

ETUC Statement on the New Pact on Migration and Asylum

Approved at the Steering Committee of 17 November 2020

On 23 September 2020, the European Commission presented the new [European Pact on Migration and Asylum](#). Regrettably, the Pact has not provided a 'fresh start' but rather continues perpetuating the previous security oriented approach, with a strong focus on border control, deterrence, detention and deportations; while leaving very little room for, or postponing proposals in, the area of regular migration. While recognising that 'migration has been a constant feature of human history' and affirming the commitment to take a more 'human and humane approach' to migration, this is not fully reflected in the proposals.

The [ETUC stands for the rights of all migrants](#), including asylum seekers, refugees, and undocumented migrants. It calls for all Member States to uphold their obligations under the 1951 UN Geneva convention and the 1967 protocol to provide legal protection to asylum seekers, and not to return asylum-seekers or refugees to a country where they face serious threats to their life or freedom. The ETUC also demands respect for the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the ILO Convention 143 on Migrant Workers and the ILO Convention 97 on Migration for Employment as well as the Global Compact for Safe, Orderly and Regular Migration (GCM).

The ETUC condemns this Pact as it enables Member States to breach these international conventions. It allows them to sponsor deportations as an alternative to accepting their human rights responsibility to enable people to claim asylum in their countries. It is a gross perversion of language for this scheme to be called an approach of 'solidarity'.

The ETUC condemns Member States who seek to stir up hatred and xenophobia against asylum seekers, refugees and migrants in general, and also condemns those who implement policies that deny them their rights. This has caused discrimination, particularly against those from black and ethnic minority backgrounds, further entrenching structural racism.

The ETUC believes it is essential for the new Pact to promote universal human rights and to prevent suffering and exploitation of all migrants, asylum seekers, refugees and other vulnerable groups in all countries and the rise of xenophobia and racism taking place across the EU.

The ETUC concerns:

- The ETUC regrets that the European Commission has not been able to show political leadership through this Pact. It could have built a binding and common approach to asylum and migration that ensures all Member States respect international human rights law.

- The ETUC regrets that the Pact fails to create a common EU-wide, rights-based policy. One that ensures Member States take responsibility of asylum seekers, and caters to migrants' needs. Instead it succumbed to anti-immigrant political movements and Member States who wish to treat migration and asylum as an exclusively national matter in order to continue restricting access of those who seek international protection in their countries and refusing the fundamental rights of migrants.
- The Pact does not remedy the main shortcoming of the current Dublin Regulation, which allows Member States to deny responsibility for protection for asylum seekers who entered the EU in another country. It pays lip service to those member states at the EU borders who have to shoulder a disproportionate responsibility in terms of reception and care of newcomers.
- Denying international protection seekers, and more generally migrant workers, their rights, only benefits employers who use asylum seekers and refugees, as well as undocumented and other precarious workers, as cheap labour which in turn creates and sets division among workers, and lowers conditions and pay for all workers.
- Denying the protection of children, defined as any person under the age of 18 (not 12 as proposed by the European Commission) and the right to family reunification in line with binding international law and related guidance.
- The ETUC is concerned that the [pre-screening](#) instrument and the revised [border procedures](#) proposed in the Pact will lead to more people being systematically detained in 'hotspots' in the EU and Turkey and in transit countries such as Libya and Niger where their fundamental human rights will not be respected. The lack of human and material resources in asylum claim processing services and reception centres, not least in EU border Member States, also means that the two fast track procedures will either not be complied with or prevent the international obligation to process asylum claims and return decisions on an individual and fair basis.
- The ETUC condemns the fact that the Pact seeks to strengthen 'Fortress Europe' with a massive reinforcement of FRONTEX, the European Border and Coast Guard Agency, and creating the figure of an EU General Coordinator for returns. These measures will prevent asylum seekers from being able to reach EU countries to apply for asylum, they will force people to take even more dangerous routes and rely further on smugglers to seek protection. The measures will legitimise further the return of asylum-seekers to countries where they have been persecuted.
- The ETUC is concerned that the Pact will increase invasive collection of asylum seekers' and migrants' biometric data including fingerprints through the EURODAC database which will increase the risk of people being victimised and persecuted.
- The Pact threatens to prevent civil society from conducting search and rescue operations, suggesting the Commission will work with Member States to ensure private vessels do not undermine 'migration management'. This is contrary to

international maritime law and long-standing maritime tradition, which stipulate that any ship captain has the duty to rescue people in distress at sea.

- There are no new proposals on regular migration. The ETUC regrets that labour migration has been put in the context of the EU's need for "attracting talents and skills". Nevertheless, the recognition of the need to better protect migrant workers from exploitation is welcome.
- The ETUC is concerned by the proposal of an EU talent pool for third-country skilled workers wishing to come into the EU which would serve as an EU-wide platform for international recruitment. Among other reasons because brain drain cannot be labelled as good cooperation with the countries of origin.
- The ETUC is concerned about the lack of attention from the EU to the GCM, which is not even mentioned once in the text of the Pact. The GCM is the first attempt to address effective migration management from a multilateral perspective. The ETUC values the Global Compact as a useful framework for exploring international migration governance mechanisms involving the countries of origin, transit and destination and emphasising the respect of human rights and decent work.
- The proposals do not offer targeted measures to fully reflect the gender dimension of migration and the vulnerable position of unaccompanied minors and children with their families.

ETUC demands a universal human rights approach, whereby it:

- Calls for all Member States to uphold their obligations under international human rights and labour conventions.
- Significantly increased safe and regular channels for asylum seekers through a common European asylum system based on sufficiently staffed and trained public services dealing with asylum, not least in the EU border member states.
- A real revision of the Dublin rules - the EU should be recognised as a single territory, according to international law, for the purpose of protecting asylum seekers.
- Binding commitment by Member States for an equitable distribution of asylum seekers.
- All Member States to support assistance to people in distress at sea and fully comply with international law in this respect. The Commission to launch infringement procedures against Member States not complying with their international legal obligations to provide support and assist people in distress at sea. Member States must ensure that search and rescue services (public or private) have sufficient means and resources to guarantee the assistance and safety of all persons in distress as well as the protection of rescue workers.
- Regularisation of those with insecure or irregular status.

- Asylum seekers granted the right to work in all member states. It needs to be ensured – with the involvement of employers and trade unions that all asylum seekers, refugees and migrant workers receive decent treatment in employment. This is essential for building solidarity between workers and ensuring equal treatment and equal opportunities for all workers.. The ETUC has demonstrated that access to work on equal conditions and the ability to claim rights at work is crucial for achieving a full recognition of universal human rights including the right to citizenship.
- A clear commitment from Members States to ensure that the fundamental human rights of asylum seekers and migrants are realised and protected at all times, including access to safe accommodation, information (in the language they can understand), health and social services, and justice.
- Full transparency, democratic supervision, and control of the EU FRONTEX agency to prevent violations of fundamental rights and unlawful pushbacks.
- Cooperation to fight the structural causes of forced migration between governments and social partners in the EU and third countries, especially in the Mediterranean, East Neighbourhood and Sub-Saharan countries.
- Develop regular labour migration pathways to enter the EU.
- Strengthen cooperation (political and economic) with countries of origin to strengthen the national economy, provide assistance in education and (vocational) training, states administration, etc.

The ETUC actions

- ETUC calls on MEPs to support these principles and push for an approach on asylum and migration that is grounded in human rights, solidarity and access to public services; such as asylum administrations, healthcare, decent housing, education, amongst others.
- ETUC will support members' activities to [organise all migrant workers](#) - including asylum seekers, refugees and undocumented people - and empower them in unions so they can participate in collective bargaining. Thus, ensuring all workers, no matter their immigration status or nationality, are treated equally and have their universal human rights respected.
- ETUC will work together with key civil society stakeholders on medium and long-term joint strategies.
- On labour migration, ETUC will carefully follow the development of the so-called "Talent Partnerships" in the EU's Neighbourhood, the Western Balkans, and in Africa and will contribute to the [public consultation](#) on the future of EU regular migration policy, which must be based on trade union rights and ethical recruitment.

- ETUC will follow the evaluation of the Employers Sanctions Directive and the possible role of the European Labour Authority in ensuring its efficient implementation as outlined in the Pact, to ensure that this focuses on developing effective complaints mechanisms.
- ETUC will follow the new Action Plan on integration and inclusion for 2021 -2024 and will continue advocating for the rights to work, collective bargaining, labour market integration and access to social protection for migrants and refugees. The Commission acknowledged in the Pact the key role that trade unions play in the labour market integration of migrants, following the renewal of the [European Partnership for Integration](#).