

NGO statement on Europe

Dear Chair,

This statement was drafted through a wide consultation with NGOs and reflects a diversity of views.

EU Pact on Asylum and Migration

The political agreement reached by the Member States of the EU at the end of 2023 is extremely worrying. Overall, it centers on deterrence, detention, and deportation. The decision to include mandatory border procedures for a large group of asylum seekers will lead to the (*de facto*) detention of thousands of people at the EU external border, children and vulnerable people included. Even the applications of unaccompanied children might be processed in border procedures if they are considered to be a security-threat. Border procedures will most likely happen in remote locations, difficult to reach for lawyers, NGOs, and civil society. Legal aid is likely to be limited. This is of particular concern, as we know that very often having access to quality legal support is extremely challenging, particularly in (*de facto*) [detention](#).

Further, the Pact relies on the application of the 'legal fiction of non-entry', includes the expansion of the use of 'safe third country' concepts, an attempt to outsource the EU's asylum responsibilities which increases the risk of *refoulement*, and overall, significantly lowers procedural guarantees for applicants such as the right to legal aid during procedures.

More fundamentally, the Pact is based on the flawed assumption that Europe's asylum system is being exploited by people without legitimate protection needs. In fact, [statistics](#) from 2022 show that some form of national or international protection was granted to 49% of applicants in the first instance, with a further third of appealed or reviewed cases being overturned in the applicant's favour. Similarly, spontaneous arrivals are driven not by insufficient deterrent measures but rather by real protection threats and the shortage of safe pathways.

The focus on border procedures will increase the administrative burden for EU countries at external borders, likely leading to more bottlenecks, delayed access to asylum and overcrowded inhumane camps such as those witnessed in recent years. In this sense, the Pact is not offering a solution to potential situations of pressure at external borders, but rather increasing their likelihood. The so-called solidarity mechanism included in the Pact will not alleviate this phenomenon, as the first country of entry principle remains, and Member States will be able to essentially buy their way out of relocations as they will be able to choose from various measures.

The proposed derogations for crisis, force majeure and 'instrumentalization' situations are concerning as they allow Member States to easily opt-out of common asylum standards,

expand the use of the border procedure and lower key safeguards. The inclusion of the concept of ‘instrumentalization’ will open the door for Member States to derogate from the common legislation when they consider that another entity (Member States, but potentially also organizations) are instrumentalizing migrants, pushing them to the EU border to destabilize the Union. Such considerations have no relevance on the substance of individual asylum claims and should not be used to undermine the rights of vulnerable populations. Additionally, the proposed ‘fast track’ asylum procedures further increase risks of rights violations, and the denial of a fair, individual assessment of the threats a person may have fled. Furthermore, these provisions risk leading to even more diverging standards between Member States, which is one of the key causes of the chronic deficiencies and political disputes in the EU’s asylum system in recent years.

In light of the above, NGO and civil society have called for the rejection of this Pact. As this is extremely unlikely at this stage of the legislative process, we urge the European institutions and Member States to implement the Pact with full respect to fundamental rights of refugees and stateless persons, and in close consultation with relevant NGOs and civil society.

Detention upon arrival

Detention within the Pact is likely to increase significantly with the Screening Regulation and the Amended Asylum Procedures Regulation. The European Commission itself has affirmed that border procedures “[imply detention](#).” The new Pact proposals therefore undermine the principle that detention should only be applied as a measure of last resort; instead, **depriving people of their liberty at borders is set to become the default approach**.

We strongly urge against the use of detention at borders, for European countries only to use detention as a last resort, and for asylum seekers in detention to be housed in humane and dignified conditions.

Externalization efforts

The attempt to externalize responsibility to contain refugees outside Europe is evident both in the EU Pact (safe third country concepts and the proposal to fund migration related ‘projects’ in third countries as a form of solidarity), in untransparent EU ‘migration agreements’ with non-EU countries (such as the MoU with Tunisia) as well as in bilateral arrangements by EU Member States (see the Italy-Albania agreement) and other European countries (see UK-Rwanda). “Safe country” concepts also undermine the ability of asylum seekers to have their claims fairly assessed and potentially subject them to additional risk of further human rights abuses and deportation to their countries of origin. These agreements, along with systematic pushbacks and pullbacks perpetrated at the EU’s land and sea borders on a now daily basis are an attempt to build fortress Europe and stop people seeking safety from ever arriving in EU territory.

This is in stark contrast to the crucial role that the 1951 Convention Relating to the Status of Refugees puts on international solidarity in ensuring refugee protection, as well as with the global reality of displacement – that sees the majority of refugees in regions other than Europe (with the exception of Ukrainian displacement). 60% of displaced people stay in their home country, and of those who cross [borders, 74% are hosted by low and middle-income countries](#). Only 12.4% are hosted in Europe, and only half of those in the European Union.

Europe is not unique in the number of people on the move, but it is unique in the number of deaths its border policies result in.

We urge European States to assume their responsibilities in welcoming refugees, instead of deflecting that to other parts of the world. We also call for asylum systems to be properly resourced, including in preparedness infrastructure and capacity.

Lack of safe and legal pathways

2023 was [the deadliest year](#) at European borders on record since 2016, with at least 3,760 people trying to reach Europe losing their lives in the Mediterranean. The EU Pact and the EU's externalization efforts take place against a backdrop of an acute lack of safe and regular pathways for refugees to reach Europe. European States's recent pledges for resettlement and complementary pathways are far below the current needs. At the 2023 Global Refugee Forum EU Member States most recently pledged to resettle 31,000 refugees between 2024-25, a significant drop on the commitments made at the last Global Refugee Forum.

We urge European States to significantly increase their resettlement and complementary pathway quotas.

Statelessness

There are an estimated half a million stateless people in Europe today, often living in the margins of society and denied access to their fundamental rights. This includes migrants who have fled countries in which discriminatory nationality laws and policies create statelessness and the risk of statelessness. NGOs are concerned by the absence of an adequate policy response by European States, most of whom currently lack dedicated statelessness procedures enabling the identification and protection of stateless people on their territory who are owed protection.

Equally, some children born in Europe to migrant or refugee parents are currently exposed to a risk of statelessness due to a combination of discriminatory nationality laws, lack of birth registration or gaps in practice in their country of origin, and the lack of safeguards against childhood statelessness in European countries' nationality laws, or failures in their effective implementation. NGOs call on all European States to implement their international obligations to ensure that all stateless children born on their territory acquire a nationality. This year offers a pivotal window to garner momentum towards meeting UNHCR's *#IBelong* campaign objectives to eradicate statelessness by the end of 2024, including critically to implement the numerous pledges on statelessness made by European States at the 2023 Global Refugee Forum. The launch later this year of the UNHCR-led multistakeholder Global Alliance to Eradicate Statelessness provides a further opportunity to leverage progress, and European States are encouraged to join this and pledge under its Solution Seeker Programme.

Ukraine response

The Ukraine response should serve as a model for a common European response to all refugees seeking protection in the region. For now, in the EU and other European States, Ukrainian refugees have received EU temporary protection or some form of national

temporary protection. With EU temporary protection set to phase out in March 2025, it is crucial that the EU puts forward common, coordinated and future-proof solutions for the millions of refugees who fled the war in Ukraine now on EU territory. A lack of an EU-wide coordinated approach after temporary protection ends risks people losing access to their rights, becoming undocumented and national authorities being overwhelmed. As the war enters into its third year, it is important to give longer-term perspective to refugees fleeing Ukraine, to allow individuals to settle and integrate into their host countries. While it is important that refugees who fled Ukraine who wish to, are allowed to apply for asylum to obtain refugee status, it is likely that many of them will not be eligible (due to not having an individual fear of persecution but having fled generalized violence).

As long as the war continues, many will qualify for subsidiary protection. However, if all those who fled the Ukraine war were to apply for individual protection statuses at once, national asylum systems will likely be overwhelmed, particularly considering that many face backlogs in asylum processing. Transition to other forms of legal status must be explored with a united EU approach with a view to guaranteeing durable solutions including long-term permanent legal stay. In this context it is also important to note that only 50% of Ukrainian refugee children are in school. It must be a priority to enroll all these children into schools as children need the normalcy a school context can provide, helping with more long-term integration.

People who have fled Ukraine must also be provided with access to mental health and psychosocial support services and be supported in accessing employment opportunities. The response has also exposed gaps in the protection framework, including for third-country nationals and [stateless people as well as other marginalised groups displaced](#) from Ukraine. Moving forward, we urge EU Member States to adopt an inclusive interpretation and implementation of the Temporary Protection Directive and other relevant instruments.

We also call on European States to implement sustainable long-term protection for Ukrainian refugees and to settle and integrate them into their host countries.

Finally, we would again like to bring attention to the challenges have at times hindered NGOs' ability to operate efficiently, such as siloed approaches in Ukraine's neighbouring countries and cumbersome, top-down partnership requirements that have limited the ability for funds to reach partners, particularly local NGOs leading the first response. National and local organisations have also called for increased and systematic provision for multilingual communication, especially in coordination fora and funding processes, to support their meaningful engagement with the international response.

Thank you.