PISM POLSKI INSTYTUT SPRAW MIĘDZYNARODOWYCH
THE POLISH INSTITUTE OF INTERNATIONAL AFFAIRS

NO. 185 (1615), 9 SEPTEMBER 2020 © PISM

BULLETIN

Towards a New EU Pact on Migration and Asylum

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Conflicts between Member States over the relocation mechanism as well as the changing conditions of migration policy are delaying the adoption of the New Pact on Migration and Asylum. The strategy, apart from answering the question about the shape of the European asylum system, must weigh the impact of the COVID-19 pandemic on the situation of migrants and border management, instability in the EU's neighbourhood and the long-term challenges related to economic migration. The document may define the shape of EU migration policy for many years or renew divisions over this topic.

At the beginning of her term, President of the European Commission (EC) Ursula von der Leyen announced that one of her college's priorities would be to adopt the New Pact on Migration and Asylum, which would resume the reform of the Dublin asylum system. It is intended to replace the five-year programme adopted in the face of the crisis related to the influx of refugees from the Middle East (mainly from Syria). However, the publication of the document has been constantly postponed–it was originally announced for the first quarter of this year, then moved to the second, and then to the third quarter.

Thus, the work on the document became a priority for Germany, which in its presidency programme opted for ambitious asylum reform that would include the fair distribution of people in need of protection in the EU. For years, compulsory relocation has been requested by Cyprus, Greece, Spain, Malta, and Italy. In June, the countries of the Visegrad Group and Estonia, Latvia, and Slovenia expressed their strong opposition to any form of mandatory relocation. In a letter to the EC, they called for the development of solutions enabling a flexible response to crises.

2015 Migration Strategy Results. The reform of the asylum system involving the relocation of asylum-seekers inside the EU was one of the pillars of the Union's migration programme in 2015. The rejection by Central and Eastern European countries of both temporary relocation schemes and revision of the Dublin Regulation has forced the EC to seek alternative asylum solutions. One of them was an attempt to create centres for locating migrants rescued from the Mediterranean Sea in non-European countries, another was the acceptance of migrants by a coalition of willing Member States. Neither have proved to be an effective remedy for Europe's asylum problems. On the other hand, many countries have introduced checks at internal Schengen borders for fear of secondary movements of migrants from Southern Europe.

Conflicts over asylum reform have led the EU to focus its strategy on cooperation with transit countries. In 2016, it signed an agreement with Turkey that significantly limited the influx of migrants along the Eastern Mediterranean route. In 2017, Italy signed an agreement with Libya that had similar effects on the Central Mediterranean route. Spain has also started cooperation with Morocco to reduce migration, using EU support. In total, the level of irregular migration in 2019 was estimated at about 140,000, which was the lowest result since 2013. The downward trend continues in 2020.

The focus on reducing irregular migration has resulted in the abandonment or limitation of many other actions planned in the 2015 strategy. EU countries have refused to transform Frontex into a truly European service with the power to intervene at the external borders without the consent of the country concerned, limiting the reform to strengthening the agency's resources. Development aid was largely subordinated to the overarching goal of the strategy—limiting irregular migration to Europe, which adversely affects the effectiveness of return programmes for people who are not eligible for protection. Creating legal channels for migration through resettlement programmes is delivering moderate results—a total of 65,000 people

resettled in the EU from 2015 to 2019. Still, little has been achieved in supporting economic migration, including the integration of migrants. In this area, apart from the lack of political will, the formal limitation is the division of competences between the EU and the Member States (as defined in Article 79 of the Treaty on the Functioning of the EU).

New Challenges. The pandemic has highlighted the importance of economic migration: during the lockdown, many migrants returned to their countries of origin or were unable to work because of travel restrictions introduced at the Schengen borders. This has led to labour shortages in many sectors of the economy, including in the agricultural industry, which depends on seasonal workers, as well as in the healthcare and construction sectors. To meet the expectations of businesses, some Member States have legalised the stay of irregular migrants (e.g., Italy), extend the legal stay of foreigners (e.g., Poland, Croatia, Slovakia, Italy, France, and Luxembourg) and simplify procedures for recognising the qualifications of migrants, including asylum-seekers (e.g., for the medical professions in Germany and France).

Social standards and access to medical care have become a challenge for both refugees and economic migrants. In Greece and Italy, overcrowding and poor sanitation in asylum centres have become particularly acute, raising concerns about the outbreak of a humanitarian crisis. To prevent it, other Member States have provided medical support to the centres and offered relocations. Difficulties in accessing medical care for non-EU migrants have also become a challenge in many other Member States. Public debates in Belgium, France, and Spain call for the extension of medical care to irregular migrants.

An indirect effect of the COVID-19 crisis is the deepening instability in the EU's neighbourhood, which calls into question the EU's current strategy towards migration. The post-pandemic economic crisis is taking its toll on the periphery of the EU, stimulating, on the one hand, migration flows and, on the other, generating tensions between the transit countries and the EU. Testifying to these changes is the increase in economic migration in recent months to Europe from countries such as Tunisia (from 5.5% in March to over 22% in July on the Central Mediterranean route). The country's economy is largely based on tourism and has been significantly affected by the restrictions on travel. Increased migration may also be spurred by the deepening crises in Lebanon and in Belarus, as well as the deteriorating relations between Turkey and Greece, which may result in the collapse of the 2016 migration agreement.

Conclusions. The new migration pact should define the shape of EU migration policy for the next five years. In addition to the deficits related to the implementation of the 2015 strategy, it must take into account new challenges and trends revealed or deepened by the COVID-19 pandemic and other factors.

Regarding the asylum system, the Commission is facing a difficult challenge—many solutions have been tested in recent years but no golden mean has been found, one that is widely accepted and effectively implemented. A return to the compulsory relocation mechanism remains overwhelmingly opposed by many countries and its inclusion in the strategy would deepen the divisions within the EU, which would hinder the Union's recovery from the crisis caused by the pandemic. At the same time, the measure invoked in recent years—cooperation with transit states to block the influx of migrants—faces significant constraints and cannot be a long-term strategy. As a result, in the new strategy, the compulsory relocation of asylum-seekers will probably be replaced by a new formula allowing for alternative forms of support for the most burdened countries. However, this will not end the discussion on the mandatory mechanism, but will only postpone it.

To avoid the negative experiences of implementing the previous migration programme, the European Commission in the new strategy may shift the emphasis from forced to economic migration, highlighting the growing shortages on the European labour markets revealed in recent years. Given the mixed nature of migration, EC will encourage Member States to expand legal migration channels and actively pursue migrant integration policies, including expanding their access to medical care. At the same time, the Commission will try to restore the proper functioning of the Schengen area. Reform proposals may relate to the Schengen internal border management system, as well as the development of sanitary standards and the wider use of new technologies for border-protection purposes.

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