

KEYS to **NEW EU PACT** on **MIGRATION and ASYLUM**

(1) What is the new European Pact on Migration and Asylum?



A document presented by the European Commission on 23 September 2020...


... establishing the steps to be taken over the following years.



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It includes a set of legislative proposals and recommendations to make progress on the creation of a **Common European Asylum System (CEAS)**.

(2) Why is it so important?




Attempts have been made at creating a true common asylum system since 1999.

However, every state has been implementing EU provisions differently,



which causes asylum seekers to receive a different treatment depending on the country where they apply for asylum.




After the incorrectly named '2015 refugee crisis', these asylum-related differences and problems became more apparent.




This is a **renewed attempt** at reaching an agreement between the EU countries to:



A) better **harmonise** the Common Asylum System,



B) increase our **resilience** to crisis,



C) and **share the responsibilities** more equitably.

It also poses important risks.





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(3)
What are the main risks?

A
The problems identified in the Dublin system have not been solved yet. Instead, it has been replaced by a new Asylum and Migration Management Regulation,


...which continues to place too much responsibility on the first country of entry.




Two compensation mechanisms have been established to guarantee that no Member State takes on a disproportionate responsibility:



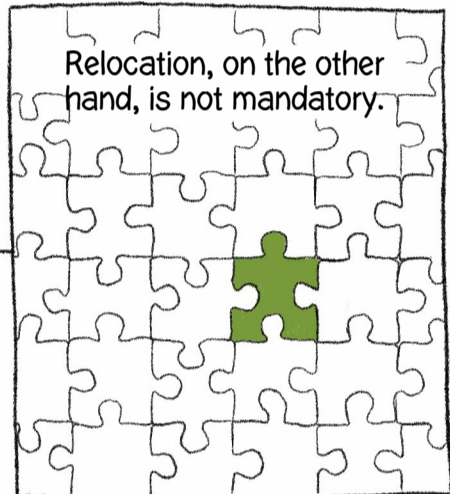
→ New mechanism of solidarity "a la carte": Member States may choose between relocation, return sponsorship or other type of technical or financial support:



Solidarity is generally voluntary, and only mandatory in the event of disembarkation after search and rescue operations, or when a Member State is under strong migratory pressure.



Relocation, on the other hand, is not mandatory.



→ Member States will have a broad margin of discretion that will allow them to disregard their responsibility,



...as this document shows a worrying preference for returns and externalisation of borders, instead of hosting.




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(3) What are the main risks?

B

New mandatory pre-entry screening before entering EU territory:



identity, health and safety controls, a preliminary exam of vulnerabilities and the registration of biometric data on Eurodac:

This creates the legal fiction that people will go through that screening, thus implying that they are "outside the EU's territory", which could lead to an overuse of detention.

The pressure on countries with external borders is increased, and full respect to non-refoulement is not ensured.



C

New accelerated border procedure: applicable.



No clear distinction is made to channel people through the asylum or the return procedure.



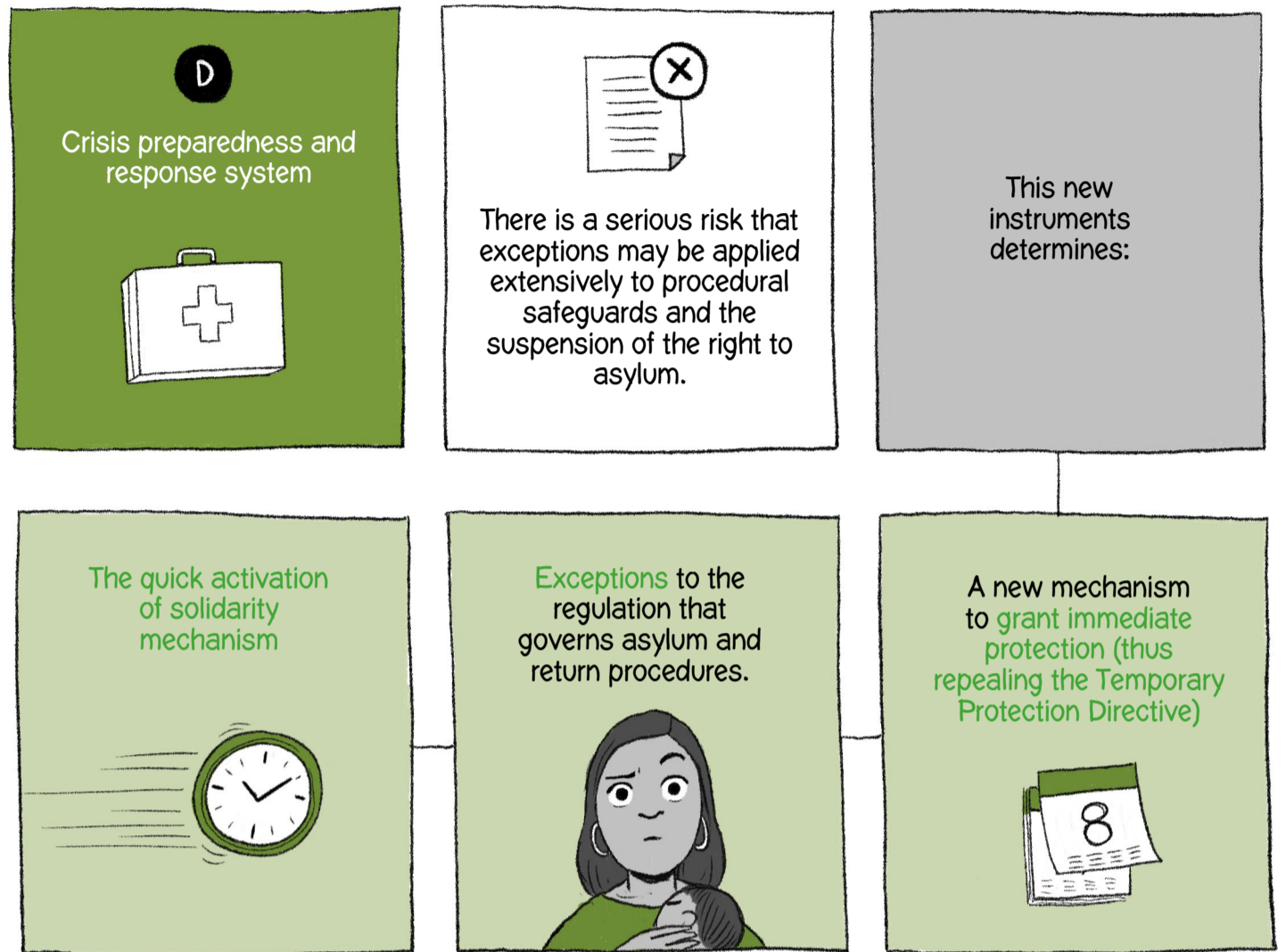
The individual, non-discriminatory assessment of asylum applications is not safeguarded, since certain nationalities will be channelled through the accelerated procedure.

The application of these procedures increases the risk of creating more hotspots at the borders where there is no real hosting capacity.



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(3) What are the main risks?



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(4)

What opportunities could the negotiations on the New Pact offer?

A Establishing a system of mandatory solidarity applicable to all situations, including the adoption of mandatory relocation quotas by every Member State.



B

Reaching an agreement on safe disembarkation and subsequent mandatory relocation.

C Reforming the Dublin system so that excessive responsibility for the processing of applications is not allocated to the first country of arrival.



D Removing the pre-entry screening procedure: the legal fiction of "non-entry" does not ensure the individual or fair treatment of applications, nor does it safeguard full respect of the obligation of non-refoulement.



E Removing the proposed criteria to channel applications for international protection depending on the nationality of the applicant.



F Preventing the repeal of the Temporary Protection Directive: during the Ukraine war, it has proven to be an effective tool to protect forcibly displaced persons in mass influx situations.



G Ending border externalisation.



H Increasing options for legal and safe pathways.

