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The New Pact on Migration and Asylum & the Action Plan on Integration and Inclusion 2021-2027

After briefly defining the policy framework, this paper describes the latest developments in the field of migration and inclusion at the EU level: the New Pact on Migration and Asylum and the Action Plan on Integration and Inclusion 2021-2027.

Subsequently, it lays out SOLIDAR's position with respect to these developments and introduces some recommendations directed to European institutions.





Introduction

Migration policy has been at the centre of the political debate within and outside the European Union in recent years. It has been used as a rallying call for nationalists and right-wing movements, parties and governments, has threatened the integrity of the EU and put the solidarity among member states to the test. In the meantime, migrants are caught in the cross fire. During the peak of migration flows to the EU in 2015 the massive shortcomings and deep loopholes of the migration management system were exposed in the most tragic way. These deficiencies remain and have in many ways deepened since. The inhumane conditions of migrants in camps within and at the doorstep of the Union and the continued deadly traffic on the Mediterranean are evident examples of this. More recently, the Covid-19 pandemic rendered migrants' conditions even more critical¹, especially for those in detention².

If migrants manage to enter the EU, they face huge challenges, of inclusion, acceptance, and access to rights. In terms of education, employment and access to essential services they are well behind EU citizens.³ This situation of structural inequality affects migrants first and foremost, but it also hampers the well-functioning of our economies and societies contributing to increased tensions, misuse of human capital, missed development opportunities, and fiscal gains.⁴

The migration policy and the inclusion policy of the EU are two sides of the same coin, they need to complement and support each other to effectively fulfil their function. In this paper the frameworks of the two policy areas will be briefly introduced. Subsequently, the most recent developments at the EU level will be presented: the New Pact on Migration and Asylum and the Action Plan on Integration and Inclusion 2021-2027. To conclude, SOLIDAR's stance will be laid out.

EU Migration and Inclusion policy framework - some background

The European Agenda on Migration + the guidelines on regular migration and asylum

The main migration policy background document is the European Agenda on Migration⁵ introduced in 2015 in the midst of heightened internal tensions and conflicts in a bid to help Member States. It introduced the “**hot spots**” system aimed at improving the reception capacity of Member States, but that eventually turned out to be one of the weakest points of the EU migration policy, condemning thousands of migrants to inhumane living conditions. The document also proposed a **relocation and resettlement system**⁶ that failed to lead to a more even participation among Member States⁷. From a mid- to long-term perspective, the Agenda was based on four pillars: reducing irregular migration; borders control; a stronger asylum policy; a new policy on regular migration. SOLIDAR and other CSOs actively engaged highlighted once more the overemphasis of **security and restrictive elements** in the document and a much too weak rights agenda⁸.

In April 2016, based on the European Agenda on Migration, the Commission approved the guidelines on regular migration and asylum.⁹ Some elements of the guidelines, such as strengthening cooperation with countries of origin have been repropounded in the New Pact on Migration and Asylum.



The Action Plan on the integration of third country nationals

In June 2016 an Action Plan on the integration of third-country nationals¹⁰ was introduced to guide Member States in the development of inclusion policies and to inform the stakeholders. The document was developed around five key areas: pre-departure/pre-arrival measures; education; labour market and access to vocational training; access to basic services; active participation and social inclusion.

Platforms to enhance **collaboration** among actors at national, regional and local level were also presented, such as the European Integration Network or the European Migration Forum.¹¹ The document, in spite of its wide scope, targeted exclusively **regular residents**, leaving out those in an irregular situation, who are most affected by exclusion and repression. Moreover, since the EU has very limited competences in the field of integration policy, no harmonisation of national laws or regulations is provided and the Union only supports and seeks to incentivise national measures.¹²

What has (not) changed?

The New Pact on Migration and Asylum

On 23 September 2020 the New Pact on Migration and Asylum¹³ was adopted, together with other legislative proposals included in the Migration and Asylum Package¹⁴. The New Pact, according to the EC, responds to the need for increased integration of actions and solidarity among Member States. The document is based on three main pillars: 1) better and faster procedures; 2) firm and fair rules on intra-EU solidarity; 3) stronger relations with third countries.¹⁵ Under these pillars, the following measure have been introduced:

Pre-entrance screening → this system is aimed at making border procedures faster. Migrants whose asylum requests is rejected would immediately be returned to their country of origin. This is problematic for several reasons, the main one being the imminent risk of a breach with the principle of non-refoulement, which guarantees that no one should be returned to a country where they would face human rights violations¹⁶. Member States and the Fundamental Rights Agency would create a mechanism to control the respect of fundamental rights in border procedures. However, this is not sufficient to prevent fundamental rights violations, nor guarantee a proper procedure to safeguard the right to a due process¹⁷.

Detention period → Through the proposal of recasting the Return Directive of September 2018, a new detention period from 3 to 6 months for migrants waiting to be returned would be introduced with a maximum extension of up to 12 months¹⁸. Border procedures normally would not apply to unaccompanied children and children below the age of 12 and their families. This means that detention could apply to children from 12 years of age, in violation of international children's rights standards.¹⁹

Hot spots approach → the Migration and Asylum Package does not reform it, despite the violation of rights it thus far has led to and its inability to contribute to its original purpose, the management of migration flows. Although the New Pact stresses the need for more cooperation among EU countries, the proposed solidarity mechanism solely depends on the Member States' will to enact the relocation or return sponsorship option.



Cooperation with third countries → it is encouraged as main option to manage the migration flows and to tackle irregular immigration. As raised in numerous occasions by SOLIDAR and CSOs, the point of externalisation of EU borders is extremely problematic as evident by the inhumane conditions and the numerous violations of human rights of migrants living in third countries' detention centres, such as in Libya²⁰ or in Turkey²¹.

Legal pathways → their creation for persons that have the right to protection is envisaged, but symptomatically only vague and general recommendations are formulated. Although it is an exclusive competence of each Member State to establish the volume of migrants that can enter its territory, ways for the EU to give more support to Member States and good practices to build on exist and should be better identified. The EU should also lead the way in terms of developing mechanisms and processes that would facilitate legal entry.²²

NGOs rescuing migrants at sea → the Commission recognises the importance of their role, but also highlights the risks of smuggling linked with the use of private vessels and sets health and safety standards for NGOs' boats²³. It is important to make sure that these standards are not used as an excuse to hinder NGOs' work or contribute to the criminalisation of their mission. EU and national institutions must first and foremost take their responsibility to facilitate a safe journey across the Mediterranean, and finally recognise that the work done by NGOs in the Mediterranean is needed due to these institutions' negligence²⁴. The continued dangerous journeys and unwillingness of assisting migrants at sea continue to be a reason for shame to the EU.

Some more encouraging sides of the Pact can be identified. For instance, the recognition of the risk of labour exploitation of migrants in the EU is welcome, as pointed by PICUM²⁵. The focus on family reunification, collaboration with CSOs regarding resettlement and inclusion through education and work are also appreciated.

The Action Plan on Integration and Inclusion 2021-2027

On 24 November 2020 the Action Plan on Integration and Inclusion 2021-2027²⁶ was presented by the Commission. Differently from the 2016 Action Plan, it targets both migrants and people with a migration background. The new Plan encompasses four main actions:

- Inclusive education and training;
- Improving employment opportunities and skills recognition
- Promoting access to health;
- Ensuring access to adequate and affordable housing.

Although social policies are primarily the competence of Member States, these actions offer a guide for EU countries as well as support through funding and fostering of partnerships.

The actions described in the document will be carried out following a **needs-based approach**, considering individual situations – the person's gender or religion, for instance. Furthermore, the integration in the labour market, education and essential services is identified as a priority, especially when it comes to women, which reveals a strong **gender dimension** of the new inclusion strategy. Moreover, even without explicitly mentioning undocumented migrants, the new Action Plan does not link the inclusion strategy to residence status, leaving room for an extensive interpretation of the document²⁷.

The objectives outlined in the Action Plan will be achieved through the creation of **partnerships** among actors involved and sustained through EU funding. The active participation of host communities envisaged is a promising element of the Plan, as the introduction of digital tools and the aim of fostering the evidence-based nature of the inclusion policy.²⁸ In fact, the Commission proposes the creation of a **'joint scoreboard'** to be realised in collaboration with Member States with the objective to identify areas of improvement and stimulate good practices exchange among countries.



SOLIDAR's stance

What do we think about the Pact on Migration and Asylum?

The New Pact on Migration and Asylum fails to increase human rights guarantees for migrants and solidarity among member states, while instead focusing on border externalisation and securitization. SOLIDAR's position is in line with and gives support to the position of our members, the European Trade Union Confederation²⁹ and other CSOs allied in the fight for just and rights-based migration policy^{30 31 32}. This Pact is a missed opportunity to shape a bolder vision that enables the Union to advance on the path of solidarity and to finally live by its founding values.

The most problematic elements of the Pact on Migration and Asylum:

- The inadequate reform of the hot spot system;
- The acceleration of border procedures through pre-screenings and immediate returns;
- The proposal to extend detention (when it applies), also for children from 12 years of age;
- The closer cooperation with third countries to manage migration flows;
- The lack of actionable proposals concerning legal pathways of migration and the status quo concerning Migrants at sea;
- The lack of concrete proposals for actual collaboration among Member States.

The European Commission states in the Pact that "EU migration rules can be credible only if those who do not have the right to stay in the EU are effectively returned". In SOLIDAR's vision, the credibility of the EU in terms of migration policy lays rather in the Union's efforts and effectiveness in protecting the human rights of migrants at all levels, in supporting legal and safe pathways for migration and in providing the necessary conditions to foster inclusion.

To conclude, we hope that the Council and the European Parliament, that should approve the Pact by mid-2021, according to the Commission's implementation roadmap³³, will consider the costs that the document as it stands will have in terms of human rights violations, the credibility of the Union, reluctant to comply with its own funding principles and by further fuelling division and suspicion among member states.

What do we think about the Action Plan on Integration and Inclusion?

For SOLIDAR the Action Plan on Integration and Inclusion, despite its shortcomings, is a welcome step towards the inclusion of migrants in our societies. In particular, the elements that we see as improvements are:

- The inclusiveness of the needs-based approach
- The gender mainstreaming effort
- The collaboration among actors and, most importantly, between migrants and host communities.

Yet, some problematic aspects can be identified. We agree with the European Council on Refugees and Exiles' concern that there is a risk of a patronising approach between host community and migrant community. Moreover, the Action Plan for 2021-2027 targets both third countries nationals and people with a migration background, and even though this decision is rooted in the inequality of socio-economic conditions between EU citizens with a migration background and those without, it might end up invalidating the EU identity of the first.³⁴ In this way, the Action Plan risks perpetrating the discrimination that it would like to combat. Therefore, the actors involved should pay particular attention to these shortcomings in order to reduce the potential negative impact on inclusion.





Our proposal for the Action Plan

The idea of introducing a “**joint scoreboard**” with the aim to monitor the implementation of the action plan and to produce evidence to inspire future policy developments is appreciated by SOLIDAR. Going further in this direction, a closer link between the scoreboard of the Action Plan and the Social Scoreboard (the tool used to assess the implementation of the European Pillar of Social Rights) would be beneficial. In fact, as SOLIDAR already pointed out³⁵, the lack of attention to social and economic inequalities is one of the weak points of the **Social Scoreboard**. Therefore, integrating the “joint scoreboard” could represent a way to strengthen the equality dimension assessment of the European Pillar of Social Rights and to link it better to the Action Plan on Integration and Inclusion.

Further readings

ECRE (2020) Op-ed: The new Action Plan on Integration and Inclusion: Promising Elements, Rising Expectations: <https://www.ecre.org/op-ed-the-new-action-plan-on-integration-and-inclusion-promising-elements-rising-expectations>

European Commission (2020) Migration and Asylum Package: https://ec.europa.eu/info/publications/migration-and-asylum-package-new-pact-migration-and-asylum-documents-adopted-23-september-2020_en

European Commission (2020) Action Plan on Integration and Inclusion 2021-2027: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/pdf/action_plan_on_integration_and_inclusion_2021-2027.pdf

PICUM (2020) More detention, fewer safeguards: How the new EU Pact on Migration and Asylum creates new loopholes to ignore human rights obligations: <https://picum.org/more-detention-fewer-safeguards-how-the-new-eu-pact-on-migration-and-asylum-creates-new-loopholes-to-ignore-human-rights-obligations/>

SOLIDAR (2020) SOLIDAR’s take on the New Pact on Migration and Asylum: <https://www.solidar.org/en/news/solidars-take-on-the-new-pact-on-migration-and-asylum>

Endnotes

- 1- SOLIDAR (2020) Protecting the most vulnerable in society: Migration and COVID-19: <https://www.solidar.org/en/publications/briefing-paper-95-protecting-the-most-vulnerable-in-society-migration-and-covid-19>
- 2- Council of Europe (2020) Commissioner calls for release of immigration detainees while Covid-19 crisis continues: <https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-release-of-immigration-detainees-while-covid-19-crisis-continues>
- 3- European website on integration (2019) EU Strategy: <https://ec.europa.eu/migrant-integration/public/the-eu-and-integration/framework>
- 4- Belanger, A. et al. (2020) Projecting the net fiscal impact of immigration in the EU: https://publications.jrc.ec.europa.eu/repository/bitstream/JRC121937/fiscal_impact_report_final_online.pdf
- 5- European Commission (2015) A European Agenda on Migration: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf
- 6- European Parliament (2019) 1st Emergency Relocation Scheme: <https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-1st-emergency-relocation-scheme>
- 7- European Parliament (2020) Asylum Policy: <https://www.europarl.europa.eu/factsheets/en/sheet/151/asylum-policy>
- 8- PICUM (2015) EU response to migration: turn political crisis into opportunity: <https://picum.org/eu-response-to-migration-turn-political-crisis-into-opportunity/>
- 9- European Parliament (2019) Immigration policy: <https://www.europarl.europa.eu/factsheets/en/sheet/152/immigration-policy>
- 10- European Commission (2016) Action Plan on the integration of third country nationals: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_action_plan_integration_third-country_nationals_en.pdf
- 11- European Website on Integration (2018) Implementation of the 2016 Action Plan on Integration: <https://ec.europa.eu/migrant-integration/main-menu/eus-work/archive/actions>
- 12- European Parliament (2019) Immigration Policy: <https://www.europarl.europa.eu/factsheets/en/sheet/152/immigration-policy>
- 13- European Commission (2020) Communication on a New Pact on Migration and Asylum: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1601287338054&uri=COM%3A2020%3A609%3AFIN>
- 14- European Commission (2020) Migration and Asylum Package: New Pact on Migration and Asylum documents adopted on 23 September 2020: https://ec.europa.eu/info/publications/migration-and-asylum-package-new-pact-migration-and-asylum-documents-adopted-23-september-2020_en
- 15- European Commission (2020) EMN Bulletin: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/docs/pages/00_emn_32nd_bulletin_en.pdf
- 16- International Review of the Red Cross (2018) Note on migration and the principle of non-refoulement: <https://international-review.icrc.org/articles/note-migration-and-principle-non-refoulement>
- 17- PICUM (2020) More detention, fewer safeguards: How the new EU Pact on Migration and Asylum creates new loopholes to ignore human rights obligations: <https://picum.org/more-detention-fewer-safeguards-how-the-new-eu-pact-on-migration-and-asylum-creates-new-loopholes-to-ignore-human-rights-obligations/>
- 18- European Parliament (2020) Legislative train schedule –Towards a new policy on migration: <https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-proposal-for-a-recast-of-the-return-directive>
- 19- PICUM (2020) More detention, fewer safeguards: How the new EU Pact on Migration and Asylum creates new loopholes to ignore human rights obligations: <https://picum.org/more-detention-fewer-safeguards-how-the-new-eu-pact-on-migration-and-asylum-creates-new-loopholes-to-ignore-human-rights-obligations/>

- 20- Human Rights Watch (2018) No Escape from Hell -EU Policies Contribute to Abuse of Migrants in Libya: <https://www.hrw.org/report/2019/01/21/no-escape-hell/eu-policies-contribute-abuse-migrants-libya>
- 21- Amnesty International (2019) Turkey 2019: <https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/>
- 22- SOLIDAR (2020) Legal Pathways for Migration: Setting the right priorities for a sustainable EU-Africa partnership: <https://www.solidar.org/en/publications/legal-pathways-for-migration-setting-the-right-priorities-for-a-sustainable-eu-africa-partnership>
- 23- European Commission (2020) Commission Recommendation on cooperation among Member States concerning operations carried out by vessels owned or operated by private entities for the purpose of search and rescue activities: https://ec.europa.eu/info/sites/info/files/commission-recommendation-cooperation-operations-vessels-private-entities_en_0.pdf
- 24- Sea Watch (2020) Open Letter: European pact on migration: search-and-rescue recommendations: <https://seawatch.org/open-letter-european-pact-on-migration-search-and-rescue-recommendations/>
- 25- PICUM (2020) More detention, fewer safeguards: How the new EU Pact on Migration and Asylum creates new loopholes to ignore human rights obligations: <https://picum.org/more-detention-fewer-safeguards-how-the-new-eu-pact-on-migration-and-asylum-creates-new-loopholes-to-ignore-human-rights-obligations/>
- 26- European Commission (2020) Action Plan on Integration and Inclusion 2021-2027: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/pdf/action_plan_on_integration_and_inclusion_2021-2027.pdf
- 27- European Council on Refugees and Exiles (2020) Op-ed: The new Action Plan on Integration and Inclusion: Promising Elements, Rising Expectations: <https://www.ecre.org/op-ed-the-new-action-plan-on-integration-and-inclusion-promising-elements-rising-expectations/>
- 28- European Commission (2020) Action Plan on the Integration and Inclusion: https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/integration/action-plan-integration-third-country-nationals_en
- 29- European Trade Union Confederation (2020) ETUC Statement on the New Pact on Migration and Asylum: <https://www.etuc.org/en/document/etuc-statement-new-pact-migration-and-asylum>
- 30- ARCI (2020) Patto UE: più che una casa a tre piani, la solita fortezza: <https://www.arci.it/patto-ue-piu-che-una-casa-a-tre-piani-la-solita-fortezza/>
- 31- SOLIDAR (2020) SOLIDAR's take on the New Pact on Migration and Asylum: <https://www.solidar.org/en/news/solidars-take-on-the-new-pact-on-migration-and-asylum>
- 32- PICUM (2020) More detention, fewer safeguards: How the new EU Pact on Migration and Asylum creates new loopholes to ignore human rights obligations: <https://picum.org/more-detention-fewer-safeguards-how-the-new-eu-pact-on-migration-and-asylum-creates-new-loopholes-to-ignore-human-rights-obligations/>
- 33- European Commission (2020) Annexes to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of The Regions on a New Pact on Migration and Asylum: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1601287338054&uri=COM%3A2020%3A609%3AFIN#document2>
- 34- European Council on Refugees and Exiles (2020) Op-ed: The new Action Plan on Integration and Inclusion: Promising Elements, Rising Expectations: <https://www.ecre.org/op-ed-the-new-action-plan-on-integration-and-inclusion-promising-elements-rising-expectations/>
- 35- SOLIDAR (2019) Briefing paper 93: Implementing the European Pillar of Social Rights: <https://www.solidar.org/en/publications/briefing-paper-93-implementing-the-european-pillar-of-social-rights>

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