterrence, containment and externalisation come at the high price of putting at stake the core principles of international human rights and refugee law, and the commitment to protect the basic rights of refugees and migrants.



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#### **About DRC**

The Danish Refugee Council assists refugees and internally displaced persons in 40 countries across the globe: we provide emergency aid, fight for their rights, and strengthen their opportunity for a brighter future. We work in conflict-affected areas, along the displacement routes, and in the countries where refugees settle. In cooperation with local communities, we strive for responsible and sustainable solutions. We work toward successful integration and – whenever possible – for the fulfillment of the wish to return home.

The Danish Refugee Council was founded in Denmark in 1956 and has since grown to become an international humanitarian organization with more than 9,000 staff and 7,500 volunteers. Our vision is a dignified life for all displaced  
 For more information, please visit [www.drc.ngo](http://www.drc.ngo)



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